AGENDA

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA

October 14, 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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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 Pastor Baylark, First Community Baptist 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

Consideration of Appointment of Two Council Members to the Community Development Block Grant(CDBG) Ad-Hoc Committee for the FY 2026/2027

Recommendation: Staff recommends the City Council appoint a committee at the October 14, 2024 meeting, consisting of two members from the City Council as well as the Economic Development Manager, to review and recommend FY 2026/2027 Community Development Block Grant (CDBG) program applications.

5.4 CITY COUNCIL COMMITEE REPORTS

5.5 ANNOUNCEMENTS OF CITY COUNCIL MEMBERS

5.6 CITY TREASURER'S REPORT

5.7 CITY MANAGER'S REPORT

5.8 CITY ATTORNEY'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 Approval of the meeting minutes for the September 23, 2025 and October 3, 2025 City Council meetings.

Recommendation: Approve the meeting minutes for the September 23, 2025 and October 3, 2025 City Council meetings.

6.2 Receive and File Cash and Investments Report for the Month of August 2025

Recommendation: That City Council receive and file Cash and Investment Report for August 2025, in accordance with California Government Code 53646.

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

Recommendation: Accept as complete various improvements related to the Atwell Specific Plan development and authorize 90% Reduction of the improvement bonds and full exoneration of monument bonds

6.4 Consideration of Second Reading and Adoption of Ordinance 1608, Amending Chapter 5.40 of the Banning Municipal Code Concerning Film Permits and Regulations with changes that city council requested to be added to the ordinance.

Recommendation: Conduct second reading and adopt Ordinance 1608.

6.5 Consideration of Second Reading and Adoption of Ordinance 1611, Approving a Development Agreement By and Between the City of Banning and JDNJ Enterprises, LLC, a Missouri Limited Liability Corporation
Recommendation: Waive the second reading of text in its entirety and adopt Ordinance 1611.

6.6 Consideration of Resolution 2025-137 Approving the City of Banning Electric Utility's Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2024
Recommendation: Adopt Resolution 2025-137.

6.7 Consideration of Resolution 2025-138, Awarding a Professional Services Agreement to West and Associates Engineering, Inc. in the Amount of $95,310 for the 2025 Urban Water Management Plan Update and Water Supply Assessments and Water Supply Verifications.
Recommendation: Adopt Resolution 2025-138.

6.8 Consideration of Resolution 2025-140, Awarding a Professional Services Agreement for the Design of the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning to TKE Engineering, Inc. in the amount of $86,075 and Approving a 10% Contingency for a Total Project Budget of "Not-to-Exceed" $94,682.50
Recommendation: Approve Resolution 2025-140.

6.9 Consideration of Resolution 2025-141, Awarding a Construction Contract for Project No. 2023-04 Rectangular Rapid Flashing Beacon at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street, to All American Building Services in the amount of $592,850 and Approving a 10% Contingency for a Total Budget of "Not-to-Exceed" $652,135
Recommendation: Adopt Resolution 2025-141.

6.10 Consideration of Resolution 2025-142, Accepting Community Development Block Grant (CDBG) Funds for Fiscal Year 2025/2026 in the amount of $155,678 for the Banning Senior Center Project # 2 (5.BN.64-25) in the amount of $141,828; Banning Peace Center Food Program (5.BN.65-25) in the amount of $5,000; the Court Appointed Special Advocate (CASA) program (0.282-25) in the amount of $5,000; and the Teens Continue to lead program (0.284-25) in the amount of $3,850.
Recommendation: Adopt Resolution 2025-142.

6.11 Consideration of Resolution 2025-143, Awarding a Professional Services Agreement for the Banning Armory Resilience Centers Project to Richard Yen & Associates Architects & Planners, Inc. in the Amount of $759,850
Recommendation: Approve Resolution 2025-143.

6.12 Consideration of Resolution 2025-145, Approving the Grant Agreement Between the City of Banning and the State of California - Office of Traffic Safety (OTS) for the FY 2025-2026 Selective Traffic Enforcement Program (STEP) Grant and Acceptance of the OTS STEP Grant Award in the Amount of $90,000.
Recommendation: Adopt Resolution 2025-145.

6.13 Consideration of Resolution 2025-146, Approving the Grant Agreement Between the City of Banning and the State of California - Office of Traffic Safety (OTS) for the FY 2025-2026 Traffic Records Improvement Project (TRIP) Grant and Acceptance of the OTS TRIP Grant Award in the Amount of $78,000.
Recommendation: Adopt Resolution 2025-146.

7. PUBLIC HEARINGS

7.1 PUBLIC HEARING CONTINUED FROM SEPTEMBER 23, 2025 MEETING - Consideration

of Resolution 2025-135 Approving a Cannabis Conditional Use Permit (CUP) Application, Case No. PLN 24-0107, by Flower Dept, LLC to Allow for the Commercial Cultivation of Cannabis (Project) within an Existing 8,041-square-foot Industrial Building at 200 John Street, in the Industrial (I) Zoning District (APN 541-220-006)
Recommendation: Adopt Resolution 2025-135.

7.2 Annual Review of Development Agreement between Tri Pointe Homes (Previously Pardee Homes) and the City of Banning Regarding the Development of the Atwell Project within the Butterfield Specific Plan Generally Located Northeast of Wilson Street and Highland Springs Avenue.
Recommendation: Receive and file.

7.3 Consideration of Resolution 2025-139, Approving Electric Rate Increases and Revisions to Certain Electric Rates and Tariffs.
Recommendation: Adopt Resolution 2025-139.

8. REPORTS OF OFFICERS

9. DISCUSSION/ACTION ITEMS

9.1 Consideration of Resolution 2025-149, Approving a Professional Services Agreement with LSL, LLP in the Amount of $310,000 for Professional Municipal Accounting Services Aimed at Updating the City's Financial Records
Recommendation: Adopt Resolution 2025-149

10. ITEMS FOR FUTURE AGENDAS

11.1 **NEW ITEMS**
1. Workshop to Discuss Homelessness (Royce)

11.2 **EXISTING ITEMS**
1. Animal Control Facility Assessment (Flynn)
2. Contractor(s) to do Citywide Cleanup (Flynn)
3. Emergency Preparedness (Barrington)
4. Review and Update Council travel Policy (Flynn)
5. Streamline Procurement Policy (Flynn)
6. Comp. & Class Salaries (Royce)
7. LMD Alternative Sources (Royce)
8. Community Garden, Sun Lakes (Flynn)

11. ADJOURNMENT

Next Regular Meeting – October 28, 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.

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Al participar en esta reunión en Zoom, usted acepta cumplir con los Estándares Comunitarios para Reuniones Públicas de la ciudad de Banning. Los que atienden por Zoom que no cumplan con estos estándares pueden ser retirados de la sala de reuniones.

- 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

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Vickie Sellers

Vickie Sellers, Elected City Clerk
Secretaria Municipal Electa

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Interested in receiving email and/or text notifications of upcoming City Council meetings? Sign up for meeting notifications through the City's website. Pursuant to amended Government Code §54957.5(b), staff reports and other public records related to open session agenda items are available on the City's website (www.banningca.gov/).

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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In compliance with the Americans with Disabilities Act, any member of the public may request that the agenda and agenda packet be mailed to them. If you need special assistance to participate in this meeting (such as translation services), please contact the City Clerk's Office. Advanced notification of at least 48 hours prior to the meeting will allow the city to make arrangements to ensure your accessibility.

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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:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Ralph Wright, Parks and Recreation Director** **Marisol Lopez, Economic Development Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Appointment of Two Council Members to the Community Development Block Grant(CDBG) Ad-Hoc Committee for the FY 2026/2027**

RECOMMENDATION:

Staff recommends the City Council appoint a committee at the October 14, 2024 meeting, consisting of two members from the City Council as well as the Economic Development Manager, to review and recommend FY 2026/2027 Community Development Block Grant (CDBG) program applications.

BACKGROUND:

The City of Banning is a cooperating City in the Community Development Block Grant (CDBG) Program. The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest-running programs at HUD. The CDBG entitlement program allocates annual grants to larger cities and urban counties to develop viable communities by providing decent housing, a suitable living environment, and expanding economic opportunities, primarily for low- and moderate-income individuals.

The CDBG program is a federally funded program administered through the U.S. Department of Housing and Urban Development (HUD). As an Urban County in the Entitlement CDBG program, the County receives an annual formula allocation of CDBG funds from HUD. HUD determines the amount of each grant using a formula that incorporates several measures of community need, including the extent of poverty, population, housing overcrowding, the age of housing, and population growth lag in relation to other metropolitan areas.

The program works to ensure decent, affordable housing, provides services to the most vulnerable in our communities, and creates jobs through the expansion and retention of businesses. CDBG is a vital tool for helping local governments address the serious challenges facing their communities. The CDBG program has made a difference in the lives of millions of people and their communities across the Nation. CDBG was authorized under the Housing and Community Development Act of 1974, as amended, and is listed under the Catalog of Federal Domestic Assistance (CFDA) as 14.218. Applicable CDBG regulations can be found at 24 CFR Part 570 and 24 CFR Part 91. CDBG funding has been used by the County, its cooperating cities, and other subrecipients for a wide variety of community, economic, and social development activities. Activities include public facilities such as fire stations, parks, community centers, senior centers, homeless shelters, health clinics, water and sewer improvements, and street and sidewalk improvements. CDBG also provides public service activities such as childcare, health care, after school, programs, senior programs, food and clothing distribution, job training, recreation, and many more.

Notice of Funding Availability (NOFA) for the County of Riverside's 2026-2027 Urban County CDBG program for Cooperating Cities. The County opened the 2026-2027 CDBG application cycle starting September 29, 2025. The estimated City of Banning allocation for 2026/2027 is $156,000.

The CDBG program works to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. CDBG is an important tool for helping local governments tackle serious challenges facing their communities. The CDBG program has made a difference in the lives of millions of people and their communities across the Nation.

Eligible Activities:
• Economic Development
• Job Development
• Youth Services
• Senior Programs
• Health Services
• Public Safety Programs
• Neighborhood Revitalization
• Municipal Services
• Code Enforcement
• Transportation Services
• Housing Assistance/First Time Buyers

CDBG-funded projects must satisfy one of three national program objectives:
• Provide a benefit to low- and moderate-income persons,
• Prevent or eliminate slums and blight, or
• Meet other urgent community development needs due to natural disasters or other emergencies.
• Community Centers
• Workforce Development Centers
• Child Care Centers
• Senior Centers
• Health Facilities
• Sheriff/Fire Stations
• Flood and Drainage Facilities
• Water/Sewer Improvements
• Demolition
• Street Improvements/Sidewalks
• Homeless Centers

Of the City's estimated allocation, a maximum of 15% of the $156,000 or $23,400 can be used for Public Service projects.

JUSTIFICATION:

Riverside County Housing and Workforce Solutions will make the final determination of a project's eligibility.
Below is a schedule of important dates that are necessary to ensure that the City meets Riverside County Housing and Workforce Solutions Agency's application deadline.

10/13/2025 Application Period Opens to The Public.
11/14/2025 Applications due at 4:00 PM (hard copy only)
No later than

11/24/2025 Ad-Hoc meeting to review applications and make recommendation.
12/09/2025 City Council to approve applications for submission to Riverside County
12/18/2025 Approved Applications due to Riverside County

FISCAL IMPACT:

There is no fiscal impact associated with the selection of the Ad-Hoc Committee members.

ALTERNATIVES:

Do not appoint any members. However, failure to appoint committee members in a timely manner could result in a missed deadline for submitting applications to Riverside County, which could result in a lost funding opportunity of approximately $156,000 in CDBG funds.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Sandra Calderon, Acting Administrative City Clerk**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Approval of the meeting minutes for the September 23, 2025 and October 3, 2025 City Council meetings.**

RECOMMENDATION:

Approve the meeting minutes for the September 23, 2025 and October 3, 2025 City Council meetings.

BACKGROUND:

After every meeting, the City Clerk's Office prepares meeting minutes. The City Council reviews and approves these minutes either as presented or with modifications.

JUSTIFICATION:

These minutes have been prepared as summary minutes in accordance with City Council Resolution 2025-22 and Government Code Section 36814, 4801, and 54953 (c)(2).

FISCAL IMPACT:

None

ALTERNATIVES:

1. Approve as recommended.
2. Approve with modifications.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 2025 09 23_City Council_Regular_DRAFT.pdf
2. 2025 10 03_Special CC Meeting Closed Session_DRAFT.pdf

MINUTES

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA

September 23, 2025
5:00 p.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the minutes 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.

COUNCIL MEMBERS PRESENT:	Council Member Cynthia Barrington Mayor Sheri Flynn Council Member Leroy Miller Mayor Pro Tem Richard Royce Council Member Colleen Wallace
COUNCIL MEMBERS ABSENT:	None
OTHERS PRESENT:	John O. Pinkney, City Attorney Arturo Vela, Interim City Manager Vickie Sellers, City Clerk Sandra Calderon, Acting Administrative City Clerk

1. CALL TO ORDER –5:04 p.m.

1.1 **INVOCATION**

Performed by Rev. Stacy Dupree, Episcopal Church of the Good Shepherd.

1.2 **PLEDGE OF ALLEGIANCE**

1.3 **ROLL CALL**

COUNCIL MEMBER	PRESENT	ABSENT
Barrington, Cynthia	X	
Flynn, Sheri	X	
Miller, Leroy	X	
Royce, Richard	X	
Wallace, Colleen	X	

2. AGENDA APPROVAL

2.1 **AGENDA APPROVAL**

A motion to approve the agenda was made by Councilmember Wallace, seconded by Mayor Flynn. Motion carried unanimously 5-0.

DRAFT

3. PRESENTATIONS

3.1 Proclamation - Dr. Clara Wooten-Thomas

A proclamation was presented to Dr. Clara Wooten-Thomas on the occasion of her 90th Birthday and in recognition of her leadership and service.

4. REPORT ON CLOSED SESSION

None

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 PUBLIC COMMENTS

Mayor Flynn opened public comments.

Oscar Garcia expressed concerns regarding Mayor Flynn's conduct and urged the Council to consider a vote of no confidence and removal from the position of Mayor.

Inge Schuler expressed concerns regarding large property owners and developers, including Diversified Pacific and North Point. She raised issues related to encampments, property maintenance, and landfill conditions, urging that Code Enforcement ensure the properties are kept clean.

Sue Savage, City Treasurer, addressed the Council regarding her removal from City Hall and the removal of her treasurer's report from the agenda. She raised concerns about due process, transparency, and financial oversight, and requested reinstatement to her office, access to city records, and inclusion of the treasure's reports on future agendas.

Timothy Smith spoke regarding traffic concerns on Highland Springs Ave. He expressed interest in commercial development, such as a Target store that is coming to Beaumont, and raised concerns about homelessness in the city.

Jack Gunderson addressed the Council regarding the new Code Enforcement software. He expressed concerns about usability, inaccurate categorization of complaints, lack of feedback, and loss of previous complaint records, and requested follow-up on these issues.

Stewart McKenzie thanked and congratulated the Planning Commission for rejecting the Sunset Crossroads project. He also commented on the removal of the Mission Hights project from the agenda and expressed concerns about potential development impacts on the city.

Udo Rohlberg addressed the Council regarding the importance of honesty, transparency, and civility in city leadership. He expressed concerns about Mayor Lynn's conduct on social media and called for new leadership in the City.

Cula Ringgold addressed the Council expressing concern about the city's financial challenges, strained regional relationships, and leadership under the Mayor. She urged the Mayor to step aside to allow new leadership to restore confidence and progress in City Hall.

Lilly Dias expressed concerns over Mayor Flynn's public comments on social media, describing them as unprofessional. She urged for leadership that represents and supports all Banning residents.

John Hagen raised two concerns. First, he noted that despite reports showing Omar Street as 100% complete, a missing sidewalk section creates a safety hazard and potential liability for the City. Second, he expressed frustration over ongoing homeless encampments near the courthouse area, stating that inadequate monitoring has led to more campers returning and additional clean-up costs.

DRAFT

Lynnea Hagen thanked Mayor Flynn for her service to the City and defended her leadership. She commented that comments received earlier tonight were unfounded and suggested that issues in Banning's finances began under a former City Manager, not the current Mayor.

Bill Hobbs expressed concern about Banning's ongoing issues and suggested exploring a merger with the City of Beaumont to improve services, economy, and community conditions.

Laura Leindecker emphasized the importance of working with local organizations and community leaders to support the City and engage residents effectively.

Oleg Ivaschuk encouraged supporting local businesses to benefit the community and announced the State of the City event on November 5.

Juanita Diaz emphasized the importance of prioritizing the community over personal conflicts. She acknowledged Mayor Flynn's dedication and urged residents to focus on actions and progress for Banning rather than personal grievances or past council behavior.

Dennis (Banning Bench Resident and Business Owner) expressed opposition to the proposed Mission Heights development, citing concerns about fire risk in the Banning Bench area and the impact on local infrastructure.

Mayor Flynn opened public comments.

5.2 CORRESPONDENCE

The City received two letters from Kathy Aranda, the first letter will be read during Consent Items and Public Comments (Items 6.3 and 6.4), and the second letter will read during Public Hearing Item 7.2.

5.3 APPOINTMENTS

5.3.1 Appoint a new member to the Budget and Finance Committee

Recommendation: Appoint a new member to the Budget and Finance Committee

Motion by Council Member Barrington to serve in the Budget and Finance Committee
Seconded by Mayor Flynn
Motion carried unanimously 5-0**.**

5.4 CITY COUNCIL COMMITTEE REPORTS

Council Member Wallace reported on attending a recent SANDAG meeting, covering transportation, regional planning, and border issues. She noted progress on the Draft 2025 Regional Plan and discussed funding opportunities, including $108 billion allocated for infrastructure projects in San Diego, Riverside, and Orange Counties. Further updates will be provided at the next meeting.

Mayor Pro Tem Royce reported on the Budget and Finance Committee meeting held on September 16. He highlighted staff presentations explaining account interactions and noted ongoing efforts to provide online access to financial reports. The Committee is working with staff and outside auditors to compile accurate budget information for future presentation.

Council Member Miller reported on a recent Town Hall Meeting with Interim City Manager Art Vela. Topics discussed included electrical billing updates, the animal shelter, and the City's development and economic blueprint. Residents asked questions, and another Town Hall Meeting is planned in the coming months.

Mayor Flynn reported on the RCTC meeting held September 10:

- Clean Air Zero Emission Discount for express lanes will end statewide on September 30.
- $2 million in transportation mitigation fees from WRCOG approved for the Highland Springs 1-10 interchange, with planning and environmental studies continuing though 2027 via a third-party agreement with Beaumont and Banning.

DRAFT

- Statewide transportation improvement funds: $1.1 billion allocated, with $33 million for Riverside County (80% for Western Riverside including Banning, 20% for Coachella Valley).

  Attended the Mobility Summit at Disneyland Hotel, highlighting challenges in transitioning to all-electric trucks, ' insufficient infrastructure, limited range, and potential impacts on small trucking businesses.

  Attended the 2x2 on September 15 Animal Control Meeting in Beaumont with representatives from Beaumont and Morongo; no reportable actions were taken.

5.5 ANNOUNCEMENTS OF CITY COUNCIL MEMBERS

Council Member Wallace announced a Town Hall Meeting on Saturday at 4:00 p.m. at Roosevelt Williams Park; speaker will be Chief Avila.

Mayor Pro Tem Royce announced a Town Hall Meeting will be scheduled for Thursday.

Council Member Miller announced Banning Night for Public Safety on October 18 at Silvan Park from 11:00 a.m. to 2:00 p.m.

Mayor Flynn noted upcoming State of the City events (Calimesa on September 25 and Banning on November 5) and reported that she provides monthly updates to her HOA via televised meeting.

5.6 CITY MANAGER'S REPORT

Art Vela, Interim City Manager

- Omar Ramsey Street Project: Sidewalk was not included in the original grant-funded project to maximize funding approval. The City is now working with Riverside County Flood Control to potentially include the sidewalk in a future project or secure assistance.
- Sun Lakes Boulevard Project: Bid documents are being finalized, with bidding expected in late October or early November and award in early 2026.
- Community Cleanup Event: Scheduled for October 18 at Dysart Park; up to 500 vehicles typically participate. Details on acceptable waste are on the City's website.
- Utility Billing Update: The City is nearing a two-week turnaround per month for billing. Auto-pay issues require temporary suspicion until the backlog is resolved. Customers can pay via the online portal or at the billing counter.
- General Plan Advisory Committee Vacancies: only three applicants have applied for multiple openings. The application window has been reopened for a third time. Committee members will serve for a limited commitment (approximately three more meetings) and provide recommendations on long-term city planning.

5.7 CITY ATTORNEY'S REPORT

John Pinkney, City Attorney

- Highlighted that the City Council has retained a team of experienced consultants who previously helped a neighboring city recover from serious financial challenges.
- Emphasized the importance of ensuring all statements about the City's finances are accurate, complete, and up to date.
- Noted that developing a sustainable financial plan will take time, as the City's current financial condition developed over years.
- Clarified that under state law, the City Treasurer is required to give a report once per month, and access to city facilities was modified following an inappropriate incident with a city employee.
- Reaffirmed that the consultant team is working closely with staff and Council to provide a comprehensive report on the City's financial status and plan moving forward.

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 Approval of the meeting minutes for the September 9, 2025 City Council meetings.
6.2 Receive and File Fire Protection Services Statistics for the Month of August 2025.

6.3 Receive and File Code Enforcement Statistics for the Month of August 2025
6.4 Receive and File Police Department Statistics for the Month of August 2025.

6.5 Receive and File Animal Control Statistics for the Month of August 2025.
6.6 Public Works Capital Improvement Project Tracking List
6.7 Consideration of Accepting an Easement from Tri-Pointe Homes for Storm Drain Purposes Within Tract 37388-3 of the Atwell Project
6.8 Receive and File Contracts Approved Under the City Manager's Signature Authority and Inventory Reports for August 2025
6.9 Receive and File Accounts Payable and Payroll Warrants Issued in the Month of May 2025.
6.10 Receive and File Accounts Payable and Payroll Warrants Issued in the Month of June 2025.
6.11 Consideration of Second Reading of Ordinance 1612 of the City of Banning, California Establishing a Procedure for Property Owner Objections to Proposed Water/Sewer Fees or Special Assessments
6.12 Consideration of Resolution 2025-125, Amending the Classification & Compensation Plan for the City of Banning related to the positions of Executive Secretary (Unfund), Administrative Analyst (Fund), Code Compliance Supervisor (Unfund), Code Compliance Officer (Fund) and Electric Service Planner (Reclass)
6.13 Consideration of Resolution 2025-132, Amending the Banning Electric Utility's Rules and Regulations #1 to #19, #21 and the General Provisions, Removal of Rule #20 and Adding Rules #22, #23 and Notes, Which Set Forth Electric Service Requirements
6.14 Consideration of Resolution 2025-133, Award of a Professional Services Contract to Peckham & McKenney to conduct the Executive recruitment for the City of Banning next Permanent City Manager in the amount of $32,050.00.

Council Member Miller pulled items: 6.2, 6.3 and 6.4.
Mayor Pro Tem Royce pulled items: 6.5
Mayor Flynn pulled items: 6.9, 6.10 and 6.14

Mayor Flynn opened public comments on items not pulled: 6.1, 6.6,6.7,6.8,6.11,6.12 and 6.13.

No public comments.

Mayor Flynn closed public comments.

Motion by Council Member Wallace to approve the items not pulled.
Seconded by Council Member Miller.
Motion carried unanimously 5-0**.**

Item 6.2 was discussed by staff and Council.

Council Member Miller inquire whether he City currently charges a fee for false alarms. Interim City Manager Art Vela reported that while work to establish a fee has begun, no fee has been implemented yet. He will follow Chief Hopkins and Chief Avila to determine steps needed to establish and begin charging the fee.

Mayor Flynn opened public comments
No public comments

Mayor Flynn closed public comments

Item 6.3 was discussed by staff and Council.

Citations collected year-to-date: $2,451 (does not include weed abatement).
Weed abatement cost recovery: $90,935.03.

Mayor Flynn opened public comments
Comment letter received by the City was read for the record. (Exhibit 1)

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Item 6.4 was discussed by staff and Council.

Chief Avila said there were 1,480 false alarms year-to-date (1,048 per year average). Currently, no fees are charged for false alarms. Staff is coordinating with CAL Fire to integrate their alarm calls into the City's collection system.

Mayor Flynn opened public comments
Frank Connelly urged the City to enforce fees for repeated alarms to prevent tying up resources.

Comment letter received by the City was previously read for the record. (Exhibit 1)

Mayor Flynn closed public comments

Item 6.5 was discussed by staff and Council.

Mayor Pro Tem Royce questioned unusually high percentage change in fees, bill, and outside costs in the report. Staff will verify the numbers and provide corrected figures.

Inge Schuler expressed concerns about haphazard billing and licensing with PetData, noted possible owed payments to licensing company due to insufficient revenue and suggested the city consider handling licensing in-house for better tracking revenue and record keeping.

Mayor Flynn closed public comments

Item 6.9 and 6.10 was discussed by staff and Council.
Mayor Flynn expressed concerns over lack of detailed descriptions for warrants and Well Fargo card charges, noting potential past excessive charges and lack of accountability over the last several months.

Staff explained that the system limits the information displayed in reports, but additional details are available in manual spreadsheets and electronic statements.

Council Member emphasized difficulty reviewing and approving due to missing details, though staff confirmed payments had already been made.

Staff confirmed that historical data and statements are retrievable if specific charges need verification and can supply additional documentation as needed.

Sue Savage questioned discrepancies between Finance's report and bank statements:
Item 6.9: Other ACH payments listed as $1,572,000 in Finance report vs. $2,274,000 on bank statement.

Asked about return checks ($1,700) bank fees ($2,400), and employee charge card totals ($29,458.51). Noted past charges were higher (~ $44,000).

Item 6.10: June expenses $9,244,000 vs. income $11,333,000, resulting in $2,088.000 surplus, but still short from prior $4,200,000 LIFE withdrawal, noting the net shortfall for May and June: $2,111,000 and $293,000 respectively.

Frank Connelly questioned charges for Arrowhead; staff confirmed they were Parks and Recreation expenses.

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Mayor Flynn expressed concern about Wells Fargo staff credit card charges (~$39,000/month) and lack of recent accountability.

Item 6.14 was discussed by staff and Council.

Mayor Flynn discussed designation of a contract officer as required under item 17 of the contract.

Motion by Council Member Miller to designate Bob Deis as the contract officer and adopt Resolution No. 2025-133.
Seconded by Council Member Wallace
Motion carried unanimously 5-0.

Mayor Flynn announced that item 9.2 would be moved up on the agenda.

John Pinkney, City Attorney recused himself from this item due to also serving as City Attorney for the City of Beaumont.

9.2 Consideration of Resolution 2025-131, Approving the Installation of a Stop Sign and Establishing a Multi-Way Stop Controlled Intersection at First Street/Hays Street and Highland Springs Avenue/Potrero Boulevard
Recommendation: Adopt Resolution 2025-131.

Nate Smith, Deputy Director of Public Works/City Engineer presented resolution 2025-131, proposing the installation of muti-way stop-controlled intersections at 1st Street & Hays Street and Highland Springs Avenue & Potrero Boulevard.

He provided background information noting that the Banning Municipal Code requires the City Engineer to conduct warrant studies in accordance with the Manual on Unform Traffic Control Devices (MUTCD) and bring recommendations to Council for approval by resolution. The presentation reviewed the criteria and engineering analysis used to determine the need for multi-way stop installations at the proposed locations.

Council discussed traffic and safety concerns at 1st & Hays and Highland Springs & Potrero mainly serves the Sun Lakes and Four Seasons communities. Questions were raised about potential liability if the stop signs were not approved; staff noted the engineering study supports installation and non-action could pose some risk. Speed data showed an 85th percentile of about 45 mph, with a top speed of 73 mph. The Study was conducted August 5-7 using optical sensors.

Council continued discussion regarding traffic volume and speed data at Highland Springs & Potrero. Staff confirmed that about 7,740 vehicles were recorded over a 48-hour period, consistent with expected trip generation for nearby age-restricted communities. Questions were raised about the accuracy of the count and noted it seemed high based on personal observation. Discussion included whether raising the speed limit from 35 to 45 mph could affect the warrant; staff said the stop sign would still meet criteria. Council also questioned mitigation efforts, noting few visible speed limit signs, limited police enforcement, and lack of radar feedback signs since the June discussion.

Council expressed concerns about traffic congestion and safety, noting the intersection has multiple lanes, left-turn lanes, and high traffic volume, which could create confusion and backups, particularly affecting the nearby Loma Linda property entrance. Staff clarified that peak volumes of ~500 vehicles per hour are spread across lanes and time, so significant staking back to First Street is unlikely.

Council and staff discussed that speed is the primary concern at the intersection. Staff noted that only two accidents occurred in two years, blow the warrant threshold of five accidents in 12 months for stop sign installation. Additional incidents, including near misses, are not counted in

the warrant data. Staff emphasized that higher speeds increase the severity of collisions, which is why stop sign warrants are adjusted for roads exceeding 40 mph.

Council asked whether a traffic signal or roundabout could be installed instead of stop signs. Staff explained that traffic signals require higher warrant thresholds, including multiple criteria under the MUTCD, and cost would be a factor. While nothing legally prevents installing a signal, staff noted it would require further analysis. Council expressed concern about using stop signs as interim solution, emphasizing the potential safety risk if accidents increase before a signal is considered.

Council discussed that stop signs could create confusion at the T-intersection and that the main issue is speed, not visibility. Enforcement or warning signs were suggested as alternatives. The intersection meets the speed-related criteria for a stop sign.

Mayor Flynn opened public comments

Mike Lara, Mayor of Beaumont, spoke in support of installing a three-way stop at Highland Springs & Potrero, noting that traffic warrants indicate the stop is necessary for safety. He highlighted that Beaumont's City Council has approved the installation on their side and offered to fund the stop signs. He also cited six collisions over three years as additional context and emphasized the importance of collaborative action between the two cities to reduce potential safety risks and liability.

Mayor Flynn closed public comments

Council discussed that a stop sign could cause backups and confusion; a traffic signal might be safer but would require cost-sharing with Beaumont. Staff confirmed the intersection meets speed-based warrant criteria, and no interim enforcement or mitigation measures have been implemented.

Motion by Mayor Flynn to modify Resolution 2025-131. Approve the stop sign at First Street & Hays Street while deferring the Highland Springs & Potrero stop sign pending mitigation measures and future evaluation. The motion includes striking the resolution language for Highland Springs & Potrero.
Seconded by Council Member Royce
Motion Failed, vote was 3-2.

COUNCIL MEMBER	YES	NO
Barrington, Cynthia		X
Flynn, Sheri	X	
Miller, Leroy		X
Royce, Richard	X	
Wallace, Colleen		X

Motion by Council Member Barrington to approve Resolution 2025-131 to install the stop sign at First Street & Hays Street, with a caveat to monitor traffic at Highland Springs & Potrero and consider a traffic signal if backups occur.
Seconded by Council Member Wallace
Vote was 4-1.

COUNCIL MEMBER	YES	NO
Barrington, Cynthia	X	
Flynn, Sheri		X
Miller, Leroy	X	
Royce, Richard	X	
Wallace, Colleen	X	

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7. PUBLIC HEARINGS

7.1 Re-introduction and Adoption of Ordinance 1611, Approving a Development Agreement By and Between the City of Banning and JDNJ Enterprises, LLC, a Missouri Limited Liability Corporation, for the Banning Commerce Center Project by Sansone Group Previously Approved Under Council Resolutions 2025-106 and 2025-107 and Involve 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.

Recommendation: Re- introduce and Conduct First Reading of, by Title Only, Ordinance 1611: 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.

The project was previously reviewed at the July8 meeting, where Council adopted the project's EIR, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting program.

The reintroduction of Ordinance No. 1611 is necessary to address:

- Missing dates and references.
- Added text to Section 17C regarding tolling the agreement in case of third-party challenges.
- Proper signatory names, and current development impact fees applicable to the project.

Because revisions go beyond minor grammatical corrections, the ordinance is being reintroduced for first reading.

Mayor Flynn opened public hearing at 8:03 p.m.
No public comments.

Mayor Flynn closed public hearing at 8:04 p.m.

Motion by Council Member Wallace to adopt Ordinance 1611, approving a Development Agreement by and between the City of Banning and JDNJ Enterprises, LLC a Missouri Limited Liability Corporations with revisions and waive second reading of the Ordinance.
Seconded by Mayor Flynn,
Motion carried unanimously 5-0**.**

7.2 Consideration of Resolution 2025 -135 Approving a Cannabis Conditional Use Permit (CUP) Application Case No. PLN 24-0107, by Flower Dept, LLC to Allow for the Commercial Cultivation of Cannabis (Project) within an Existing 8,041-square foot Industrial Building at 200 John Street, in the Industrial (I) Zoning District (APN 541-220-006)

Recommendation: Adopt Resolution 2025-135.

David Newell, Community Development Director, provided the staff report.

Council Discussion:

- Council inquired whether the City would profit from water and electricity use at the facility.
- Staff explained that utility charges are based on a cost-of services analysis, ensuring sufficient revenue to cover operational costs rather than generate profit.
- While the City would not see significant profit, the increase in electrical demand benefits the utility by helping offset fixed costs shared by all customer classes.

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- Council requested details on technology and monitoring methods to ensure odors are controlled.
- Staff said facility will use carbon filtration technology similar to the system at 820 South Hathaway. Possible additional insulation or creating a sealed “box within a building” design to prevent odor escape.
- Council suggested adding a condition requiring sealed grow and drying rooms.
- Council discussed ensuring compliance with BMC Section 17.53.160, which requires a minimum of 10000 sq. ft. canopy and a maximum of 22,000 sq. ft. per permit.
- Staff proposed adding a condition requiring the applicant to provide canopy grow plan demonstrating compliance and the City can conduct periodic inspections to very ongoing adherence to canopy and spacing requirements.

Ricardo Alcantara, Project Manager, addressed Council regarding odor control. Facility will use triple carbon filtration (in-room, attic, and hallways) to exceed City standards. Easement agreement between property owners will be recorded after CUP approval.

Mayor Flynn opened public hearing at 8:38 p.m.

Frank Connelly supports the CUP due to no nearby residences and concerned about locked cul-de-sac sand emergency access; recommends no-parking zones for safety.

Lynnea Hagan concerned about high water use, odor issues, and city revenue. She questioned the need additional cannabis facilities.

John Hagan Noted that three cannabis facilities are already authorized in District 2, two inactive. Highlighted the site’s history as the Indigo Grove facility and suggested the City ensure no individuals previously involved in illegal operations are associated with the new LLC.

Jack Gunderson raised concerns about ongoing odor issues at existing facilities; stressed the need for unannounced inspections to ensure compliance and opposed adding another cannabis facility in the City.

Max Diego concern about odor from the Hathaway Street facility. He’s opposed approving the new facility until existing odor issues are resolved, to avoid doubling the problem.

Correspondence: letter received raising concerns about the 200 John Street cannabis project was read for the record (Exhibit 2).

Council Discussion:
- Some Council Members noted widespread odor from existing facilities but acknowledged the new facility has filtration systems.
- Council discussed potential tax revenue.
- The applicant and operators passed background checks. No prior illegal operators are associated with the LLC.
- Previous public vote approved dispensaries, not cultivation, no cap exists on cultivation facilities.
- Safety Concerns: Fire access and street layout (cult-de-sac at Gallaher Way) require review to ensure emergency vehicle access.

Mayor Flynn acknowledged the large volume of information and requested additional time to review project details, with staff to address concerns raised (odor, safety, canopy compliance, and other questions.)

Motion by Mayor Flynn to continue the Public Hearing to the next meeting to allow staff to address Council’s concerns.

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Seconded by Mayor Pro Tem Royce
Motion carried unanimously 5-0**.**

8. REPORTS OF OFFICERS

None

9. DISCUSSION/ACTION ITEMS

9.1 Consideration of Resolution 2025-136 Recognizing the Fourth Friday of September as California Native American Day
Recommendation: Adopt Resolution 2025-136

Art Vela, Interim City Manager, provided the staff report. Acknowledges BAM on ancestral Serrano and Cahuilla lands. Recognizes the Morongo Band of Mission Indians and their contributions and reaffirms the City's respect for tribal sovereignty and commitment to cultural awareness.

Mayor Flynn opened public comments.
No public comments.

Mayor Flynn closed public comments.

Motion by Mayor Pro Tem to adopt Resolution 2025-136.
Seconded by Council Member Miller
Motion carried unanimously 5-0**.**

10. ITEMS FOR FUTURE AGENDAS

11.1 **NEW ITEMS**

1. Workshop to discuss homelessness (Royce)

11.2 **EXISTING ITEMS**

1. Animal Control Facility Assessment (Flynn)
2. Contractor(s) to do Citywide Cleanup (Flynn)
3. Emergency Preparedness (Barrington)
4. Review and Update Council travel Policy (Flynn)
5. Streamline Procurement Policy (Flynn)
6. Comp. & Class Salaries (Royce)
7. LMD Alternative Sources (Royce)
8. Community Garden, Sun Lakes (Flynn)

11. ADJOURNMENT

A motion to adjourn the meeting was made by Mayor Pro Tem Royce, seconded by Council Member Miller. Motion carried unanimously 5-0, and the meeting was adjourned at 9:32 p.m.

Minutes prepared by:

Sandra B. Calderon
Acting Administrative City Clerk

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://banningca.granicus.com/player/clip/240?view_id=1&redirect=true

DRAFT

From: K kdi
To: Arturo Vela; Richard Royce; Leroy Miller; Colleen Wallace; Sandra Calderon
Subject: Subject: Public Safety & Enforcement – August 2025 Summary
Date: Sunday, September 21, 2025 1:12:01 PM

PLEASE ADD TO AGENDA MEETING as CITIZENS LETTERS to become part of permanent record Thank You

To: City Council, City Manager

Dear Councilmembers,

I am sharing a summary of Banning's August 2025 public safety and enforcement reports. This information is taken directly from city documents.

Key Findings: Violent crime low. Assaults most common. Rape rare. Robbery rare. Burglary down. Auto theft down. Larceny steady. Police handled 3,987 incidents in August. Many incidents related to DUI, transient activity, service needs. Clearance rate 49%. Half unresolved. Code Enforcement: NOVs up. Citations up. Resolutions down. Fee collections down 80%. Violations identified not fixed. Fines unpaid. Fire & Mutual Aid: Banning received 314 units. Banning provided 202 units. Response times strong. Reliance on outside help significant.

Red Flags: Assault counts differ (18 vs 22). Burglary down 70%, auto theft down 50% — drop may reflect reclassification not real decline. Code Enforcement issuing more violations but not resolving, not collecting. Incident totals include non-crimes. Residents still perceive danger.

Simple Visual: Code Enforcement YTD vs 2024 → NOVs up 988%, Fee Collections down 80%. Enforcement increasing. Resolution decreasing.

Why This Matters: Residents deserve accurate numbers. Violations unresolved. Fines unpaid. Outside fire support required. Transparency needed. Calls, reports, state verified counts. Trust improves with clarity.

Respectfully,

Kathy Aranda

Exhibit 2

From: K kdi
To: Arturo Vela; Richard Royce; Leroy Miller; Cynthia Barrington; Colleen Wallace; Sandra Calderon
Subject: Subject: Red Flags – Cannabis Project at 200 John St. (PLN 24-0107, Sept. 23 Council Hearing)
Date: Sunday, September 21, 2025 8:14:27 PM

PLAESE ADD THIS EMAIL AS opposed to this project in agenda responses

Dear Councilmembers,

The proposed cannabis project at 200 John Street (PLN 24-0107) carries multiple red flags that must be addressed before approval.

Red Flags Identified

- Weak CEQA Review – City is approving under a Class 1 exemption. This shortcut ignores cannabis-specific impacts like odor, heavy water use, and high electricity demand. This creates legal vulnerability to CEQA lawsuits.
- Landlocked Site – The property depends on a new easement at Galleher Way for access. Without a recorded and permanent easement, the facility is effectively landlocked and non-operational.
- Odor Enforcement Loophole – Approval allows cultivation with only filtration systems and quarterly reporting. The CUP can be reopened if 3 odor complaints in 90 days occur. That is reactive enforcement and puts the burden on residents, not the operator.
- Safety Approvals Deferred – Key protections like fire sprinklers, CO_2 enrichment safety, alarms, and hazardous materials handling are not approved yet. Council would be granting the CUP while life-safety requirements are still “to be determined.”
- Utility Strain – Requires a 1200A electrical panel and 500 KVA transformer plus six 1,000-gallon water tanks. No renewable energy offsets are included. This is a major new burden on BEU and City water systems.
- Parking & Traffic Risk – Only 11 parking spaces provided. Emergency fire access is through a gated easement. Industrial neighbors already raised concerns about traffic conflicts and

congestion.

- No Retail Benefit – This is cultivation only, meaning no sales tax revenue. The City takes on enforcement and oversight costs but receives limited financial benefit.
- Divided Commission & Strong Opposition – Planning Commission's first vote failed (2–2–1), and the final approval was only 3–2. Residents testified about odor from other sites, a past marijuana raid at this address, high water demand, and lack of enforcement.
- Critical Point – Council is being asked to approve this CUP with major safeguards still unresolved, legal access not guaranteed, and community impacts not fully addressed. This is not good governance and leaves both residents and the City exposed.

Bottom Line:

This project has too many unresolved risks: legal, safety, infrastructure, and community impact. Moving forward without stronger safeguards puts the City and residents at risk.

Thank you

Kathy Aranda

Minutes

CITY COUNCIL - SPECIAL MEETING (CLOSED SESSION)
CITY OF BANNING, CALIFORNIA

October 3, 2025
5:00 p.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the minutes for the special 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.

1. CALL TO ORDER

COUNCIL MEMBERS PRESENT:	Council Member Cynthia Barrington Mayor Sheri Flynn Council Member Leroy Miller Mayor Pro Tem Richard Royce Council Member Colleen Wallace
COUNCIL MEMBERS ABSENT:	None
OTHERS PRESENT:	John O. Pinkney, City Attorney Arturo Vela, Interim City Manager Sandra Calderon, Acting Administrative City Clerk

2. PUBLIC COMMENTS - *Agenda Items Only*

No public comments.

3. CLOSED SESSION

3.1 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1) - Three (3) Cases
1. Sun Lakes Highlands v. City of Banning et.al Case No. 5:24-Cv-02603-dtb
2. Workers Compensation Case No. 1080-WC-22-0000019, Michael Loader.
3. Two Brothers 14 Corporation Inc v. City of Banning et.al Case No. CVR12406468

3.2 CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Pursuant to Government Code Sections 54956.9(d)(2), (3) and/or (4). Two potential cases.

3.3 PUBLIC EMPLOYMENT/EMPLOYEE APPOINTMENT
Pursuant to Government Code Section 54957. Title: City Manager.

The City Council recessed into Closed Session at 5:01 p.m.

Mayor Flynn recused herself from item 3.1.1 because she was personally named on this lawsuit.
Art Vela, Interim City Manager recused himself from item 3.3.

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The City Council reconvened in open session at 8:27 p.m.

City Attorney reported on the Closed Session items as follows:

- Item 3.1 - Conference with Legal Counsel – Existing Litigation (Three Cases): No reportable action taken.
- Item 3.2 Conference with Legal Counsel – Anticipated Litigation (Two Potential Cases): No reportable action taken.
- Item 3.3 – Public Employment/Employee Appointment – City Manager: No reportable action taken.

4. ADJOURNMENT

A motion to adjourn the meeting was made by Mayor Pro Tem Royce, seconded by Council Member Miller. Motion carried unanimously 5-0, and the meeting was adjourned at 8:27 p.m.

Minutes prepared by:

Sandra B. Calderon
Acting Administrative City Clerk

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://banningca.granicus.com/player/clip/241?view_id=1&redirect=true

DRAFT

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

PREPARED BY: **Austin Flint,**
Michelle Green, Interim Finance Director

MEETING DATE: **October 14, 2025**

SUBJECT: **Receive and File Cash and Investments Report for the Month of August 2025**

RECOMMENDATION:

That City Council receive and file Cash and Investment Report for August 2025, in accordance with California Government Code 53646.

BACKGROUND:

The City's investment portfolio is compliant with its Investment Policy and Pooled Cash is expected to meet all disbursement requirements for the next six months.

JUSTIFICATION:

UNRESTRICTED CASH AND INVESTMENTS:

Cash & Investments	July 2025	August 2025
Funds under Control of the City:		
Petty Cash / Cash on Hand	$4,055.00	$4,055.00
Sub-Total	**$4,055.00**	**$4,055.00**
Checking and Savings:		
Wells Fargo - General Account - XXXXX5798	$1,242,229.89	$2,344,376.94
HCN Bank - General Account - XXXXX97479	$50,000.00	$50,000.00
HCN Bank - Parking Citations - XXXXX94035	$58.00	$68.00
Bank of America - Parking Citations - XXXXXX8776	$146,590.08	$146,591.32
Bank of America - Airport Visa - XXXXXX7548	$636,749.41	$639,172.06
Bank of America - CNG Charge Acct - XXXXXX5594	$79,091.90	$79,091.90
Sub-Total	**$2,154,719.28**	**$3,259,300.22**
See Investment Report for Details of the following investments:		
State of California, Local Agency Investment Fund	**$14,955,755.48**	**$10,855,755.48**
% of Investments in LAIF	**41%**	**33%**

US Bank City of Banning Investment Custody Account XXXXX6000	**$21,793,247.44**	**$21,855,348.55**
Cash and Investments	**$38,907,777.20**	**$35,974,459.25**

RESTRICTED CASH AND INVESTMENTS:

Cash & Investments	July 2025	August 2025
Cash with Fiscal Agents		
US Bank		
2015 Water Revenue Bonds-BUA Water Projects - 258228005	$905,729.35	$908,620.62
2015 Water Revenue Bonds-BUA Water Projects - 258228000	$6,368.34	$6,388.67
2019 Wastewater Revenue Bond - 254226002	$352,527.52	$352,530.51
2019 Wastewater Revenue Bonds 254226000	$115,053.71	$115,054.69
2019 Wastewater Revenue Bonds - BUA Water Projects - Previous Balance less amount required for Refunding - 254226006	$2,503,244.29	$2,503,265.55
2019 Wastewater Revenue Bonds - Interest Account - 254226001	$0.21	$0.21
2019 Wastewater Revenue Bonds - Cost of Issuance Fund - 254226005	$1.43	$1.43
2015 Electric Revenue Bond-Acquisition & Construction Fund - 262685003	$2,595.06	$2,603.34
2015 Electric Revenue Bond-Acquisition & Construction Fund - 262685000	$15,789.46	$15,839.86
Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Revenue Fund - 277166000	$2.04	$1,796,277.92
Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Unexpended Proceeds Fund - 277166005	$7,687,796.75	$7,687,829.40
Improvement Dist No 2004-1 (Fair Oaks Ranch Estates) Limited Obligation Improvement Bonds Series 2005A Interest Acct-789582000	$0.06	$105,000.06
Improvement Dist No 2004-1 (Fair Oaks Ranch Estates) Limited Obligation Improvement Bonds Series 2005A Principal Acct-789582001	$0.06	$37,838.81
Improvement Dist No 2004-1 (Fair Oaks Ranch Estates) Limited Obligation Improvement Bonds Series 2005A Reserve Fund-789582003	$186,063.75	$186,064.54
PERMA Member Trust Account xxx-xxxx-101.12-00	$2,121,258.99	$2,121,258.99
CAISO - City of Banning XXXXX6994	$132,232.28	$132,702.73
City of Banning - XXXXX5920 - Riverside Public Utilities (RPU)	$553,448.17	$489,808.36
Cash with Fiscal Agents US Bank	**$14,582,111.47**	**$16,461,085.69**
Restricted Investment in SCPPA Project Stabilization Fund		
Project Stabilization Fund	**$1,026,443.62**	**$1,028,100.24**
Total Restricted Cash and Investments	**$15,608,555.09**	**$17,489,185.93**

Grand Total Cash and Investments	**$54,516,332.29**	**$53,463,645.18**

BOND RESERVE INSURANCE POLICIES:

Insurance Policy and Purpose	Market Value
2015 Electric Revenue Bond-Reserve Fund - 262685002 - Market Value	$2,428,543.76
Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Bonds Series 2016 (Taxable) Reserve Fund- 277166004 Market Value	$2,205,497.50

FISCAL IMPACT:

Not applicable.

I hereby certify that the investment activity for this reporting period conforms with the investment policy adopted by the City of Banning's City Council and the California Government Code Section 53601.

I also certify that there exists adequate pooled cash available to meet the City's disbursement requirements for at least the next six months.

ALTERNATIVES:

Not applicable.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Investment Report August 2025.pdf
2. City of Banning Broker Report August 2025.pdf
3. LAIF Market Valuation August 2025.pdf
4. PMIA-LAIF Performance Report August 2025.pdf

City of Banning
Report of Investments
August 2025

Investment Held by	Investment Name	Investment Type	CUSIP Number	Standard & Poors Rating	Moodys Rating	Maturity Duration	Par	Market Yield	Market Price	Market Value/Accrued Int	Percentage of Investments
State of California, Local Agency Investment Fund											
	City of Banning	Pooled Investment	N/A	N/A	N/A		$ 10,855,755.48	4.251	100.119831	$ 10,868,764.04	33.2%
	Successor Agency	Pooled Investment	N/A	N/A	N/A		$ -	4.251	100.119831	$ -	0.0%
							$ 10,855,755.48			**$ 10,868,764.04**	**33.2%**
US Bank- Broker Chandler Asset Management											
Government Agencies											
	Total ABS	Asset-Backed Securities	Various	AAA	Aaa	0.87	$ 540,919.36	4.040	101.05263	$ 546,613.24	1.65%
	Total Agency	Federal Agencies	3130ARF55	AA+	Aa1	1.51	$ 3,000,000.00	3.820	98.15266	$ 2,944,579.80	9.2%
	Total Cash	Cash and Equivalents	CCYUSD	AAA	Aaa	0.00	$ 1,934.91	0.000	100.00	$ 1,934.91	0.0%
	Total Commercial Paper	Paper	62479LL78	NA	A-1	0.18	$ -	5.500	99.497	$ -	0.0%
	Total Corporate	Corporate	Various	AA-/A-/A	Aa2/A1/A2/A3	0.41	$ 2,265,000.00	4.200	99.73602	$ 2,259,020.85	6.9%
	Total Money Market	Money Market/Mutual Funds	31846V401	AAAm	Aaa	0.00	$ 57,494.28	3.760	100.00	$ 57,494.28	0.2%
	Total US Treasury	US Treasuries	Various	A-1+/AA+	P-1/Aa1	0.06	$ 15,990,000.00	4.290	99.91904	$ 15,977,054.50	48.9%
							$ 21,855,348.55			**$ 21,786,697.58**	**66.8%**
Total Investments							**$ 32,711,104.03**			**$ 32,655,461.62**	**100.0%**

CHANDLER ASSET MANAGEMENT

MONTHLY ACCOUNT STATEMENT

City of Banning | Account #11089 | As of August 31, 2025

CHANDLER ASSET MANAGEMENT | chandlerasset.com

Chandler Team:

For questions about your account, please call (800) 317-4747,
or contact clientservice@chandlerasset.com

Custodian:

US Bank

Information contained herein is confidential. We urge you to compare this statement to the one you receive from your qualified custodian. Please see Important Disclosures at the end of the statement.

PORTFOLIO SUMMARY

City of Banning | Account #11089 | As of August 31, 2025

Portfolio Characteristics

Average Modified Duration	0.31
Average Coupon	1.26%
Average Purchase YTM	4.13%
Average Market YTM	4.21%
Average Credit Quality*	AA+
Average Final Maturity	0.36
Average Life	0.32

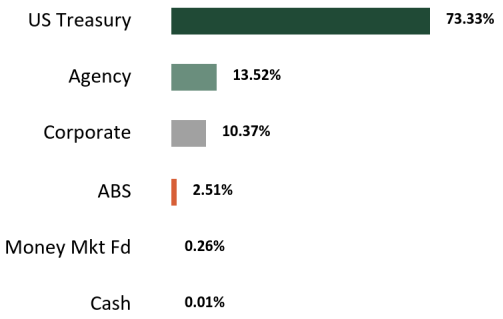
Account Summary

	End Values as of 07/31/2025	End Values as of 08/31/2025
Market Value	21,693,013.68	21,786,698.35
Accrued Interest	71,965.99	78,043.73
Total Market Value	**21,764,979.67**	**21,864,742.08**
Income Earned	68,033.10	82,793.87
Cont/WD	0.00	0.00
Par	21,793,247.44	21,855,348.55
Book Value	21,762,843.56	21,832,330.71
Cost Value	21,696,599.41	21,768,751.02

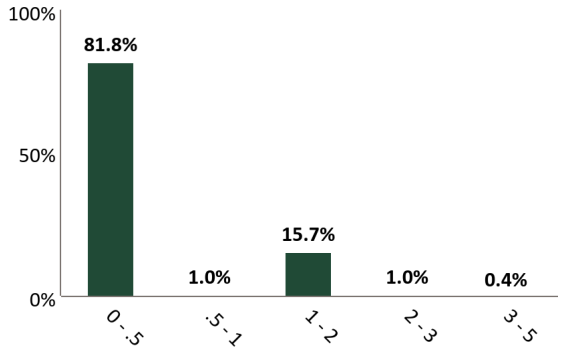
Top Issuers

Government of The United States	73.33%
Federal Home Loan Banks	13.52%
Exxon Mobil Corporation	2.28%
Simon Property Group, Inc.	1.26%
Air Products and Chemicals, Inc.	1.26%
The Toronto-Dominion Bank	1.20%
Deere & Company	1.19%
JPMorgan Chase & Co.	1.16%

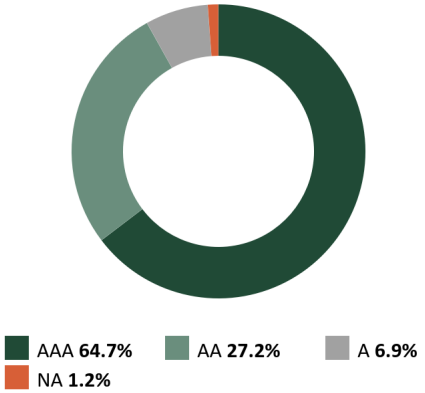
Sector Allocation



Maturity Distribution



Credit Quality (S&P)



Performance Review

Total Rate of Return**	1M	3M	YTD	1YR	2YRS	3YRS	5YRS	10YRS	Since Inception (07/01/23)
City of Banning	0.46%	1.15%	3.09%	4.65%	5.30%	--	--	--	5.21%
Benchmark Return	0.46%	1.14%	2.85%	4.50%	4.99%	--	--	--	4.95%

*The average credit quality is a weighted average calculation of the highest of S&P, Moody's and Fitch.
**Periods over 1 year are annualized.
Benchmark: ICE BofA 0-1 Year US Treasury Notes & Bonds Secondary Benchmark:

STATEMENT OF COMPLIANCE

City of Banning | Account #11089 | As of August 31, 2025

Rules Name	Limit	Actual	Compliance Status	Notes
AGENCY MORTGAGE SECURITIES (CMOS)				
Max % (MV)	100.0	0.0	Compliant	
Max % Issuer (MV)	30.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
ASSET-BACKED SECURITIES (ABS)				
Max % (MV; Non Agency ABS & MBS)	20.0	2.5	Compliant	
Max % Issuer (MV)	5.0	1.0	Compliant	
Max Maturity (Years)	5	4	Compliant	
Min Rating (AA- by 1)	0.0	0.0	Compliant	
BANKERS' ACCEPTANCES				
Max % (MV)	40.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Days)	180	0.0	Compliant	
Min Rating (A-1 by 1 or A- by 1)	0.0	0.0	Compliant	
CERTIFICATE OF DEPOSIT PLACEMENT SERVICE (CDARS)				
Max % (MV)	30.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
COLLATERALIZED BANK DEPOSITS				
Max Maturity (Years)	5.0	0.0	Compliant	
COLLATERALIZED TIME DEPOSITS (NON-NEGOTIABLE CD/TD)				
Max % (MV)	20.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
COMMERCIAL PAPER				
Max % (MV)	25.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Days)	270	0.0	Compliant	
Min Rating (A-1 by 1 or A- by 1)	0.0	0.0	Compliant	
CORPORATE MEDIUM TERM NOTES				
Max % (MV)	30.0	10.4	Compliant	
Max % Issuer (MV)	5.0	2.3	Compliant	
Max Maturity (Years)	5	1	Compliant	
Min Rating (A- by 1)	0.0	0.0	Compliant	

STATEMENT OF COMPLIANCE

City of Banning | Account #11089 | As of August 31, 2025

Rules Name	Limit	Actual	Compliance Status	Notes
FDIC INSURED TIME DEPOSITS (NON-NEGOTIABLE CD/ TD)				
Max % (MV)	20.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
FEDERAL AGENCIES				
Max % (MV)	100.0	13.5	Compliant	
Max % Issuer (MV)	30.0	13.5	Compliant	
Max Callables (MV)	20.0	13.5	Compliant	
Max Maturity (Years)	5	1	Compliant	
LOCAL AGENCY INVESTMENT FUND (LAIF)				
Max Concentration (MV)	75.0	0.0	Compliant	
MONEY MARKET MUTUAL FUNDS				
Max % (MV)	20.0	0.3	Compliant	
Max % Issuer (MV)	20.0	0.3	Compliant	
Min Rating (AAA by 2)	0.0	0.0	Compliant	
MORTGAGE-BACKED SECURITIES (NON-AGENCY)				
Max % (MV)	20.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
Min Rating (AA- by 1)	0.0	0.0	Compliant	
MUNICIPAL SECURITIES (CA, LOCAL AGENCY)				
Max % (MV)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
Min Rating (A- by 1)	0.0	0.0	Compliant	
MUNICIPAL SECURITIES (CA, OTHER STATES)				
Max % (MV)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
Min Rating (A- by 1)	0.0	0.0	Compliant	
MUTUAL FUNDS				
Max % (MV)	20.0	0.0	Compliant	
Max % Issuer (MV)	10.0	0.0	Compliant	
Min Rating (AAA by 2)	0.0	0.0	Compliant	

STATEMENT OF COMPLIANCE

City of Banning | Account #11089 | As of August 31, 2025

Rules Name	Limit	Actual	Compliance Status	Notes
NEGOTIABLE CERTIFICATES OF DEPOSIT (NCD)				
Max % (MV)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
Min Rating (A-1 by 1 or A- by 1 if > FDIC Limit)	0.0	0.0	Compliant	
REPURCHASE AGREEMENTS				
Max Maturity (Years)	1.0	0.0	Compliant	
SUPRANATIONAL OBLIGATIONS				
Max % (MV)	30.0	0.0	Compliant	
Max % Issuer (MV)	10.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
Min Rating (AA- by 1)	0.0	0.0	Compliant	
U.S. TREASURIES				
Max % (MV)	100.0	73.3	Compliant	
Max Maturity (Years)	5	0.0	Compliant	

RECONCILIATION SUMMARY

City of Banning | Account #11089 | As of August 31, 2025

Maturities / Calls

Month to Date	**(13,665,000.00)**
Fiscal Year to Date	**(26,475,000.00)**

Principal Paydowns

Month to Date	**(22,999.01)**
Fiscal Year to Date	**(44,233.16)**

Purchases

Month to Date	**27,419,492.57**
Fiscal Year to Date	**53,132,280.73**

Sales

Month to Date	**(13,705,434.86)**
Fiscal Year to Date	**(26,554,288.48)**

Interest Received

Month to Date	**26,058.70**
Fiscal Year to Date	**58,759.09**

Purchased / Sold Interest

Month to Date	**0.00**
Fiscal Year to Date	**0.00**

Accrual Activity Summary

	Month to Date	Fiscal Year to Date (07/01/2025)
Beginning Book Value	21,762,843.56	21,683,876.68
Maturities/Calls	(13,665,000.00)	(26,475,000.00)
Principal Paydowns	(22,999.01)	(44,233.16)
Purchases	27,419,492.57	53,132,280.73
Sales	(13,705,434.86)	(26,554,288.48)
Change in Cash, Payables, Receivables	(7,228.99)	(1,235.97)
Amortization/Accretion	50,657.43	90,930.92
Realized Gain (Loss)	0.01	(0.00)
Ending Book Value	21,832,330.71	21,832,330.71

Fair Market Activity Summary

	Month to Date	Fiscal Year to Date (07/01/2025)
Beginning Market Value	21,693,013.68	21,622,793.03
Maturities/Calls	(13,665,000.00)	(26,475,000.00)
Principal Paydowns	(22,999.01)	(44,233.16)
Purchases	27,419,492.57	53,132,280.73
Sales	(13,705,434.86)	(26,554,288.48)
Change in Cash, Payables, Receivables	(7,228.99)	(1,235.97)
Amortization/Accretion	50,657.43	90,930.92
Change in Net Unrealized Gain (Loss)	24,197.52	15,451.28
Realized Gain (Loss)	0.01	(0.00)
Ending Market Value	21,786,698.35	21,786,698.35

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
ABS									
379929AD4	GMALT 2023-3 A3 5.38 11/20/2026	14,371.91	08/08/2023 5.36%	14,370.19 14,371.27	100.13 4.26%	14,389.96 23.63	0.07% 18.69	NA/AAA AAA	1.22 0.11
05592XAD2	BMWOT 2023-A A3 5.47 02/25/2028	25,400.73	07/12/2023 5.47%	25,396.22 25,398.30	100.69 4.16%	25,575.92 23.16	0.12% 177.62	NA/AAA AAA	2.49 0.50
47787CAC7	JDOT 2023-C A3 5.48 05/15/2028	166,157.06	09/12/2023 5.55%	166,145.64 166,150.43	100.98 4.05%	167,792.09 404.68	0.77% 1,641.67	Aaa/NA AAA	2.71 0.66
36267KAD9	GMCAR 2023-3 A3 5.45 06/16/2028	34,989.67	07/11/2023 5.51%	34,988.31 34,988.90	100.73 4.23%	35,245.86 79.46	0.16% 256.96	Aaa/AAA NA	2.79 0.57
02582JKD1	AMXCA 2023-3 A 5.23 09/15/2026	215,000.00	09/12/2023 5.29%	214,990.39 214,996.67	101.21 4.07%	217,598.68 499.76	1.00% 2,602.02	NA/AAA AAA	1.04 0.99
362955AD8	GMCAR 2025-1 A3 4.62 12/17/2029	85,000.00	01/09/2025 5.03%	84,993.68 84,994.48	101.19 3.78%	86,010.73 163.63	0.39% 1,016.24	Aaa/NA AAA	4.30 1.34
Total ABS		**540,919.36**	**5.35%**	**540,884.43 540,900.04**	**101.05 4.04%**	**546,613.24 1,194.30**	**2.51% 5,713.20**		**2.25 0.87**
AGENCY									
3130ARF55	FEDERAL HOME LOAN BANKS 2.6 03/30/2027	3,000,000.00	03/30/2022 2.60%	3,000,000.00 3,000,000.00	98.15 3.82%	2,944,579.89 32,716.67	13.52% (55,420.11)	Aa1/AA+ AA+	1.58 1.51
Total Agency		**3,000,000.00**	**2.60%**	**3,000,000.00 3,000,000.00**	**98.15 3.82%**	**2,944,579.89 32,716.67**	**13.52% (55,420.11)**		**1.58 1.51**
CASH									
CCYUSD	Receivable	1,934.91	--	1,934.91 1,934.91	1.00 0.00%	1,934.91 0.00	0.01% 0.00	Aaa/AAA AAA	0.00 0.00
Total Cash		**1,934.91**		**1,934.91 1,934.91**	**1.00 0.00%**	**1,934.91 0.00**	**0.01% 0.00**		**0.00 0.00**
CORPORATE									
828807CV7	SIMON PROPERTY GROUP LP 3.5 09/01/2025	275,000.00	12/16/2024 4.65%	272,819.25 275,000.00	100.00 3.50%	275,000.00 4,812.50	1.26% 0.00	A3/A NA	0.00 0.01
24422EWJ4	JOHN DEERE CAPITAL CORP 4.05 09/08/2025	260,000.00	07/09/2024 5.06%	257,056.80 259,951.52	99.99 4.49%	259,977.13 5,060.25	1.19% 25.61	A1/A A+	0.02 0.02
009158BB1	AIR PRODUCTS AND CHEMICALS INC 1.5 10/15/2025	275,000.00	11/12/2024 4.51%	267,597.00 274,030.56	99.66 4.38%	274,051.50 1,558.33	1.26% 20.94	A2/A NA	0.12 0.12

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
89115A2K7	TORONTO-DOMINION BANK 5.103 01/09/2026	260,000.00	02/24/2025 4.49%	261,326.00 260,542.08	100.21 4.46%	260,547.81 1,916.46	1.20% 5.74	A2/A- AA-	0.36 0.35
02665WEY3	AMERICAN HONDA FINANCE CORP 4.95 01/09/2026	220,000.00	03/19/2025 4.53%	220,712.80 220,314.12	100.19 4.36%	220,424.81 1,573.00	1.01% 110.69	A3/A- NA	0.36 0.35
30231GAT9	EXXON MOBIL CORP 3.043 03/01/2026	500,000.00	06/08/2023 4.53%	481,105.00 496,555.90	99.43 4.22%	497,131.29 7,607.50	2.28% 575.39	Aa2/AA- NA	0.50 0.49
693475BB0	PNC FINANCIAL SERVICES GROUP INC 1.15 08/13/2026	225,000.00	03/19/2025 4.52%	214,843.50 218,123.00	97.18 4.21%	218,665.80 129.38	1.00% 542.80	A3/A- A	0.95 0.92
48125LRU8	JPMORGAN CHASE BANK NA 5.11 12/08/2026	250,000.00	10/16/2024 4.23%	254,312.50 252,483.13	101.29 4.05%	253,222.59 2,945.35	1.16% 739.46	Aa2/AA- AA	1.27 1.13
Total Corporate		**2,265,000.00**	**4.56%**	**2,229,772.85** **2,257,000.30**	**99.75** **4.20%**	**2,259,020.92** **25,602.77**	**10.37%** **2,020.63**		**0.44** **0.41**
MONEY MARKET FUND									
31846V401	FIRST AMER:GVT OBLG D	57,494.28	-- 3.76%	57,494.28 57,494.28	1.00 3.76%	57,494.28 0.00	0.26% 0.00	Aaa/ AAAm AAA	0.00 0.00
Total Money Market Fund		**57,494.28**	**3.76%**	**57,494.28** **57,494.28**	**1.00** **3.76%**	**57,494.28** **0.00**	**0.26%** **0.00**		**0.00** **0.00**
US TREASURY									
912797QT7	UNITED STATES TREASURY 09/09/2025	13,750,000.00	-- 4.33%	13,706,728.61 13,737,006.00	99.92 4.31%	13,738,637.14 0.00	63.06% 1,631.13	P-1/A-1+ F1+	0.02 0.02
91282CFP1	UNITED STATES TREASURY 4.25 10/15/2025	300,000.00	03/12/2025 4.19%	300,093.75 300,019.10	100.00 4.22%	299,986.33 4,842.21	1.38% (32.77)	Aa1/AA+ AA+	0.12 0.12
91282CFW6	UNITED STATES TREASURY 4.5 11/15/2025	400,000.00	12/30/2024 4.24%	400,859.38 400,202.05	100.04 4.22%	400,178.12 5,331.52	1.84% (23.92)	Aa1/AA+ AA+	0.21 0.20
9128285N6	UNITED STATES TREASURY 2.875 11/30/2025	300,000.00	03/12/2025 4.18%	297,246.09 299,054.00	99.69 4.15%	299,055.47 2,191.60	1.37% 1.47	Aa1/AA+ AA+	0.25 0.24
91282CGA3	UNITED STATES TREASURY 4.0 12/15/2025	340,000.00	02/10/2025 4.26%	339,256.25 339,745.62	99.96 4.09%	339,880.47 2,898.36	1.56% 134.85	Aa1/AA+ AA+	0.29 0.28
91282CGE5	UNITED STATES TREASURY 3.875 01/15/2026	500,000.00	06/08/2023 4.27%	495,136.72 499,304.51	99.91 4.12%	499,525.39 2,527.17	2.29% 220.88	Aa1/AA+ AA+	0.38 0.36
91282CGL9	UNITED STATES TREASURY 4.0 02/15/2026	400,000.00	03/19/2025 4.18%	399,343.75 399,669.90	99.95 4.11%	399,792.19 739.13	1.84% 122.29	Aa1/AA+ AA+	0.46 0.44

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
				15,938,664.55	99.92	15,977,055.11	73.33%		0.06
Total US Treasury		15,990,000.00	4.31%	15,975,001.19	4.29%	18,530.00	2,053.92		0.06
				21,768,751.02	99.42	21,786,698.35	100.00%		0.36
Total Portfolio		21,855,348.55	4.13%	21,832,330.71	4.21%	78,043.73	(45,632.37)		0.31
Total Market Value + Accrued						21,864,742.08			

TRANSACTION LEDGER

City of Banning | Account #11089 | As of August 31, 2025

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/ Disp Yield	Amount	Interest Pur/ Sold	Total Amount	Gain/Loss
ACQUISITIONS										
Purchase	08/01/2025	31846V401	265,000.00	FIRST AMER:GVT OBLG D	1.000	3.79%	(265,000.00)	0.00	(265,000.00)	0.00
Purchase	08/01/2025	31846V401	5,134.38	FIRST AMER:GVT OBLG D	1.000	3.79%	(5,134.38)	0.00	(5,134.38)	0.00
Purchase	08/01/2025	31846V401	9,163.90	FIRST AMER:GVT OBLG D	1.000	3.79%	(9,163.90)	0.00	(9,163.90)	0.00
Purchase	08/12/2025	31846V401	12,900,000.00	FIRST AMER:GVT OBLG D	1.000	3.76%	(12,900,000.00)	0.00	(12,900,000.00)	0.00
Purchase	08/13/2025	912797QT7	13,200,000.00	UNITED STATES TREASURY 09/09/2025	99.681	4.33%	(13,157,895.30)	0.00	(13,157,895.30)	0.00
Purchase	08/15/2025	31846V401	8,937.04	FIRST AMER:GVT OBLG D	1.000	3.75%	(8,937.04)	0.00	(8,937.04)	0.00
Purchase	08/15/2025	31846V401	13,006.56	FIRST AMER:GVT OBLG D	1.000	3.75%	(13,006.56)	0.00	(13,006.56)	0.00
Purchase	08/18/2025	31846V401	3,250.17	FIRST AMER:GVT OBLG D	1.000	3.77%	(3,250.17)	0.00	(3,250.17)	0.00
Purchase	08/20/2025	31846V401	5,787.45	FIRST AMER:GVT OBLG D	1.000	3.78%	(5,787.45)	0.00	(5,787.45)	0.00
Purchase	08/21/2025	31846V401	500,000.00	FIRST AMER:GVT OBLG D	1.000	3.75%	(500,000.00)	0.00	(500,000.00)	0.00
Purchase	08/22/2025	912797QT7	550,000.00	UNITED STATES TREASURY 09/09/2025	99.788	4.31%	(548,833.31)	0.00	(548,833.31)	0.00
Purchase	08/25/2025	31846V401	2,484.46	FIRST AMER:GVT OBLG D	1.000	3.76%	(2,484.46)	0.00	(2,484.46)	0.00
Total Purchase			**27,462,763.96**				**(27,419,492.57)**	**0.00**	**(27,419,492.57)**	**0.00**
TOTAL ACQUISITIONS			**27,462,763.96**				**(27,419,492.57)**	**0.00**	**(27,419,492.57)**	**0.00**
DISPOSITIONS										
Maturity	08/01/2025	06051GFS3	(265,000.00)	BANK OF AMERICA CORP 3.875 08/01/2025	100.000	4.88%	265,000.00	0.00	265,000.00	0.00
Maturity	08/12/2025	912797QJ9	(12,900,000.00)	UNITED STATES TREASURY 08/12/2025	100.000	4.31%	12,900,000.00	0.00	12,900,000.00	0.00
Maturity	08/21/2025	912797PP6	(500,000.00)	UNITED STATES TREASURY 08/21/2025	100.000	4.34%	500,000.00	0.00	500,000.00	0.00
Total Maturity			**(13,665,000.00)**				**13,665,000.00**	**0.00**	**13,665,000.00**	**0.00**
Sale	08/13/2025	31846V401	(13,156,601.55)	FIRST AMER:GVT OBLG D	1.000	3.77%	13,156,601.55	0.00	13,156,601.55	0.00
Sale	08/22/2025	31846V401	(548,833.31)	FIRST AMER:GVT OBLG D	1.000	3.75%	548,833.31	0.00	548,833.31	0.00
Total Sale			**(13,705,434.86)**				**13,705,434.86**	**0.00**	**13,705,434.86**	**0.00**

TRANSACTION LEDGER

City of Banning | Account #11089 | As of August 31, 2025

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/ Disp Yield	Amount	Interest Pur/ Sold	Total Amount	Gain/Loss
TOTAL DISPOSITIONS			**(27,370,434.86)**				**27,370,434.86**	**0.00**	**27,370,434.86**	**0.00**
OTHER TRANSACTIONS										
Coupon	08/01/2025	06051GFS3	0.00	BANK OF AMERICA CORP 3.875 08/01/2025		4.88%	5,134.38	0.00	5,134.38	0.00
Coupon	08/13/2025	693475BB0	0.00	PNC FINANCIAL SERVICES GROUP INC 1.15 08/13/2026		4.52%	1,293.75	0.00	1,293.75	0.00
Coupon	08/15/2025	47787CAC7	0.00	JDOT 2023-C A3 5.48 05/15/2028		5.55%	814.46	0.00	814.46	0.00
Coupon	08/15/2025	02582JKD1	0.00	AMXCA 2023-3 A 5.23 09/15/2026		5.29%	937.04	0.00	937.04	0.00
Coupon	08/15/2025	91282CGL9	0.00	UNITED STATES TREASURY 4.0 02/15/2026		4.18%	8,000.00	0.00	8,000.00	0.00
Coupon	08/16/2025	36267KAD9	0.00	GMCAR 2023-3 A3 5.45 06/16/2028		5.51%	171.41	0.00	171.41	0.00
Coupon	08/16/2025	362955AD8	0.00	GMCAR 2025-1 A3 4.62 12/17/2029		5.03%	327.25	0.00	327.25	0.00
Coupon	08/20/2025	379929AD4	0.00	GMALT 2023-3 A3 5.38 11/20/2026		5.36%	89.98	0.00	89.98	0.00
Coupon	08/25/2025	05592XAD2	0.00	BMWOT 2023-A A3 5.47 02/25/2028		5.47%	126.53	0.00	126.53	0.00
Total Coupon			**0.00**				**16,894.80**	**0.00**	**16,894.80**	**0.00**
Dividend	08/31/2025	31846V401	0.00	FIRST AMER:GVT OBLG D		3.75%	1,934.91	0.00	1,934.91	0.00
Total Dividend			**0.00**				**1,934.91**	**0.00**	**1,934.91**	**0.00**
Principal Paydown	08/15/2025	47787CAC7	12,192.10	JDOT 2023-C A3 5.48 05/15/2028		5.55%	12,192.10	--	12,192.10	0.00
Principal Paydown	08/16/2025	36267KAD9	2,751.51	GMCAR 2023-3 A3 5.45 06/16/2028		5.51%	2,751.51	--	2,751.51	0.00
Principal Paydown	08/20/2025	379929AD4	5,697.47	GMALT 2023-3 A3 5.38 11/20/2026		5.36%	5,697.47	--	5,697.47	0.00

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/ Disp Yield	Amount	Interest Pur/ Sold	Total Amount	Gain/Loss
Principal Paydown	08/25/2025	05592XAD2	2,357.93	BMWOT 2023-A A3 5.47 02/25/2028		5.47%	2,357.93	--	2,357.93	0.00
Total Principal Paydown			**22,999.01**				**22,999.01**	**--**	**22,999.01**	**0.01**
TOTAL OTHER TRANSACTIONS			**22,999.01**				**41,828.72**	**0.00**	**41,828.72**	**0.01**

Cusip	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
CASH & EQUIVALENTS						
31846V401	FIRST AMER:GVT OBLG D	57,494.28	50,165.18 13,712,763.96 (13,705,434.86) 57,494.28	0.00 9,163.90 0.00 9,163.90	0.00 0.00 0.00 9,163.90	9,163.90
912797QJ9	UNITED STATES TREASURY 08/12/2025	0.00	12,883,293.69 0.00 (12,900,000.00) 0.00	0.00 0.00 0.00 0.00	16,706.31 0.00 16,706.31 16,706.31	16,706.31
912797QT7	UNITED STATES TREASURY 09/09/2025	13,750,000.00	0.00 13,706,728.61 0.00 13,737,006.00	0.00 0.00 0.00 0.00	30,277.39 0.00 30,277.39 30,277.39	30,277.39
CCYUSD	Receivable	1,934.91	9,163.90 0.00 0.00 1,934.91	0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00	0.00
Total Cash & Equivalents		**13,809,429.19**	**12,942,622.77 27,419,492.57 (26,605,434.86) 13,796,435.19**	**0.00 9,163.90 0.00 9,163.90**	**46,983.70 0.00 46,983.70 56,147.60**	**56,147.60**
FIXED INCOME						
009158BB1	AIR PRODUCTS AND CHEMICALS INC 1.5 10/15/2025	11/12/2024 11/13/2024 275,000.00	273,347.54 0.00 0.00 274,030.56	1,214.58 0.00 1,558.33 343.75	683.01 0.00 683.01 1,026.76	1,026.76
02582JKD1	AMXCA 2023-3 A 5.23 09/15/2026	09/12/2023 09/19/2023 215,000.00	214,996.39 0.00 0.00 214,996.67	499.76 937.04 499.76 937.04	0.27 0.00 0.27 937.31	937.31
02665WEY3	AMERICAN HONDA FINANCE CORP 4.95 01/09/2026	03/19/2025 03/20/2025 220,000.00	220,389.02 0.00 0.00 220,314.12	665.50 0.00 1,573.00 907.50	0.00 (74.90) (74.90) 832.60	832.60

INCOME EARNED

City of Banning | Account #11089 | As of August 31, 2025

Cusip	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
05592XAD2	BMWOT 2023-A A3 5.47 02/25/2028	07/12/2023 07/18/2023 25,400.73	27,755.91 0.00 (2,357.93) 25,398.30	25.31 126.53 23.16 124.38	0.32 0.00 0.32 124.70	124.70
06051GFS3	BANK OF AMERICA CORP 3.875 08/01/2025	08/12/2024 08/13/2024 0.00	265,000.00 0.00 (265,000.00) 0.00	5,134.38 5,134.38 0.00 0.01	0.00 0.00 0.00 0.01	0.01
24422EWJ4	JOHN DEERE CAPITAL CORP 4.05 09/08/2025	07/09/2024 07/10/2024 260,000.00	259,736.84 0.00 0.00 259,951.52	4,182.75 0.00 5,060.25 877.50	214.68 0.00 214.68 1,092.18	1,092.18
30231GAT9	EXXON MOBIL CORP 3.043 03/01/2026	06/08/2023 06/12/2023 500,000.00	495,966.02 0.00 0.00 496,555.90	6,339.58 0.00 7,607.50 1,267.92	589.87 0.00 589.87 1,857.79	1,857.79
3130ARF55	FEDERAL HOME LOAN BANKS 2.6 03/30/2027	03/30/2022 03/30/2022 3,000,000.00	3,000,000.00 0.00 0.00 3,000,000.00	26,216.67 0.00 32,716.67 6,500.00	0.00 0.00 0.00 6,500.00	6,500.00
36267KAD9	GMCAR 2023-3 A3 5.45 06/16/2028	07/11/2023 07/19/2023 34,989.67	37,740.32 0.00 (2,751.51) 34,988.90	85.70 171.41 79.46 165.16	0.09 0.00 0.09 165.25	165.25
362955AD8	GMCAR 2025-1 A3 4.62 12/17/2029	01/09/2025 01/15/2025 85,000.00	84,994.38 0.00 0.00 84,994.48	163.63 327.25 163.63 327.25	0.11 0.00 0.11 327.36	327.36
379929AD4	GMALT 2023-3 A3 5.38 11/20/2026	08/08/2023 08/11/2023 14,371.91	20,068.42 0.00 (5,697.47) 14,371.27	32.99 89.98 23.63 80.61	0.32 0.00 0.32 80.93	80.93
47787CAC7	JDOT 2023-C A3 5.48 05/15/2028	09/12/2023 09/19/2023 166,157.06	178,341.81 0.00 (12,192.10) 166,150.43	434.38 814.46 404.68 784.77	0.71 0.00 0.71 785.48	785.48

INCOME EARNED

City of Banning | Account #11089 | As of August 31, 2025

Cusip	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
48125LRU8	JPMORGAN CHASE BANK NA 5.11 12/08/2026	10/16/2024 10/17/2024 250,000.00	252,660.90 0.00 0.00 252,483.13	1,880.76 0.00 2,945.35 1,064.58	0.00 (177.78) (177.78) 886.81	886.81
693475BB0	PNC FINANCIAL SERVICES GROUP INC 1.15 08/13/2026	03/19/2025 03/20/2025 225,000.00	217,506.85 0.00 0.00 218,123.00	1,207.50 1,293.75 129.38 215.63	616.15 0.00 616.15 831.77	831.77
828807CV7	SIMON PROPERTY GROUP LP 3.5 09/01/2025	12/16/2024 12/17/2024 275,000.00	274,737.97 0.00 0.00 275,000.00	4,010.42 0.00 4,812.50 802.08	262.03 0.00 262.03 1,064.11	1,064.11
89115A2K7	TORONTO-DOMINION BANK 5.103 01/09/2026	02/24/2025 02/25/2025 260,000.00	260,671.34 0.00 0.00 260,542.08	810.81 0.00 1,916.46 1,105.65	0.00 (129.26) (129.26) 976.39	976.39
912797PP6	UNITED STATES TREASURY 08/21/2025	02/24/2025 02/25/2025 0.00	498,835.67 0.00 (500,000.00) 0.00	0.00 0.00 0.00 0.00	1,164.33 0.00 1,164.33 1,164.33	1,164.33
9128285N6	UNITED STATES TREASURY 2.875 11/30/2025	03/12/2025 03/13/2025 300,000.00	298,728.16 0.00 0.00 299,054.00	1,461.07 0.00 2,191.60 730.53	325.84 0.00 325.84 1,056.38	1,056.38
91282CFP1	UNITED STATES TREASURY 4.25 10/15/2025	03/12/2025 03/13/2025 300,000.00	300,032.55 0.00 0.00 300,019.10	3,762.30 0.00 4,842.21 1,079.92	0.00 (13.45) (13.45) 1,066.46	1,066.46
91282CFW6	UNITED STATES TREASURY 4.5 11/15/2025	12/30/2024 12/31/2024 400,000.00	400,285.56 0.00 0.00 400,202.05	3,815.22 0.00 5,331.52 1,516.30	0.00 (83.51) (83.51) 1,432.79	1,432.79
91282CGA3	UNITED STATES TREASURY 4.0 12/15/2025	02/10/2025 02/11/2025 340,000.00	339,670.52 0.00 0.00 339,745.62	1,746.45 0.00 2,898.36 1,151.91	75.10 0.00 75.10 1,227.01	1,227.01

INCOME EARNED

City of Banning | Account #11089 | As of August 31, 2025

Cusip	Security Description	Trade Date Settle Date Units	Book Value: Begin Book Value: Acq Book Value: Disp Book Value: End	Prior Accrued Inc. Received Ending Accrued Total Interest	Accr. Of Discount Amort. Of Premium Net Accret/Amort Income Earned	Total Income
91282CGE5	UNITED STATES TREASURY 3.875 01/15/2026	06/08/2023 06/09/2023 500,000.00	499,145.98 0.00 0.00 499,304.51	895.04 0.00 2,527.17 1,632.13	158.53 0.00 158.53 1,790.66	1,790.66
91282CGL9	UNITED STATES TREASURY 4.0 02/15/2026	03/19/2025 03/20/2025 400,000.00	399,608.62 0.00 0.00 399,669.90	7,381.22 8,000.00 739.13 1,357.91	61.28 0.00 61.28 1,419.19	1,419.19
			8,820,220.79 **0.00** **(787,999.00)**	**71,965.99** **16,894.80** **78,043.73**	**4,152.64** **(478.91)** **3,673.73**	
Total Fixed Income		**8,045,919.36**	**8,035,895.52**	**22,972.54**	**26,646.27**	**26,646.27**
			21,762,843.56 **27,419,492.57** **(27,393,433.86)**	**71,965.99** **26,058.70** **78,043.73**	**51,136.34** **(478.91)** **50,657.43**	
TOTAL PORTFOLIO		**21,855,348.55**	**21,832,330.71**	**32,136.44**	**82,793.87**	**82,793.87**

Payment Date	Transaction Type	CUSIP	Quantity	Security Description	Principal Amount	Income	Total Amount
SEPTEMBER 2025							
09/08/2025	Coupon	24422EWJ4	260,000.00	JOHN DEERE CAPITAL CORP 4.05 09/08/2025		5,265.00	5,265.00
09/08/2025	Final Maturity	24422EWJ4	260,000.00	JOHN DEERE CAPITAL CORP 4.05 09/08/2025	260,000.00		260,000.00
09/09/2025	Final Maturity	912797QT7	13,750,000.00	UNITED STATES TREASURY 09/09/2025	13,750,000.00		13,750,000.00
09/15/2025	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
09/15/2025	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		758.78	758.78
09/15/2025	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	7,732.83		7,732.83
09/16/2025	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		162.67	162.67
09/16/2025	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	2,337.49		2,337.49
09/16/2025	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
09/22/2025	Coupon	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026		64.43	64.43
09/22/2025	Principal Paydown	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026	5,600.80		5,600.80
09/25/2025	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		117.64	117.64
09/25/2025	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	2,066.04		2,066.04
09/30/2025	Coupon	3130ARF55	3,000,000.00	FEDERAL HOME LOAN BANKS 2.6 03/30/2027		39,000.00	39,000.00
September 2025 Total					**14,027,737.16**	**46,632.82**	**14,074,369.98**
OCTOBER 2025							
10/15/2025	Coupon	009158BB1	275,000.00	AIR PRODUCTS AND CHEMICALS INC 1.5 10/15/2025		2,062.50	2,062.50
10/15/2025	Final Maturity	009158BB1	275,000.00	AIR PRODUCTS AND CHEMICALS INC 1.5 10/15/2025	275,000.00		275,000.00
10/15/2025	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
10/15/2025	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		723.47	723.47
10/15/2025	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	9,565.19		9,565.19
10/15/2025	Coupon	91282CFP1	300,000.00	UNITED STATES TREASURY 4.25 10/15/2025		6,375.00	6,375.00
10/15/2025	Final Maturity	91282CFP1	300,000.00	UNITED STATES TREASURY 4.25 10/15/2025	300,000.00		300,000.00
10/16/2025	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		152.06	152.06
10/16/2025	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	2,239.80		2,239.80
10/16/2025	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
10/20/2025	Coupon	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026		39.32	39.32
10/20/2025	Principal Paydown	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026	5,244.58		5,244.58

Payment Date	Transaction Type	CUSIP	Quantity	Security Description	Principal Amount	Income	Total Amount
10/27/2025	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		108.22	108.22
10/27/2025	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,985.97		1,985.97
October 2025 Total					**594,035.55**	**10,724.86**	**604,760.41**
NOVEMBER 2025							
11/17/2025	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
11/17/2025	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		141.88	141.88
11/17/2025	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	2,188.92		2,188.92
11/17/2025	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
11/17/2025	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		679.79	679.79
11/17/2025	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	10,381.03		10,381.03
11/17/2025	Coupon	91282CFW6	400,000.00	UNITED STATES TREASURY 4.5 11/15/2025		9,000.00	9,000.00
11/17/2025	Final Maturity	91282CFW6	400,000.00	UNITED STATES TREASURY 4.5 11/15/2025	400,000.00		400,000.00
11/20/2025	Coupon	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026		15.81	15.81
11/20/2025	Effective Maturity	379929AD4	14,371.91	GMALT 2023-3 A3 5.38 11/20/2026	3,526.53		3,526.53
11/25/2025	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		99.17	99.17
11/25/2025	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,827.26		1,827.26
November 2025 Total					**417,923.74**	**11,200.94**	**429,124.68**
DECEMBER 2025							
12/01/2025	Coupon	9128285N6	300,000.00	UNITED STATES TREASURY 2.875 11/30/2025		4,312.50	4,312.50
12/01/2025	Final Maturity	9128285N6	300,000.00	UNITED STATES TREASURY 2.875 11/30/2025	300,000.00		300,000.00
12/08/2025	Coupon	48125LRU8	250,000.00	JPMORGAN CHASE BANK NA 5.11 12/08/2026		6,387.50	6,387.50
12/15/2025	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
12/15/2025	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		632.38	632.38
12/15/2025	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	7,819.97		7,819.97
12/15/2025	Coupon	91282CGA3	340,000.00	UNITED STATES TREASURY 4.0 12/15/2025		6,800.00	6,800.00
12/15/2025	Final Maturity	91282CGA3	340,000.00	UNITED STATES TREASURY 4.0 12/15/2025	340,000.00		340,000.00
12/16/2025	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		131.94	131.94
12/16/2025	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,877.52		1,877.52
12/16/2025	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
12/25/2025	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		90.84	90.84
12/25/2025	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,737.60		1,737.60

Payment Date	Transaction Type	CUSIP	Quantity	Security Description	Principal Amount	Income	Total Amount
December 2025 Total					**651,435.09**	**19,619.45**	**671,054.54**
JANUARY 2026							
01/09/2026	Coupon	02665WEY3	220,000.00	AMERICAN HONDA FINANCE CORP 4.95 01/09/2026		5,445.00	5,445.00
01/09/2026	Final Maturity	02665WEY3	220,000.00	AMERICAN HONDA FINANCE CORP 4.95 01/09/2026	220,000.00		220,000.00
01/09/2026	Coupon	89115A2K7	260,000.00	TORONTO-DOMINION BANK 5.103 01/09/2026		6,633.90	6,633.90
01/09/2026	Final Maturity	89115A2K7	260,000.00	TORONTO-DOMINION BANK 5.103 01/09/2026	260,000.00		260,000.00
01/15/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
01/15/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		596.67	596.67
01/15/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	11,316.15		11,316.15
01/15/2026	Coupon	91282CGE5	500,000.00	UNITED STATES TREASURY 3.875 01/15/2026		9,687.50	9,687.50
01/15/2026	Final Maturity	91282CGE5	500,000.00	UNITED STATES TREASURY 3.875 01/15/2026	500,000.00		500,000.00
01/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		123.41	123.41
01/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,844.31		1,844.31
01/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
01/26/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		82.92	82.92
01/26/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,704.40		1,704.40
January 2026 Total					**994,864.87**	**23,833.69**	**1,018,698.56**
FEBRUARY 2026							
02/13/2026	Coupon	693475BB0	225,000.00	PNC FINANCIAL SERVICES GROUP INC 1.15 08/13/2026		1,293.75	1,293.75
02/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		115.04	115.04
02/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,823.48		1,823.48
02/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
02/16/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		544.99	544.99
02/16/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	10,300.98		10,300.98
02/17/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
02/17/2026	Coupon	91282CGL9	400,000.00	UNITED STATES TREASURY 4.0 02/15/2026		8,000.00	8,000.00
02/17/2026	Final Maturity	91282CGL9	400,000.00	UNITED STATES TREASURY 4.0 02/15/2026	400,000.00		400,000.00
02/25/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		75.15	75.15

Payment Date	Transaction Type	CUSIP	Quantity	Security Description	Principal Amount	Income	Total Amount
02/25/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,679.63		1,679.63
February 2026 Total					**413,804.10**	**11,293.22**	**425,097.32**
MARCH 2026							
03/02/2026	Coupon	30231GAT9	500,000.00	EXXON MOBIL CORP 3.043 03/01/2026		7,607.50	7,607.50
03/02/2026	Final Maturity	30231GAT9	500,000.00	EXXON MOBIL CORP 3.043 03/01/2026	500,000.00		500,000.00
03/16/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
03/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		106.76	106.76
03/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,766.71		1,766.71
03/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
03/16/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		497.95	497.95
03/16/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	8,500.35		8,500.35
03/25/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		67.49	67.49
03/25/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,636.52		1,636.52
03/30/2026	Coupon	3130ARF55	3,000,000.00	FEDERAL HOME LOAN BANKS 2.6 03/30/2027		39,000.00	39,000.00
March 2026 Total					**511,903.58**	**48,543.99**	**560,447.57**
APRIL 2026							
04/15/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
04/15/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		459.14	459.14
04/15/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	10,673.89		10,673.89
04/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		98.73	98.73
04/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,851.45		1,851.45
04/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
04/27/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		60.03	60.03
04/27/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,579.42		1,579.42
April 2026 Total					**14,104.76**	**1,882.19**	**15,986.95**
MAY 2026							
05/15/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
05/15/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		410.39	410.39
05/15/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	11,053.02		11,053.02
05/18/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		90.32	90.32
05/18/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,775.88		1,775.88

Payment Date	Transaction Type	CUSIP	Quantity	Security Description	Principal Amount	Income	Total Amount
05/18/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
05/25/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		52.83	52.83
05/25/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,380.59		1,380.59
May 2026 Total					**14,209.49**	**1,817.84**	**16,027.33**
JUNE 2026							
06/08/2026	Coupon	48125LRU8	250,000.00	JPMORGAN CHASE BANK NA 5.11 12/08/2026		6,387.50	6,387.50
06/15/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
06/15/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		359.92	359.92
06/15/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	9,546.90		9,546.90
06/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		82.26	82.26
06/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,746.91		1,746.91
06/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
06/25/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		46.54	46.54
06/25/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,357.27		1,357.27
June 2026 Total					**12,651.08**	**8,140.50**	**20,791.58**
JULY 2026							
07/15/2026	Coupon	02582JKD1	215,000.00	AMXCA 2023-3 A 5.23 09/15/2026		937.04	937.04
07/15/2026	Coupon	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028		316.32	316.32
07/15/2026	Principal Paydown	47787CAC7	166,157.06	JDOT 2023-C A3 5.48 05/15/2028	10,001.12		10,001.12
07/16/2026	Coupon	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028		74.32	74.32
07/16/2026	Principal Paydown	36267KAD9	34,989.67	GMCAR 2023-3 A3 5.45 06/16/2028	1,713.21		1,713.21
07/16/2026	Coupon	362955AD8	85,000.00	GMCAR 2025-1 A3 4.62 12/17/2029		327.25	327.25
07/27/2026	Coupon	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028		40.35	40.35
07/27/2026	Principal Paydown	05592XAD2	25,400.73	BMWOT 2023-A A3 5.47 02/25/2028	1,331.15		1,331.15
July 2026 Total					**13,045.49**	**1,695.29**	**14,740.77**
Grand Total			**36,355,275.40**		**17,665,714.90**	**185,384.80**	**17,851,099.69**

IMPORTANT DISCLOSURES

City of Banning | Account #11089 | As of August 31, 2025

Chandler Asset Management, Inc. ("Chandler") is an SEC registered investment adviser. For additional information about our firm, please see our current disclosures (Form ADV). To obtain a copy of our current disclosures, you may contact your client service representative by calling the number on the front of this statement or you may visit our website at www.chandlerasset.com.

Information contained in this monthly statement is confidential and is provided for informational purposes only and should not be construed as specific investment or legal advice. The information contained herein was obtained from sources believed to be reliable as of the date of this statement, but may become outdated or superseded at any time without notice.

Custody: Your qualified custodian bank maintains control of all assets reflected in this statement and we urge you to compare this statement to the one you receive from your qualified custodian. Chandler does not have any authority to withdraw or deposit funds from/to the custodian account.

Valuation: Prices are provided by IDC, an independent pricing source. In the event IDC does not provide a price or if the price provided is not reflective of fair market value, Chandler will obtain pricing from an alternative approved third party pricing source in accordance with our written valuation policy and procedures. Our valuation procedures are also disclosed in Item 5 of our Form ADV Part 2A.

Performance: Performance results are presented gross-of-advisory fees and represent the client's Total Return. The deduction of advisory fees lowers performance results. These results include the reinvestment of dividends and other earnings. Past performance may not be indicative of future results. Therefore, clients should not assume that future performance of any specific investment or investment strategy will be profitable or equal to past performance levels. All investment strategies have the potential for profit or loss. Economic factors, market conditions or changes in investment strategies, contributions or withdrawals may materially alter the performance and results of your portfolio.

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Index returns assume reinvestment of all distributions. Historical performance results for investment indexes generally do not reflect the deduction of transaction and/or custodial charges or the deduction of an investment management fee, the incurrence of which would have the effect of decreasing historical performance results. It is not possible to invest directly in an index.

Ratings: Ratings information have been provided by Moody's, S&P and Fitch through data feeds we believe to be reliable as of the date of this statement, however we cannot guarantee its accuracy.

Security level ratings for U.S. Agency issued mortgage-backed securities ("MBS") reflect the issuer rating because the securities themselves are not rated. The issuing U.S. Agency guarantees the full and timely payment of both principal and interest.

Benchmark	Disclosure
ICE BofA 0-1 Yr US Treasury Index	The ICE BAML 0-1 Year US Treasury Index tracks the performance of US Dollar denominated Sovereign debt publically issued by the US government in its domestic market with maturities less than two years. Qualifying securities must haveat least one month and less than one years remaining term to final maturity, a fixed coupon schedule and a minimum amount outstanding of $1 billion. (Index: G0QA. Please visit www.mlindex.ml.com for more information)

State of California
Pooled Money Investment Account
Market Valuation
8/31/2025

Description	Carrying Cost Plus Accrued Interest Purch.	Fair Value	Accrued Interest
United States Treasury:			
Bills	$ 43,226,961,477.07	$ 43,665,553,750.00	NA
Notes	$ 42,241,684,807.58	$ 42,464,890,050.00	$ 380,128,310.00
Federal Agency:			
SBA	$ 235,966,595.68	$ 233,455,785.91	$ 942,841.91
MBS-REMICs	$ 1,011,800.54	$ 1,020,033.56	$ 4,413.90
Debentures	$ 6,000,752,965.46	$ 6,015,873,950.00	$ 69,482,882.00
Debentures FR	$ -	$ -	$ -
Debentures CL	$ 2,850,000,000.00	$ 2,862,565,900.00	$ 35,386,785.00
Discount Notes	$ 34,385,538,791.69	$ 34,739,285,600.00	NA
Supranational Debentures	$ 3,583,930,138.54	$ 3,600,621,070.00	$ 36,931,015.70
Supranational Debentures FR	$ -	$ -	$ -
CDs and YCDs FR	$ -	$ -	$ -
Bank Notes	$ 100,000,000.00	$ 100,020,819.28	$ 649,250.00
CDs and YCDs	$ 15,050,000,000.00	$ 15,051,918,998.64	$ 198,617,888.87
Commercial Paper	$ 10,204,889,527.77	$ 10,311,166,305.54	NA
Corporate:			
Bonds FR	$ -	$ -	$ -
Bonds	$ 1,002,731,162.47	$ 1,004,644,403.00	$ 9,562,452.92
Repurchase Agreements	$ -	$ -	$ -
Reverse Repurchase	$ -	$ -	$ -
Time Deposits	$ 5,249,000,000.00	$ 5,249,000,000.00	NA
PMIA & GF Loans	$ 262,742,740.00	$ 262,742,740.00	NA
TOTAL	$ 164,395,210,006.80	$ 165,562,759,405.93	$ 731,705,840.30

Fair Value Including Accrued Interest $ 166,294,465,246.23

Repurchase Agreements, Time Deposits, PMIA & General Fund loans, and
Reverse Repurchase agreements are carried at portfolio book value (carrying cost).

PMIA/LAIF Performance Report as of 09/04/25

Quarterly Performance Quarter Ended 6/30/25

LAIF Apportionment Rate[2]:	4.40
LAIF Earnings Ratio[2]:	0.00012059828906715
LAIF Administrative Cost[1]*:	0.18
LAIF Fair Value Factor[1]:	1.001198310
PMIA Daily[1]:	4.26
PMIA Quarter to Date[1]:	4.27
PMIA Average Life[1]:	248

PMIA Average Monthly Effective Yields[1]

August	**4.251**
July	4.258
June	4.269
May	4.272
April	4.281
March	4.313

Pooled Money Investment Account Monthly Portfolio Composition [1] 7/31/25 $171.6 billion

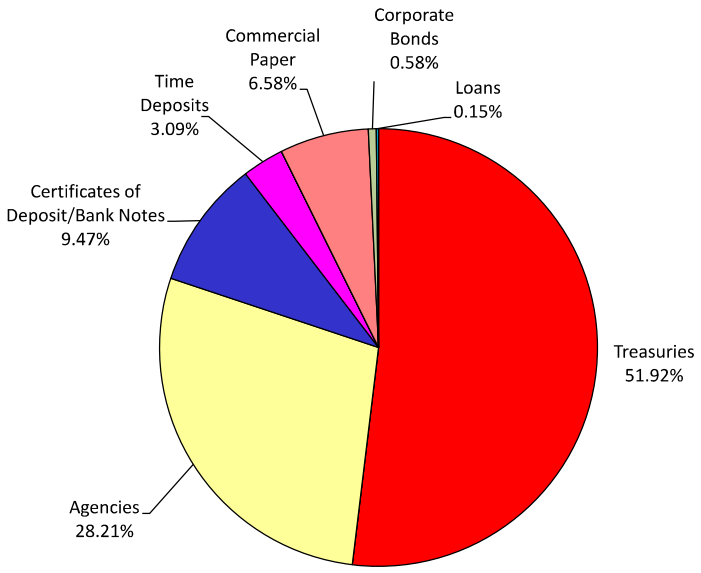


Chart does not include $1,037,000.00 in mortgages, which equates to 0.001%. Percentages may not total 100% due to rounding.

Daily rates are now available here. **View PMIA Daily Rates**

Notes: The apportionment rate includes interest earned on the CalPERS Supplemental Pension Payment pursuant to Government Code 20825 (c)(1) .

**The percentage of administrative cost equals the total administrative cost divided by the quarterly interest earnings. The law provides that administrative costs are not to exceed 5% of quarterly EARNINGS of the fund. However, if the 13-week Daily Treasury Bill Rate on the last day of the fiscal year is below 1%, then administrative costs shall not exceed 8% of quarterly EARNINGS of the fund for the subsequent fiscal year.*

Source:
[1] State of California, Office of the Treasurer
[2] State of California, Office of the Controller

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

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

MEETING DATE: **October 14, 2025**

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

RECOMMENDATION:

Accept as complete various improvements related to the Atwell Specific Plan development and authorize 90% Reduction of the improvement bonds and full exoneration of monument bonds

BACKGROUND:

City Council adopted Resolution 2024-77 on May 28th, 2024 that approved Final Tract Maps 37388-4, 37388-5, and 37388-6 for recordation, authorized staff to sign the Subdivision Improvement Agreement, and accept Labor and Material Bonds for public improvements. These improvements were required under project conditions of approval. The improvements are related to the Atwell Development Planning Areas 14-1, 16A-1, 16B-1. The storm drain system in these planning areas have been fully developed in accordance with the approved Final Map.

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
30219397	PA14-1, PA16A-1, PA16B-1 Storm Drain Improvements

Additionally, staff has verified through inspections that the required monumentation was completed per City standards and specifications and recommends that City Council accept the monumentation as complete and authorize the full 100% exoneration of the following bonds:

BOND NUMBER	IMPROVEMENT
30200448	37388-1 Monumentation

FISCAL IMPACT:

After the 1-year warranty period, the City of Banning will fully assume ownership and maintenance of the public facilities constructed.

ALTERNATIVES:

Do not accept the improvement and provide direction to staff.

BUDGETED?:

No

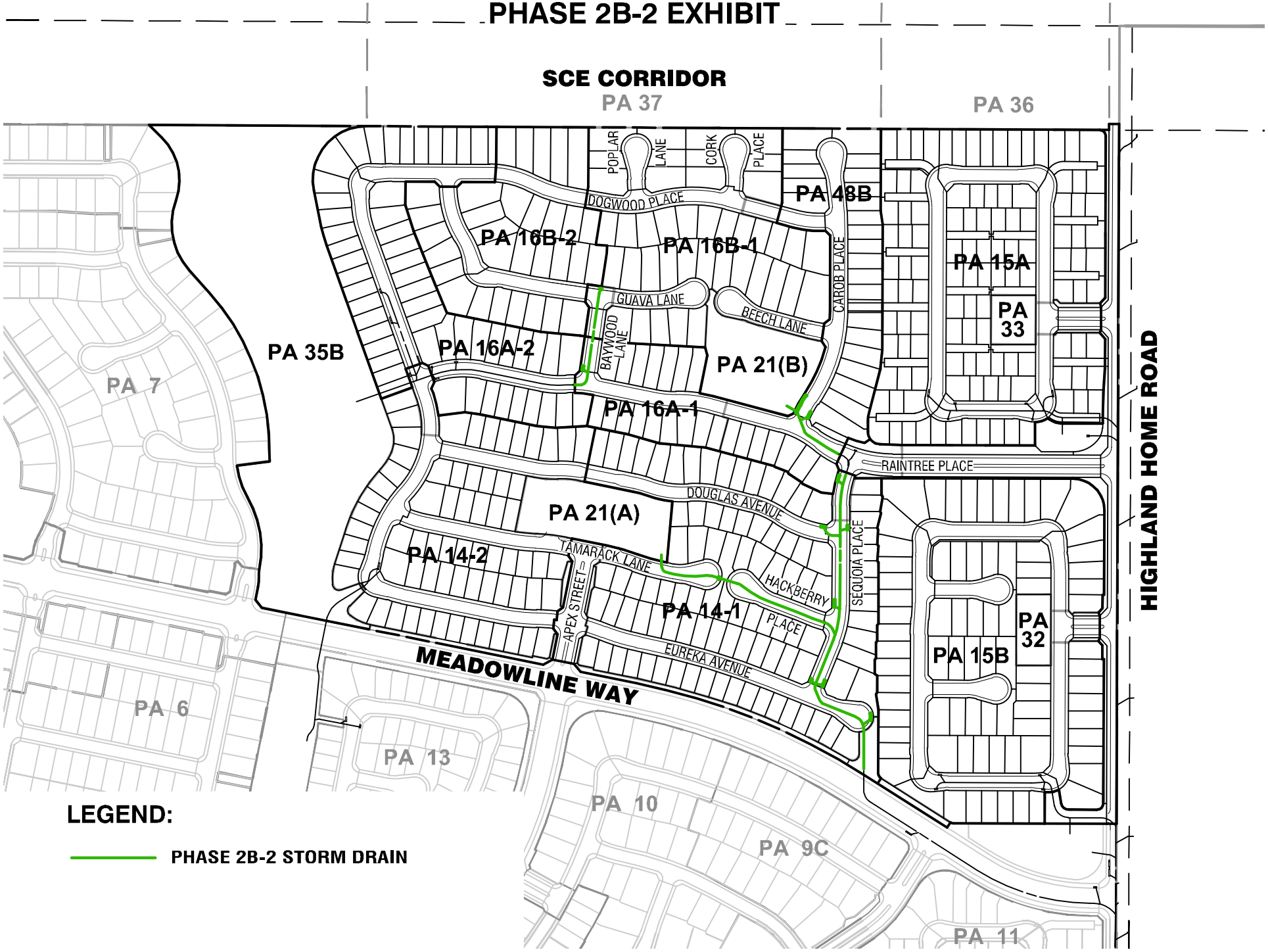
CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. TR37388-4, -5, -6 SD Bond Release Exhibit.pdf

PHASE 2B-2 EXHIBIT



LEGEND:

PHASE 2B-2 STORM DRAIN

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Marisol Lopez, Economic Development Manager** **Marisol Lopez, Economic Development Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Second Reading and Adoption of Ordinance 1608, Amending Chapter 5.40 of the Banning Municipal Code Concerning Film Permits and Regulations with changes that city council requested to be added to the ordinance.**

RECOMMENDATION:

Conduct second reading and adopt Ordinance 1608.

BACKGROUND:

The City of Banning has an existing film ordinance which has not been updated since 1965; it was therefore necessary to update and modify the ordinance to reflect the latest changes in the industry which include the rise of streaming services, the impact of technology such as drones, the internet and social media.

In December 2024, city staff reached out to the California Film Commission to review the draft ordinance. On January 15, 2025, the Film Commission responded with comments and suggestions (attached). Staff have reviewed these comments and incorporated many of them into the final draft ordinance.

On May 27, 2025, the City Council introduced and waived further reading of the ordinance.

A notice for the second reading, Affidavit of Publication for the Summary of Ordinance No. 1608, was published in the Record Gazette on October 3, 2025; a copy is attached to the staff report.

JUSTIFICATION:

As the internet and social media have made it possible to produce and consume content from anywhere in the world, the City of Banning is not only updating its ordinance to reflect the changes in the entertainment industry but will work to create a strategic plan that will attract content producers from traditional mainstream production companies to direct streaming companies.

Agencies that include the California Film Commission, the Inland Empire Film Services, and various industry professionals provided insight to the revised ordinance as we look to streamline the film permitting process, in addition insurance requirement changes have been modified to reflect the current environment and designated coverage.

FISCAL IMPACT:

The fiscal impact of the proposed ordinance update will cover areas of production that are not currently covered in the existing ordinance circa 1965 but addresses the ability to capture additional revenues

through permitting newly integrated technologies and methods for film production that have been introduced over the past 60 years. The City's ability to streamline the permitting process will certainly add a competitive edge to attracting new production and will lay the foundation for the implementation of a successful strategic marketing plan.

The City is completing a comprehensive User Fee Study Update that includes an update to film permit fees and deposits, which is scheduled to be brought to the City Council for consideration on Tuesday, October 14, 2025.

ALTERNATIVES:

Do not introduce the Ordinance and provide staff alternate direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Ordinance 1608.docx
2. Affidavit of Publication_Ordinance 1608.pdf
3. 2025 01 15_Film Commission Comments.pdf

ORDINANCE 1608

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 5.40 OF THE BANNING MUNICIPAL CODE CONCERNING FILM PERMITS AND REGULATIONS

The City Council of the City of Banning does hereby ordain as follows:

SECTION 1. Findings and Purpose.

A. The Uniform Film Permit Act (Gov. Code, § 1499.20 *et seq.*) authorizes cities and counties to adopt ordinances or other regulations governing the issuance of film permits to engage in the use of property for occasional commercial filming.

B. Section 14999.21(b) of the Uniform Film Act provides that at least 30 days prior to an amendment to the written filming policy of a local government, the local government shall submit a draft of the amendment to the Executive Director of the California Film Commission ("Commission"). The Commission must review drafts submitted to it and report its findings to the local government within five working days of receipt of the draft. The local legislative body must consider the Commission's findings prior to final adoption of the amendment, unless the Commission's findings are not available within the above prescribed time limits. Any and all findings made by the Commission are advisory to local government.

C. On December 13, 2024, the City submitted a copy of the proposed draft amendments to Chapter 5.40 ("Motion Picture, Television and Photographic Production Permits") of Title 5 ("Business Licenses and Regulations") of the Banning Municipal Code ("BMC") to the office of Colleen Bell, Executive Director of the California Film Commission.

D. By letter dated January 15, 2025, the Commission submitted advisory findings to the City on the proposed amendments to BMC Chapter 5.40, which the City Council considered prior to adoption of this Ordinance.

E. Section 14999.21(b) of the Uniform Film Act provides that each local government must provide the Commission with a copy of its adopted filming amendments.

SECTION 2. Chapter 5.40 of Title 5 of the Banning Municipal Code is hereby amended in its entirety to read as follows:

"**Chapter 5.40 - MOTION PICTURE, TELEVISION, AND PHOTOGRAPHIC PRODUCTION PERMITS**

5.40.010 - Title.

This chapter shall be known as the "Motion Pictures, Television and Photographic Production Ordinance" of the City of Banning.

5.40.020 - Purpose and intent.

This chapter establishes administrative rules and regulations for the review and issuance of filming permits involving motion picture, television, and photographic production in the city. The

intent of this chapter is to facilitate and regulate the time, place, and manner of such filming activity while protecting the residents and property owners from the adverse impacts of filming activities.

5.40.030 - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City film permit. A permit issued by the city to allow the activities associated with filming activity, including the production, filming or videotaping of motion picture and television shows, programs, commercials and still photography.

City film permit coordinator (finance staff). The director of community development and economic development manager, or their designee.

Filming activity. All activity attendant to staging or shooting commercial motion pictures, television shows or programs, long form web-based media, commercials and the taking of single or multiple photographs for sale or commercial use involving a cast and crew of ten or more individuals where the photographer sets up stationary equipment in any one location for longer than five consecutive minutes. Filming activity also includes filming of commercial radio station promotional events. Filming activities include the following definitions:

A. Motion pictures. Audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

B. Television Shows. A series of episodes aired on television or an app-based streaming service, typically following a specific storyline or theme for broadcast or syndication. Television for the purposes of this chapter means an electronic system of transmitting transient images of fixed or moving objects together with sound over a wire or through space by apparatus that converts light and sound into electrical waves and reconverts them into visible light rays and audible sound

C. Programs. A presentation or item on television, radio, or an app-based streaming service, especially one broadcast airing regularly between stated times (i.e. nature program). Radio for the purposes of this chapter means the use of electromagnetic waves for the wireless transmission of electric impulses into which sound is converted.

D. Commercials. An advertisement played on television, radio, or an app-based streaming service.

E. Still photography. A photograph that is not a video, movie, or moving image.

Filming location. Filming location means the actual property or properties that any filming activity for commercial motion picture or still photographic production is performed.

News media. The photographing, filming or videotaping for the purpose of spontaneous, unplanned reporting of news events concerning those persons, scenes or occurrences which are in the news and of public interest by reporters, photographers or camera operator in the employ of a newspaper, television station, news service, or similar entity.

Preparation. Preparation (“prep”) means workdays preceding filming activities. These activities may include set construction, or dressing, painting, landscaping or rigging for stunts and special effects.

Private production. The filming or videotaping of motion pictures or taking of still photographs solely for private use.

Wrap/Strike (Project completion). The work at a filming location that includes the removal of equipment at the end of filming activities. These activities may include, but are not limited to, set removal, re-painting, re-landscaping, and unrigging from stunts and special effects.

Studio filming. A legally established commercial motion picture, television show, commercials, programs, or still photography place of business where filming activity, whether motion pictures, television shows, commercials, programs, or still photography, are regularly conducted inside a studio or on a stage located on the premises.

Student films. Motion pictures, television shows, or still photography that are produced to satisfy a course or curriculum requirement at an educational institution are student films. The student film maker must supply proof that they are currently enrolled in an educational institution. Proof may include documentation from an educational institution that indicates the student is covered by their liability insurance, and given permission to film a project beyond the boundaries of the campus.

5.40.040 - Permit required.

No person shall use any public or private property, building, facility, or residence for the purpose of filming activity, including producing or making motion pictures, television shows, programs, commercials, or still photography without first receiving a city film permit from the city film permit coordinator pursuant to the provisions of this chapter.

5.40.050 - Permit exemptions.

The provisions of this chapter shall not apply to the following:

A. News media;

B. Private production; and

C. Studio filming.

5.40.060 - Permit application.

An applicant must provide the following information:

A. Full legal name of applicant;

B. Business or educational institution name of applicant (if different);

C. Business or educational institution address of applicant;

D. Telephone number of applicant;

E. Location(s) of proposed filming or taping;

F. Date(s) and time(s) of proposed filming or taping;

G. Lists which include the approximate number of cast, crew, and production vehicles;

H. Services of city employees desired or required on location during filming;

I. A brief description of the type of production to be made;

J. Name of person in charge on location;

K. Such other information that includes impacts to the community at or around the filming location including but not limited to traffic control, use of public sidewalks, noise disturbances, use of pyrotechnics, large crowd scenes, etc.; and

L. A statement acknowledging that the applicant shall have a copy of its permit on site at all times during filming.

5.40.070 - Permit applications and issuance.

A. City film permit application. Any person desiring a city film permit under the provisions of this chapter shall submit to the city film permit coordinator the following:

1. A complete application for a city film permit on a form provided by the city. The form must be signed by the applicant and accompanied by all required fees, deposits, indemnification agreement, and the insurance certificate required by this chapter and the city's administrative rules and regulations before the city film permit coordinator may process the city film permit application. An applicant must submit a complete application, in person, at least two working days prior to the date of the filming activity for which the permit is required. If such activity interferes with traffic, including road closures, or involves potential public safety hazards, such as stunts, pyrotechnics or special effects, the applicant shall submit the application at least five working days prior to the date of the filming activity for which the permit is required.

2. Notification of all businesses and residents within 200 feet of the filming activity is suggested.

    a. An applicant will be required to submit a city film permit request at least two working days prior to the date on which such person desires to conduct filming activity for which a permit is required, unless closure of a public street is involved in which case minimum notification time shall be one week.

3. City film permit fee as established by city council resolution and other applicable deposits as described in Section 5.40.080.

4. Evidence of insurance as required in Section 5.40.140.

5. A fully executed indemnification agreement, on a form approved by the city attorney, as required in Section 5.40.140.

6. If determined to be necessary by the city film permit coordinator, written evidence of permits and/or conditions with other public agencies as may be required upon submission of an application for a city film permit. The requirements of these responsible agencies shall be the requirements of this permit. Examples of such agencies include, without limitation, the state highway patrol, the county sheriff's department, the Federal Aviation Administration, city fire protection district, and the bureau of land management.

7. Any other information as required by the city's administrative rules and regulations.

8. An applicant shall obtain the property owner's permission, consent, and/or lease for use of property.

B. City film permit issuance.

1. The city film permit coordinator in coordination with the planning department shall be responsible for the issuance of city film permits under this chapter, when, from a consideration of the application and from such other information as may be otherwise obtained, they find that:

   a. The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time;

   b. The conduct of such activity will not unduly interfere with normal governmental or city operations, threaten to result in damage or detriment to public property, or result in the city incurring costs or expenditures in either money or personnel not reimbursed in advance by the applicant; and

   c. At the determination of the city's public works department, the city police department, the city fire protection district, and the city engineer, as required, that the condition of such activity will not constitute a fire hazard or any other type of hazard and all proper safety precautions will be taken as determined by the department's director, or their designee.

2. The city film permit coordinator may impose any conditions found necessary to protect the public's health, safety, and welfare. The permittee shall comply with any conditions or restrictions the city may impose as a condition to issue a city film permit. No changes to such conditions shall be made without first obtaining the city film permit coordinator's prior written approval. Failure to comply with the terms and conditions of a city film permit shall be grounds for permit revocation by the city film permit coordinator.

3. Following issuance of a city film permit, the permittee must notify residents within a two-hundred-foot radius of the location of the proposed filming activity by distributing a fully completed filming location notification form, including the production company's contact information, at least forty-eight hours prior to the first day of filming activity. Residential notification is not required for still photographic productions with cast and crew of less than ten people. An extended radius of five-hundred feet for any major special effects, stunts or pyrotechnics will be required.

4. The decision of the city film permit coordinator to issue, conditionally issue, or not issue a city film permit shall be final unless appealed pursuant to Section 5.40.160.

5. A film permit shall be issued for the number of days requested.

6. An applicant shall comply with all conditions or restrictions of the permit.

5.40.080 - Permit fees and deposits; costs.

Each application for a city film permit shall be accompanied by:

A. A security deposit, in an amount established by city council resolution, to ensure cleanup and restoration of the site of the filming activity. The deposit, in full or part thereof, may be returned to the permittee upon completion of filming activity and inspection of the site by the city.

B. A city film permit fee in an amount established by resolution of the city council to reimburse the city for staff time required to evaluate the application and establish conditions of approval and to monitor the filming activity.

C. The city film permit fee and the security deposit shall not apply to or affect:

1. City produced or city-sponsored government or educational access productions;

2. Student films; and

3. Productions by charitable organizations that have been issued 501(c)(3) status by the Internal Revenue Service and are in good standing.

D. If deemed necessary by the city film permit coordinator, additional police personnel, code enforcement personnel, a film monitor and/or other city services shall be provided for the purpose of protecting, assisting, and regulating the proposed filming activity, at a cost billed to the permittee. The cost of providing such additional services shall be paid in advance to the city by the permittee. Should the filming surpass the permitted time, with approval of an officer, the permittee will be billed for overages for the city personnel's time. Additional city services will be provided and coordinated through the city film permit coordinator.

E. A permittee shall conduct operations including preparation and project completion in a time frame as agreed by the city and permittee. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site. The city may require a faithful performance bond or refundable security deposit to ensure cleanup and restoration of the site after inspection. The bond or security deposit shall be returned to the applicant within thirty days.

5.40.090- Public right-of-way.

Temporary "NO PARKING" signs shall be posted by the city., All parking of equipment or cars on public streets, stringing cable on sidewalks or from generator to service point, sidewalk shots,

driving scenes shall require signage indicating such activities are taking place and shall be posted by the city.

5.40.100 - Traffic control.

For filming that would impair traffic flow, a permittee shall coordinate traffic control with the police department and, if deemed necessary by the city film permit coordinator, the California Highway Patrol and/or county sheriff, and shall comply with all traffic control requirements deemed necessary by the city permit film coordinator.

A. The permittee shall furnish and install advance warning signs and any other traffic control devices in conformance with the Manual of Traffic Control, State of California, Department of Transportation, and take all appropriate safety precautions.

B. Traffic may be restricted or stopped intermittently upon the city's authorization and under the city's direction.

C. The permittee shall not detour traffic across a road with double lines without the city's prior approval.

D. Unless otherwise authorized by the city, the permittee shall not drive camera cars (or cause camera cars to be driven) against the flow of oncoming traffic and shall observe all traffic laws.

E. Any emergency road work or construction by city, county crews, and/or private contractors, under permit or contract to the city shall have priority over filming activities.

5.40.110 - Special restrictions.

The permittee shall perform all external filming activities between the hours of 10:00 P.M. and 6:00 A.M. without undue noise and nuisance, unless otherwise approved by the city film permit coordinator with sufficient notice informing residents of the filming activity. Production companies will be mandated to comply with any relevant state/local law or regulations related to vehicles, road closures, and/or traffic.

5.40.120 - Administrative rules and regulations.

The city film permit coordinator is authorized and directed to promulgate administrative rules and regulations, subject to approval by resolution of the city council, governing the time, place and manner of any filming activity, included in this chapter, within the city. The administrative rules and regulations shall be based upon the criteria set forth in this chapter.

5.40.130 - Insurance and liability.

All applicants for a city film permit shall submit the following with a completed application for a city film permit:

A. Liability insurance. If filming activity will be conducted on public property, a certificate of insurance shall be submitted to the city film permit coordinator evidencing the following:

1. General liability with limits no less than as stipulated by the city;

2. Auto liability with limits no less than as stipulated by the city;

3. Workers' compensation coverage as required by law; and

4. Employer's liability with limits no less than as stipulated by the city.

The general liability and auto liability policies shall name the city, its officers, employees, agents, and volunteers as additional insured to protect the city against any liability, or claims of liability related to or resulting from film production in the city. Such policies shall be provided by an insured permitted to do business in the state with an AM Best rating of at least A:VII or a Standard & Poor's Rating (if rated) of at least BBB, unless specific approval for a lower rating has been granted by the City. The certificate shall not be subject to cancellation or modification until after thirty days' written notice to the city. Such insurance shall be evidenced by the standard general liability special endorsement form mandated by the state film commission, which will remain on file with the city's risk manager. When filming in a flood control channel, the Riverside Flood Control and Water Conservation District shall be named as an additional insured. The certificate Holder must be the "City of Banning" and the Certificate Holder's address must be the address of the respective department.

B. Indemnification agreement. The applicant must submit with its application for a city film permit an indemnification agreement, on a form approved by the city attorney, in which the applicant agrees to defend, indemnify, and hold harmless the city, its officers, agents, employees and volunteers from all claims and liability arising from the filming activity or issuance of the city film permit.

C. An endorsement to each policy shall be added stating that such policy shall not be cancelled by either party or reduced in coverage except after thirty (30) days prior written notice to City and that the policy shall apply on a primary noncontributing basis in relation to any insurance or self-insurance, primary or excess, maintained by or available to the City or any official, employee or agent of City.

5.40.140 - Revocation and suspension of a city film permit.

A. The city film permit coordinator may revoke city film permits for the following reasons:

1. Misrepresentation on the city film permit application, including, without limitation, the type or manner of film production, the location of filming activity, or the parameters or the need for stunts or special effects.

2. Any violations of this code, state or federal law, and/or the city's administrative rules and regulations for filming activity.

3. Any violation of the conditions imposed on a conditionally approved city film permit.

B. The city police department and the city fire protection district are authorized to suspend any filming activity not authorized by the necessary permit or when permit conditions are violated or where the city's filming rules and regulations, laws, or ordinances are

violated. A written notice of suspension shall be provided to the permittee and the city film permit coordinator within twenty-four hours of the suspension.

C. The decision of the city film permit coordinator to revoke a city film permit shall be final unless appealed pursuant to Section 5.40.160.

D. No acts of lewd conduct etc. will be allowed to be filmed or photographed in any public setting within city jurisdiction.

5.40.150 - Enforcement of violations.

A. Notwithstanding any other provision of this code to the contrary, any person who causes, permits, or suffers a violation of any provision of this chapter, or who fails to comply with any obligation or requirement of this chapter, is guilty of a misdemeanor violation punishable in accordance with Chapters 1.24 and 1.28 and is also subject to administrative citations in accordance with Chapter 1.20.

B. Each person shall be guilty of a separate offense for each day, or part thereof, during which a violation of this chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

C. This chapter does not exclusively regulate filming activity in the city, and the remedies provided in this chapter are in addition to other applicable remedies and penalties authorized by the Banning Municipal Code, or by the laws of the state or of the United States.

5.40.160 - Appeal procedures.

The decision of the city film permit coordinator to issue, conditionally issue, not issue, or revoke a city film permit may be appealed in writing to the city manager within five working days of the decision. The appeal must include copies of all pertinent material necessary to support the permittee's position on appeal. Any actions of the city manager shall be final."

SECTION 3. 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.

SECTION 4. The City Council directs the City Clerk to submit a certified copy of this Ordinance to the California Film Commission.

SECTION 5. This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.

PASSED, APPROVED AND ADOPTED this 14th day of October, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative
City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that Ordinance 1608 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 10th day of June, 2025, and was duly adopted at a regular meeting of said City Council on the 14th day of October, 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

Record Gazette
Your Community. Your Newspaper.

AFFIDAVIT OF PUBLICATION

Record Gazette
218 N. Murray St., Banning, CA 92220

Proof of Publication
(2015.5 C.C.P.)

Pre-adoption notice Ord 1608

State of California)
County of Riverside) SS.

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737.
That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

Oct 3, 2025

Executed on: October 3rd, 2025

At City of Banning, California

I ceritfy (or declare) under penalty of perjury that the foregoing is true and correct.

Kaila Geaman
Signature

CITY OF BANNING

SUMMARY OF ORDINANCE NO. 1608

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 5.40 OF THE BANNING MUNICIPAL CODE CONCERNING FILM PERMITS AND REGULATIONS

This is a summary of the above-entitled Ordinance No. 1608 of the City of Banning. On June 10, 2025, the City Council of the City of Banning introduced and conducted the first reading of Ordinance 1608. On October 14, 2025, the City Council will conduct the second reading of and consider the adoption of Ordinance No. 1608 during its regular meeting.

Ordinance 1608 was introduced, and the first reading of the Ordinance was conducted and approved by the following vote:

AYES: Miller, Barrington, Royce, Wallace, Flynn
NOES: None

Summary of Ordinance 1608

Ordinance 1608 would amend Chapter 5.40 of the Banning Municipal Code establishing administrative rules and regulations for the review and issuance of filming permits involving motion picture, television, and photographic production in the City. Ordinance No. 1608 requires a permit for any filming activities in the City, subject to specified exceptions; outlines the permit application process, and the procedures for issuance, revocation and suspension of a film permit, as well as appeal procedures; provides for the payment of permit fees, deposits and other costs; adopts rules and regulations related to filming; details insurance and liability requirements; and provides for enforcement of violations.

Effective Date: If adopted after its second reading on October 14, 2025, this Ordinance shall become effective on November 13, 2025, which is thirty (30) calendar days after the final passage and adoption of Ordinance 1608.

This summary has been prepared and published in accordance with Government Code Section 36933. Notice is hereby given that a certified copy of the full text of Ordinance No. 1608 is available for public review upon request in the City Clerk's Office, located at 99 E. Ramsey Street, Banning, California 92220 during regular business hours (Monday through Friday 8 a.m. to 5 p.m.), or via email at CityClerks@banningca.gov .

Submitted by:
/s/ Sandra Calderon, Administrative City Clerk
City of Banning, California
Published
Record Gazette
October 3, 2025

Caroline Patton

From: Leo Fialho <Leo.Fialho@film.ca.gov>
Sent: Wednesday, January 15, 2025 4:16 PM
To: Caroline Patton
Cc: Laura Baptista
Subject: RE: City of Banning Draft Film Ordinance
Attachments: Guidelines-for-Best-Practices.pdf; CFC-Model-Film-Ordinance.pdf; City of Banning_Ordinance No. 160X_Film Ordinance.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Caroline,

Karla Sayles is no longer with the CFC, however before she left, she asked me to review your film ordinance. Apologies for not getting it back in a timely manner. I have attached here with our comments for your consideration. Attached as well is both our Model Filming Ordinance and the Guidelines for Best Practices in Film Regulations and Policies.

If you have any questions, please feel free to get in touch with me directly.

Thank you,

Leo Fialho (he/him)
Permit Manager
California Film Commission
7080 Hollywood Blvd Suite 900
Hollywood CA 90028
leo.fialho@film.ca.gov
323.742.2870 (direct) 323.817.4105 (work)

CALIFORNIA
Film Commission

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ORDINANCE 16__

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 5.40 OF THE BANNING MUNICIPAL CODE CONCERNING FILM PERMITS AND REGULATIONS

The City Council of the City of Banning does hereby ordain as follows:

SECTION 1. Findings and Purpose.

A. The Uniform Film Permit Act (Gov. Code, § 1499.20 *et seq.*) authorizes cities and counties to adopt ordinances or other regulations governing the issuance of film permits to engage in the use of property for occasional commercial filming.
B. Section 14999.21(b) of the Uniform Film Act provides that at least 30 days prior to an amendment to the written filming policy of a local government, the local government shall submit a draft of the amendment to the Executive Director of the California Film Commission ("Commission"). The Commission must review drafts submitted to it and report its findings to the local government within five working days of receipt of the draft. The local legislative body must consider the Commission's findings prior to final adoption of the amendment, unless the Commission's findings are not available within the above prescribed time limits. Any and all findings made by the Commission are advisory to local government.
C. On December __, 2024, the City submitted a copy of the proposed draft amendments to Chapter 5.40 ("Motion Picture, Television and Photographic Production Permits") of Title 5 ("Business Licenses and Regulations") of the Banning Municipal Code ("BMC") to the office of Colleen Bell, Executive Director of the California Film Commission.
D. By letter dated [month] [day], 2024, the Commission submitted advisory findings to the City on the proposed amendments to BMC Chapter 5.40, which the City Council considered prior to adoption of this Ordinance.
E. Section 14999.21(b) of the Uniform Film Act provides that each local government must provide the Commission with a copy of its adopted filming amendments.

SECTION 2. Chapter 5.40 of Title 5 of the Banning Municipal Code is hereby amended in its entirety to read as follows:

"**Chapter 5.40 - MOTION PICTURE, TELEVISION, AND PHOTOGRAPHIC PRODUCTION PERMITS**

5.40.010 - Title.

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City film permit coordinator. The director of community and economic development, or their designee.

Filming activity. All activity attendant to staging or shooting commercial motion pictures, television shows or programs, long form web-based media, commercials and the taking of single or multiple photographs for sale or commercial use involving a cast and crew of ten or more individuals where the photographer sets up stationary equipment in any one location for longer than five consecutive minutes. Filming activity also includes filming of commercial radio station promotional events. Filming activities include the following definitions:

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B. Television Shows. A series of episodes aired on television or an app-based streaming service, typically following a specific storyline or theme for broadcast or syndication. Television for the purposes of this chapter means an electronic system of transmitting transient images of fixed or moving objects together with sound over a wire or through space by apparatus that converts light and sound into electrical waves and reconverts them into visible light rays and audible sound

C. Programs. A presentation or item on television, radio, or an app-based streaming service, especially one broadcast airing regularly between stated times (i.e. nature program). Radio for the purposes of this chapter means the use of electromagnetic waves for the wireless transmission of electric impulses into which sound is converted.

D. Commercials. An advertisement played on television, radio, or an app-based streaming service.

E. Still photography. A photograph that is not a video, movie, or moving image.

Filming location. Filming location means the actual property or properties that any filming activity for commercial motion picture or still photographic production is performed.

News media. The photographing, filming or videotaping for the purpose of spontaneous, unplanned reporting of news events concerning those persons, scenes or occurrences which are in the news and of public interest by reporters, photographers or camera operator in the employ of a newspaper, television station, news service, or similar entity.

Preparation. Preparation (“prep”) means workdays preceding filming activities. These activities may include set construction, or dressing, painting, landscaping or rigging for stunts and special effects.

Private production. The filming or videotaping of motion pictures or taking of still photographs solely for private use.

Project completion. The work at a filming location that includes the removal of equipment at the end of filming activities. These activities may include, but are not limited to, set removal, re-painting, re-landscaping, and unrigging from stunts and special effects.

Studio filming. A legally established commercial motion picture, television show, commercials, programs, or still photography place of business where filming activity, whether motion pictures, television shows, commercials, programs, or still photography, are regularly conducted inside a studio or on a stage located on the premises.

Student films. Motion pictures, television shows, or still photography that are produced to satisfy a course or curriculum requirement at an educational institution are student films. The student film maker must supply proof that they are currently enrolled in an educational institution. Proof may include documentation from an educational institution that indicates the student is covered by their liability insurance, and given permission to film a project beyond the boundaries of the campus.

5.40.040 - Permit required.

No person shall use any public or private property, building, facility, or residence for the purpose of filming activity, including producing or making motion pictures, television shows, programs, commercials, or still photography without first receiving a city film permit from the city film permit coordinator pursuant to the provisions of this chapter.

5.40.050 - Permit exemptions.

The provisions of this chapter shall not apply to the following:

A. News media;

B. Private production; and

C. Studio filming.

5.40.060 - Permit application.

An applicant must provide the following information:

A. Full legal name of applicant;

B. Business or educational institution name of applicant (if different);

C. Business or educational institution address of applicant;

D. Telephone number of applicant;

E. Location(s) of proposed filming or taping;

F. Date(s) and time(s) of proposed filming or taping;

G. Lists which include the approximate number of cast, crew, and production vehicles;

H. Services of city employees desired or required on location during filming;

I. A brief description of the type of film to be made;

J. Name of person in charge on location;

K. Such other information as deemed reasonably necessary by the city; and

L. A statement acknowledging that the applicant shall have a copy of its permit on site at all times during filming.

5.40.070 - Permit applications and issuance.

A. City film permit application. Any person desiring a city film permit under the provisions of this chapter shall submit to the city film permit coordinator the following:

1. A complete application for a city film permit on a form provided by the city. The form must be signed by the applicant and accompanied by all required fees, deposits, indemnification agreement, and the insurance certificate required by this chapter and the city's administrative rules and regulations before the city film permit coordinator may process the city film permit application. An applicant must submit a complete application, in person, at least two working days prior to the date of the filming activity for which the permit is required. If such activity interferes with traffic, including road closures, or involves potential public safety hazards, such as stunts, pyrotechnics or special effects, the applicant shall submit the application at least five working days prior to the date of the filming activity for which the permit is required.
2. Approval in the form of a petition, signature card, letter, consent form, or email from a minimum of seventy-five percent of all property owners and/or tenants, over the age of eighteen, for each parcel located within five hundred feet of the perimeter of the property on which the filming activity is to take place. Applications that fail to submit the minimum amount of consent required in this subsection shall require approval from the city film permit coordinator, city manager, or their designee.
    a. An applicant will be required to submit a city film permit request at least one working day prior to the date on which such person desires to conduct filming activity for which a permit is required, unless closure of a public street is involved in which case minimum notification time shall be one week.
3. City film permit fee as established by city council resolution and other applicable deposits as described in Section 5.40.080.
4. Evidence of insurance as required in Section 5.40.140.
5. A fully executed indemnification agreement, on a form approved by the city attorney, as required in Section 5.40.140.
6. If determined to be necessary by the city film permit coordinator, written evidence of permits and/or conditions with other public agencies as may be required upon submission of an application for a city film permit. The requirements of these responsible agencies shall be the requirements of this permit. Examples of such agencies include, without limitation, the state highway patrol, the county sheriff's department, the Federal Aviation Administration, city fire protection district, and the bureau of land management.
7. Any other information as required by the city's administrative rules and regulations.
8. An applicant shall obtain the property owner's permission, consent, and/or lease for use of property.

B. City film permit issuance.

1. The city film permit coordinator shall be responsible for the issuance of city film permits under this chapter, when, from a consideration of the application and from such other information as may be otherwise obtained, they find that:
    a. The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time;
    b. The conduct of such activity will not unduly interfere with normal governmental or city operations, threaten to result in damage or detriment to public property, or result in the city incurring costs or expenditures in either money or personnel not reimbursed in advance by the applicant; and
    c. At the determination of the city's public works department, the city police department, the city fire protection district, and the city engineer, as required, that the condition of such activity will not constitute a fire hazard or any other type of hazard and all proper safety precautions will be taken as determined by the department's director, or their designee.
2. The city film permit coordinator may impose any conditions found necessary to protect the public's health, safety, and welfare. The permittee shall comply with any conditions or restrictions the city may impose as a condition to issue a city film permit. No changes to such conditions shall be made without first obtaining the city film permit coordinator's prior written approval. Failure to comply with the terms and conditions of a city film permit shall be grounds for permit revocation by the city film permit coordinator.
3. Following issuance of a city film permit, the permittee must notify residents within a five hundred-foot radius of the location of the proposed filming activity by distributing a fully completed filming location notification form, including the production company's contact information, at least twenty-four hours prior to the first day of filming activity. Residential notification is not required for still photographic productions with cast and crew of less than ten people.
4. The decision of the city film permit coordinator to issue, conditionally issue, or not issue a city film permit shall be final unless appealed pursuant to Section 5.40.160.
5. A permit application shall be issued for the number of days requested.
6. An applicant shall comply with all conditions or restrictions of the permit.

5.40.080 - Permit fees and deposits; costs.

Each application for a city film permit shall be accompanied by:

A. A security deposit, in an amount established by city council resolution, to ensure cleanup and restoration of the site of the filming activity. The deposit, in full or part thereof, may be returned to the permittee upon completion of filming activity and inspection of the site by the city.

B. A city film permit fee in an amount established by resolution of the city council to reimburse the city for staff time required to evaluate the application and establish conditions of approval and to monitor the filming activity.

C. The city film permit fee and the security deposit shall not apply to or affect:
    1. City produced or city-sponsored government or educational access productions;

2. Student films; and
3. Productions by charitable organizations that have been issued 501(c)(3) status by the Internal Revenue Service and are in good standing.

D. If deemed necessary by the city film permit coordinator, additional police personnel, code enforcement personnel, a film monitor and/or other city services shall be provided for the purpose of protecting, assisting, and regulating the proposed filming activity, at a cost billed to the permittee. The cost of providing such additional services shall be paid in advance to the city by the permittee. Additional city services will be provided and coordinated through the city film permit coordinator.

E. A permittee shall conduct operations including preparation and project completion in a time frame as agreed by the city and permittee. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site. The city may require a faithful performance bond to ensure cleanup and restoration of the site after inspection. The bond shall be returned to the applicant within thirty days.

5.40.090- Public right-of-way.

Temporary “NO PARKING” signs shall be posted by the city., All parking of equipment or cars on public streets, stringing cable on sidewalks or from generator to service point, sidewalk shots, driving scenes shall require signage indicating such activities are taking place and shall be posted by the city.

5.40.100 - Traffic control.

For filming that would impair traffic flow, a permittee shall coordinate traffic control with the police department and, if deemed necessary by the city film permit coordinator, the California Highway Patrol and/or county sheriff, and shall comply with all traffic control requirements deemed necessary by the city permit film coordinator.

A. The permittee shall furnish and install advance warning signs and any other traffic control devices in conformance with the Manual of Traffic Control, State of California, Department of Transportation, and take all appropriate safety precautions.

B. Traffic may be restricted or stopped intermittently upon the city’s authorization and under the city’s direction.

C. The permittee shall not detour traffic across a road with double lines without the city’s prior approval.

D. Unless otherwise authorized by the city, the permittee shall not drive camera cars (or cause camera cars to be driven) in the direction of traffic, and shall observe all traffic laws.

E. Any emergency road work or construction by city, county crews, and/or private contractors, under permit or contract to the city shall have priority over filming activities.

5.40.110 - Special restrictions.

The permittee shall perform all external filming activities between the hours of 10:00 P.M. and 6:00 A.M. without undue noise and nuisance, unless otherwise approved by the city film permit coordinator with sufficient notice to inform residents of the filming activity.

5.40.120 - Administrative rules and regulations.

The city film permit coordinator is authorized and directed to promulgate administrative rules and regulations, subject to approval by resolution of the city council, governing the time, place and manner of any filming activity, included in this chapter, within the city. The administrative rules and regulations shall be based upon the criteria set forth in this chapter.

5.40.130 - Insurance and liability.

All applicants for a city film permit shall submit the following with a completed application for a city film permit:

A. Liability insurance. If filming activity will be conducted on public property, a certificate of insurance shall be submitted to the city film permit coordinator evidencing the following:

1. General liability with limits no less than as stipulated by the city;
2. Auto liability with limits no less than as stipulated by the city;
3. Workers' compensation coverage as required by law; and
4. Employer's liability with limits no less than as stipulated by the city.

The general liability and auto liability policies shall name the city, its officers, employees, agents, and volunteers as additional insured to protect the city against any liability, or claims of liability related to or resulting from film production in the city. Such policies shall be provided by an insured permitted to do business in the state with an AM Best rating of at least A:VII or a Standard & Poor's Rating (if rated) of at least BBB, unless specific approval for a lower rating has been granted by the City. The certificate shall not be subject to cancellation or modification until after thirty days' written notice to the city. Such insurance shall be evidenced by the standard general liability special endorsement form mandated by the state film commission, which will remain on file with the city's risk manager. When filming in a flood control channel, the Riverside Flood Control and Water Conservation District shall be named as an additional insured.

B. Indemnification agreement. The applicant must submit with its application for a city film permit an indemnification agreement, on a form approved by the city attorney, in which the applicant agrees to defend, indemnify, and hold harmless the city, its officers, agents, employees and volunteers from all claims and liability arising from the filming activity or issuance of the city film permit.

5.40.140 - Revocation and suspension of a city film permit.

A. The city film permit coordinator may revoke city film permits for the following reasons:

1. Misrepresentation on the city film permit application, including, without limitation, the type or manner of film production, the location of filming activity, or the parameters or the need for stunts or special effects.

2. Any violations of this code, state or federal law, and/or the city's administrative rules and regulations for filming activity.

3. Any violation of the conditions imposed on a conditionally approved city film permit.

B. The city police department and the city fire protection district are authorized to suspend any filming activity not authorized by the necessary permit or when permit conditions are violated or where the city's filming rules and regulations, laws, or ordinances are violated. A written notice of suspension shall be provided to the permittee and the city film permit coordinator within twenty-four hours of the suspension.

C. The decision of the city film permit coordinator to revoke a city film permit shall be final unless appealed pursuant to Section 5.40.160.

5.40.150 - Enforcement of violations.

A. Notwithstanding any other provision of this code to the contrary, any person who causes, permits, or suffers a violation of any provision of this chapter, or who fails to comply with any obligation or requirement of this chapter, is guilty of a misdemeanor violation punishable in accordance with Chapters 1.24 and 1.28 and is also subject to administrative citations in accordance with Chapter 1.20.

B. Each person shall be guilty of a separate offense for each day, or part thereof, during which a violation of this chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

C. This chapter does not exclusively regulate filming activity in the city, and the remedies provided in this chapter are in addition to other applicable remedies and penalties authorized by the Banning Municipal Code, or by the laws of the state or of the United States.

5.40.160 - Appeal procedures.

The decision of the city film permit coordinator to issue, conditionally issue, not issue, or revoke a city film permit may be appealed in writing to the city manager within five working days of the decision. The appeal must include copies of all pertinent material necessary to support the permittee's position on appeal. Any actions of the city manager shall be final."

SECTION 3. 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.

SECTION 4. The City Council directs the City Clerk to submit a certified copy of this Ordinance to the California Film Commission.

SECTION 5. This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.

PASSED, APPROVED AND ADOPTED this 00th day of Month 2024.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that Ordinance 16XX was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 14th day of January 2025, and was duly adopted at a regular meeting of said City Council on the 28th day of January 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

CALIFORNIA
Film Commission

Guidelines for Best Practices in Film Regulations and Policies

Encouraging film production is an economic development tool that can provide temporary jobs for local residents, generate local revenue and bolster local businesses. One of California's signature industries, motion picture production is an essential source of economic activity, tax revenue, jobs and tourism in California. It contributes $30 billion dollars annually to our state's economy while supporting over 190,000 well-paying entertainment industry jobs.

It is always important to balance the needs of a production company with the concerns of local government and the local community. Once a city or county has created a film ordinance (see model filming ordinance), they should consider establishing permit policies and regulations that are "film friendly" with the intent to increase or retain filming.

A. Consider the Following "Best Practices" When Creating Film Policies:

1. Rapid film permit issuance: 2 – 5 business days from permit application submission to permit issuance.
2. Establish standard hours for film activities: typically 7:00 a.m. – 10:00 p.m. for residential zones (with the option to extend hours with the approval of affected residents and business owners).
3. Establish reasonable permit fees. Compare fees charged by similar surrounding cities and stay within or below those limits. Some cities/counties reduce or waive permit fees for accredited student or charitable productions (while still requiring a permit) to encourage more filming.
4. Establish and post cost recovery fees for the reimbursement of city or county personnel (i.e., application review, monitors, police, fire, traffic control).
5. Establish a film permit requirement but waive any requirement for a business license, as most film activities are temporary.

6. The California Film Commission discourages the requirement of a bond. (Productions must pay additional fees to secure a bond, and the city/county must then rely on the bond company to collect damages from the production company). Instead, a refundable security deposit against damages is preferred.

7. Appoint a key liaison for coordinating permits. Be sure to appoint a back-up liaison. The liaison will be required to make decisions as the community representative prior to and during filming, and should therefore have full endorsement and authority of the local jurisdiction. The liaison should be aware of any previous film production within the community and remain sensitive to local citizens' concerns.

8. Create a centralized filming section on your city/county website clearly listing all film regulations, permit and insurance requirements, fees and liaison contact information.

9. Consider adopting an ordinance that protects the orderly conduct of a permitted film event from persons who interfere.

B. Specific Guidelines for Filming Regulations:

1. Timely issuance of film permits: An applicant will be required to submit a permit request at least two business days prior to the date of the requested production activity. If such activity interferes with traffic or involves potential public safety hazards, an application may be required at least four business days in advance.

2. Notification: All residents and merchants within a 200 feet radius of the film location must receive notice of filming dates, times, location address and production company contact at least 24 hours prior to the first film activity. It is most effective to notify affected residents and business owners in person or via flyer, unless a property is inaccessible.

3. Parking: When parking production vehicles on a public street, residents and merchants impacted by the parking must receive notice at least 24 hours prior to the arrival of the vehicles. All those impacted should also be notified of the city/county's procedures for towing vehicles parked in areas where "no parking" signs have been posted.

4. Surveys: Require a survey of affected residents and/or businesses within a 200 ft. radius when the filming includes extraordinary activities such as a street closure, pyrotechnics, excessive noise, low flying helicopters or drones, requests to film beyond the standard hours and requests to film for extended periods of time. Note: the California Film Commission recommends a policy requiring no more than 80% signature approval.

5. Clean up: The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of filming at the scene and restored to the original condition before leaving the site.

6. Filming on Private Property: An applicant is required to obtain the property owner's permission, consent and signed location agreement, in addition to a permit, for use of the property not owned or controlled by the city/county.

7. Flood Control (if applicable): When filming in a flood control channel, an applicant must vacate channel when water is released. Please note that when filming in or on flood control properties, the agency must be named as an additional insured.

8. Public Works Department (Road and Streets): If the applicant must park equipment, trucks, and/or cars in zones that will not permit it, temporary "No Parking" signs must be posted with approval of the local authority. The applicant must also obtain permission to lay and safely mat cable across sidewalks or from generator to service point.

9. Traffic Control: For filming that would impair traffic flow, an applicant must use California Highway Patrol (CHP), County Sheriff or local law enforcement personnel and comply with all traffic control requirements deemed necessary.

    a. An applicant shall furnish and install advance warning signs and any other traffic control devices in conformance with the Manual of Traffic Controls, State of California Department of Transportation. All appropriate safety precautions must be taken.

b. For any lane closure or intermittent traffic control (ITC), the period of time that traffic may be restricted will be determined by the city/county, based on traffic volumes for location and time of day. For state-owned freeways and roads, lane closures and ITC will be determined by Caltrans.

c. Traffic shall not be detoured across a double line without prior approval of the appropriate department representative.

d. Unless authorized by the city/county, camera cars must be driven in the direction of traffic and must observe all traffic laws.

e. Any emergency roadwork or construction by city or county crews and/or private contractors, under permit or contract to the appropriate department, shall have priority over filming activities.

10. Municipal Parking Lots: When parking in a municipal parking lot, an applicant may be billed according to the current rate schedule established by the city/county. In order to assure the safety of citizens in the surrounding community, access roads to beaches, which serve as emergency service roads, must never be blocked. No relocation, alteration, or moving of beach structures will be permitted without prior approval.

C. Other Considerations to Encourage Filming:

A city or county that wishes to actively recruit filming as part of its economic development plan should also consider providing the following services or incentives to encourage filming.

1. Provide service and support to each production company from the initial contact to the close of the production, including problem solving on film related matters. Support should include coordination between the production company, local residents and businesses and the city/county.
2. Offer fee-free city/county-owned properties for use as filming locations. Charge applicants for cost recovery only – review time, police, fire or security monitors.
3. Waive permit fees.
4. Provide free vacant office space and / or free parking lots.

5. Create an online database of location photos.
6. Upload location photos to the California Film Commission website to market a local region.

Final Note:

Being film-friendly includes reasonable guidelines and fees and a city/county's ability to assist productions with their location needs. Overly-restrictive regulations (i.e., requiring a building permit in order to temporarily attach anything to a building/structure or having to obtain 100% written consent of all affected residents and business owners) will only serve to discourage filming in your community.

While there are jurisdictions that believe filming activities should cause no disruption to the community, and the California Film Commission clearly understands the desire for filming to have as little impact on residents and businesses as possible – the nature of a film shoot is that it can sometimes be intrusive, even though the impact may be minimal and all good faith efforts are made to mitigate the impact from filming activities. However, there are few concerns that can't be successfully resolved when cities/counties work with production companies to make filming a positive experience for all involved.

Additional resources for jurisdictions interested in recruiting film production can be found on our Community Filming page.

Many California cities, counties and special districts have adopted this ordinance to ensure uniform film ordinances and permit processes throughout the State. The Model Filming Ordinance is not intended to address the circumstances of each local jurisdiction, but provides general guidance for ensuring film-friendly policies in a community.

The California Film Commission (CFC) reviews all local ordinances and provides comments to government to ensure uniform procedures for issuing film permits. A local government is required to submit any draft filming ordinance or amendments to the CFC 30 days prior to adoption as per Government Code 14999.21. The CFC will review all drafts and provide comments within five working days. The CFC recommends that only reasonable fees associated with the recovery of costs are charged production companies for use of public property and services.

Model Filming Ordinance

I. DEFINITIONS:

a. "Motion picture, television, still photography" shall mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercials, digital media, still photography and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape or digital format.

b. "Charitable films" shall mean commercials, motion pictures, television, digital media or still photography produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.

c. "News Media" shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcasts ("breaking news") or reporting for print media by reporters, photographers or camerapersons.

d. "Studio" shall mean a fixed place of business certified as such by a local fire authority having jurisdiction where filming activities (motion or still photography) are regularly conducted upon the premises.

II. PERMITS AND EXEMPTIONS:

a. Permit required: No person shall use any public or private property, facility or residence for the purpose of taking motion pictures, television, digital media or commercial still photography without first applying for and receiving a permit from the officer designated by the city/county.

b. Exemptions:

1) News Media: The provisions of this Chapter shall not apply to or affect reporters, photographers or camerapersons in the employ of a newspaper, news service, or similar entity engaged in on-the-spot print media, publishing or broadcasting, of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.

2) Personal/Family Video: The recording of visual images (motion or still photography) solely for private personal use, and not for commercial use.

3) Studio Filming: Filming activities (motion or still photography) conducted at a studio.

III. RULES AND REGULATIONS:

Rules: The designated city/county officer is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the Council or Board, governing the form, time and location of any film activity set forth within the

city/county. The officer shall also provide for the issuance of permits. The rules and regulations shall be based upon the following criteria:

1. The health and safety of all persons;
2. Mitigation of disruption to all persons within the affected area;
3. The safety of property within the city/county; and
4. Traffic congestion at particular locations within the city/county.

IV. APPLICANTS AND ISSUANCE:

a. Issuing Authority: The issuing authority shall be the city/county designee.

b. Applications: The following information shall be included in the application:

1. The representative of the property and his/her email address and cell phone number, as well as the address, email address and telephone number of the place at which the activity is to be conducted;
2. The specific location at such address or place;
3. The inclusive hours and dates such activity will occur;
4. A general statement describing the character or nature of the proposed filming activities;
5. The name, address, email address, and cell phone number of the person or persons in charge of such filming activity;
6. The exact number of personnel to be involved;
7. Activity which may cause public alarm, such as the use of any animals, gunfire or pyrotechnics, low flying helicopters and/or unmanned aircraft systems (drones);
8. The exact amount/type of vehicles/equipment to be employed along with a parking plan; and

9. All applicable documentation (remote pilot certificate, UAS registration certificate, waivers, description of flight operations, etc.) if a UAS (drone) is being used.

c. Fee Schedule: The issuing authority may adopt a fee schedule.

d. Reimbursement for Personnel: The production company shall reimburse the city/county for any personnel provided to the company (e.g., police, fire, traffic) for the purpose of assisting the production.

e. Change of Date: Upon the request of the applicant, the issuing authority shall have the power, upon a showing of good cause, to change the date for which the permit has been issued, provided established limitations are complied with in respect to time and location.

V. LIABILITY PROVISIONS:

a. Liability Insurance: Before a permit is issued, a certificate of insurance will be required in an amount not exceeding $1,000,000 naming the city/county as additional insured for protection against claims of third persons for personal injuries, wrongful deaths, and property damage. Higher liability limits or separate aerial coverage shall be required for the use of helicopters and/or drones. City/county officers and employees shall also be named as additional insured. An applicant must provide evidence of insurance coverage that will not expire until the completion of all planned production activities, including the strike and restoration of all locations. A copy of the certificate will remain on file.

b. Worker's Compensation Insurance: An applicant shall conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a permit.

c. Hold Harmless Agreement: An applicant shall execute a hold harmless agreement as provided by the city/county prior to the issuance of a permit under this ordinance. (The hold harmless agreement may be included in the terms and conditions of the permit.)

d. Security Deposit: To ensure cleanup and restoration of location sites, an applicant may be required to submit a refundable deposit (amount to be determined by the city/county). Upon completion of filming and inspection of the site by the city/county, if no verifiable damage has occurred, the security deposit shall be returned to the applicant.

VI. VIOLATION:

If an applicant violates any provisions of this ordinance or a permit issued pursuant thereto, the city/county may provide the applicant with verbal or written notice of such violation. If the applicant fails to correct the violation, the city/county may revoke the permit and all activity must cease.

FILMING REGULATIONS

See *Guidelines for Best Practices in Film Regulation and Policies*.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**David Newell, Community Development Director**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Second Reading and Adoption of Ordinance 1611, Approving a Development Agreement By and Between the City of Banning and JDNJ Enterprises, LLC, a Missouri Limited Liability Corporation**

RECOMMENDATION:

Waive the second reading of text in its entirety and adopt Ordinance 1611.

BACKGROUND:

At its regular meeting of July 8, 2025, the City Council held a public hearing and considered three applications (Case DR21-7017, TPM 38756 and a Development Agreement) for the Banning Commerce Center Project, which is a proposed industrial warehouse development of 1,320,284 square feet on 131.28-acre site located north of the I-10 freeway/E. Ramsey Street, east of N. Hathaway Street and bisected by Wilson Street. After closing the public hearing and deliberating, the Council voted 5-0 to approve the Project as follows:

1. Adopt Resolution 2025-107. This resolution certified Banning Commerce Center Project's EIR, adopted statements of overriding considerations and established the Mitigation Monitoring and Reporting Program.
2. Adopt Resolution 2025-106. This resolution approved the Design Review and Tentative Parcel Map applications for the Banning Commerce Center Project.
3. Introduce and conduct first reading of, by title only, Ordinance 1611. 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.

After the Council's meeting on July 8, 2025, staff made revisions to the Development Agreement for execution, including the addition of (1) missing dates and references; (2) text to Section 17.C. to toll agreement and approvals in the event there is a third party challenge; (3) names for each party under signature lines; and (4) the current development impact fees applicable to the project in definitions and Exhibit B of the Agreement. Because these revisions were beyond corrections of typographical and clerical errors, Ordinance 1611 was re-introduced at a public hearing on September 23, 2025, for first reading under Government Code Section 36394,which states, "When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section." After holding the public hearing on September 23, 2025, the Council re-introduced Ordinance 1611. This report provides for the City Council to waive further reading and adopt Ordinance 1611 at second reading, as required by the Government Code. The ordinance shall be effective 30-days from adoption.

JUSTIFICATION:

In order to approve the Development Agreement application, the City Council is required to make findings pursuant to 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 Council conducted public hearings on Ordinance 1611 on July 8, 2025 and September 23, 2025, and voted to adopt the required findings included in the draft ordinance. There have been no changes since the first reading of Ordinance 1611 on September 23, 2025.

Environmental Determination:

Second reading of Ordinance 1611 remains consistent with the Council's action to certify the EIR under Resolution 2025-107.

FISCAL IMPACT:

As described in prior City Council Staff Reports on this project, fiscal impacts of the project 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 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.

A fiscal impact analysis report prepared by the Developer's consultant anticipates this 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:

Provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Ordinance 1611
2. Development Agreement

ORDINANCE 1611

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. 2025-106 approving Tentative Parcel Map No. 38756 to reconsolidate all existing parcels on the Site into two parcels and Design Review No. 21-7017 for construction of one concrete tilt-up industrial building; and Resolution No. 2025-107 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 July 8, 2025, held a public hearing on the Project and voted 5-0 to introduce Ordinance 1611; and

WHEREAS, the Development Agreement attached as Exhibit “B” to Ordinance 1611 introduced at the hearing on July 8, 2025 was incomplete and required additional information, including (1) missing dates and references; (2) text to Section 17.C. to toll agreement and approvals in the event there is a third party challenge; (3) names for each party under signature lines; and (4) the current development impact fees applicable to the project in definitions and Exhibit B of the Agreement; and

WHEREAS, the City Council at its regularly scheduled public meeting on September 23, 2025, held a public hearing on the Project and considered re-introducing Ordinance 1611; 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 23rd day of September, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting 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 Ordinance 1611 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of September, 2025, and was duly adopted at a regular meeting of said City Council on the __ day of October, 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
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 1/4 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 1/4 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 1/2 OF THE NORTHWEST 1/4 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 1/4, DISTANT ALONG SAID EAST LINE SOUTH 0°41'41" WEST 1359.31 FEET FROM A 3/4 INCH IRON PIPE AND BRASS CAP MARKED "U.S.G.L.O. 1917" SET FOR THE NORTH 1/4 CORNER OF SAID SECTION;

THENCE NORTH 89°25'57" WEST, 1319.31 FEET TO THE WEST LINE OF THE SAID EAST 1/2.

ALSO THAT PORTION OF THE WEST 20 FEET OF SAID EAST 1/2 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 1/2, 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.

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 September 25, 2025, 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 July 8, 2025, the City Council adopted Resolution No. 2025-106 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. 2025-106 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. 2025-106 are referred to herein as the "Project Approvals."

6. On August 26, 2025, the City Council adopted Ordinance No. 1611 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. The DIF Program also includes the regional MSHCP impact fee program imposed by the City in cooperation with Western Riverside County Regional Conservation Authority ("RCA") and the TUMF impact fee program adopted by the City in cooperation with Western Regional Council of Governments ("WRCOG").

G. "Effective Date" shall mean the date that Ordinance No. 1611 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 2022090102, SCH Number 2022090102, 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 Resolution 2019-112 adopted by the City Council on September 10, 2019. "DIF" also includes TUMF and MSHCP. A schedule showing the DIF applicable to industrial uses only in place as of the Effective Date (excluding MSHCP and TUMF) is attached as Exhibit "B". If other uses are sought by Developer the DIF for such use shall apply. 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 industrial building, Developer shall pay the development impact fees listed on Exhibit "B" as well TUMF and MSHCP 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. For the sake of clarity, Developer shall be subject to all increases and amendments to DIF at all times. Notwithstanding the forgoing, 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 within 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 March 2018. 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. In addition, the Term, the obligations imposed herein, and the lifespan of all Project Approvals, presently in existence or in existence in the future, shall be extended day for day based upon a timely filed lawsuit challenging the validity or legality of this Agreement and/or any of the Project Approvals, until the date on which said challenge is finally resolved. Developer and City shall promptly notify the other Party to this Agreement upon learning of the filing any such third party litigation.

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: _____
Sheri Flynn
Mayor

ATTEST:

By: _____
Vickie Sellers
City Clerk

DEVELOPER

JDNJ ENTERPRISES, LLC,
a Missouri limited liability corporation qualified to do business in California

By: JDNJ, LLC, its Manager

By: JDN Holding Co., LLC, its Manager

By: _____
James G. Sansone, Manager

By: _____
Douglas G. Sansone, Manager

APPROVED AS TO FORM:

By: _____
Nicholas G. Sansone, Manager

By: _____
John O. Pinkney
City Attorney

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EXHIBIT A

SITE 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 1/4 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 1/4 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 1/2 OF THE NORTHWEST 1/4 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 1/4, DISTANT ALONG SAID EAST LINE SOUTH 0°41'41" WEST 1359.31 FEET FROM A 3/4 INCH IRON PIPE AND BRASS CAP MARKED "U.S.G.L.O. 1917" SET FOR THE NORTH 1/4 CORNER OF SAID SECTION;

THENCE NORTH 89°25'57" WEST, 1319.31 FEET TO THE WEST LINE OF THE SAID EAST 1/2.

ALSO THAT PORTION OF THE WEST 20 FEET OF SAID EAST 1/2 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 1/2, 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.

EXHIBIT B

DIF SCHEDULE AS OF EFFECTIVE DATE

City of Banning Development Impact Fees[1]						
Land Use Category	**Fire Facilities**	**General City Facilities**	**Police**	**Traffic**	**Water**	**Wastewater[2]**
Nonresidential – Fee per 1,000 Square Feet - Industrial	$236.00	$239.00	$170.00	$1,791.69	Per Table 8.5 in City Council Resolution 2019-112	$708.54

[1] Represents the City of Banning Development Impact Fees for non-residential land uses effective November 9, 2019 per City Council Resolution No. 2019-112.

[2] Wastewater Facilities Fee shown as per 1 EDU. Wastewater Facilities EDU Factors for every 1,000 square feet are 0.37 for Commercial, 0.13 for Office and 0.14 for Industrial.

City of Banning Development Impact Fees (cont'd.)		
Land Use Category	**TUMF[3]**	**MSHCP[3]**
Industrial	$2.33 per square foot	$20,191 per acre
Class A/B Office	$2.45 per square foot	

[3] TUMF and MSHCP subject to annual increases.

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

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Jim Steffens, Power Resources Manager** **Fred Lyn, Deputy Electric Utility Director**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-137 Approving the City of Banning Electric Utility's Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2024**

RECOMMENDATION:

Adopt Resolution 2025-137.

BACKGROUND:

On October 11, 2009, Governor Arnold Schwarzenegger signed California State Assembly Bill 162 ("AB 162"), which amended the Power Content Label reporting requirements originally set forth in Senate Bill 1305. The amendments changed the reporting requirements from quarterly to annual, and required that utilities report actual power content information instead of projected.

The information must be provided to the utility's customers through either printed or electronic means, including posting it on the City's website. The utility will provide it by posting an electronic copy of the Power Content Label on the City's website.

The California Energy Commission (CEC), which has oversight authority for this requirement, has stated that the governing body of each locally owned public utility must approve both the Power Source Disclosure Annual Report and the annual Power Content Label for the utility(s) under its jurisdiction. Therefore, Staff is requesting that the City Council approve Resolution 2025-137, accepting both the City of Banning Electric Utility's Power Source Disclosure Annual Report, attached herewith as Exhibit "A", and the City of Banning Electric Utility's Power Content Label, attached herewith as Exhibit "B".

JUSTIFICATION:

AB 162 requires that all load serving electric utilities develop and provide to its customers on an annual basis an approved Power Content Label. The Power Content Label shows the percentages of each type of energy resources that are used to serve an electric utility's customers. The regulation has been amended beginning in calendar year 2019, requiring the governing body of each locally owned public utility to approve both the Power Source Disclosure Annual Report and the Power Content Label.

FISCAL IMPACT:

There is no fiscal impact in the adoption of Resolution 2025-137.

ALTERNATIVES:

Do not approve Resolution 2025-137 and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 2025-137 Resolution PCL.docx
2. Resolution 2025-137 Exhibit A v2.pdf
3. Resolution 2025-137 Exhibit B.pdf

RESOLUTION 2025-137

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE CITY OF BANNING ELECTRIC UTILITY'S POWER SOURCE DISCLOSURE ANNUAL REPORT AND POWER CONTENT LABEL FOR CALENDAR YEAR 2024

WHEREAS, the City of Banning owns and operates its own Municipal Electric Utility; and

WHEREAS, California State Senate Bill 1305 and Assembly Bill 162 have certain reporting requirements pertaining to electric utility Power Source Disclosure Annual Report and Power Content Labels; and

WHEREAS, the Banning Electric Utility ("Utility") is subject to these reporting requirements; and

WHEREAS, the California Energy Commission, which has oversight authority for this requirement, has stated that the governing body of each locally owned public utility must approve both the Power Source Disclosure Annual Report and the Power Content Label for the utility(s) under its jurisdiction.

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

SECTION 1. The City Council approves Resolution 2025-137, approving both the Utility's Power Source Disclosure Annual Report and the Power Content Label for Calendar Year 2024, attached herewith as Exhibit "A" and Exhibit "B".

SECTION 2. The City Council authorizes the Electric Utility Deputy Director, or his or her designee, to disseminate the information included on the Power Content Label to the Utility's customers in compliance with the requirements of Senate Bill 1305 and Assembly Bill 162.

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 14th day of October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-137, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Power Source Disclosure Annual Report

EXHIBIT B
Power Content Label

2024 POWER SOURCE DISCLOSURE ANNUAL REPORT
For the Year Ending December 31, 2024

Retail suppliers are required to use the posted template and are not allowed to make edits to this format. Please complete all requested information.

GENERAL INSTRUCTIONS

RETAIL SUPPLIER NAME
City of Banning

CONTACT INFORMATION	
NAME	Jim Steffens
TITLE	Power Resources Manager
MAILING	99 E. Ramsey Street
CITY, STATE, ZIP	Banning, CA, 92220
PHONE	951-922-3266
EMAIL	jsteffens@banningca.gov
WEBSITE URL FOR PCL POSTING	http://www.ci.banning.ca.us/DocumentCenter/View/224/PowerContentLabel_2015_Annual

Submit the Annual Report and signed Attestation in PDF format with the Excel version of the Annual Report to PSDprogram@energy.ca.gov. Remember to complete the Retail Supplier Name and contact information above.

NOTE: Information submitted in this report is not automatically held confidential. If your company wishes the information submitted to be considered confidential an authorized representative must submit an application for confidential designation California Energy Commission's website.

If you have questions, contact Power Source Disclosure (PSD) staff at PSDprogram@energy.ca.gov or (916) 639-0573.

Annual Data

Instructions:

1. Enter the electricity portfolio name in cell O25 and additional electricity portfolio names as needed in cells P25-V25.
2. Enter information about all power procurements and retail sales. Insert additional rows as needed. All fields in white should be filled out. Fields in grey auto-populate as needed and should not be filled out.
3. For all specified purchases, enter the facility name, fuel type, state or province, WREGIS ID of REC source, RPS ID of REC source, EIA ID of delivered energy, gross MWhs procured, and specified resales MWhs.
4. For firmed-&-shaped procurements specifically, enter all fields from step 3. Additionally, enter the EIA ID of the substitute power in the "EIA ID of delivered energy" field and select "Yes" in the "Firmed-&-Shaped Resource?" field.
5. Proxy EIA IDs for unspecified power and specified system mixes from asset-controlling suppliers have been provided. Enter "Unspecified Power", "BPA", or "Tacoma Power" as applicable.
6. Proxy EIA IDs for aggregated reporting of WAPA CVP or PCIA resoures; Enter "CVP", "PCIA Solar", "PCIA Wind", "PCIA Eligible Hydro", or "PCIA Large Hydro" as applicable.
7. Procurements of unspecified power must not be entered as line items below; unspecified power will be calculated automatically in the individual electricity portfolio tables to the right after all specified resources have been allocated.
8. Allocate net MWhs procured to each electricity portfolio until the loads are balanced across each portfolio. If the total Net MWhs Procured exceeds the total retail sales of all portfolios, allocate only enough MWh to meet the retail sales of each portfolio.

Over allocation check	✓
Under allocation check	✓
Coal check	✓
Negative oversupply check	✓

Retail Sales	155839	
Unmet Load	68103	0

Facility Name	Fuel Type	State or Province	WREGIS ID of REC source	RPS ID of REC source	EIA ID of delivered energy	Gross MWhs Procured	Specified Resales MWhs	Net MWhs Procured	Firmed & Shaped Resource?	Eligible for Firmed & Shaped Grandfathering?	Total EF (MT CO_2e/MWh)	Total GHGs	PCL EF (MT CO_2e/MWh)	Electric Utility	Electricity Portfolio #2 Name
RE Astoria 2	Solar	CA	W4931	62691A	59977	15842	4709	11133			0.0000		0.0000	11133	
Puente Hills Landfill Gas-to-Energy Fac	Biomass & Biogas	CA	W448	60290A	10472	35567	21160	14407			0.6253	9009	0.0034	14407	
Coso Energy Developers (BLM West)	Geothermal	CA	W748	60322A	10875	4668		4668			0.4054	1892	0.0000	4668	
Coso Energy Developers (BLM East)	Geothermal	CA	W460	60322A	10875	31397	13645	17752			0.4054	7197	0.0000	17752	
Coso Finance Partners (Navy I)	Geothermal	CA	W747	60309A	10873	49		49			0.1539	8	0.0000	49	
Coso Finance Partners (Navy I)	Geothermal	CA	W453	60309A	10873	21353	5364	15989			0.1539	2461	0.0000	15989	
Coso Finance Partners (Navy I)	Geothermal	CA	W746	60309A	10873	4719		4719			0.1539	726	0.0000	4719	
Palo Verde Nuclear Generating Station	Nuclear	Arizona			6008	19223	1504	17719			0.0000		0.0000	17719	
Hoover Dam Uprating	Large Hydroelectric	Arizona/Nevada border			154	1300		1300			0.0000		0.0000	1300	
											#N/A	#N/A	#N/A		
											#N/A	#N/A	#N/A		

Electric Utility	Portfolio Totals	PCL Data
Retail Sales	155839	
Total Specified	87736	
Biomass & Biogas	14407	9%
Geothermal	43177	28%
Eligible Hydroelectric	0	0%
Solar	11133	7%
Wind	0	0%
Large Hydroelectric	1300	1%
Nuclear	17719	11%
Emerging Technologies	0	0%
Other	0	0%
Natural Gas	0	0%
Coal & Petroleum	0	0%
Unspecified Power - ACS	0	
Unspecified Power - Spot Market	68103	
Unspecified Power - Total	68103	44%
Total PCL GHGs (MT CO_2e)	29197.1	
Emissions intensity (MT CO_2e/MWh)	0.187	
PCL GHG Intensity (lbs CO_2e/MWh)		413
Unbundled REC %		0%

0	0	0	0	0	0	
Electricity Portfolio #3 Name	Electricity Portfolio #4 Name	Electricity Portfolio #5 Name	Electricity Portfolio #6 Name	Electricity Portfolio #7 Name	Electricity Portfolio #8 Name	Remainder/Oversupply

Electric Utility

Facility Name	Fuel Type	Net Procurement	Annual PCL GHGs (MT CO_2e)
RE Astoria 2	Solar	11133	0
Puente Hills Landfill Gas-to-Energy Facili	Biomass & Biogas	14407	48.9838
Coso Energy Developers (BLM West)	Geothermal	4668	0
Coso Energy Developers (BLM East)	Geothermal	17752	0
Coso Finance Partners (Navy I)	Geothermal	49	0
Coso Finance Partners (Navy I)	Geothermal	15989	0
Coso Finance Partners (Navy I)	Geothermal	4719	0
Palo Verde Nuclear Generating Station	Nuclear	17719	0
Hoover Dam Uprating	Large Hydroelectric	1300	0
-	-	-	0
-	-	-	0

Electric Utility

	Total Retired Unbundled RECs	-

RETIRED UNBUNDLED RECS

Facility Name	Fuel Type	State or Province	RPS ID	Total Retired (in MWh)

2024 POWER SOURCE DISCLOSURE ANNUAL REPORT
ATTESTATION FORM
For the Year Ending December 31, 2024
City of Banning

I, Jim Steffens, **Power Resources Manager, declare under penalty of perjury, that the information provided in this report is true and correct and that I, as an authorized agent of** the City of Banning, **have authority to submit this report on the retail supplier's behalf. I further declare that all of the electricity claimed as specified purchases as shown in this report was sold once and only once to retail customers.**

Name: Jim Steffens
Representing (Retail Supplier): ~~City of Banning~~
Signature: _____
Dated: 5-19-25
Executed at: Banning, CA

2024 POWER CONTENT LABEL

City of Banning

	Electric Utility	CA Utility Average
Greenhouse Gas Emissions Intensity (lbs of CO_2e emitted per megawatt hour)	**413**	**359**
Electricity Sources ■ Renewables and Zero-Carbon Resources ■ Fossil Fuels and Unspecified Power		
RPS Eligible Renewables	44%	45%
Biomass & Biogas	9%	2%
Geothermal	28%	5%
Eligible Hydroelectric	0%	2%
Solar	7%	23%
Wind	0%	14%
Large Hydroelectric	1%	10%
Nuclear	11%	11%
Emerging Technologies	0%	0%
Other	0%	0%
Natural Gas	0%	10%
Coal & Petroleum	0%	2%
Unspecified Power (primarily fossil fuels)	44%	22%
Total	**100%**	**100%**
Retail sales covered by retired unbundled RECs	0%	

■ This label does not reflect compliance with the Renewables Portfolio Standard (RPS), which measures the use of tracking instruments called Renewable Energy Credits (RECs) over the course of multi-year compliance periods. RECs that are purchased separately from the renewable energy ("Unbundled RECs") can be used for RPS compliance, but they do not factor into the power mixes or GHG emissions intensities above.

■ GHG intensity figures exclude biogenic CO_2 and emissions from geothermal sources and grandfathered imports of firmed-and-shaped energy. For detailed information about all GHG emissions from California's retail electricity suppliers, visit the CEC webpage at the link below.

■ Unspecified power is electricity purchased from a genericized pool on the open market.

http://www.ci.banning.ca.us/DocumentCenter/View/224/PowerContentLabel_2015_Annual	**Want to learn more? Visit https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program**

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Shah Nawaz, Deputy Water/Wastewater Director**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-138, Awarding a Professional Services Agreement to West and Associates Engineering, Inc. in the Amount of $95,310 for the 2025 Urban Water Management Plan Update and Water Supply Assessments and Water Supply Verifications.**

RECOMMENDATION:

Adopt Resolution 2025-138.

BACKGROUND:

As mandated by the State of California's Urban Water Management Planning Act (California Water Code Section 10610 et seq.), every urban water supplier that provides water to more than 3,000 customers or supplies more than 3,000 acre-feet of water annually (enough to serve roughly 6,000 households for one year) is required to prepare and adopt an Urban Water Management Plan (UWMP) that meets prescribed requirements.

UWMPs are considered to be a foundation document and a source of information for Water Supply Assessments (Senate Bill 610) and Written Verification of Water Supply (SB 221). In addition, a UWMP serves as a long-term planning document for water supply, a source of data for development of a regional water plan, and a source document for cities and counties as they prepare their General Plans. The planning documents are linked, and their accuracy and usefulness are interdependent.

Pursuant to the prescribed requirements of the UWMP by the Department of Water Resources (DWR), all plans must include the following:

- Update service characteristic and demand projections.
- Water demand management measures & implementation.
- Evaluate changes in demand needed to comply with California Water Use Objection (CWOU).
- Update water resources and supply outlook.
- Climate change impacts and drought risk assessment.
- Calculate energy intensity of water.
- Update seismic risk evaluations.
- Update water shortage contingency plan (WSCP).

The City's UWMP was last updated in 2020. Although the 2025 UWMP Guidebook has not yet been released, several legislative and regulatory changes since 2020 will directly affect how the City evaluates future water demands and supplies, including:

- "Making Water Conservation a California way of life" legislation.
- Compliance with water loss standards reporting.
- The Sustainable Groundwater Management Act (SGMA)

- Future water supply projects

On August 7, 2025, Public Works staff advertised a Request for Proposals (RFP) for the City's 2025 UWMP Update via the City's OpenGov e-procurement platform. Staff received five (5) proposals, from:

- West & Associates Engineering, Inc.
- Kennedy Jenks
- Zanjero
- Provost & Pritchard
- Albert A. Webb Associates

A three-member evaluation committee reviewed the proposals using the City's established criteria: qualifications, pricing, experience, professional references, approach & methodology, and value-added services.

Based on the evaluation criteria, West & Associates Engineering, Inc. was determined to be the most qualified firm to successfully complete the 2025 UWMP Update. West & Associates also prepared the City's 2020 UWMP Update and has demonstrated proven expertise with DWR compliance requirements.

According to their proposal, the total cost to complete the 2025 UWMP Update, along with related Water Supply Assessments (WSAs) and Water Supply Verifications (WSVs), is $95,310.

JUSTIFICATION:

The Urban Water Management Planning Act (California Water Code, Section 10610 et seq.), enacted in 1983, requires all urban water suppliers with more than 3,000 service connections to prepare and adopt an Urban Water Management Plan (UWMP) every five years. The UWMP must address changing conditions related to water sources, availability, demands, and long-term reliability over a 20-year planning horizon. Compliance with the Act is also required to maintain eligibility for State grants, loans, and drought relief assistance.

The City of Banning is required to complete and submit its 2025 UWMP update to the Department of Water Resources (DWR) by July 1, 2026.

FISCAL IMPACT:

A budget appropriation in the amount of $95,310 to Water Account No. 660-6300-471.33-11 is requested to fund the Professional Services Agreement. The Agreement term will be for up to five years, contingent upon satisfactory annual performance. It should be noted that more than 50% of the proposed costs are allocated to the preparation of WSAs and WSVs for future development projects. These costs will be invoiced to and recovered from developers.

The requested appropriation will have no impact on the General Fund.

ALTERNATIVES:

Reject the Professional Services Agreement with West & Associates Engineering, Inc. and provide staff with additional direction. Staff notes that failure to complete and submit the 2025 UWMP Update to DWR by July 1, 2026, as required by State law, may subject the City to penalties for non-compliance and could impact the City's eligibility for State funding, loans, and drought assistance.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution No. 2025-138.docx
2. C01206 - PSA West Eng for Urban Water Plan.pdf
3. West & Associates Cost Proposal.pdf

RESOLUTION 2025-138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT TO WEST AND ASSOCIATES ENGINEERING, INC. IN THE AMOUNT OF $95,310 FOR THE 2025 URBAN WATER MANAGEMENT PLAN UPDATE AND WATER SUPPLY ASSESSMENTS AND WATER SUPPLY VERIFICATIONS.

WHEREAS, as mandated by the State of California's Urban Water Management Planning Act (California Water Code Section 10610 et seq.), every urban water supplier that provides water to more than 3,000 customers or supplies more than 3,000 acre-feet of water annually (enough to serve roughly 6,000 households for one year) is required to prepare and adopt an Urban Water Management Plan (UWMP) that meets prescribed requirements; and

WHEREAS, UWMPs are considered to be a foundation document and a source of information for Water Supply Assessments (Senate Bill 610) and Written Verification of Water Supply (SB 221). In addition, a UWMP serves as a long-term planning document for water supply, a source of data for development of a regional water plan, and a source document for cities and counties as they prepare their General Plans. The planning documents are linked, and their accuracy and usefulness are interdependent; and

WHEREAS, pursuant to the prescribed requirements of the UWMP by the Department of Water Resources (DWR), all plans must include the following; Update service characteristic and demand projections, Water demand management measures & implementation, Evaluate changes in demand needed to comply with California Water Use Objection (CWOU), Update water resources and supply outlook, Climate change impacts and drought risk assessment, Calculate energy intensity of water, Update seismic risk evaluations, Update water shortage contingency plan (WSCP); and

WHEREAS, the City's UWMP was last updated in 2020. Although the 2025 UWMP Guidebook has not yet been released, several legislative and regulatory changes since 2020 will directly affect how the City evaluates future water demands and supplies, including "Making Water Conservation a California way of life" legislation, Compliance with water loss standards reporting, the Sustainable Groundwater Management Act (SGMA), Future water supply projects; and

WHEREAS, on August 7, 2025, Public Works staff advertised a Request for Proposals (RFP) for the City's 2025 UWMP Update via the City's OpenGov e-procurement platform. Staff received five (5) proposals, from West & Associates Engineering, Inc, Kennedy Jenks, Zanjero, Provost & Pritchard, Albert A. Webb Associates; and

WHEREAS, a three-member evaluation committee reviewed the proposals using the City's established criteria: qualifications, pricing, experience, professional references, approach & methodology, and value-added services. Based on the evaluation criteria, West & Associates Engineering, Inc. was determined to be the most qualified firm to successfully complete the 2025 UWMP Update. West & Associates also prepared the City's 2020 UWMP Update and has demonstrated proven expertise with DWR compliance requirements. According to their proposal, the total cost to complete the 2025 UWMP Update, along with related Water Supply Assessments (WSAs) and Water Supply Verifications (WSVs), is $95,310; and

WHEREAS, The Urban Water Management Planning Act (California Water Code, Section 10610 et seq.), enacted in 1983, requires all urban water suppliers with more than 3,000 service

connections to prepare and adopt an Urban Water Management Plan (UWMP) every five years. The UWMP must address changing conditions related to water sources, availability, demands, and long-term reliability over a 20-year planning horizon. Compliance with the Act is also required to maintain eligibility for State grants, loans, and drought relief assistance. The City of Banning is required to complete and submit its 2025 UWMP update to the Department of Water Resources (DWR) by July 1, 2026; and

WHEREAS, a budget appropriation in the amount of $95,310 to Water Account No. 660-6300-471.33-11 is requested to fund the Professional Services Agreement. The Agreement term will be for up to five years, contingent upon satisfactory annual performance. It should be noted that more than 50% of the proposed costs are allocated to the preparation of WSAs and WSVs for future development projects. These costs will be invoiced to and recovered from developers. The requested appropriation will have no impact on the General Fund; and

WHEREAS, reject the Professional Services Agreement with West & Associates Engineering, Inc. and provide staff with additional direction. Staff notes that failure to complete and submit the 2025 UWMP Update to DWR by July 1, 2026, as required by State law, may subject the City to penalties for non-compliance and could impact the City's eligibility for State funding, loans, and drought assistance; and

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

SECTION 1. The City Council Award a Professional Services Agreement to West and Associates Engineering, Inc. in the Amount of $95,310 for the 2025 Urban Water Management Plan Update and Water Supply Assessments and Water Supply Verifications.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Professional Services Agreement with West and Associates Engineering, Inc. in the Amount of $95,310 for the 2025 Urban Water Management Plan Update and Water Supply Assessments and Water Supply Verifications 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 14th day of October, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderone, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-138, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A

Award a Professional Services Agreement to West and Associates Engineering, Inc. in the Amount of $95,310 for the 2025 Urban Water Management Plan Update and Water Supply Assessments and Water Supply Verifications.

AGREEMENT FOR PROFESSIONAL SERVICES (C01206) FOR URBAN WATER PLAN BY AND BETWEEN CITY OF BANNING AND WEST & ASSOCIATES ENGINEERING, INC.

THIS AGREEMENT FOR PROFESSIONAL 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 West & Asociates Engineering, Inc., 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 a Request for a Proposal (RFP 25-108) for the performance of the services for Engineering Services fo the Urban Water Plan 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 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

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 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).

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 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 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.

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
Phillip West	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.

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

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.

1.15 Debarment or Suspension.

Consultant represents and warrants that, as of the Effective Date of this Agreement, Consultant is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Consultant 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. Consultant 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 Consultant or any subcontractor becomes debarred or suspended during the Term of this Agreement, Consultant shall immediately notify 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 Ninety-Five Thousand Three Hundred Ten Dollars ($95,310.00) (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 III 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.

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.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through October 31, 2026, with an option of four (4) one year extensions, 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.

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 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.

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) 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"), 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 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.

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 A.2.

3) 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 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 sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants 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 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.

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 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 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 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.

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 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: Shah Nawaz Deputy Director of Water/Wastewater City of Banning 99 East Ramsey Street Banning, California 92220 Email: snawaz@banningca.gov
With a courtesy copy to:	John Pinkney, Acting City Attorney Slovak Baron Empey Murphy & Pinkney LLP 74774 CA-111 Indian Wells, CA 92210 Email: pinkney@sbemp.com

If to Consultant: Attn: Phillip West
President
West & Associates Engineering, Inc.
78 Anacapa Court
Foothill Ranch, CA 92610
Email: philw@westaeng.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.

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.

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	CONSULTANT
Art Vela, Date Interim City Manager	NAME: Date TITLE:
ATTEST:	Tax ID No.
Sandra Calderon Date Acting Administrative City Clerk	Address:
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
John O. Pinkney Date City Attorney	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 Engineering Services for Urban Water Plan prepared in connection therewith:

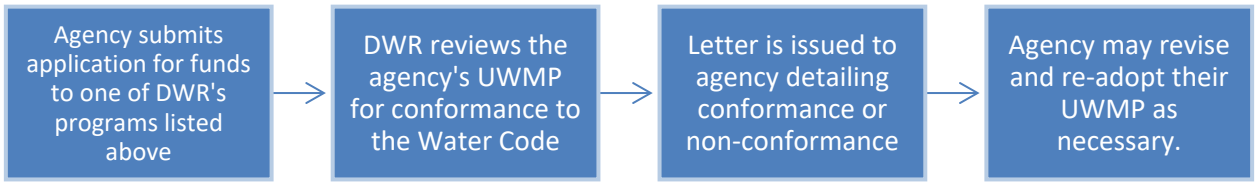
II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

General UWMP Project Understanding

It is our understanding that the City of Banning (City) is seeking a qualified consultant to prepare the 2025 Urban Water Management Plan. As mandated by the State of California's Urban Water Management Planning Act, every urban water supplier providing water for municipal purposes to more than 3,000 customers, or supplying more than 3,000 acre-feet of water annually, is required to prepare and adopt an Urban Water Management Plan (UWMP) containing prescribed requirements. The UWMP needs to be periodically reviewed every five years. UWMPs are required for a water supplier to be eligible for State grants and loans, including:

- Drinking Water State Revolving Fund – Primarily funds to help correct deficiencies.
- Proposition 50 – Primarily funds for security and treatment technology.
- Proposition 84 – Primarily funds for supplies and infrastructure.
- Proposition 1 – Primarily funds for supplies and infrastructure.

With regard to the funding opportunities listed above, the process typically goes as follows:



From our discussions with DWR, we understand that agencies that submit their UWMPs past the deadline are still eligible for grants or loans, but applications for such funds can be challenged by competing agencies for the same funding.

UWMP Significance for the City of Banning

UWMPs are considered to be a foundation document and a source of information for Water Supply Assessments (Senate Bill 610) and Written Verifications of Water Supply (SB 221). In addition, a UWMP may serve as a long-range planning document for water supply, a source of data for development of a regional water plan, and a source document for cities and counties as they prepare their General Plans. These planning documents are linked, and their accuracy and usefulness are interdependent.

Water Supply Assessments and Verifications

We understand the selected Consultant will support the City in preparing Water Supply Assessments (WSAs) and WSVs for applicable development projects, in accordance with the requirements of California Water Code Sections 10910–10915 (Senate Bill 610 and Senate Bill 221) and related CEQA and planning laws. Per Amendment No. 1 (Q&A), the length of the Contract for this project will be up to five (5) years, with one (1) base year and four (4) 1-year optional renewals, per section 8.4 Contract Term. This is due to the City possibly requiring WSAs and/or WSVs even after the 2025 UWMP is completed. For the purposes of this proposal, we've assumed a level of effort (cost estimate) for preparing three (3) WSAs and/or WSVs over the 5-year contract term. While the exact number of
WSAs and WSVs is unknown at this time, allowances or adjustments may be considered at the time each is prepared based on the scope of the project.

The WSAs and/or WSVs will assess the City's existing water system, including existing sources of water supply and existing demand. The WSAs and/or WSVs will also forecast planned water consumption (including the Development), and determine the capacity of the City to serve the Development. We will determine if the 2018 IMP estimated a water demand for each Development, although it is not very likely, especially since Development costs have most likely changed since then, and determine if these were accounted for in the City's 2020 UWMP planning period projections. Only the Atwell Project (formerly "Butterfield Specific Plan") and Rancho San Gorgonio Specific Plan were accounted for in the 2018 IMP or 2020 UWMP. Accordingly, this Proposal outlines the Scope of Work, Schedule, and Fee to prepare a full WSAs and/or WSVs, which establishes projections for the updated Development.

We anticipate the following completion schedule for each WSA and/or WSV

1. Complete Draft WSA: Within Three (3) Months of P.O. and/or Receipt of All Necessary Data
2. Complete Final WSA: Within One (1) Month of Review Comments from City

Hexavalent Chromium

In preparing the Water Supply Verifications (WSV) for the Specific Plan Phase 2B (Development) of the "Atwell" Project, we understand the City recently tested for hexavalent chromium at nineteen (19) out of its twenty-one (21) groundwater wells, and plan to test the remaining two (2) wells (4 and 5) in the near future. Wells 4 and 5 were down during the testing period. Eleven (11) wells tested near or above the new

MCL. Therefore, the City plans to construct several Treatment Facilities throughout its service area. New well C8 will provide further water supply to the Atwell Project, which was recently drilled and plans for equipping the well are underway. The City is currently reviewing the potential to treat well C8 and existing wells C2, C4, and M3 at a cluster location currently referred to as the Foothill West Cluster Treatment Facility. The City's reliance on the 2018 Integrated Master Plan (IMP), coupled with recent Hexavalent Chromium detections in nine wells near or above the 10 ppb MCL, will require discussion on water quality impacts (possibly potential loss of production capacity) and contingency planning in the 2025 UWMP.

Current Updates to UWMPs (2025)

To help provide our clients with the best possible service for the 2025 UWMPs, we have recently reached out to the Department of Water Resources (DWR) regarding key updates for the 2025 UWMPs. Although the Guidebook for updates to the 2025 UWMP is not yet available, we plan to attend DWR's public meeting regarding UWMPs in Fall 2025. The following were some of the key updates to the water code affecting the previous **(2020) UWMPs:**

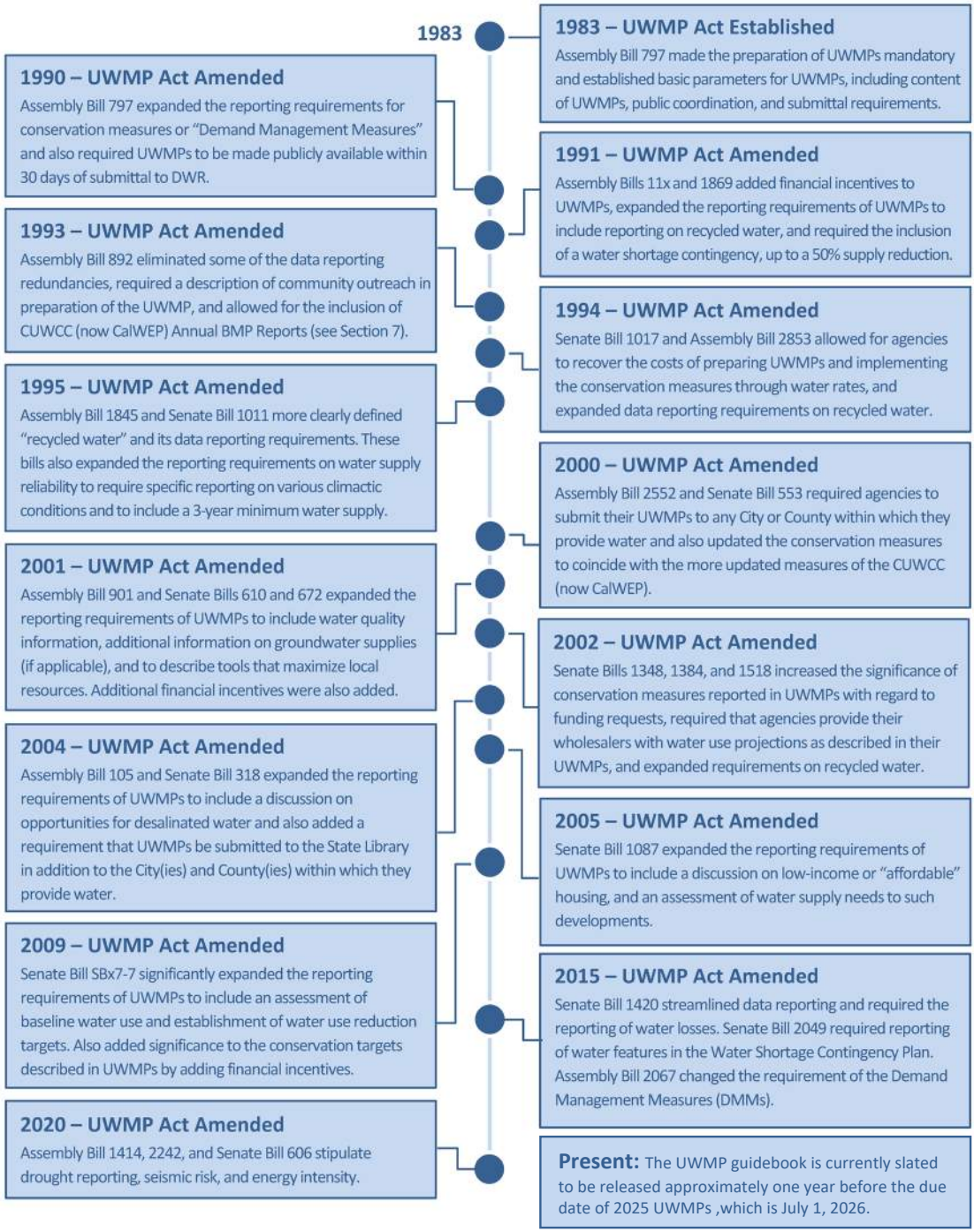
- *CWC § 10631 (a):* Include current and projected land uses in addition to population estimates.
- *CWC § 10631 (f):* Identify potential water supply projects during droughts of up to five (5) years.
- *CWC § 10631.2 (a):* UWMPs must report on the energy intensity of water supplies.
- *CWC § 10632 (a)(3):* Water Shortage Contingency Plan must include six (6) Standard Stages.
- *CWC § 10632.5 (a):* Water Shortage Contingency Plan must include Seismic Risk Assessment.
- *CWC § 10635 (a):* Water reliability projections must project droughts lasting up to five (5) years.
- *CWC § 10635 (b)(4):* Water reliability projections should account for impacts of climate change.

Guidance on the "60-Day" Notice

Some of our UWMP clients have questions regarding the "60-Day" notice of the Public Hearing. It may appear from first glance that the "60-Day" notice must be contingent on the Draft UWMP being available for review or inspection. However, the "60-Day" notice is simply an alert to neighboring agencies, including the County, that the UWMP is being updated. Nevertheless, our schedule allows for the Draft UWMP to be available three (3) weeks prior to the Public Hearing, allowing ample review time.

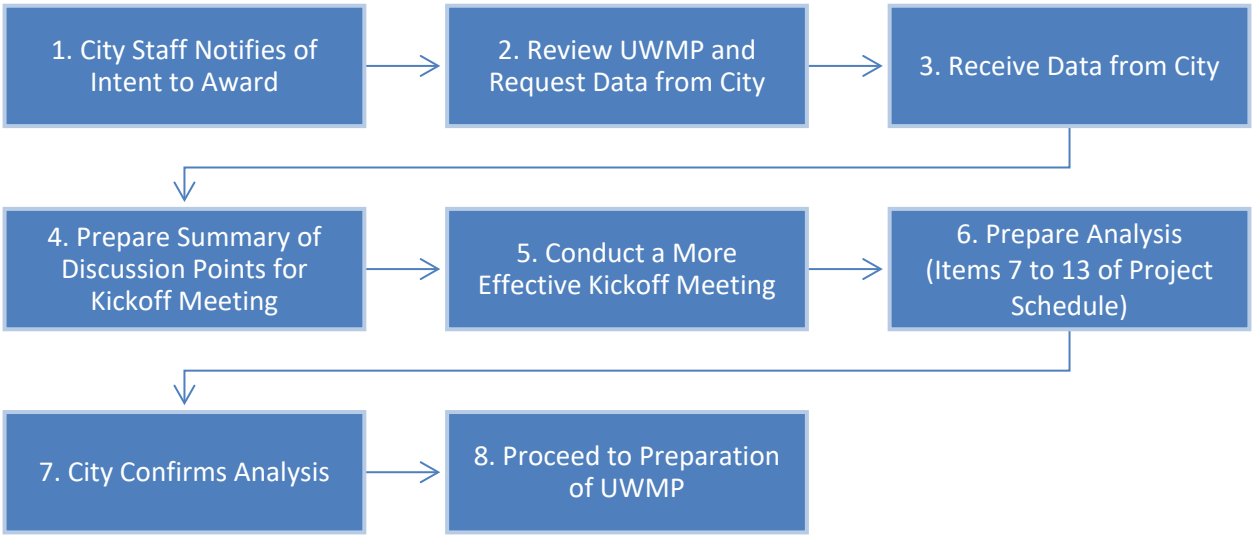
UWMP Timeline

We have prepared the following graphic to display our understanding of UWMPs:



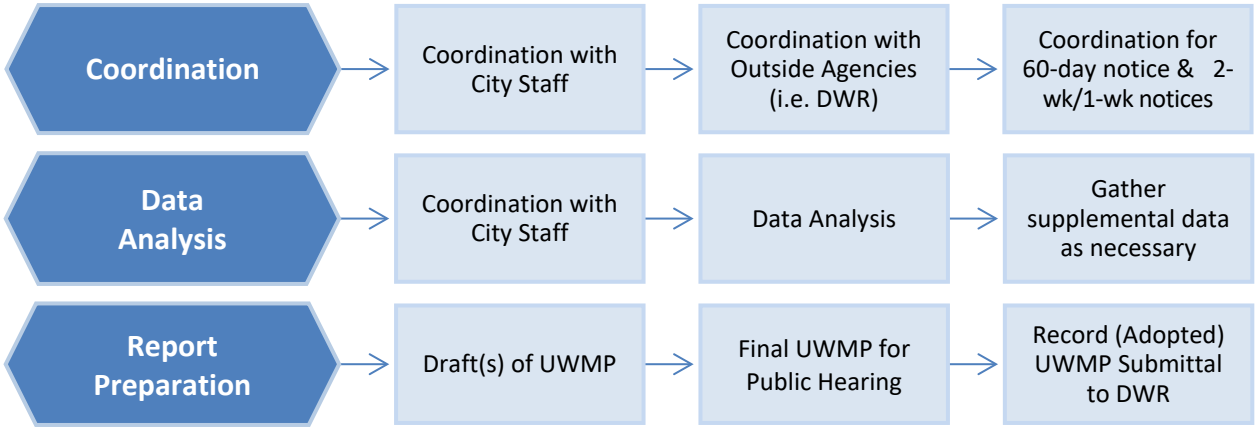
Project Approach

To accomplish the Scope of Work, we intend to begin preliminary work on this project upon notice of contract award (instead of upon Notice to Proceed). Typically, notice of contract award occurs up to two weeks prior to the Kickoff Meeting. The preliminary work conducted prior to the Kickoff Meeting will include conducting a thorough review of the previous 2010 UWMP, 2015 UWMP, and 2020 UWMP, and requesting data from the City in advance of the Kickoff Meeting. This approach will result in a more productive Kickoff Meeting and an accurate analysis of data. Most importantly, **an early start will save time**. Per Amendment No. 1 (Q&A), the Kick-off Meeting will be in person, as it is beneficial for introductions and potential site visits. As mentioned in the RFP, all other meetings will be virtual through Microsoft Teams. Our approach is **illustrated below**.



Scope of Services

The Scope of Work presented in this proposal can be simplified into **three (3) basic categories of work** with three (3) basic tasks. This allows for the entire project to be viewed in a simple "3x3" work plan as shown on the following page:



The above graphic is not meant to convey sequence. The sequence of tasks is presented in our **project schedule** of this Proposal. Some of the scope items listed in the graphic above can be performed at the same time, whereas others are inter-linked. The above graphic is merely presented to show the categories of work. We will provide the services as described on the following pages:

A. Project Management & Meetings

Work to be performed under this category will commence by conducting a Kick-Off meeting with City staff to form internal contacts and to lay out the agenda and schedule. Following the kickoff meeting, this category will include the following tasks:

1. Establishing quality assurance and control standards.
2. Establishing contacts with outside agencies to obtain additional data and assistance.
3. Schedule monitoring and updating as necessary.
4. Coordination with City's Project Manager and other key staff to clarify data and to schedule deliverables and meetings.
5. Coordination with City staff to issue the 60-day notice.
6. Coordination with City Staff to issue the 2-week notice and the 1-week notice.
7. Progress meetings with City staff at the Analysis (Water Demand Projections) completion, Draft WSCP submittal (Section of UWMP), Draft UWMP submittal, Final UWMP submittal, and monthly in which these aforementioned meetings don't take place (all will be online).
8. Coordination with City Staff prior to the Public Hearing (2).
9. Other meetings as necessary.
10. Preparation of meeting agendas and minutes.
11. Printing, packaging, and delivery of documents.
12. Invoicing at Draft and Final Levels of UWMP.

B. Data Collection & Analysis

1. Projected Population & Commercial/Industrial/Institutional (CII) Growth: Prepare population and CII projections based on City's 2020 UWMP for compliance with the Water Code and Guidebook. Projections will address both permanent and transient populations.

2. Projected Demand: Prepare a complete demand forecast, including permanent and transient populations, distribution system water loss, CALGreen Codes, and water savings from demand management measures as well as state and municipal codes and standards for a minimum 25-year horizon.

    - The projections will Include gallons per capita per day (GPCD) in baseline water use and demand projections.
    - Projections will also take into account historical and current water production by user class (including but not limited to residential, multi-family, irrigation, fire service, and each sub-class of commercial).
    - Current and future water demand projections will be developed in ten-year increments from 2040 to build-out (2065), and will apply for years starting with 2040, 2050, and 2060 (end in 2065, making it a five-year increment).
    - A standalone system water loss report that considers the City's historical Validated Water Loss Audits will be incorporated, to ensure compliance with the State mandates.

3. Projected Supply: Prepare an update of current and potential water sources for a minimum 25-year horizon. Include supply use targets in GPCD as well as acre feet (AF), based on the baseline developed in projected demand. Consider all data available including the hydrological model, Replenish reports, Technical Review Team agenda items, and historic documents.

4. Water-Energy Intensity Analysis: Calculate the energy intensity of groundwater pumping, conveyance, treatment, storage, and distribution.

5. Drought Risk Assessment and Climate Assessment: These assessments will be a part of the UWMP. Quantify the impact of climate change and drought risk on supplies. Evaluate plausible worst-case conditions for a period of at least ten years. Consider reviewing the Drought and Water Shortage Risk Explorer Tool for Small Water Suppliers and Rural Communities for local risk scores and indicators.

6. Water Shortage Contingency Plan: The Water Shortage Contingency Plan (WSCP) will be part of the UWMP. The WSCP must demonstrate the ability of City to meet demands under a supply shortage up to 50 percent, with levels of shortage and response actions. We will work with City staff to develop:

    a. An annual water budget forecast process and assessment. This will include the City's recently completed 2025 Annual Water Supply and Demand Assessment.
    b. A list of indicators (reviewed annually) to determine if a water supply shortage is anticipated.
    c. A worksheet that can be used to compare supply and demand, including available supply mitigation options.
    d. A calendar indicating the months or seasons when the water budget will be developed and when indicators of a potential shortage should be evaluated.
    e. A description of revenue impacts in water shortage periods. Potential water rate adjustments may be developed in collaboration with City.
    f. A process flow chart to document implementation actions to be taken.
    g. An organizational chart showing which City staff are responsible for tracking and implementing the WSCP.
    h. A Public Outreach plan based on WSCP implementation.

7. Seismic Risk Assessment and Mitigation Plan (optional): The seismic risk assessment must include a description of the vulnerability of each of its water system(s) facilities as follows:

    a. Evaluate seismic risk zone for the water supplier.
    b. Identify best practices to reduce seismic risk at critical water facilities (e.g. tie tanks to foundations, flex couplings at tanks, anchoring at pump stations, and treatment plants).
    c. Inventory major equipment at pump stations (including wells), treatment plants, and most critical facilities.
    d. Confirm best practices are implemented by the water supplier at the facilities.
    e. Identify facilities that are most at-risk and the relative impact of that facility on water delivery. Develop a plan to reduce the risk at these facilities.

C. Outreach & Coordination with Other Agencies and Stakeholders

This work item will include contacts with outside agencies necessary to obtain additional data and assistance.

1. Coordination with local water agencies to provide data for use in preparing the UWMP; to obtain water supply forecasts, reliability assessments, and water shortage contingency planning for the region; and for discussion of imported water quality.

2. Coordination with DWR as necessary.

3. Prepare public notices for City staff's review and approval.

4. Draft the 60-day notice for City's use in sending out to agencies.

5. Draft the 2-week and the 1-week notices for City's use in publishing to the local press.

D. Preparation of Urban Water Management Plan

This work item will include the preparation of City's UWMP per the latest requirements, and will include the following content:

1. Describe the service area of City. Include current and projected population in five-year increments over a 25-year period. This data will be provided by City.

2. Identify and quantify the existing and planned sources of water available to City over the same five-year increments over a 25-year period.

3. Describe the reliability of the water supply and vulnerability to seasonal or climatic shortages. Provide data for an average water year, a single dry water year, and multiple dry water years.

4. Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

5. Quantify past, current, and projected water use in the same five-year increments over a 25-year period. Identify the uses among water use sectors, including:

   a. Single-family residential
   b. Institutional and Governmental
   c. Multi-family residential
   d. Landscape
   e. Commercial
   f. Sales to other agencies
   g. Industrial
   h. Agricultural

6. Describe the City's water demand management measures (DMMs), including:

   a. A schedule of implementation for all water demand management measures proposed or described in the UWMP.

b. A description of the methods that City will use to evaluate the effectiveness of water demand management measures implemented or described in the UWMP.
c. An estimate, if available, of existing conservation savings on water use within City's service area, and the effect of such savings on City's ability to further reduce demand.

7. Evaluate each water demand management measure that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration will be given to water demand management measures that offer lower incremental costs than expanded or additional water supplies. This evaluation will do the following:

a. Take into account economic and non-economic factors, including environmental, social, health, customer impact, and technological factors.
b. Include a cost-benefit analysis, identifying total benefits and total costs.
c. Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.
d. Include a description of City's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

8. Prepare a detailed description of expected future projects and programs, other than the demand management programs, that City may implement to increase the amount of the water supply available to City in average, single-dry, and multiple dry water years.

9. Describe the opportunities for development of desalinated water, including ocean water, brackish water, and ground water as a long-term supply.

10. Provide the wholesale agency with water use projections in five-year increments over a 25-year period, or as far as data is available.

11. Prepare a Water Shortage Contingency Plan (WSCP), which includes the following elements:

a. Stages of action to be undertaken by City in response to water supply shortages, including up to a 50 percent reduction in water supply and an outline of specific water supply conditions that are applicable to each stage.
b. An estimate of the minimum water supply available during each of the next three water years based on the driest three-year historic sequence for City's water supply.
c. Actions to be undertaken by City to prepare for and implement during a catastrophic

interruption of water supplies, including a regional power outage, an earthquake, or other disasters.

d. Additional mandatory prohibitions against specific water use practices during water shortages, including prohibiting the use of potable water for street cleaning.
e. Consumption reduction methods in the most restrictive stages.
f. Penalties or charges for excessive use.
g. Revenues and expenditures, and proposed measures to overcome those impacts.
h. A draft water shortage contingency resolution or ordinance.
i. A mechanism for determining actual reductions in water use pursuant to the urban water shortage contingency analysis.

12. Evaluate the requirements of Senate Bill No. 7 (SBx7-7) to achieve a 20% reduction in urban per capita water use by December 31, 2025. Since this date is approaching, this requirement will be reevaluated with DWR upon project kickoff.

13. Provide, to the extent available, information on recycled water and its potential for use as a water source in City's service area.

14. Include information, to a practicable extent, on the quality of existing sources of water available to City in five-year increments over a 25-year period. Identify how the quality of these sources affect water management strategies and supply reliability.

15. Provide an assessment of the reliability of City's water service, which will include an assessment of the reliability of City's water service to its customers during normal, dry, and multiple dry water years. This water supply and demand assessment will compare the total water supply sources available to City, with the total projected water use in five-year increments over a 25-year period for a normal water year, a single dry water year, and multiple dry water years.

16. Prepare a report outlining the findings, conclusions, and recommended actions pursuant to the Urban Water Management Planning Act.

E. Presentation of UWMP

Work to be performed under this work item will include preparation of presentation documents and presentation of the UWMP as follows:

1. Preparation of documents including exhibits, agenda, and PowerPoint files.

2. Presentation to City Staff during progress meetings.

3. Provide assistance to City staff in scheduling Public Hearing.

4. Presentation of 2025 UWMP to City Council at the Public Hearing (Council Meeting).

5. Provide assistance to City staff for the adoption and resolution of the 2025 UWMP.

F. Submission to Department of Water Resources

Once the City adopts its 2025 UWMP, we will finalize the entire document (including appendices) submit the Record (Adopted) 2025 UWMP to DWR electronically via their "WUE" tool. We will also assist City staff in providing CD or flashdrive copies of the Record (Adopted) 2025 UWMP to the County and the State Library, as required by DWR.

G. Project Deliverables

We will provide the following deliverables for City during the course of this project:

1. Initial Data Request Memo upon Notice of Contract Award (to Kick-Start Task B above)
2. Technical Analysis (Spreadsheets, Tables, and/or Graphs) for:
    a. Population Analysis
    b. Supply/Demand
    c. Other Analysis (Water Quality, Energy, Drought, Contingency)
3. Five (5) Hard Copies of the Final 2025 UWMP
4. PDF and Microsoft Word version of the Analysis (Water Demand Projections), Draft WSCP (Section of UWMP), Draft UWMP, Final UWMP, Record (Adopted) UWMP, to be submitted to DWR, and Errata UWMP (with any corrections).
    a. 60-day notice letter (template for City use)
    b. 2-week notice and 1-week notices (template for City use)
    c. Agenda for the Public Hearing
    d. PowerPoint Presentation at the Public Hearing
    e. City Council Resolution (Included in the UWMP; City to provide)
    f. PDF version of Record (Adopted) 2025 UWMP with Appendices to Outside Agencies
5. Other deliverables as necessary.

Assumptions

For this project, we assume City staff will have the following responsibilities:

- Provide Data on City's Water System
- Provide Other City Data (Planning Documents, Financial Documents, etc.)
- Host/Facilitate In-Person Meetings (West Team Staff can do so for online progress meetings)
- Mediate Contact between City Council and West Team Staff
- Mediate Contact between City Residents and West Team Staff
- Provide Outreach to Agencies/Stakeholders for 60-day Notice (West to Provide Template)
- Provide Outreach to Local Press for 2-wk/1-wk Notices (West to Provide Template)
- Provide Copy of City Council Resolution after City Council Adoption of UWMP

Project Schedule

2025 UWMPs can cover either CY 2025 or FY 2024-2025, and the City's 2020 UWMP covered CY 2020. As verified in the City's Amendment No. 1 (Q&A), the 2025 UWMP will cover CY 2025 and the Draft UWMP will be submitted by March 31, 2026. We have included our schedule to complete the project in MS Project format based on an assumed start date of October 28, 2025, as outlined in the RFP. This will allow for ample time to review the 2025 UWMP Guidebook, once released, and for West & Associates to complete services for two (2) other projects. Once available, CY 2025 data will be incorporated into the Analysis and relevant Sections of the UWMP. Our schedule shows submittal of the Record (Adopted) 2025 UWMP to DWR by early-June 2026, which is **one (1) month** prior to the July 1, 2026 deadline. Of course, this Project Schedule is flexible and we can begin the work at any time.

Quality Assurance/Control

From our UWMP experience, we understand that the Department of Water Resources (DWR) may take a few years to review the UWMP. Should DWR have any comments to the UWMP, we are able to respond to any DWR comments even if the comments are received a few years after completion of the 2025 UWMP. However, our goal is to prepare a UWMP that meets DWR requirements. To accomplish this, we will implement the following quality assurance/control measures:

- The Project Manager, Mr. Phillip West, will be directly involved with this project. Instead of periodic reviews and dictations to engineering staff, he will work alongside engineering staff to ensure the work is done properly. All staff members have access to the same files and can edit as the needs arise without things being "lost-in-translation". This drastically reduces errors during the work process.

- We will keep in touch with DWR on a regular basis. This will include phone calls, emails, and webinars. In fact, we plan to attend DWR's public meeting regarding the Draft Guidebook for updates to the 2025 UWMPs in early 2025 and we have attended various DWR working group meetings throughout 2024 regarding proposed changes to the 2025 UWMPs.

- All work will go through a quality assurance/control process before submittal to the client. We strive to have all projects reviewed by an experienced individual not directly involved with the project, although general familiarity with the project and the client is desirable. During the quality assurance/control process, Adobe PDF software is utilized to review documents as opposed to printing hard copies. Although this is a "green" method, its primary function is to **save time and to keep records of our quality control.** This is also important if any quarantines persist during this project. The review of the construction documents shall focus on the following three key areas: 1) conformance to DWR criteria, 2) accuracy of data, and 3) quality of writing.

To ensure the Final UWMP adheres to DWR requirements, we will complete the UWMP checklist before each submittal. The checklist will provide the Section and/or Page number where the information can be found in the UWMP. This will help the City confirm that the UWMP adheres to DWR requirements before it is submitted to DWR.

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 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 Consultant 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, 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.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

COST PROPOSAL

Detailed Fee Estimate

Task No.	ITEM	PM $235	ENGR $190	QA/QC $205	SEC $90	TOTAL HRS.	TOTAL $
NON-OPTIONAL WORK LISTED IN PROPOSED SCOPE							
Pt. 1 - PROJECT MANAGEMENT & MEETINGS							
1	Kickoff Meeting Including Agenda & Minutes	2	2	1	2	7	$1,235
2	Meetings & Coordination (Outreach Letters, Review Meetings)	8	10			18	$3,780
Subtotal		**10**	**12**	**1**	**2**	**25**	**$5,015**
Pt. 2 - DATA COLLECTION & REVIEW							
1	Data Collection and Review	2	4			6	$1,230
2	Technical Analysis (Population, Supply/Demand, Water Quality, etc.)	6	16	4		26	$5,270
Subtotal		**8**	**20**	**4**	**0**	**32**	**$6,500**
Pt. 3 - OUTREACH & COORDINATION WITH OTHER AGENCIES & STAKEHOLDERS							
1	Coordination with Local Agencies Including County and SGPWA	2	4			6	$1,230
2	Coordination with Department of Water Resources	2	4			6	$1,230
Subtotal		**4**	**8**	**0**	**0**	**12**	**$2,460**
Pt. 4 - UWMP PREPARATION & SUBMITTAL							
1	Prepare & Submit Draft UWMP	24	74	8	5	111	$21,790
2	Prepare & Submit Final UWMP	8	32	4	3	47	$9,050
3	Finalize Record (Adopted) UWMP (Council Adoption) & Submit to DWR	2	10	2	2	16	$2,960
4	Assist with Final Record (Adopted) UWMP Distribution to County, State Library, etc.	2	4		4	10	$1,590
Subtotal		**36**	**120**	**14**	**14**	**184**	**$35,390**
Pt. 5 - WSA & WSV (3) PREPARATION & SUBMITTAL							
1	Coordinate with Developer to Obtain Data for the Proposed Development	3	6			9	$1,845
2	Coordinate with City to Obtain Recent Water System Data (Supply/Demand, etc.)	3	6			9	$1,845
3	Prepare Draft WSA/WSV for City Review	18	66	12	6	102	$19,770
4	Conduct Review Meeting (Teams/Zoom) with City Staff to Discuss Draft WSA/WSV	6	6		4	16	$2,910
5	Prepare Final-Draft WSA/WSV for City Review (Final "Spot-Check")	9	30	6	4	49	$9,405
6	Finalize WSA/WSV for City (based of City Comments)	3	9			12	$2,415
7	Attend City Council Meeting for Adoption of WSA/WSV	3	3		5	11	$1,725
Subtotal		**45**	**126**	**18**	**19**	**208**	**$39,915**
Direct Costs (printing, reproduction, shipping, mileage, etc.)						N/A	$520
TOTAL NON-OPTIONAL WORK		**98**	**160**	**19**	**16**	**253**	**$89,800**

Non-Optional Work: $89,800

COST PROPOSAL

Task No.	ITEM	PM $235	ENGR $190	QA/QC $205	SEC $90	TOTAL HRS.	TOTAL $
OPTIONAL/AS-NEEDED WORK							
1	Seismic Risk Assessment and Mitigation Plan	2	6			8	$1,610
2	Preparation of PowerPoint Presentation (Slides for Council)	2	2			4	$850
3	Council Meeting / Public Hearing (Help With Presentation)	2	2		2	6	$1,030
4	Revisions to the UWMP Following DWR Review	2	6	2		10	$2,020
Subtotal		8	16	2	2	28	$5,510

Optional Work: $5,510

HOURLY RATE CHART AND EXPENSE REIMBURSEMENT SCHEDULE

(FOR UWMPS)

Key Positions

Position	Hourly Rates
Project Manager	$235
Engineer	$190
Quality Assurance/Control	$205
Secretary	$90

Reimbursable In-House Costs

Vehicle mileage, between engineer's office and project site and/or client offices	$ 0.7/mile
Reproduction, printing, and any other services performed by subcontractor	cost + 15%
Postage Delivery Service, Express Mail	cost + 15%

NOTE: All rates are effective until the end of this contract. In addition, charges invoiced to the City for travel, lodging and subsistence shall not exceed the current IRS rates.

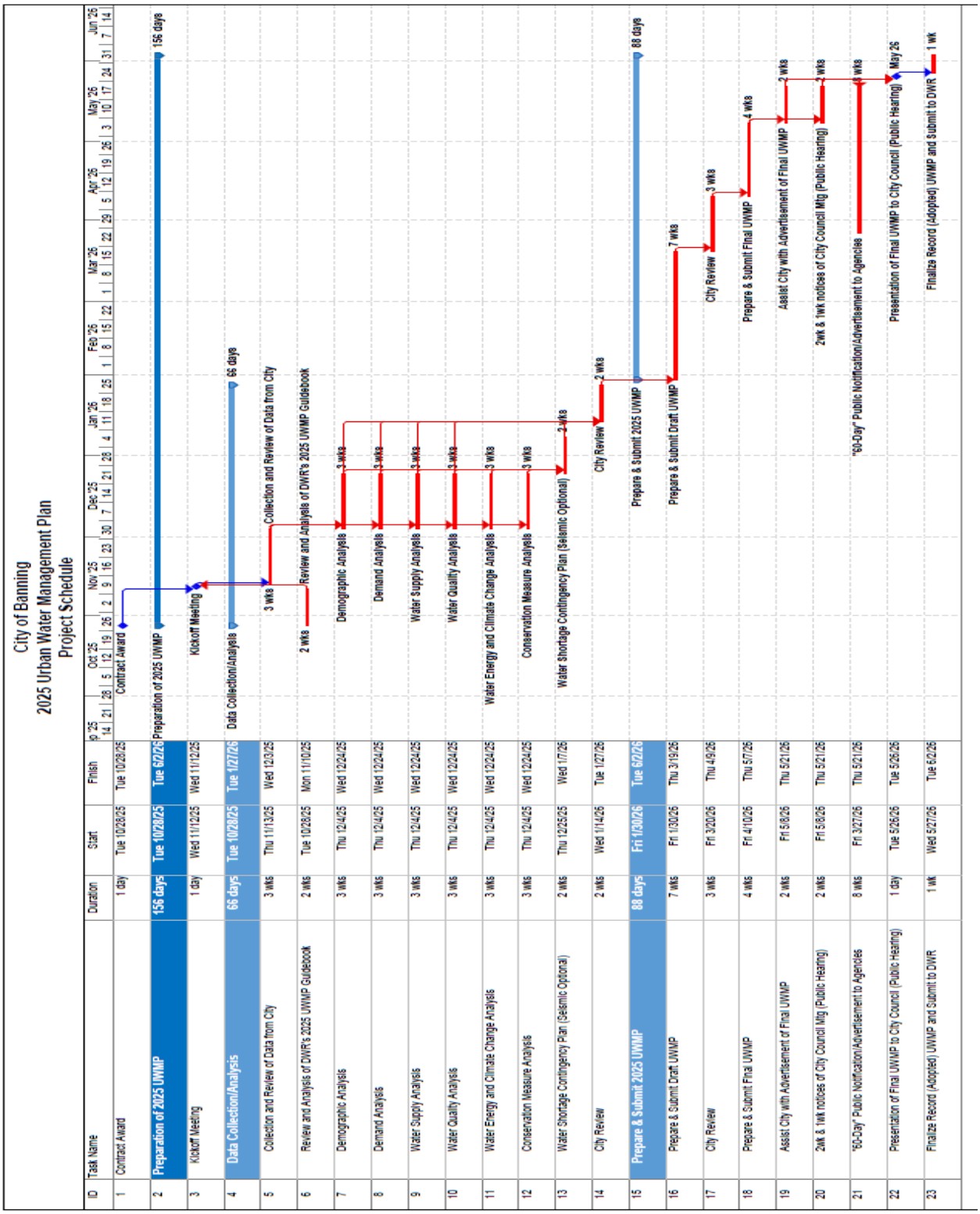
EXHIBIT "D"

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.

EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE



ID	Task Name	Duration	Start	Finish
1	Contract Award	1 day	Tue 10/28/25	Tue 10/28/25
2	Preparation of 2025 UWMP	156 days	Tue 10/28/25	Tue 5/12/26
3	Kickoff Meeting	1 day	Wed 11/12/25	Wed 11/12/25
4	Data Collection/Analysis	66 days	Tue 10/28/25	Tue 1/27/26
5	Collection and Review of Data from City	3 wks	Thu 11/13/25	Wed 12/3/25
6	Review and Analysis of DWR's 2025 UWMP Guidebook	2 wks	Tue 10/28/25	Mon 11/10/25
7	Demographic Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
8	Demand Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
9	Water Supply Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
10	Water Quality Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
11	Water Energy and Climate Change Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
12	Conservation Measure Analysis	3 wks	Thu 12/4/25	Wed 12/24/25
13	Water Shortage Contingency Plan (Seismic Optional)	2 wks	Thu 12/25/25	Wed 1/7/26
14	City Review	2 wks	Wed 1/14/26	Tue 1/27/26
15	Prepare & Submit 2025 UWMP	88 days	Fri 1/30/26	Tue 5/12/26
16	Prepare & Submit Draft UWMP	7 wks	Fri 1/30/26	Thu 3/19/26
17	City Review	3 wks	Fri 3/20/26	Thu 4/9/26
18	Prepare & Submit Final UWMP	4 wks	Fri 4/10/26	Thu 5/7/26
19	Assist City with Advertisement of Final UWMP	2 wks	Fri 5/8/26	Thu 5/21/26
20	2wk & 1wk notices of City Council Mtg (Public Hearing)	2 wks	Fri 5/8/26	Thu 5/21/26
21	"60-Day" Public Notification/Advertisement to Agencies	8 wks	Fri 3/27/26	Thu 5/21/26
22	Presentation of Final UWMP to City Council (Public Hearing)	1 day	Tue 5/26/26	Tue 5/26/26
23	Finalize Record (Adopted) UWMP and Submit to DWR	1 wk	Wed 5/27/26	Tue 6/2/26

City of Banning

Fee Proposal for:

2025 Urban Water Management Plan



September 8, 2025

Submitted by:

West & Associates Engineering, Inc.

In association with: John Robinson Consulting, Inc.

Detailed Fee Estimate

Task No.	ITEM	PM $235	ENGR $190	QA/QC $205	SEC $90	TOTAL HRS.	TOTAL $
NON-OPTIONAL WORK LISTED IN PROPOSED SCOPE							
Pt. 1 - PROJECT MANAGEMENT & MEETINGS							
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Subtotal		**10**	**12**	**1**	**2**	**25**	**$5,015**
Pt. 2 - DATA COLLECTION & REVIEW							
1	Data Collection and Review	2	4			6	$1,230
2	Technical Analysis (Population, Supply/Demand, Water Quality, etc.)	6	16	4		26	$5,270
Subtotal		**8**	**20**	**4**	**0**	**32**	**$6,500**
Pt. 3 - OUTREACH & COORDINATION WITH OTHER AGENCIES & STAKEHOLDERS							
1	Coordination with Local Agencies Including County and SGPWA	2	4			6	$1,230
2	Coordination with Department of Water Resources	2	4			6	$1,230
Subtotal		**4**	**8**	**0**	**0**	**12**	**$2,460**
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1	Prepare & Submit Draft UWMP	24	74	8	5	111	$21,790
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4	Assist with Final Record (Adopted) UWMP Distribution to County, State Library, etc.	2	4		4	10	$1,590
Subtotal		**36**	**120**	**14**	**14**	**184**	**$35,390**
Pt. 5 - WSA & WSV (3) PREPARATION & SUBMITTAL							
1	Coordinate with Developer to Obtain Data for the Proposed Development	3	6			9	$1,845
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Subtotal		**45**	**126**	**18**	**19**	**208**	**$39,915**
Direct Costs (printing, reproduction, shipping, mileage, etc.)						N/A	$520
TOTAL NON-OPTIONAL WORK		**58**	**160**	**19**	**16**	**253**	**$89,800**

Non-Optional Work: $89,800

Task No.	ITEM	PM $235	ENGR $190	QA/QC $205	SEC $90	TOTAL HRS.	TOTAL $
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2	Preparation of PowerPoint Presentation (Slides for Council)	2	2			4	$850
3	Council Meeting / Public Hearing (Help With Presentation)	2	2		2	6	$1,030
4	Revisions to the UWMP Following DWR Review	2	6	2		10	$2,020
Subtotal		**8**	**16**	**2**	**2**	**28**	**$5,510**

Optional Work: $5,510

HOURLY RATE CHART AND EXPENSE REIMBURSEMENT SCHEDULE

(FOR UWMPS)

Key Positions

Position	Hourly Rates
Project Manager	$235
Engineer	$190
Quality Assurance/Control	$205
Secretary	$90

Reimbursable In-House Costs

Vehicle mileage, between engineer's office and project site and/or client offices	$ 0.7/mile
Reproduction, printing, and any other services performed by subcontractor	cost + 15%
Postage Delivery Service, Express Mail	cost + 15%

NOTE: All rates are effective until the end of this contract. In addition, charges invoiced to the City for travel, lodging and subsistence shall not exceed the current IRS rates.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Patrick Safari, Capital Improvement Projects Manager** **Nathan Smith, Deputy Director of Public Works/City Engineer**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-140, Awarding a Professional Services Agreement for the Design of the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning to TKE Engineering, Inc. in the amount of $86,075 and Approving a 10% Contingency for a Total Project Budget of "Not-to-Exceed" $94,682.50**

RECOMMENDATION:

Approve Resolution 2025-140.

BACKGROUND:

Based on the City of Banning Local Road Safety Plan (LRSP) citywide crash analysis, 65% of the total crashes occurred at unsignalized intersections, including 62% of the crashes that resulted in fatality and 70% of the crashes that resulted in severe injury. Analysis also identified pedestrians as vulnerable roadway users. Pedestrians were only involved in 7% of total crashes but were over-represented in crashes resulting in fatality and severe injury, 46% and 12% respectively. Based on the crash analysis results, unsignalized intersections with pedestrian crossings represent some of Banning's highest fatal and injury crash concentrations and crash types. Nineteen (19) unsignalized intersections were identified as needing safety improvements including:

1. Monarch Way and Wilson Street
2. Apex Street and Ramsey Street
3. 20th Street and Wilson Street
4. Nicolet Street and 21st Street
5. Nicolet Street and Sims Street
6. Wilson Street and 10th Street
7. Alessandro Road and Hoffer Street
8. Wilson Street and Hargrave Street
9. Alessandro Road and George Street
10. Nicolet Street and Alessandro Road
11. Livingston Street and 2nd Street
12. San Gorgonio Avenue and Lincoln Street (Route 243)
13. San Gorgonio Avenue and Westward Avenue (Route 243)
14. Nicolet Street and 20th Street
15. Nicolet Street and 2nd Street
16. San Gorgonio Avenue and George Street
17. Nicolet Street and Murray Street
18. Wilson Street and Florida Street

19. Westward Avenue and 4th Street

On October 12, 2021, under Resolution 2021-91, the City Council approved the California Department of Transportation Highway Safety Improvement Program (HSIP) State-Aid Master Agreement 08-5214S2 for the purpose of improving pedestrian safety.

On October 10, 2023, under Resolution 2023-167, the City Council approved Program Supplement Agreement No. 0000A278 with the State of California Department of Transportation Highway (Caltrans) for the Design of the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning.

On July 7, 2025 staff released a Request for Proposals (RFP) for Design Services for the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning through the City's public bidding platform. The proposals were due on August 12, 2025. In response to the RFP, five (5) proposals were received and scored from the following consultants:

	Consultant	**Score (out of 100)**
1)	TKE Engineering, Inc., of Riverside, CA	83.17
2)	STC Traffic, Inc., of Carlsbad, CA	81.67
3)	Rick Engineering, Inc. of Riverside, CA	81.33
4)	Onward Engineering of Anaheim, CA	79.33
5)	Willdan Engineering of Anaheim, CA	77.33

The project design services scope of work will consist of project administration and management, preliminary engineering, Plans, Specifications and Estimates.

JUSTIFICATION:

The Project will improve safety of the unsignalized intersections by installing curb extensions, ADA curb ramps, Rectangular Rapid Flashing Beacons (RRFB), high visibility crosswalks, and advanced warning signs and pavement markings.

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 TKE Engineering, Inc., in the amount of $86,075.

FISCAL IMPACT:

Staff recommends awarding a Professional Services Agreement to TKE Engineering, Inc. in the amount of $86,075 and approving a 10% contingency in the amount of $8,607.50 for a total "not-to-exceed" project budget of $94,682.50.

The project will be funded from Street Fund Account 100-4900-431.90-10 in the amount of $85,333 and from Measure "A" Account 101-4900-431.93-16 in the amount of $9,349.50.

The project costs are eligible and expected to be reimbursed by the State of California Department of Transportation Cycle 11 HSIP. The City of Banning will receive monthly reimbursements from the State of California.

ALTERNATIVES:

Do not approve and provide alternative direction.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-140.docx
2. CC Resolution No. 2023-167.pdf
3. CC Resolution 2021-91.pdf
4. Supplemental Agreement 0000A278.pdf
5. Master Agreement 08-5214S21.pdf
6. TKE Proposal.pdf
7. C01196 - Design Service for Pedestrian Crossing at 19 Interchange.pdf

RESOLUTION 2025-140

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE PEDESTRIAN CROSSINGS UPGRADE AT NINETEEN INTERSECTIONS THROUGHOUT THE CITY OF BANNING TO TKE ENGINEERING, INC. IN THE AMOUNT OF $86,075 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $94,682.50.

WHEREAS, based on the crash analysis results, unsignalized intersections with pedestrian crossings represent some of Banning's highest fatal and injury crash concentrations and crash types; and

WHEREAS, nineteen (19) unsignalized intersections were identified as needing safety improvements; and

WHEREAS, on October 12, 2021, under Resolution 2021-91, the City Council approved the California Department of Transportation Highway Safety Improvement Program (HSIP) State-Aid Master Agreement 08-5214S2 for the purpose of improving pedestrian safety; and

WHEREAS, on October 10, 2023, under Resolution 2023-167, the City Council approved Program Supplement Agreement No. 0000A278 with the State of California Department of Transportation Highway (Caltrans) for the Design of the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning; and

WHEREAS, on July 7, 2025 staff released a Request for Proposals (RFP) for Design Services for the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning through the City's public bidding platform; and

WHEREAS, on August 12, 2025, in response to the RFP, five (5) proposals were received ranging in score from 83.17 to 77.33; and

WHEREAS, the scope of work will consist of project administration and management, preliminary engineering, Plans, Specifications and Estimates; and

WHEREAS, the Project will improve safety of the unsignalized intersections by installing curb extensions, ADA curb ramps, Rectangular Rapid Flashing Beacons (RRFB), high visibility crosswalks, and advanced warning signs and pavement markings; and

WHEREAS, staff recommends awarding a Professional Services Agreement to TKE Engineering, Inc., in the amount of $86,075 and approving a 10% contingency in the amount of $8,607.50 for a total "not-to-exceed" project budget of $94,682.50; and

WHEREAS, the project will be funded from Street Fund Account 100-4900-431.90-10 in the amount of $85,333 and from Measure "A" Account 101-4900-431.93-16 in the amount of $9,349.50; and

WHEREAS, the project costs are eligible and expected to be reimbursed by the State of California Department of Transportation Cycle 11 HSIP. The City of Banning will receive monthly reimbursements from the State of California.

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

SECTION 1. The City Council approves the Professional Services Agreement with TKE Engineering, Inc. in the amount of $86,075 and approving a 10% contingency for a total budget of "not-to-exceed" $94,682.50 for Design of the Pedestrian Crossings Upgrade at Nineteen Intersections throughout the City of Banning**.**

SECTION 2. The City Council authorizes the City Manager, or their designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and execute the Professional Services Agreement with TKE 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 14th day of October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative
City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-140, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement with TKE Engineering, Inc.

RESOLUTION 2023-167

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING PROGRAM SUPPLEMENT AGREEMENTS WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THREE HIGHWAY SAFETY IMPROVEMENT CYCLE 11 GRANTS FOR THE TRAFFIC SIGNAL HARDWARE UPGRADE AT SEVENTEEN SIGNALIZED INTERSECTIONS, PEDESTRIAN CROSSINGS UPGRADE AT NINETEEN INTERSECTIONS AND WILSON STREET/12TH STREET INTERSECTION IMPROVEMENTS

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation (Caltrans) Cycle 11 Highway Safety Improvement Program for the upgrade of traffic signal hardware at seventeen (17) signalized intersections throughout the City; and

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 11 Highway Safety Improvement Program for the upgrade of pedestrian crossings at nineteen (19) intersections throughout the City; and

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 11 Highway Safety Improvement Program for the improvement of Wilson Street and 12th Street intersection; and

WHEREAS, on March 9, 2023, the City received notification from Caltrans that the City's three (3) HSIP grant applications selected for funding; and

WHEREAS, to proceed with the Preliminary Engineering (PE) phase, the City and Caltrans must execute Program Supplement Agreements No. HSIPSL-5214(016) for $54,000, HSIPSL-5214(017) for $76,500 and HSIPSL-5214(018) for $44,460 as part of the funding authorization process.

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

SECTION 1. The City Council approves Program Supplement Agreements with Caltrans for three (3) Highway Safety Improvement (HSIP) Cycle 11 grants for the Traffic Signal Hardware Upgrade at 17 Signalized Intersections, Pedestrian Crossings Upgrade at 19 Intersections and Wilson Street/12th Street Intersection Improvements.

SECTION 2. The City Council authorizes the City Manager or his designee to execute Program Supplement Agreements No. HSIPSL-5214(016), HSIPSL-5214(017) and HSIPSL-5214(018).

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 10th 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 2023-167, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th 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
HSIP Agreement 1

PROGRAM SUPPLEMENT NO. 00000A277
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR STATE FUNDED PROJECTS NO 08-5214S21

Adv. Project ID 0824000001

Date: September 19, 2023
Location: 08-RIV-0-BAN
Project Number: HSIPSL-5214(016)
E.A. Number:
Locode: 5214

This Program Supplement, effective 9/7/2023, hereby adopts and incorporates into the Administering Agency-State Agreement No. 08-5214S21 for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of 10/14/2021 and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the ADMINISTERING AGENCY on (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION: 17 signalized intersections throughout the City of Banning.

TYPE OF WORK: Upgrade Signals **LENGTH:** 0.0(MILES)

Estimated Cost	State Funds		Matching Funds		
	STATE	$54,000.00	LOCAL		OTHER
$60,000.00			$6,000.00		$0.00

CITY OF BANNING

By _____

Title _____

Date _____

Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____

Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Jennie Yee **Date** 9/19/2023 $54,000.00

SPECIAL COVENANTS OR REMARKS

1. A. This PROJECT has received STATE funds from Highway Safety Improvement Program (HSIP). The ADMINISTERING AGENCY agrees to administer the PROJECT in accordance with the Highway Safety Improvement Program (HSIP) Guidelines, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

   B. The STATE funds for this PROJECT may be provided under one or more phases, which are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (Con).

   A phase-specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the phase identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per phase. Unless otherwise determined, the effective date of the phase-specific allocation will constitute the start of reimbursable expenditures for the phase. The STATE funds available for reimbursement will be limited to the amount allocated by the STATE for the phase.

   C. At the time of the first fund allocation approval for the Project, this PROGRAM SUPPLEMENT, a STATE-approved Allocation Letter and STATE Finance Letter are prepared to allow reimbursement of eligible PROJECT expenditures for the phase allocated.

   D. STATE and ADMINISTERING AGENCY agree that any additional fund allocations made after the execution of this PROGRAM SUPPLEMENT, for the phase that has been authorized in the first fund allocation approval or for a new phase, will be encumbered on this PROJECT by use of a STATE-approved Allocation Letter and a STATE Finance Letter and are subject to the terms and conditions thereof.

   E. This PROJECT is subject to the delivery requirements enacted by the HSIP guidelines. The delivery requirements may be accessed at: https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/delivery-requirements-status-approved-projects.

   F. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing of invoices for the construction phase.

   G. The ADMINISTERING AGENCY shall invoice STATE for PE, R/W and CON costs no later than 180 days after the end of expenditure the phase. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance to make the final payment to the contractor, prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and

SPECIAL COVENANTS OR REMARKS

payment.

H. ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LAPM provisions.

I. ADMINISTERING AGENCY agrees to comply with the requirements in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (applicable to Federal and State Funded Projects).

J. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to provide the STATE, upon request, with the information related to the PROJECT for the purpose of project evaluation or other purposes.

K. The ADMINISTERING AGENCY shall construct the PROJECT in accordance with the scope of work presented in the application and approved by the State. Any changes to the approved PROJECT scope without the prior expressed approval of the State are ineligible for reimbursement and may result in the entire PROJECT becoming ineligible for reimbursement.

Exhibit B
HSIP Agreement 2

PROGRAM SUPPLEMENT NO. 00000A278
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR STATE FUNDED PROJECTS NO 08-5214S21

Adv. Project ID 0824000002

Date: September 19, 2023
Location: 08-RIV-0-BAN
Project Number: HSIPSL-5214(017)
E.A. Number:
Locode: 5214

This Program Supplement, effective 9/7/2023, hereby adopts and incorporates into the Administering Agency-State Agreement No. 08-5214S21 for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of 10/14/2021 and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the ADMINISTERING AGENCY on (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION: 19 intersections throughout the City of Banning.

TYPE OF WORK: Pedestrian Walkway **LENGTH:** 0.0(MILES)

Estimated Cost	State Funds		Matching Funds		
	STATE	$76,500.00	LOCAL		OTHER
$85,000.00			$8,500.00		$0.00

CITY OF BANNING

By _____

Title _____

Date _____

Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____

Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Jennie Yee **Date** 9/19/2023 $76,500.00

SPECIAL COVENANTS OR REMARKS

1. A. This PROJECT has received STATE funds from Highway Safety Improvement Program (HSIP). The ADMINISTERING AGENCY agrees to administer the PROJECT in accordance with the Highway Safety Improvement Program (HSIP) Guidelines, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

   B. The STATE funds for this PROJECT may be provided under one or more phases, which are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (Con).

   A phase-specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the phase identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per phase. Unless otherwise determined, the effective date of the phase-specific allocation will constitute the start of reimbursable expenditures for the phase. The STATE funds available for reimbursement will be limited to the amount allocated by the STATE for the phase.

   C. At the time of the first fund allocation approval for the Project, this PROGRAM SUPPLEMENT, a STATE-approved Allocation Letter and STATE Finance Letter are prepared to allow reimbursement of eligible PROJECT expenditures for the phase allocated.

   D. STATE and ADMINISTERING AGENCY agree that any additional fund allocations made after the execution of this PROGRAM SUPPLEMENT, for the phase that has been authorized in the first fund allocation approval or for a new phase, will be encumbered on this PROJECT by use of a STATE-approved Allocation Letter and a STATE Finance Letter and are subject to the terms and conditions thereof.

   E. This PROJECT is subject to the delivery requirements enacted by the HSIP guidelines. The delivery requirements may be accessed at: https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/delivery-requirements-status-approved-projects.

   F. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing of invoices for the construction phase.

   G. The ADMINISTERING AGENCY shall invoice STATE for PE, R/W and CON costs no later than 180 days after the end of expenditure the phase. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance to make the final payment to the contractor, prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and

SPECIAL COVENANTS OR REMARKS

payment.

H. ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LAPM provisions.

I. ADMINISTERING AGENCY agrees to comply with the requirements in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (applicable to Federal and State Funded Projects).

J. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to provide the STATE, upon request, with the information related to the PROJECT for the purpose of project evaluation or other purposes.

K. The ADMINISTERING AGENCY shall construct the PROJECT in accordance with the scope of work presented in the application and approved by the State. Any changes to the approved PROJECT scope without the prior expressed approval of the State are ineligible for reimbursement and may result in the entire PROJECT becoming ineligible for reimbursement.

Exhibit C
HSIP Agreement 3

PROGRAM SUPPLEMENT NO. 00000A279
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR STATE FUNDED PROJECTS NO 08-5214S21

Adv. Project ID 0824000003

Date: September 19, 2023
Location: 08-RIV-0-BAN
Project Number: HSIPSL-5214(018)
E.A. Number:
Locode: 5214

This Program Supplement, effective 9/7/2023, hereby adopts and incorporates into the Administering Agency-State Agreement No. 08-5214S21 for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of 10/14/2021 and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the ADMINISTERING AGENCY on (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION: The intersection of Wilson St with 12th St.

TYPE OF WORK: Pedestrian Walkway **LENGTH:** 0.0(MILES)

Estimated Cost	State Funds		Matching Funds		
	STATE	$44,460.00	LOCAL		OTHER
$49,400.00			$4,940.00		$0.00

CITY OF BANNING

By _____

Title _____

Date _____

Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____

Chief, Office of Project Implementation
Division of Local Assistance

Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Jennie Yee **Date** 9/19/2023 $44,460.00

SPECIAL COVENANTS OR REMARKS

1. A. This PROJECT has received STATE funds from Highway Safety Improvement Program (HSIP). The ADMINISTERING AGENCY agrees to administer the PROJECT in accordance with the Highway Safety Improvement Program (HSIP) Guidelines, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

   B. The STATE funds for this PROJECT may be provided under one or more phases, which are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (Con).

   A phase-specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the phase identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per phase. Unless otherwise determined, the effective date of the phase-specific allocation will constitute the start of reimbursable expenditures for the phase. The STATE funds available for reimbursement will be limited to the amount allocated by the STATE for the phase.

   C. At the time of the first fund allocation approval for the Project, this PROGRAM SUPPLEMENT, a STATE-approved Allocation Letter and STATE Finance Letter are prepared to allow reimbursement of eligible PROJECT expenditures for the phase allocated.

   D. STATE and ADMINISTERING AGENCY agree that any additional fund allocations made after the execution of this PROGRAM SUPPLEMENT, for the phase that has been authorized in the first fund allocation approval or for a new phase, will be encumbered on this PROJECT by use of a STATE-approved Allocation Letter and a STATE Finance Letter and are subject to the terms and conditions thereof.

   E. This PROJECT is subject to the delivery requirements enacted by the HSIP guidelines. The delivery requirements may be accessed at: https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/delivery-requirements-status-approved-projects.

   F. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing of invoices for the construction phase.

   G. The ADMINISTERING AGENCY shall invoice STATE for PE, R/W and CON costs no later than 180 days after the end of expenditure the phase. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance to make the final payment to the contractor, prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and

SPECIAL COVENANTS OR REMARKS

payment.

H. ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LAPM provisions.

I. ADMINISTERING AGENCY agrees to comply with the requirements in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (applicable to Federal and State Funded Projects).

J. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to provide the STATE, upon request, with the information related to the PROJECT for the purpose of project evaluation or other purposes.

K. The ADMINISTERING AGENCY shall construct the PROJECT in accordance with the scope of work presented in the application and approved by the State. Any changes to the approved PROJECT scope without the prior expressed approval of the State are ineligible for reimbursement and may result in the entire PROJECT becoming ineligible for reimbursement.

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

PROGRAM SUPPLEMENT NO. 00000A278
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR STATE FUNDED PROJECTS NO 08-5214S21

Adv. Project ID 0824000002

Date: September 19, 2023
Location: 08-RIV-0-BAN
Project Number: HSIPSL-5214(017)
E.A. Number:
Locode: 5214

This Program Supplement, effective 9/7/2023, hereby adopts and incorporates into the Administering Agency-State Agreement No. 08-5214S21 for State Funded Projects which was entered into between the ADMINISTERING AGENCY and the STATE with an effective date of 10/14/2021 and is subject to all the terms and conditions thereof. This PROGRAM SUPPLEMENT is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. 2023-167 approved by the ADMINISTERING AGENCY on Oct. 10, 2023 (See copy attached).

The ADMINISTERING AGENCY further stipulates that as a condition to the payment by the State of any funds derived from sources noted below encumbered to this project, Administering Agency accepts and will comply with the Special Covenants and remarks set forth on the following pages.

PROJECT LOCATION: 19 intersections throughout the City of Banning.

TYPE OF WORK: Pedestrian Walkway **LENGTH:** 0.0(MILES)

Estimated Cost	State Funds		Matching Funds		
	STATE	$76,500.00	LOCAL		OTHER
$85,000.00			$8,500.00		$0.00

CITY OF BANNING

By Douglas Schulz

Title City Manager

Date 10/11/2023

Attest Caroline Jack

STATE OF CALIFORNIA
Department of Transportation

By Raimund Jambao

FOR **Chief, Office of Project Implementation**
Division of Local Assistance

Date 10/24/2023

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Jennie Yee **Date** 9/19/2023 $76,500.00

SPECIAL COVENANTS OR REMARKS

1. A. This PROJECT has received STATE funds from Highway Safety Improvement Program (HSIP). The ADMINISTERING AGENCY agrees to administer the PROJECT in accordance with the Highway Safety Improvement Program (HSIP) Guidelines, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

   B. The STATE funds for this PROJECT may be provided under one or more phases, which are Preliminary Engineering (PE), Right-of-Way (R/W) and Construction (Con).

   A phase-specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the phase identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per phase. Unless otherwise determined, the effective date of the phase-specific allocation will constitute the start of reimbursable expenditures for the phase. The STATE funds available for reimbursement will be limited to the amount allocated by the STATE for the phase.

   C. At the time of the first fund allocation approval for the Project, this PROGRAM SUPPLEMENT, a STATE-approved Allocation Letter and STATE Finance Letter are prepared to allow reimbursement of eligible PROJECT expenditures for the phase allocated.

   D. STATE and ADMINISTERING AGENCY agree that any additional fund allocations made after the execution of this PROGRAM SUPPLEMENT, for the phase that has been authorized in the first fund allocation approval or for a new phase, will be encumbered on this PROJECT by use of a STATE-approved Allocation Letter and a STATE Finance Letter and are subject to the terms and conditions thereof.

   E. This PROJECT is subject to the delivery requirements enacted by the HSIP guidelines. The delivery requirements may be accessed at: https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/highway-safety-improvement-program/delivery-requirements-status-approved-projects.

   F. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing of invoices for the construction phase.

   G. The ADMINISTERING AGENCY shall invoice STATE for PE, R/W and CON costs no later than 180 days after the end of expenditure the phase. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance to make the final payment to the contractor, prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and

SPECIAL COVENANTS OR REMARKS

payment.

H. ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LAPM provisions.

I. ADMINISTERING AGENCY agrees to comply with the requirements in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (applicable to Federal and State Funded Projects).

J. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to provide the STATE, upon request, with the information related to the PROJECT for the purpose of project evaluation or other purposes.

K. The ADMINISTERING AGENCY shall construct the PROJECT in accordance with the scope of work presented in the application and approved by the State. Any changes to the approved PROJECT scope without the prior expressed approval of the State are ineligible for reimbursement and may result in the entire PROJECT becoming ineligible for reimbursement.

RESOLUTION 2023-167

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING PROGRAM SUPPLEMENT AGREEMENTS WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THREE HIGHWAY SAFETY IMPROVEMENT CYCLE 11 GRANTS FOR THE TRAFFIC SIGNAL HARDWARE UPGRADE AT SEVENTEEN SIGNALIZED INTERSECTIONS, PEDESTRIAN CROSSINGS UPGRADE AT NINETEEN INTERSECTIONS AND WILSON STREET/12TH STREET INTERSECTION IMPROVEMENTS

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation (Caltrans) Cycle 11 Highway Safety Improvement Program for the upgrade of traffic signal hardware at seventeen (17) signalized intersections throughout the City; and

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 11 Highway Safety Improvement Program for the upgrade of pedestrian crossings at nineteen (19) intersections throughout the City; and

WHEREAS, on September 9, 2022, the City of Banning submitted a grant application to the State of California Department of Transportation Cycle 11 Highway Safety Improvement Program for the improvement of Wilson Street and 12th Street intersection; and

WHEREAS, on March 9, 2023, the City received notification from Caltrans that the City's three (3) HSIP grant applications selected for funding; and

WHEREAS, to proceed with the Preliminary Engineering (PE) phase, the City and Caltrans must execute Program Supplement Agreements No. HSIPSL-5214(016) for $54,000, HSIPSL-5214(017) for $76,500 and HSIPSL-5214(018) for $44,460 as part of the funding authorization process.

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

SECTION 1. The City Council approves Program Supplement Agreements with Caltrans for three (3) Highway Safety Improvement (HSIP) Cycle 11 grants for the Traffic Signal Hardware Upgrade at 17 Signalized Intersections, Pedestrian Crossings Upgrade at 19 Intersections and Wilson Street/12th Street Intersection Improvements.

SECTION 2. The City Council authorizes the City Manager or his designee to execute Program Supplement Agreements No. HSIPSL-5214(016), HSIPSL-5214(017) and HSIPSL-5214(018).

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 10th 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 2023-167, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th 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

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
STATE-FUNDED PROJECTS

08	City of Banning
District	Administering Agency

Agreement No. 08-5214S21

This AGREEMENT, is entered into effective this 14th day of October, 20 21, by and between the City of Banning, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Legislature of the State of California has enacted legislation by which certain State funds are made available for use on local transportation related projects of public entities qualified to act as recipients of these state funds; and

2. WHEREAS, ADMINISTERING AGENCY has applied to the California Transportation Commission (CTC) and/or STATE for funding from a State-funded program (herein referred to as STATE FUNDS), as defined in the Local Assistance Program Guidelines (LAPG) and/or in the respective CTC Guidelines, for use on local authorized transportation related projects as a local administered project(s), hereinafter referred to as "PROJECT"; and

3. WHEREAS, said PROJECT will not receive any federal funds; and

4. WHEREAS, before STATE FUNDS will be made available for PROJECT, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving STATE FUNDS for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project- specific Program Supplement to this AGREEMENT for state funded projects, hereinafter referred to as "PROGRAM SUPPLEMENT", has been fully executed by both STATE and ADMINISTERING AGENCY.

2. The State approved project-specific allocation notification letter and approved CTC allocation documentation designate the party responsible for implementing PROJECT, type of work, and location of PROJECT for projects requiring CTC allocation by PROJECT component of work.

3. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive STATE FUNDS from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these STATE FUNDS that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.

4. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT. The PARTIES agree that STATE may suspend future allocations, encumbrances and invoice payments for any on- going or future STATE FUNDED PROJECT performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned, unless otherwise agreed by STATE in writing.

5. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of STATE FUNDS encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.

6. STATE FUNDS will not participate in any portion of PROJECT work performed in advance of the effective date of allocation by CTC, or by STATE for allocations delegated to STATE by CTC, for said PROJECT.

7. Projects allocated with STATE FUNDS will be administered in accordance with the current CTC STIP Guidelines, applicable chapter(s) of the LAPG, LAPM and/or any other instructions published by STATE.

8. ADMINISTERING AGENCY agrees to ensure compliance with all relevant State laws and requirements for work related to PROJECT, including the California Environmental Quality Act (CEQA).

9. ADMINISTERING AGENCY's eligible costs for preliminary engineering work includes all preliminary work directly related to PROJECT up to contract award for construction, including, but not limited to, environmental studies and permits (E&P),

preliminary surveys and reports, laboratory work, soil investigations, the preparation of plans, specifications and estimates (PS&E), advertising for bids, awarding of a contract and project development contract administration.

10. ADMINISTERING AGENCY's eligible costs for construction engineering include actual inspection and supervision of PROJECT construction work; construction staking; laboratory and field testing; and the preparation and processing of field reports, records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

11. Unless the PARTIES agree otherwise in writing, ADMINISTERING AGENCY's employees or its contracted engineering consultant shall be responsible for all PROJECT engineering work.

12. ADMINISTERING AGENCY shall not proceed with final design of PROJECT until final environmental approval of PROJECT. Final design entails the design work necessary to complete the PS&E and other work necessary for a construction contract but not required earlier for environmental clearance of that PROJECT.

13. If PROJECT is not on STATE-owned right-of-way, PROJECT shall be constructed in accordance with Chapter 11 of the LAPM that describes minimum statewide design standards for local agency streets and roads. The design standards for projects off the National Highway System (NHS) allow STATE to accept either the current Caltrans Highway Design Manual standards, the current FHWA-adopted American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets standards, or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current Local Assistance Procedures Manual.

14. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and where appropriate, an executed cooperative agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights-of-way or work which affects STATE facilities.

15. When PROJECT is not on the State Highway System (SHS) but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

16. ADMINISTERING AGENCY shall comply with the provisions of sections 4450 and 4454 of the California Government Code, as well as other Department of General Services guidance, if applicable, for the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and

usability. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

17. ADMINISTERING AGENCY shall provide a full-time public employee to be in responsible charge of each PROJECT. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. ADMINISTERING AGENCY may utilize consultants to perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer. Utilization of consultants does not relieve ADMINISTERING AGENCY of its obligation to provide a full-time public employee to be in responsible charge of each PROJECT.

18. Unless otherwise provided in the PROGRAM SUPPLEMENT, ADMINISTERING AGENCY shall advertise, award, and administer the PROJECT construction contract or contracts.

19. The cost of maintenance, security, or protection performed by ADMINISTERING AGENCY or contractor forces during any temporary suspension of PROJECT or at any other time may not be charged to the PROJECT.

20. ADMINISTERING AGENCY shall submit PROJECT-specific award information to STATE's District Local Assistance Engineer, within sixty (60) days after contract award.

21. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Final Project Expenditure Report", LAPM Exhibit 17-M, within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Final Project Expenditure Report", within 180 days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the Local Assistance Procedures Manual.

22. ADMINISTERING AGENCY shall comply with the Americans with Disabilities Act (ADA) of 1990 that prohibits discrimination on the basis of disability and all applicable regulations and guidelines issued pursuant to the ADA.

23. The Governor and the Legislature of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM, attached hereto as Exhibit A and further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of work connected with PROJECT shall incorporate Exhibit A (with third party's name replacing ADMINISTERING AGENCY) as parts of such agreement.

24. ADMINISTERING AGENCY shall include in all contracts and subcontracts awarded when applicable, a clause that requires each subcontractor to comply with California Labor Code requirements that all workers employed on public works aspects of any project (as defined in California Labor Code sections 1720-1815) be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations as effective at the date of contract award by the ADMINISTERING AGENCY.

ARTICLE II - RIGHTS-OF-WAY

1. No contract for the construction of a STATE FUNDED PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights-of-way are available for construction purposes or will be available by the time of award of the construction contract.

2. The furnishing of rights of way by ADMINISTERING AGENCY as provided for herein includes, and is limited to, the following, unless the PROGRAM SUPPLEMENT provides otherwise.

(a) Expenditures of capital and support to purchase all real property required for PROJECT free and clear of liens, conflicting easements, obstructions and encumbrances, after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.

(b) The cost of furnishing of right-of-way as provided for herein includes, in addition to real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of damages to owners of remainder real property not actually taken but injuriously affected by PROJECT.

(c) The cost of relocation payments and services provided to owners and occupants pursuant to Government Code sections 7260-7277 when PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

(d) The cost of demolition and/or the sale of all improvements on the right-of-way after credit is recorded for sale proceeds used to offset PROJECT costs.

(e) The cost of all unavoidable utility relocation, protection or removal.

(f) The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which ADMINISTERING AGENCY accepts responsibility and where the actual generator cannot be identified, and recovery made.

3. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right-of-way for a PROJECT is not clear as certified by ADMINISTERING AGENCY, including, but not limited to, if said right-of-way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. ADMINISTERING AGENCY shall pay, from its own non- matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights-of-way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future STATE FUNDED PROJECTS of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

4. ADMINISTERING AGENCY shall comply with all applicable law, including but not limited to, all applicable legal authority regarding construction standards.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the CTC.

2. STATE'S financial commitment of STATE FUNDS will occur only upon the execution of this AGREEMENT, the execution of each project-specific PROGRAM SUPPLEMENT and/or STATE's approved finance letter.

3. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices in arrears for reimbursement of allowable PROJECT costs at least once every six months commencing after the STATE FUNDS are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future allocations and invoice payments for any on-going or future STATE FUNDED project performed by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period

4. Invoices shall be submitted on a standardized billing summary template, in accordance with Chapter 5 of the LAPM to claim reimbursement by ADMINISTERING AGENCY. For construction invoices, pay estimates must be included.

5. ADMINISTERING AGENCY must retain at least one copy of supporting backup documentation for allowable costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

6. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursements of actual allowable PROJECT costs already incurred and paid for by the ADMINISTERING AGENCY.

7. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to the Inspector General - Independent Office of Audits and Investigations for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect cost incurred within each fiscal year being claimed for reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the LAPM, and the ICAP/ICRP approval procedures established by STATE.

8. STATE will withhold the greater of either two (2) percent of the total of all STATE FUNDS encumbered for each PROGRAM SUPPLEMENT or $40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

9. The estimated total cost of PROJECT, the amount of STATE FUNDS obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES with a finance letter, and an allocation notification letter when applicable. STATE FUNDING may be increased to cover PROJECT cost increases only if such additional funds are available and the CTC and/or STATE concurs with that increase in the

form of an allocation and finance letter.

10. When such additional STATE FUNDS are not available, ADMINISTERING AGENCY agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

11. ADMINISTERING AGENCY shall use its own non-STATE FUNDS to finance the local share of eligible costs and all PROJECT expenditures or contract items ruled ineligible for financing with STATE FUNDS. STATE shall make the final determination of ADMINISTERING AGENCY's cost eligibility for STATE FUNDED financing with respect to claimed PROJECT costs.

12. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

13. STATE FUNDS allocated by the CTC and/or STATE are subject to the timely use of funds provisions approved in CTC Guidelines and State procedures approved by the CTC and STATE.

14. STATE FUNDS encumbered for PROJECT are available for liquidation only for a limited period from the beginning of the State fiscal year when those funds were appropriated in the State Budget. STATE FUNDS not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Section 16304 of the Government Code. The exact date of fund reversion will be reflected in the STATE signed PROJECT finance letter.

15. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid to rank and file STATE employees under current California Department of Human Resources (CalHR) rules unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance in accordance with Government Code section 16304. If the rates invoiced by ADMINISTERING AGENCY are in excess of CalHR rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand.

16. ADMINISTERING AGENCY agrees to comply with California Government Code 4525-4529.14. Administering Agency shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall also comply with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326.

17. ADMINISTERING AGENCY agrees and will assure that its contractors and subcontractors will be obligated to agree that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards, excluding 2 CFR Part 200.318-200.326Governments. ADMINISTERING AGENCY agrees to comply with the provisions set forth in 23 CFR Parts 140, 645 and 646 when contracting with railroad and utility companies.

18. Every recipient and sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR 200 excluding 2 CFR Part 200.318-200.326, 48 CFR Chapter 1, Part 31, LAPM, Public Contract Code (PCC) 10300- 10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations.

19. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be questioned, disallowed, or unallowable under 2 CFR, Part 200, 48 CFR, Chapter 1, Part 31, 23 CFR Parts 140, 645 and 646, LAPM, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), California Government Code 4525-4529.5 including 4527(a) and 4528(a), and other applicable STATE regulations are subject to repayment by ADMINISTERING AGENCY to STATE and may result in STATE imposing sanctions on ADMINISTERING AGENCY as described in Chapter 20 of the Local Assistance Procedures Manual.

20. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided herein or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty (30) days of demand, or within such other period as may be agreed to in writing between the PARTIES hereto, STATE, acting through the State Controller, the State Treasurer, the CTC or any other public entity or agency, may intercept, withhold and demand the transfer of an amount equal to the amount paid by or owed to STATE for each PROJECT, from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may also withhold approval of future STATE FUNDED projects proposed by ADMINISTERING AGENCY.

21. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, 20from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

22. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover STATE FUNDS improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of Article V.

2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.

3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States, 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, and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above-referenced parties shall make such AGREEMENT and PROGRAM SUPPLEMENT materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years, or 35 years for Prop 1B funds, from the date of final payment to ADMINISTERING AGENCY.

4. ADMINISTERING AGENCY shall not award a construction contract over $25,000 on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. All contracts awarded by ADMINISTERING AGENCY intended or used as local match credit must meet the requirements set forth in this AGREEMENT regarding local match funds.

5. ADMINISTERING AGENCY shall comply with Chapter 10 (commencing with Section 4525) Division 5 of Title 1 of the Government Code and shall undertake the procedures described in California Government Code 4527(a) and 4528(a). Administering Agency shall comply with Chapter 10 of the LAPM for A&E Consultant Contracts.

6. ADMINISTERING AGENCY shall comply with Government Code Division 5 Title 1 sections 4525-4529.5 and shall undertake the procedures described in California Government Code 4527(a) and 4528(a) for procurement of professional service contracts. Administering Agency shall follow Public Contract Code Section 10335-10381 for other professional service contracts.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain all of the provisions of Article IV, FISCAL PROVISIONS, and this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING, RECORDS RETENTION 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.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner that is required of all other PROJECT expenditures.

9. Except as provided in this Article, this AGREEMENT is solely between and for the benefit of the PARTIES and there are no third-party beneficiaries.

ARTICLE VI - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all PROJECT funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and other California laws.

2. ADMINISTERING AGENCY shall conform to all applicable State and Federal statutes and regulations, and the Local Assistance Program Guidelines and Local Assistance Procedures Manual as published by STATE and incorporated herein, including all subsequent approved revisions thereto applicable to PROJECT unless otherwise designated in the project-specific executed PROJECT SUPPLEMENT.

3. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.

4. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE.

5. Each project-specific PROGRAM SUPPLEMENT shall separately establish the terms and funding limits for each described PROJECT funded under this AGREEMENT and that PROGRAM SUPPLEMENT. No STATE FUNDS are obligated against this AGREEMENT.

6. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT, and ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.

7. ADMINISTERING AGENCY certifies, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the PROJECT work actually performed, or in STATE's discretion, to deduct from the price of PROGRAM SUPPLEMENT consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.

9. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE that may have an impact upon the outcome of this AGREEMENT or any individual PROJECT encompassed within a PROGRAM SUPPLEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of a PROJECT undertaken pursuant to this

AGREEMENT. These disclosures shall be delivered to STATE in a form deemed acceptable by the STATE prior to execution of this AGREEMENT.

10. ADMINISTERING AGENCY hereby certifies that it does not have, nor shall it acquire, any financial or business interest that would conflict with the performance of any PROJECT initiated under this AGREEMENT.

11. ADMINISTERING AGENCY certifies that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate this AGREEMENT without liability, to pay only for PROJECT work actually performed, or to deduct from a PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

12. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Manager, who shall be identified to ADMINISTERING AGENCY at the time of execution of this AGREEMENT and, as applicable , any time that Contract Manager changes during the duration of this AGREEMENT who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Manager, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Manager.

13. Neither the pending of a dispute nor its consideration by the Contract Manager will excuse the ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT and each PROGRAM SUPPLEMENT.

14. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under or in connection with any work, authority or jurisdiction of ADMINISTERING AGENCY arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims and suits or actions of every name, kind and description brought forth under, including but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY 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, tortuous, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

16. In the event of (a) ADMINISTERING AGENCY failing to timely proceed with effective PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT; (b) failing to maintain any applicable bonding requirements; and (c)

otherwise materially violating the terms and conditions of this AGREEMENT and/or any PROGRAM SUPPLEMENT, STATE reserves the right to terminate funding for that PROJECT upon thirty (30) days' written notice to ADMINISTERING AGENCY.

17. No termination notice shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if the default is not reasonably susceptible of cure within said thirty (30) day period the ADMINISTERING AGENCY proceeds thereafter to complete that cure in a manner and time line acceptable to STATE.

18. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT and the applicable PROGRAM SUPPLEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY for the reasons stated in paragraph sixteen (16) of ARTICLE VI, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE-approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of any PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

19. In the case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT and/or Cooperative Agreement, the terms stated in that PROGRAM SUPPLEMENT and/or Cooperative Agreement shall prevail over those in this AGREEMENT.

20. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

21. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officer.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
By Daniel Bui
Senior Transportation Engineer
for Chief, Office of Project Implementation
Division of Local Assistance

Date 10/14/2021

City of Banning
By
Douglas Schulze, City Manager
City of Banning
Representative Name & Title
(Authorized Governing Body Representative)
Date 10/13/2021

EXHIBIT A - FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 1290-0 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 11000, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(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 the ADMINISTERING AGENCY'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.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right

to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

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

REQUEST FOR PROPOSALS

RFP-25-101

DESIGN SERVICES FOR THE PEDESTRIAN CROSSING UPGRADES AT 19 INTERSECTIONS THROUGHOUT THE CITY OF BANNING



for:

CITY OF BANNING
Attn: Barbara Mason
Purchasing Manager
99 East Ramsey Street
Banning, CA 92220

August 12, 2025
4:00 p.m.



Prepared by:

TKE ENGINEERING, INC.

2305 Chicago Avenue
Riverside, California 92507
(9 5 1) 6 8 0 - 0 4 4 0

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Prepared For:

City of Banning
Purchasing Division
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Prepared by:

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SECTION A | UNDERSTANDING AND APPROACH

PROJECT UNDERSTANDING

The City of Banning (City) is requesting proposals for professional engineering design services for the Pedestrian Crossing Upgrades at 19 Intersections throughout the City of Banning as part of an awarded HSIP Cycle 11 Grant. The City has adopted a Local Road Safety Plan (LRSP) to establish a strategic framework for identifying, analyzing, and prioritizing roadway safety infrastructure improvements. The LRSP crash analysis revealed that 65% of all citywide crashes occurred at unsignalized intersections, including 62% of fatal crashes and 70% of severe injury crashes. Pedestrians were identified as vulnerable roadway users (VRUs), comprising only 7% of total crashes but representing 46% of fatalities and 12% of severe injuries.

Based on these findings, the City has identified 19 unsignalized intersections with pedestrian crossings as high-priority locations for safety upgrades. These intersections represent areas with the highest concentrations of fatal and injury-related crashes and are located at the following 19 intersections:

1. Monarch Way and Wilson Street
2. Apex Street and Ramsey Street
3. 20th Street and Wilson Street
4. Nicolet Street and 21st Street
5. Nicolet Street and Sims Street
6. Wilson Street and 10th Street
7. Alessandro Road and Hoffer Street
8. Wilson Street and Hargrave Street
9. Alessandro Road and George Street
10. Nicolet Street and Alessandro Road
11. Livingston Street and 2nd Street
12. San Gorgonio Avenue and Lincoln Street (Route 243)
13. San Gorgonio Avenue and Westward Avenue (Route 243)
14. Nicolet Street and 20th Street
15. Nicolet Street and 2nd Street
16. San Gorgonio Avenue and George Street
17. Nicolet Street and Murray Street
18. Wilson Street and Florida Street
19. Westward Avenue and 4th Street

This initiative is funded through the Highway Safety Improvement Program (HSIP) and all project activities must comply with applicable state regulations and the Caltrans Local Assistance Procedures Manual (LAPM).

TKE is prepared to provide comprehensive Design Services for the Pedestrian Crossing Upgrades at the 19 designated intersections with services that include the preparation of Plans, Specifications, and Estimates (PS&E), as well as construction support. Based on the LRSP recommendations, TKE will incorporate proven countermeasures such as:

- Installation of curb extensions
- ADA-compliant curb ramps
- Rectangular Rapid Flashing Beacons (RRFBs)
- High-visibility crosswalks
- Advanced warning signs and pavement markings

TKE brings extensive experience in delivering HSIP, ATP, CDBG an numerous other grant-funded projects. TKE has provided design and construction management for more than $300 million in grant-funded transportation projects and is therefore fully versed in Caltrans project development standards. We are committed to supporting the City in achieving its roadway safety goals through thoughtful design, regulatory compliance, and community-focused solutions.

APPROACH

Our approach to this HSIP funded pedestrian improvement project, recognizing that both schedule and budget are of primary concern, dictates that design decisions must be made quickly and carefully.

When this is coupled with the various constraints present for a pedestrian safety improvement project, it is critical that the City choose a consultant with a proven track record of delivering. With a familiar team of senior level traffic and street design professionals, TKE is the right choice for this project.

With this pedestrian safety improvement project, our experience tells us that there has to be a proactive approach to completing the work. This includes early identification of critical design elements for the project locations and accurate cost estimating throughout the entire process. In preparing this proposal, our team established key issues so we can "hit the ground running" to make this a successful project for the City.

COMMUNICATION

TKE will implement continuous communications with City staff during project implementation to ensure a smooth transition between agency approvals. In addition, deliverables will be provided at every stage of project development for City review to ensure that the project is proceeding efficiently to avoid any potential rework. Continuous communications will ensure that project needs and objectives are met and the project remains on schedule.

CRITICAL ISSUES

Identification of Critical Design Elements

Our approach to identifying critical issues will be to immediately go into the field and document all the critical design elements so they can be presented to the City. This will give us a head start on instructing our survey team about what detailed information to collect. Some of these elements include key ground elevation information at the curb returns and bulb outs to determine how ADA access and drainage will be maintained for each of these locations.

Design

TKE has extensive experience working with various agencies on design of pedestrian activated warning devices such as Rapid-Rectangular Flashing Beacons (RRFB) and In-Roadway Warning Lights (IRWL). TKE designers have experience with the most common vendors in the traffic signal and pedestrian warning industry and experience with a variety of equipment. TKE designers have hands-on experience with traffic signal and pedestrian warning equipment including communications (wireless, fiber, ethernet-over-copper, cellular), detection (loop, radar, puck, video), controller (ATC, NEMA, Caltrans), cabinets and more. As a result, we can adapt and bring domain knowledge of a variety of equipment types and options which the City may operate or may desire to implement.

Ramp Transitions

For ramp construction projects, transitions to existing improvements are typically the most challenging component of design, especially in fully developed areas where buildings were constructed with insufficient setbacks to properly install the proposed improvements to today's standards.

With new requirements for ADA ramp construction, private improvements such as fences, walls, and landscaping may be impacted. TKE will identify such impacts early during project design and will develop an action plan for working with residents that may be impacted. Our goal will be to complete ramp design that will fully comply with ADA requirements at the same time as minimizing private property impacts or the need for additional rights-of-way.

Right-Of-Way

Upon determination of construction limits, TKE will assess right-of-way needs. Based on our preliminary research of existing right-of-way limits it appears as if right-of-way will not be required to create ADA pathways around any proposed improvements.

Accurate Cost Estimating

TKE understands the limits on ATP and SRTS funding. Because of the limited budget for this project, it is important to keep costs controlled. Our approach to controlling costs is to provide frequent and accurate cost estimates by using TKE's detailed cost estimating database. In addition to using this database, TKE utilizes our considerable experience with Construction Management to assist in providing constructability reviews and cost estimating based on current information from our on-going projects. Finally, with the current economic climate, construction costs are widely varying. We will also

discuss the project elements with local contractors to assure that we have the most current construction information available so that the City can ensure the most value for the public's dollar.

Familiarity With Funding Source

TKE is well versed with Caltrans Local Assistance requirements as well as the general guidelines for implementing HSIP funded projects. They include:

- Requesting that Caltrans furnish an expenditure authorization number.
- Submitting allocation request and finance letters to Caltrans Local Assistance requesting reimbursable costs allocation
- Ensuring Caltrans prepares a Program Supplement Agreement for City execution. If the City does not have a "State Funds Master Agreement" on file with Caltrans, one will be required.
- Ensuring that the City acquires Local Assistance approval for all required environmental clearances (CEQA) and right-of-way needed for the project.
- Ensuring that the project complies with the requirements of the Americans with Disabilities Act.
- Processing invoices to Caltrans Local Assistance for reimbursement.

SCOPE OF WORK

Task 1. Project Management

TKE's Project Manager will be responsible for the entire project team. He will attend all meetings, prepare agendas and corresponding meeting minutes together with collection of signatures for meeting attendees (sign-in sheets). He will meet with the City at appropriate times and will meet as needed with agencies, residents, property owners, and utilities in addition to the meetings presented below. He will also update the project budget and schedule prior to each City meeting for discussion with staff.

Task 1.1 Initial 'Kick Off' Meeting

Within 2 weeks after contract execution, we propose to meet with the City staff to conduct introductions, review project obligations/scope and to discuss all project requirements in detail. TKE will set up and manage the project, provide utility coordination (if necessary), perform quality assurance and quality control prior to each milestone submittal and in conformance with federal, state and city standards. TKE's Project Manager and Project Engineer will attend the meeting to determine project protocol and obtain City record drawings.

Task 1.2 Progress Meeting

TKE will coordinate monthly progress virtual meetings with City's Project Design Team (PDT) to update the City of the project progress and schedule status. TKE will maintain continuous awareness of the status of each task as it proceeds and make provisions to expedite and resolve any difficulties that may impede progress.

If necessary, TKE will facilitate other meetings with City Departments and other key stakeholders, creating meeting agendas with input from the city, and other stakeholders and preparing and distributing meeting minutes within 7 calendar days of the meeting.

Task 1.3 Invoicing

TKE will invoice the city on a monthly basis. With each monthly invoice, TKE will provide a detailed project schedule with continuous updates and executive summary of project status and the remaining budget for each task. Direct costs will be supported by a copy of receipts. Any change orders/additional work requests will be cleared and approved by the City prior to additional work being completed.

Deliverables: Schedule, Kick-Off Meeting, Work Plan, Meeting Agendas and Meeting Minutes, Monthly Invoices, Schedule, Project History File

Task 2. Preliminary Investigation/ Site Assessment

TKE will conduct a field visit of each of the 19 locations to evaluate all locations against the project scope of work. TKE will review and verify the location and type of existing improvements, intersection geometrics,

posted speed limits, on street parking conditions, and any other information that may alter the proposed upgrades.

Deliverables: Field Review Notes, Photo Logs

TASK 3. ENGINEERING DESIGN

Task 3.1 Design Plans 60%, 90% and 100%

TKE will compile all gathered information and prepare 60%, 90% and 100% design plans.

– ENVIRONMENTAL

Per the RFP, the project is assumed to be categorically exempted under CEQA requirements.

– 60% DESIGN

60% Design will include preparation geometric roadway improvement exhibits, preliminary construction drawings, preliminary technical specifications, preliminary construction estimates, and completed geotechnical report.

Construction drawings will show proposed street geometrics including locations of proposed asphalt concrete pavement, curb and gutters, sidewalk, ramps, pedestrian improvements, signing and striping. In addition, preliminary street and sidewalk grades will be prepared to establish project grading requirements. Proposed improvements will be designed in accordance with the City's current street design standards and specifications. The proposed improvements will be designed to minimize removals, grading and earthwork.

For the drawings, we will prepare a title sheet, construction notes sheet, demolition sheets, plan/profile sheets, signing and striping sheets, and necessary detail sheets.

The title sheet shall include the title of the job, a vicinity map showing the City in relationship to surrounding communities, a location map showing the project limits, a list of abbreviations used, benchmark data, general notes, construction notes and quantities, an index for the drawings, list of utilities with phone numbers, and references on the City's standard title block.

The construction note sheet will show general construction notes and project specific requirements.

The demolition sheet will show existing improvement demolition including limits of pavement removal, saw cutting locations and limits and concrete cross gutters and curbs, if required. In addition, the plan will specify relocation of private improvements such as mailboxes fences, drive approaches, etc. as required.

Plan sheets will show proposed improvements at 1"=40' scale including curb and gutter, sidewalk, ramps, driveways, pavement limits, existing utility relocations, water service relocations, and manhole, valve, and vault cover grade adjustments. For the profile portion of the drawings, we will show existing and proposed pavement elevations at centerline top of curb and centerline with appropriate design data.

The construction details will include connections and ADA ramp or RRFB details, all at appropriate drawing scales.

The signing and striping sheets will include all required pavement markings, lane stripes and signage in accordance with the MUTCD, California supplement and all other applicable City requirements, for the project limits. The sheets will be prepared at 1"=40' scale and include full geometrical layouts at each intersection.

For the specifications, we will amend the City Standards Technical Provisions as required for the projects. The construction specifications will be prepared in Microsoft Word (current version) format in accordance with City standards.

In addition, we will prepare quantity estimates for all proposed improvements prepared using an excel spreadsheet showing an itemized construction cost breakdown. Descriptions of work, unit prices, and quantities will be included in the spreadsheet.

Deliverables: 60% Design Sheets

– 60% DESIGN REVIEW MEETING

After the City has completed its review, we will meet with City staff to acquire Staff's comments.

Deliverables: Meeting Agenda, Minutes and Final Design Approval

– 90% DESIGN

90% design will include incorporation of City comments, final street design and signing and striping plans. We will verify that the project will comply with ADA design requirements and that adequate drainage will be achieved.

90% Design will be submitted with a project summary memorandum together with updated project specifications and estimates.

Deliverables: 90% Design Sheets

– 90% DESIGN REVIEW MEETING

After the City has completed its review, we will meet with City staff to acquire Staff's comments.

Deliverables: Meeting Agenda, Minutes and Final Design Approval

– 100% DESIGN

100% design will include incorporation of City comments, final plans, specifications, and estimates, ready for public bidding. Final documents will include mylars and hard copy specifications with signatures and electronic copies of final documents.

100% Design will be submitted with a project summary memorandum together with an updated project schedule, additional stakeholder meeting summary, and internal plan review documentation.

Deliverables: One (1) Full-Size Mylar of 100% Drawings; Hard Copy of Specifications and Estimate, Electronic Files of Final Plans (AutoCAD 2021), Specifications and Estimate

TASK 4. SPECIFICATIONS AND COST ESTIMATES

TKE will prepare a complete set of technical specifications based on the City's general and special provisions and Standard Specifications for Public Works Construction ("Greenbook"). We will also prepare cost estimates based on construction bid items and quantities from the 90% and final design plans. A detailed breakdown of each lump sum item will be provided for comparison with other similar projects, which will include adequate contingencies to account for the unpredictability of materials costs.

Deliverables: Final specs (Word Document) and Cost Estimates (Excel), Electronic Versions of Each Submittal

TASK 5. BIDDING/CONSTRUCTION SUPPORT

TKE will provide the following:

- Respond to Requests for Information (RFIs) during the project advertisement period, and log questions and responses.
- Prepare project addenda at the direction of the City
- Attend the pre-bid and pre-construction meetings.
- Review shop drawings and submittals provided by the Contractor to ensure compliance with the contract plans and specifications, and then issue recommendations for acceptance, rejection, or revision within a reasonable timeframe following receipt.
- Provide engineering design services (upon written authorization from the City) for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City (assuming a minimum of 3 site visits).
- Upon completion of the project, use information based on redlined information provided by the Contractor and the City to prepare as-built plans to be submitted to the City within one month of receipt of as-built redlines.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Addenda, Submittal Reviews, As-Built Plans

CLIENT SATISFACTION

TKE is committed to meeting the City's deadlines as they are crucial for several reasons, including:

Client Satisfaction: Our focus on meeting deadlines ensures that the City is satisfied. Timely completion reflects professionalism and reliability, enhancing trust between the City and TKE.

Quality Control: TKE takes pride in our reputation for thoroughness, rapid turnaround, cost efficiency and overall quality of work, and believes that a high level of quality is needed on all PS&E packages. High quality design yields the following tangible results:

- Ease of oversight
- Smoother processing
- Healthy number of bidders
- Consistent bids
- Minimized construction support cost
- Absence of design-related change orders
- Reduced claims and dispute resolution costs

TKE believes that the most successful quality assurance program is one that is applied inherently throughout the entire design process and all design activities. This program requires not only formal procedures for checking, but encourages the conscientious effort of experienced people to always "create quality" in every task performed throughout the design process.

This program has become a natural element in all aspects of TKE's design and management activities, and will guide our work on this contract:

- Staff training and development
- Assignment of experienced staff
- Continuity of staffing
- Project-specific work plan
- Schedule compliance
- Comprehensive field review and compilation of site data
- Established design procedures
- Established detailing standards
- Established checking procedures, including independent in-house QA/QC review
- Dual (independent) quantity estimates
- Review by Constructability expert

This Quality Assurance/Quality Control program is in place to ensure that PS&E documents prepared by TKE continue to exceed the standards of our clients and that we will deliver the project on schedule and within budget.

Contractual Obligations: Often, contracts include penalties for delays. In addition, grant funding typically has strict expenditure deadlines. Meeting deadlines ensures compliance with these agreements, avoiding legal issues and financial penalties for both the City and the Contractor.

Risk Management: TKE understands that delays can introduce various risks, including weather-related setbacks, resource shortages, or unforeseen complications. TKE's goal on every construction project is to mitigate these risks by maintaining a structured and controlled project timeline.

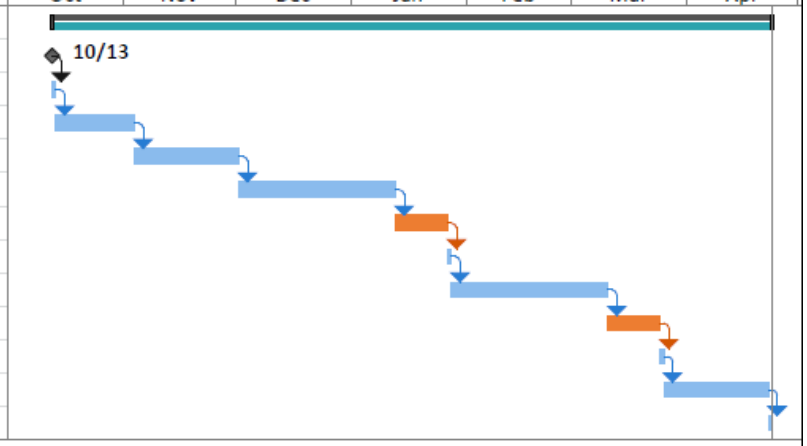
Safety: Rushing work due to delays can compromise safety standards, something both the City and TKE will not tolerate on any construction project. Meeting deadlines allows for adequate planning and execution, ensuring proper safety protocols are followed.

TKE's attention to meeting project deadlines is not merely about completing tasks on time; it's about maintaining efficiency and cost-effectiveness, all with a focus on safety and client satisfaction.

PROJECT SCHEDULE

CITY OF BANNING
RFP 25-101 DESIGN SERVICES FOR THE PEDESTRAIN CROSSING UPGRADES AT 19 INTERSECTIONS THROUGHOUT THE CITY OF BANNING
TKE PROJECT SCHEDULE

ID	Task Name	Duration	Start	Finish
1	**Project Design**	**139 days**	**Mon 10/13/25**	**Thu 4/23/26**
2	NTP	0 days	Mon 10/13/25	Mon 10/13/25
3	Kick-Off Meeting	1 day	Mon 10/13/25	Mon 10/13/25
4	Preliminary Investigation	15 days	Tue 10/14/25	Mon 11/3/25
5	Prepare Base Drawings	20 days	Tue 11/4/25	Mon 12/1/25
6	60% Design	30 days	Tue 12/2/25	Mon 1/12/26
7	City Review	10 days	Tue 1/13/26	Mon 1/26/26
8	Review Meeting	1 day	Tue 1/27/26	Tue 1/27/26
9	90% Design PS&E	30 days	Wed 1/28/26	Tue 3/10/26
10	City Review	10 days	Wed 3/11/26	Tue 3/24/26
11	Review Meeting	1 day	Wed 3/25/26	Wed 3/25/26
12	100% Design PS&E	20 days	Thu 3/26/26	Wed 4/22/26
13	Submitt 100% Design Packag	1 day	Thu 4/23/26	Thu 4/23/26



WHAT WE REQUIRE FROM THE CITY

TKE requires a partnership with the City in delivering these engineering design pedestrian improvement projects. To that end, we will require support from the City on the following items:

- Provide City Record Drawings
- Review Plan/Specification Submittals and Provide Comments
- Provide Direction for Design Questions

We will work with the City at every step to showcase our expertise and to ensure successful project delivery.

ADDITIONAL INNOVATIVE AND/OR CREATIVE APPROACHES

None.

CITY OWNED FACILITIES

TKE will not require the use of any City owned facilities to complete the project.

TKE Engineering, Inc. AT A GLANCE

City/District Engineer
TKE serves as the City Engineer in 5 Cities/Districts in Southern California

Grant Experience
TKE has provided design and construction management on $300 million of grant funded projects

Years in Business
TKE has conducted business for the past 25 years and has 25 years of experience in providing design, planning, plan check and construction management services for complete streets and active transportation projects

Office Locations
Headquarters
2305 Chicago Ave.
Riverside, CA 92507

Palm Desert
73993 Hwy. 111, Suite 201
Palm Desert, CA 92260

Company Structure
TKE is a California C Corporation founded in June 2000. TKE is not a subsidiary.
California Business License No.: 0109901
DIR Number PWLR No.: 1000413173

Size of Organization
70 Design Professionals, Professional Engineers, Construction Managers, Inspectors, Traffic Engineers, Surveyors, Project Plan Checkers, and Support Staff

Firm Owners/Officers
Michael P. Thornton, P.E., P.L.S., M.S.
- President
Terry M. Renner, P.E., P.L.S., Q.S.D.
- Senior Vice President
Steven W. Ledbetter, P.E., Q.S.D.
- Vice President

City of Banning Point of Contact
Terry Renner, P.E., P.L.S., Q.S.D.
Senior Vice President
Phone: (951) 680-0440
Email: trenner@tkeengineering.com

SECTION B | COMPANY INFORMATION

TKE Engineering, Inc. (TKE), a California C Corporation, was established in 2000 and in the last 25 years has developed into one of Southern California's premier full-service consulting municipal engineering firm. TKE was established with the goal of providing turnkey services for municipal agencies in order to benefit our community. As a result of the focus of a firm on this mission, TKE has earned a reputation for thoroughness, rapid turnaround, cost efficiency and, overall quality of work. We are a highly motivated, dynamic firm.

TKE provides turnkey municipal engineering for pedestrian infrastructure improvement projects to numerous municipalities throughout Riverside, San Bernardino, Los Angeles, and Orange Counties. The municipal services provided by our firm include Civil Engineering Design, Traffic Engineering, Surveying, Project Management, Grant Administration, Construction Management, and Construction Inspection services, as well as Quality Assurance/Quality Control. Our Team includes an in-house Traffic Engineer to ensure all designs, including any countermeasures such as curb extensions, ADA curb ramps, RRFB's, high visibility crosswalks, and advanced warning signs and pavement markings will comply with all City and CAMUTCD requirements and provide for adequate truck movements without regular damage to the street improvements. TKE's experience includes project delivery from "cradle to grave". All of the engineering and management duties discussed herein are services we effectively provide routinely. We request that you verify our qualifications with City staff and other agencies presented in our proposal. In addition, we have worked on multi-million-dollar regional mega projects for a variety of government agencies.

TKE's headquarters is located at 2305 Chicago Avenue in Riverside, and our branch office is located at 73993 Highway 111, Suite 201 in Palm Desert. The City's point of contact will be Mr. Terry Renner, P.E., P.L.S., Q.S.D., TKE's Senior Vice President and proposed Project Manager/Client Liaison. He will service the City from our Riverside Headquarters and can be

reached at (951) 680-0440 or emailed at trenner@tkeengineering.com. TKE currently maintains a staff of 70 project managers, engineers, traffic engineers, surveyors, drafters, construction managers, inspectors, plan and map checkers, and clerical personnel.

LITIGATION HISTORY

Throughout our 25-year history, TKE has not filed for bankruptcy under any business name or has been named in any litigation, mediation or arbitration regarding the performance of any services similar to this project and does not have any pending claims. In addition, TKE does not have any claims or disciplinary action taken against the firm or any of its key personnel. TKE is financially sound and is well qualified and capable of providing the professional engineering design services required.

PEDESTRIAN INFRASTRUCTURE SAFETY EXPERIENCE

Strengthening pedestrian infrastructure plays a direct role in creating safer travel options and promoting a more active community. Well-designed and connected sidewalks, dedicated bikeways, clearly marked crosswalks, adequate lighting, signalized intersections and traffic-calming measures help minimize accidents, provide a secure setting, and encourage people to spend more time outdoors to facilitate meaningful connections that fosters vibrant, inclusive communities. By prioritizing safe, accessible, and enjoyable pedestrian infrastructure, cities can enhance both quality of life and environmental sustainability.

TKE has a long history of securing, managing and designing projects with grant funds for communities in need, and delivering community focused projects that create environments that prioritize safety, health, sustainability, and social interaction. We proudly serve municipal agencies with a variety of traffic engineering and transportation services for grant funded complete streets projects. TKE's experience includes an extensive knowledge with ADA requirements associated with walking and bicycle pathways, as well as curb access ramps, pedestrian ramps, crosswalks, traffic signals, medians and landscape beautification.

Our firm possesses the capability and comprehends the significance of adhering to complete streets, ATP and pedestrian related grant funding requirements in design and construction projects. TKE brings extensive expertise with grant funded projects and the design of pedestrian, vehicular traffic calming, public transportation, signalization, and beautification enhancements for the installation of complete streets improvements including but not limited to the following criteria. Complete streets improvement installations for this project will play a pivotal role in promoting active transportation and increasing pedestrian and vehicular safety improvements for the following reasons:

Traffic Calming: By implementing traffic calming measures such as medians and protected Class IV bikeways, the project will reduce vehicular speeds, minimize pedestrian travel time with the travel lanes, provide refuge islands for pedestrians crossing the roadway, and enhance active transportation methods which will reduce noise pollution and boost a more pedestrian friendly environment.

Vehicle Collision Mitigation: Curbs and other pedestrian improvements act as a barrier between vehicles and hazardous elements such as steep slopes, fixed objects, or opposing traffic lanes. Guardrails can absorb the impact energy of a collision, reduce the severity of injuries and prevent vehicles from leaving the roadway.

Channelization of Traffic: Medians, striping and other vehicular improvements assist in directing the flow of traffic by delineating lanes and separating opposing directions, reducing the risk of head-on collisions and improving overall roadway safety.

Bicycle and Pedestrian Protection: In urban areas, curbs and other improvements can provide a protective barrier between vehicular traffic and bicyclists and pedestrians within Class IV bicycle lanes and on sidewalks, enhancing pedestrian safety along roadways and walkways. Median and Class IV bicycle lane curbs and other roadway improvements are essential safety features that serve to mitigate the severity of collisions, prevent road departures,

channelize traffic, protect pedestrians and bicyclists, and enhance overall visibility, thereby contributing significantly to safety improvements on roadways.

Enhanced Visibility: Pedestrian improvements equipped with reflective materials or warning devices improve visibility, especially during low-light conditions or inclement weather, thereby alerting drivers to potential hazards and reducing the likelihood of accidents.

Signalization Enhancements: Traffic signals draw greater attention to vehicular rights-of-way and provide additional control than stop signs or unprotected left turn conditions, particularly in low-light conditions or during adverse weather, improving visibility to drivers approaching the intersection. Signalized intersections help reduce accidents, particularly broadside collisions and provide increased visibility and safety to pedestrians crossing the street.

TKE has provided numerous municipalities and agencies throughout Southern California with consulting services and staffing for every facet of complete streets and active transportation improvement public works projects. Examples of similar services for other public agencies are shown below.

COMPLETE STREET PEDESTRIAN, BIKEWAY AND TRAIL ACTIVE TRANSPORTATION IMPROVEMENT PROJECTS



HSIP CYCLE 10 PEDESTRIAN CROSSING AT RAMON ROAD NEAR CANDLEWOOD DRIVE, CITY OF CATHEDRAL CITY, CA

- Pedestrian crossing construction that included striping and signal improvements
- State funded HSIP grant project
- Construction engineering support which includes labor compliance monitoring



ARPA MORENO VALLEY CITYWIDE PEDESTRIAN ENHANCEMENTS AND PAVEMENT REHABILITATION, CITY OF MORENO VALLEY, CA

- Project included rehabilitation for 20 miles along various streets
- 26 traffic signal modifications and addition of bicycle and ADA facilities
- Pavement and pedestrian facility improvements throughout the city's arterial streets



5TH STREET AND GREENSPOT ROAD BIKEWAY IMPROVEMENTS, CITY OF HIGHLAND, CA

- Project included full inventory and assessment of all existing signing and striping
- Minor street widening and construction of trail improvements
- Installation of 5 miles of class I and II bike lanes, wayfinding, and bike signs



ATP CYCLE I SAFE ROUTE TO SCHOOL-FONTANA AVENUE AND ARROW BOULEVARD, CITY OF FONTANA, CA

- Project included bicycle lanes, sidewalk gap closures and ADA compliant pedestrian ramps
- Sidewalks, curbs, gutters, curb ramps, and bike lane improvements
- Storm drain modifications, utility relocations, private improvement restoration
- Design, surveying, grant management, construction assistance



ATP CYCLE 3 SAFE ROUTE TO SCHOOL PEDESTRIAN IMPROVEMENTS PROJECT, CITY OF FONTANA, CA

- Project included 5,900 linear feet of ADA and pedestrian enhancements
- Curbs, gutters, sidewalks, curb ramps, and bike lane improvements
- Storm drains modifications, utility relocations, private improvement restoration
- Design, surveying, grant management, construction assistance



ATP CYCLE 6 SAFE ROUTES TO SCHOOL, CITY OF MONTCLAIR, CA

- Project include 10,000 linear feet of complete streets, traffic calming, bicycle lanes, sidewalk, pedestrian signa and access ramp improvements
- Construction management, inspection, construction staking, & grant management
- Heavy coordination with residents and schools



ATP CYCLE 4 JUAN BAUTISTA DE ANZA MULTI-USE TRAIL, CITY OF MORENO VALLEY, CA

- 7 miles of class I bike path and multi-use DG trail
- ADA compliance for paths and pedestrian ramps
- Installation of 4 trail signals for street crossings
- Coordination with numerous utility agencies (DWR, SCG, EMWD, Frontier, Spectrum) for facility relocations

SECTION C | COMPANY PERSONNEL

KEY PERSONNEL

TKE fully recognizes the City of Banning's concern for high quality, timely performance, and precise communication when utilizing the services of a consultant. TKE has assembled a highly qualified and experienced project team, which we believe will best serve your needs. All assigned key professional staff are properly licensed to practice in California.



Terry Renner
P.E., P.L.S., Q.S.D.
Client Liaison/Project Manager

Education
Bachelor of Science – Civil Engineering, California State Polytechnic University, Pomona, CA

Credentials
California Professional Civil Engineer #69984
California Licensed Land Surveyor #9762
California Qualified SWPPP Developer #24329

Mr. Renner is the Senior Vice President of TKE and has over 25 years of experience in civil engineering design, plan checking, project management and construction management of both development and public works infrastructure projects, including grading improvements, street and transportation improvements, traffic engineering, drainage improvements, water improvements, sewer improvements, facilities improvements and recreation improvements. He will serve as the point of contact to the City and be responsible for project management and coordination with all staff. He currently provides traffic and transportation engineering services to the cities of Fontana, Calimesa, Upland, Wildomar, Highland, and Adelanto. His experience includes services during pre-project planning, design, plan review, construction management and inspection, along with operations and maintenance. He also has experience conducting traffic studies, specialized access analysis, parking studies, signal operations, signal timing, and traffic control. He has successfully delivered a wide variety of complex and challenging projects and is dedicated to ensuring that the plans produced by TKE continue to exceed industry standards. Through his career, Terry has accumulated extensive experience in Transportation and Traffic Engineering field. He has planned, designed and managed construction for more than 30 miles of roadways, street widening, medians, traffic calming, roundabouts, signing and striping modifications, bicycle lanes, and pedestrian facilities for major corridors, arterials, collectors and residential streets. Finally, Terry has overseen public works projects for signal modification and ITS improvements including projects in Caltrans jurisdiction and involving multi-agency coordination.



Octavio Parada
Project Engineer

Education
Bachelor of Science – Autonomous University of Baja California, Mexico (UABC)

Certifications
Traffic Engineering for Highways, Secretary of Transport and Communications (SCT-Mexico); CAD Pilot Boot Camp for Civil 3D, CVIS

Mr. Parada has over 24 years of progressive experience in civil engineering in the public works sector as well as the private sector. He will be performing design of the proposed improvements. He is result-driven, proactive and detail-oriented with a proven track record of successfully handling and delivering a wide variety of complex and challenging projects. He is dedicated to ensure that projects exceed industry standards and consistently finishing under budget and schedule. Through his career, Octavio has accumulated extensive experience in planning, designing and project completion for more than 30 miles of roadways, street widening, medians, traffic calming, roundabouts, signing and striping modifications, bicycle lanes, pedestrian facilities for major corridors, arterials, collectors and residential streets, including water improvements, sewer improvements, drainage improvements, grading plans and computerized system modeling for drainage master plans. Finally, Octavio has worked in the private sector for commercial and industrial

development as technical director managing projects from the conceptual stage, through planning, designing, bidding, construction, and project completion under project specifications and exceeding client expectations.



Travis Bradshaw
Associate Project Engineer/ Grant Compliance

Education
Bachelor of Science – Civil Engineering, San Diego State University, San Diego, CA

Credentials
California E.I.T. #178961

Mr. Bradshaw joined TKE 5 years ago after graduating from San Diego State University with a degree in Civil Engineering. He will be performing design assistance and grant compliance services. As an Associate Engineer, Mr. Bradshaw has been responsible for assistance in street design, construction management, utility coordination, review of construction submittals and request for information responses, progress payments, change orders review, preparation of construction cost estimate and project specifications. Mr. Bradshaw also has extensive experience with Federal and State Grant funded projects. Within his role as an Associate Engineer, he assisted in drafting street improvement plans, street design projects, the development of construction management plans, conduct regular construction and progress meetings, maintain records of contract, and also ensuring that all permits and certifications are obtained.



Justin Schlaefli
P.E., T.E., P.T.O.E.
Traffic Engineer

Education
Bachelor of Science – Civil Engineering, San Diego State University, San Diego, CA
Master of Science – Civil Engineering, Norwich University, Northfield, VT

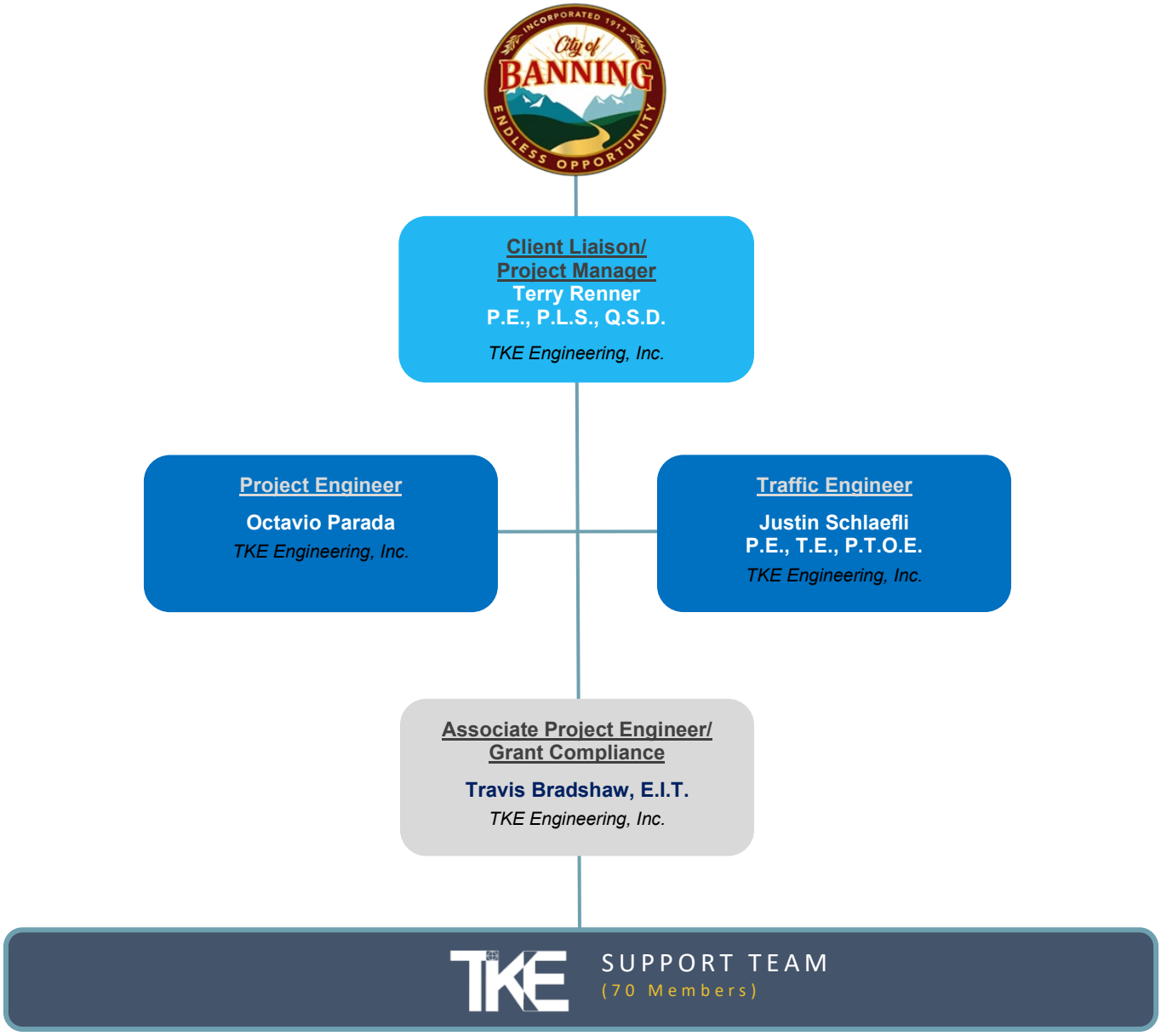
Credentials
California Professional Civil Engineer #74670
California Licensed Traffic Engineer #2564

Mr. Schlaefli has nearly over 24 years of experience in the transportation field. He will be performing quality assurance for all pedestrian and traffic improvement design. He is responsible for managing projects on a day-to-day basis as well as interfacing with other project team members and decision makers/government staff and Contractors. He specializes in Intelligent Transportation Systems, Transportation Planning, Construction, Signal Maintenance, Traffic Engineering and Traffic Operations. He has experience working on both public sector projects as well as private sector development. His experience ranges from construction management and inspection to operations and maintenance. He also has experience conducting traffic studies, specialized access analysis, parking studies, trip generation studies, traffic micro-simulation, signal operations, signal timing, traffic control and design/build of ITS solutions. In addition, Mr. Schlaefli has served as a subject matter expert in court, for the State of California and for vendors in the transportation industry. He is also a proud alumnus of San Diego State University where he has served as a guest lecturer and adjunct faculty teaching Transportation Engineering and helping subconsultant.

SUBCONSULTANTS

TKE has all the resources in-house to service this project with 70 Designers, Professional Engineers, Construction Managers, Inspectors, Traffic Engineers, Surveyors, and Support Staff, and will not require the assistance of subconsultants.

ORGANIZATIONAL CHART



RESUMES



TERRY RENNER
P.E., P.L.S., Q.S.D.

Client Liaison/ Project Manager

TKE Engineering, Inc.
(951) 680-0440

EDUCATION

B.S., Civil Engineering, California State Polytechnic University, Pomona, CA

CERTIFICATIONS

Caltrans SWPPP Certified QSP/QSD Training

REGISTRATIONS

P.E. License Number 69984 (CA)

P.L.S. License Number 9762 (CA)

Qualified SWPPP Developer and Practitioner #24329

AFFILIATIONS

Riverside-San Bernardino Counties Branch, American Society of Civil Engineers

American Public Works Association

American Council of Engineering Companies of California

Mr. Renner is the Senior Vice President of TKE and has over 25 years of experience in civil engineering design, plan checking, project management and construction management of both development and public works infrastructure projects, including grading improvements, street and transportation improvements, traffic engineering, drainage improvements, water improvements, sewer improvements, facilities improvements and recreation improvements. He will serve as the point of contact to the City and be responsible for project management and coordination with all staff. He currently provides traffic and transportation engineering services to the cities of Fontana, Calimesa, Upland, Wildomar, Highland, and Adelanto. His experience includes services during pre-project planning, design, plan review, construction management and inspection, along with operations and maintenance. He also has experience conducting traffic studies, specialized access analysis, parking studies, signal operations, signal timing, and traffic control. He has successfully delivered a wide variety of complex and challenging projects and is dedicated to ensuring that the plans produced by TKE continue to exceed industry standards. Through his career, Terry has accumulated extensive experience in Transportation and Traffic Engineering field. He has planned, designed and managed construction for more than 30 miles of roadways, street widening, medians, traffic calming, roundabouts, signing and striping modifications, bicycle lanes, and pedestrian facilities for major corridors, arterials, collectors and residential streets. Finally, Terry has overseen public works projects for signal modification and ITS improvements including projects in Caltrans jurisdiction and involving multi-agency.

DETAILED PROJECT EXPERIENCE

- **County Line Road Transportation Corridor (LPP)** – *County Line Road, City of Calimesa* – Mr. Renner was the principal in charge for design of the SB1 State grant funded project for the street widening and roundabout improvements on County Line Road. The Project includes four (4) single-lane and one (1) multi-lane roundabout, together with street, pedestrian, and bicycle improvements, to improve safety and efficiency throughout the corridor. The innovative approach to implement roundabout intersection throughout the corridor provides adequate capacity and level of service to remain a two-lane street; thus, significantly reducing right-of-way and construction costs to construct a four-lane corridor.
- **ATP Cycle 3 Safe Routes to School**, *City of Fontana* – Mr. Renner was the Project Manager for design of this project. This project consisted of the preparation plans, technical specifications, construction cost estimates (PS&E) and construction support services for 7,700 linear foot ADA and pedestrian enhancement project. The project includes the construction of curb, gutter, sidewalk, curb ramp, bike lane

improvements, traffic signal modifications, utility relocations, private improvement restoration and signing and striping. TKE is coordinating with Caltrans for completion of the PES, right-of-way certifications and obtaining the RFA for construction.

- **Acacia Avenue Rehabilitation,** *City of Fullerton* – Mr. Renner served as the Project Manager for this project providing design engineering services for the pavement rehabilitation on Acacia Avenue and Dorothy Lane. This project included rehabilitation of existing pavement conditions, sidewalk replacement, curb and gutter replacement, and street restriping. The project scope of work included preparation of full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services.

- **Montclair Safe Routes to School Implementation Project (ATP Cycle 6),** *City of Montclair* – Mr. Renner was the Project Manager for the design of the ATP Cycle 6 Safe Routes to Montclair High School, Monte Vista, and Montera Elementary Schools Project. It included the preparation of full construction documents including environmental compliance, ROW acquisition, plans, technical specifications, PS&E and construction support services for the design of bike lanes, curb and gutter, sidewalk, driveways, crosswalks, ADA curb ramps, drainage structures, bike lane, signing and striping, traffic signal, enhance street lighting improvements, traffic calming treatments like in-ground and overhead rapid flashing beacons, raised or painted medians and curb return bulb-outs to increase pedestrian safety and improve traffic efficiency.

- **ATP Cycle 2 Safe Routes to School – Fontana Avenue and Arrow Boulevard Project**, *City of Fontana* – Mr. Renner was the Project Manager for design of this project that consisted of preparing full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services for the 5,900 LF ADA and pedestrian enhancement project. It included the construction of curb, gutter, sidewalk, curb ramp, bike lane improvements, utility relocations, storm drain modifications, private improvement restoration and signing and striping. TKE successfully coordinated with Caltrans for completion of the PES, right-of-way certifications and obtaining the RFA for construction



OCTAVIO PARADA

Project Engineer

TKE Engineering, Inc.
(951) 680-0440

EDUCATION

B.S., Autonomous University of Baja California, Mexico (UABC)

CERTIFICATIONS

Traffic Engineering for Highways, Secretary of Transport and Communications (SCT-Mexico)

CAD Pilot Boot Camp for Civil 3D, CVIS

Mr. Parada has over 24 years of progressive experience in civil engineering in the public works sector as well as the private sector. He will be performing design of the proposed improvements. He is result-driven, proactive and detail-oriented with a proven track record of successfully handling and delivering a wide variety of complex and challenging projects. He is dedicated to ensure that projects exceed industry standards and consistently finishing under budget and schedule. Through his career, Octavio has accumulated extensive experience in planning, designing and project completion for more than 30 miles of roadways, street widening, medians, traffic calming, roundabouts, signing and striping modifications, bicycle lanes, pedestrian facilities for major corridors, arterials, collectors and residential streets, including water improvements, sewer improvements, drainage improvements, grading plans and computerized system modeling for drainage master plans. Finally, Octavio has worked in the private sector for commercial and industrial development as technical director managing projects from the conceptual stage, through planning, designing, bidding, construction, and project completion under project specifications and exceeding client expectations.

DETAILED PROJECT EXPERIENCE

- **Montclair Safe Routes to School Implementation Project (ATP Cycle 6),** *City of Montclair* – Mr. Parada was the Project Engineer for the design of the ATP Cycle 6 Safe Routes to Montclair High School, Monte Vista, and Montera Elementary Schools Project that included the preparation of full construction documents including environmental compliance, ROW acquisition, plans, technical specifications, PS&E and construction support services for the design of bike lanes, curb and gutter, sidewalk, driveways, crosswalks, ADA curb ramps, drainage structures, bike lane, signing and striping, traffic signal, enhance street lighting improvements, traffic calming treatments like in-ground and overhead rapid flashing beacons, raised or painted medians and curb return bulb-outs to increase pedestrian safety and improve traffic efficiency.
- **County Line Road Transportation Corridor (LPP)** – *County Line Road, City of Calimesa* – Mr. Parada was the Project Manager for design of the SB1 State grant funded project for the street widening and roundabout improvements on County Line Road. The Project includes four (4) single-lane and one (1) multi-lane roundabout, together with street, pedestrian, and bicycle improvements, to improve safety and efficiency throughout the corridor. The innovative approach to implement roundabout intersection throughout the corridor provides adequate capacity and level of service to remain a two-lane street; thus, significantly reducing right-of-way and construction costs to construct a four-lane corridor.
- **ATP Cycle 3 Street Safe Routes to School Pedestrian Improvement Project,** *City of Fontana, CA* – Mr. Parada served as the Project Engineer for the ATP Cycle 3 Safe Routes to School Pedestrian

Improvement Project. TKE provided design engineering services for the Safe Routes to Schools project funded through ATP Cycle 2 for the City of Fontana for Fontana Ave and Arrow Boulevard. This project consisted of the preparation of full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services for the 5,900 linear foot ADA and pedestrian enhancement project. The project included the construction of curb, gutter, sidewalk, curb ramp, bike lane improvements, utility relocations, storm drain modifications, private improvement restoration and signing and striping.

- **ATP Cycle 1 Safe Routes to Calimesa and Wildwood Elementary Schools Project,** *City of Yucaipa/Calimesa* – Mr. Parada was the project engineer for design of the Active Transportation Program, Cycle 1 project. This project consists of the preparation of full construction documents including environmental compliance documents, right-of-way acquisition, plans, technical specifications, construction cost estimates (PS&E) and construction support services for the design of the Bicycle lanes, curb and gutter, sidewalk, crosswalks, ADA curb ramps, signing and striping along Avenue 'H' from 3rd Street to Holmes Street and along County Line Road between 3rd Street and California Street.
- **Palomar/Clinton Keith Sidewalk, Trail, and Bike Lane Connectivity Project,** *City of Wildomar, CA* – Mr. Parada served as the Project Engineer for the Palomar/Clinton Keith Connectivity that included approximately one mile of sidewalk connectivity, ultimate street widening, storm drain, striping, and private property restoration that required full depth removal and placement of AC pavement; removal and reconstruction of concrete curbs and gutters, ADA ramps, cross-gutters, sidewalks; construction of concrete sidewalks, curbs and gutters, cross-gutters, ADA ramps, and driveway approaches; construction of CMU retaining wall and significant regrading along hillsides; construction of a multipurpose DG Trail; construction of catch basins, rock bioswales, headwalls, and storm drains; installation of a new pedestrian push button system and curb ramp at the intersection of Clinton Keith Road and Renaissance Plaza; relocation of miscellaneous utilities; raising of various utility manholes/valves and installation of traffic signing, striping and loop detectors.
- **CDBG Street Improvement Project**, *City of El Monte* – Mr. Parada was a project engineer for design of CDBG funded pavement rehabilitation on Klingerman Street, Strozier Avenue and Fern Street for the City of El Monte. This project consists of the preparation of full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services for the design of the pavement rehabilitation, curb, gutter, sidewalk, ADA curb ramps, and striping replacement.



TRAVIS BRADSHAW

E.I.T.

Associate Project Engineer/ Grant Compliance

TKE Engineering, Inc.

EDUCATION

B.S., Civil Engineering, San Diego State University, San Diego, CA

CERTIFICATIONS

E.I.T. No. 178961

Mr. Bradshaw joined TKE 5 years ago after graduating from San Diego State University with a degree in Civil Engineering. He will be performing design assistance and grant compliance services. As an Associate Engineer, Mr. Bradshaw has been responsible for assistance in street design, construction management, utility coordination, review of construction submittals and request for information responses, progress payments, change orders review, preparation of construction cost estimate and project specifications. Mr. Bradshaw also has extensive experience with Federal and State Grant funded projects. Within his role as an Associate Engineer, he assisted in drafting street improvement plans, street design projects, the development of construction management plans, conduct regular construction and progress meetings, maintain records of contract, and also ensuring that all permits and certifications are obtained.

DETAILED PROJECT EXPERIENCE

- **Montclair Safe Routes to School Implementation Project (ATP Cycle 6),** *City of Montclair* – Mr. Bradshaw was the Assistant Project Engineer for the design of the ATP Cycle 6 Safe Routes to Montclair High School, Monte Vista, and Montera Elementary Schools Project that included the preparation of full construction documents including environmental compliance, ROW acquisition, plans, technical specifications, PS&E and construction support services for the design of bike lanes, curb and gutter, sidewalk, driveways, crosswalks, ADA curb ramps, drainage structures, bike lane, signing and striping, traffic signal, enhance street lighting improvements, traffic calming treatments like in-ground and overhead rapid flashing beacons, raised or painted medians and curb return bulb-outs to increase pedestrian safety and improve traffic efficiency.
- **County Line Road Transportation Corridor (LPP)** – *County Line Road, City of Calimesa* – Mr. Bradshaw was the Assistant Project Manager for design of the SB1 State grant funded project for the street widening and roundabout improvements on County Line Road. The Project includes four (4) single-lane and one (1) multi-lane roundabout, together with street, pedestrian, and bicycle improvements, to improve safety and efficiency throughout the corridor. The innovative approach to implement roundabout intersection throughout the corridor provides adequate capacity and level of service to remain a two-lane street; thus, significantly reducing right-of-way and construction costs to construct a four-lane corridor.
- **Sierra Avenue Widening Project,** *City of Fontana* – Mr. Bradshaw is the Assistant Project Manager for the City of Fontana's Sierra Avenue Street Widening project from Foothill Boulevard to Baseline Avenue. The Project consists of approximately 1 mile of street improvements including construction of concrete sidewalks, curbs and gutters, cross-gutters, ADA ramps, and driveway approaches; construction of catch basins and storm drains; undergrounding of overhead utilities;

construction of sewer main and laterals; raising of various utility manholes/valves; traffic signal modifications; and installation of traffic signing and striping. Services include value engineering, utility company coordination, construction management, inspection, and coordination with property owners/residents.

- **I-10 Cherry Valley Interchange Improvement Management,** *City of Calimesa, CA* - Mr. Bradshaw served as Assistant Project Manager. TKE provides project management services for the City for the Cherry Valley Interchange including review and oversight of the Project Study Report (PSR or Project Initiation Document – PID) prepared by the County of Riverside and the consulting engineering firm, coordination with all stake holders including adjacent private developments, preparation/review of cooperation and funding agreements between stake holders. The PSR provides new interchange alternatives and preliminary geometric layouts that includes the City's preferred interchange alternative and other viable interchange alternatives along with initial traffic data, storm water data, and environmental data. Construction of a new interchange is vital to the City to increase capacity and functionality for the Cherry Valley Boulevard on/off-ramps to support the current/future traffic demand. The project is moving into the Project Approval and Environmental Document phase and is expected to begin construction in 2022.
- **On Call Engineering Services,** *City of Calimesa* – Mr. Bradshaw serves as an Associate Engineer for the City of Calimesa Engineering Department, assisting the City Engineer with ongoing projects and weekly tasks. Mr. Bradshaw has assisted in preparing grant applications, performing entitlement reviews, preparing development project conditions of approval, determining project impacts, plan review for permit issue, coordination with Caltrans for interchange improvements and coordination with Developers for construction of City improvement projects.
- **On Call Engineering Services,** *City of Hesperia* – TKE provides on-call civil engineering services to the City, including City Engineer. TKE managed more than $20 million in public improvement projects. Mr. Bradshaw has helped to prepare material for grant applications, and preliminary cost estimates. He was also involved in the City Wastewater Treatment Plant and sewer/recycled water conveyance system Investigation.



JUSTIN SCHLAEFLI

P.E., T.E., P.T.O.E.

Traffic Engineer

TKE Engineering, Inc.
(951) 680-0440

EDUCATION

B.S., Civil Engineering, San Diego State University, San Diego, CA

M.S., Civil Engineering, Norwich University, Northfield, VT

REGISTRATIONS

P.E. License Number 74670 (CA)

T.E. License Number 2564 (CA)

AFFILIATIONS

Professional Traffic Operations Engineer

Former Second Vice President, San Diego Highway Development Association

Member, National Academy of Sciences Transportation Research Board

Member, Institute of Transportation Engineers

Mr. Schlaefli has nearly over 24 years of experience in the transportation field. He will be performing quality assurance for all pedestrian and traffic improvement design. He is responsible for managing projects on a day-to-day basis as well as interfacing with other project team members and decision makers/government staff and Contractors. He specializes in Intelligent Transportation Systems, Transportation Planning, Construction, Signal Maintenance, Traffic Engineering and Traffic Operations. He has experience working on both public sector projects as well as private sector development. His experience ranges from construction management and inspection to operations and maintenance. He also has experience conducting traffic studies, specialized access analysis, parking studies, trip generation studies, traffic micro-simulation, signal operations, signal timing, traffic control and design/build of ITS solutions. In addition, Mr. Schlaefli has served as a subject matter expert in court, for the State of California and for vendors in the transportation industry. He is also a proud alumnus of San Diego State University where he has served as a guest lecturer and adjunct faculty teaching Transportation Engineering and helping subconsultant.

DETAILED PROJECT EXPERIENCE

- **ATP Cycle 3 Street Safe Routes to School Pedestrian Improvement Project,** *City of Fontana, CA* – Mr. Schlaefli served as the Traffic Engineer for the ATP Cycle 3 Safe Routes to School Pedestrian Improvement Project. TKE provided design engineering services for the Safe Routes to Schools project funded through ATP Cycle 2 for the City of Fontana for Fontana Ave and Arrow Boulevard. This project consisted of the preparation of full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services for the 5,900 linear foot ADA and pedestrian enhancement project. The project included the construction of curb, gutter, sidewalk, curb ramp, bike lane improvements, utility relocations, storm drain modifications, private improvement restoration and signing and striping. TKE successfully coordinated with Caltrans for completion of the PES, right-of-way certifications and obtaining the RFA for construction.
- **County Line Road Transportation Corridor (LPP)** – *County Line Road, City of Calimesa* – Mr. Schlaefli served as the Traffic Engineer for this project involving street widening and roundabout improvements on County Line Road. The Project includes four (4) single-lane and one (1) multi-lane roundabout, together with street, pedestrian, and bicycle improvements, to improve safety and efficiency throughout the corridor. The innovative approach to implement roundabout intersection throughout the corridor provides adequate capacity and level of service to remain a two-lane street; thus, significantly

reducing right-of-way and construction costs to construct a four-lane corridor.

- **Montclair Safe Routes to School Implementation Project (ATP Cycle 6),** *City of Montclair* – Mr. Schlaefli was the Traffic Engineer for the design of the ATP Cycle 6 Safe Routes to Montclair High School, Monte Vista, and Montera Elementary Schools Project that included the preparation of full construction documents including environmental compliance, ROW acquisition, plans, technical specifications, PS&E and construction support services for the design of bike lanes, curb and gutter, sidewalk, driveways, crosswalks, ADA curb ramps, drainage structures, bike lane, signing and striping, traffic signal, enhance street lighting improvements, traffic calming treatments like in-ground and overhead rapid flashing beacons, raised or painted medians and curb return bulb-outs to increase pedestrian safety and improve traffic efficiency.
- **CV Sync Traffic Signal Synchronization,** *City of Palm Desert* – Mr. Schlaefli serves as the Resident Engineer assisting in oversight of all construction management aspects for Phase 1 of the CV Sync project (Formerly CVAG TSSPP). This work involves plan review, management and approval of construction scheduling, budget, field work, local agency procedures and more. As the Local Agency Resident Engineer, Mr. Schlaefli ensures adherence with applicable State and Federal requirements requiring familiarity with the CAMUTCD, Caltrans Standard Plans, Caltrans Construction Manual, Local Agency Procedures Manual and other applicable standards and documents. This project involves coordination and support across twelve agencies in the Coachella Valley.
- **Mission Bay Drive Adaptive Signal Project**, City of San Diego – Mr. Schlaefli served as the Project Engineer and Construction Manager responsible for introducing the latest technology to the City. The project started in the advanced planning phases investigating field conditions and working with City staff to explore technological options for improving 7 existing and one future signal on Mission Bay Drive. Mr. Schlaefli provided assistance to the City exploring technology vendors and developing system requirements necessary to provide a new Adaptive Traffic Control (ATC) system. He oversaw the design/build effort to convert 7 existing signals and construct one future signal as an ATC system using Trafficware's SynchroGreen system. This effort started with project planning, budget review, constructability review, permit application and contractor coordination, and included communications design, installation, testing and quality assurance, controller replacements, TMC upgrades, ATMS, CCTV and Bluetooth monitoring system installation and configuration.

SECTION D | DISCLOSURE

TKE has, and continues to, provide professional engineering, development, and plan checking services to the City of Banning, reporting to its Public Works Director, on previous CIP projects; such as the Lions Park ADA Upgrades and Barbour Street Water Main. Said professional services contracts were all awarded through a competitive, public procurement process. TKE does not have any additional 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 to disclose. TKE does not have any conflicts of interest that would prohibit us from performing the requested engineering design services.

SECTION E | EXPERIENCE AND REFERENCES

RELEVANT PROJECT EXPERIENCE

MONTCLAIR SAFE ROUTES TO SCHOOL IMPLEMENTATION PROJECT (ATP CYCLE 6)

City of Montclair, CA



Client Contact:	Rosemary Hoerning, P.E., P.L.A., M.P.A.
Phone Number:	(909) 626-8471
Email:	rhoerning@cityofmontclair.org
Project Cost:	$5.1 million
Completion Date:	Current

RELEVANCE TO BANNING

- *ATP Grant Funding Project*
- *ADA Street/Pedestrian Design*
- *Traffic Signal Design*
- *Utility Coordination*
- *Environmental Compliance*
- *Right-of-Way Engineering*
- *Caltrans ATP Grant Assistance*
- *Street Lighting Enhancement*

DESCRIPTION

TKE is providing design engineering services for the Active Transportation Program, Cycle 6 Safe Routes to Montclair High School, Monte Vista, and Montera Elementary Schools project for the City of Montclair. This project consists of the preparation of full Construction documents including environmental compliance documents, right-of-way acquisition, plans, technical specifications, construction cost estimates (PS&E) and construction support services for the design of the Bicycle lanes, curb and gutter, sidewalk, driveways, crosswalks, ADA curb ramps, drainage structures, bike lane, signing and striping, traffic signal, enhance street lighting improvements, traffic calming treatments like in-ground and overhead rapid flashing beacons, raised or painted medians and curb return bulb-outs to increase pedestrian safety and improve traffic efficiency within the vicinity of the project, bounded on the north, south, east and west side by San Bernardino Street, Holt Boulevard, Central Avenue and Mills Avenue respectively.

SERVICES

Services included design and construction support of street improvements, street lighting, including sidewalk improvements, ADA access ramps, traffic signal and signing and striping, all performed under a tight schedule necessary to ensure compliance with funding deadlines imposed by Caltrans Local Assistance.

KEY STAFF

Terry Renner, P.E., P.L.S., Q.S.D., Justin Schlaefli, P.E., T.E., P.T.O.E., Monae Pugh, Octavio Parada, Travis Bradshaw, E.I.T., Ron Musser, P.L.S.

COUNTY LINE ROAD TRANSPORTATION CORRIDOR (LPP)

City of Calimesa, CA



Client Contact: Will Kolbow
Phone Number: (909) 795-9801
Email: wkolbow@cityofcalimesa.com
Project Cost: $10.1 million ($3.7 million grant)
Completion Date: 2022

RELEVANCE TO BANNING

- *Pedestrian and Bicycle Enhancements*
- *Public Works Design Project*
- *State Grant Management*
- *Community Outreach Effort*
- *Right-of-Way Engineering*
- *Utility Relocation/ Coordination*
- *Caltrans Local Assistance Processing*

DESCRIPTION

TKE was the prime contractor preparing and obtaining a grant for the City of Calimesa through the Road Repair and Accountability Act of 2017 (SB1) Local Partnership Program (LPP). TKE prepared street widening and roundabout improvements for the construction of the County Line Road Transportation Corridor. The Project includes four (4) single-lane and one (1) multi-lane roundabouts, together with street, pedestrian, and bicycle improvements, to improve safety and efficiency throughout the corridor. The innovative approach to implement roundabout intersection throughout the corridor provides adequate capacity and level of service to remain a two-lane street; thus, significantly reducing right-of-way and construction costs to construct a four-lane corridor.

SERVICES

Services include grant coordination and management, design, topographic survey, right-of-way engineering, environmental assistance, roadway safety analysis, preparation of exhibits, cost estimates, coordination with California Transportation Commission, construction management, inspection, and construction staking.

KEY STAFF

Michael Thornton, P.E., P.L.S., M.S., Terry Renner, P.E., P.L.S., Q.S.D., Steven Ledbetter, P.E., Q.S.D., Justin Schlaefli, P.E., T.E., P.T.O.E., Octavio Parada, Monae Pugh, Ron Musser, P.L.S., Travis Bradshaw, E.I.T., Marvin Lara, E.I.T.

ATP CYCLE 3 SAFE ROUTE TO SCHOOL PEDESTRIAN IMPROVEMENTS

City of Fontana, CA



Client Contact: Jeffrey Kim, P.E.
Phone Number: (909) 350-7632
Email: jkim@fontanaca.gov
Project Cost: $1.9 million
Completion Date: 2023

RELEVANCE TO BANNING

- *PS&E and Construction Support*
- *Street/Pedestrian Design*
- *Grant Funding Coordination*
- *Utility Relocation/Coordination*
- *Design Topographic Surveying*
- *Right-of-Way Engineering (19 Parcel Acquisitions)*

DESCRIPTION

TKE was responsible for providing design engineering services for the Safe Routes to Schools project funded through ATP Cycle 3 for the City of Fontana for Fontana Ave and Arrow Boulevard. This project consisted of the preparation of full Construction documents including plans, technical specifications, construction cost estimates (PS&E) and construction support services for the 5,900 linear feet of bicycle lane, ADA and pedestrian enhancements. The project included the construction of curb, gutter, sidewalk, curb ramp, bike lane improvements, utility relocations, storm drain modifications, private improvement restoration and signing and striping. TKE successfully coordinated with Caltrans for completion of the PES, right-of-way certifications and obtaining the RFA for construction.

SERVICES

Services included design, surveying, grant management, PES preparation, environmental compliance services, utility coordination, right-of-way engineering, and construction assistance.

KEY STAFF

Terry Renner, P.E., P.L.S., Q.S.D., Octavio Parada, Justin Schlaefli, P.E., T.E., P.T.O.E., Monae Pugh, Ron Musser, P.L.S.

HSIP CYCLE 10 PEDESTRIAN CROSSING AT RAMON ROAD NEAR CANDLEWOOD DRIVE

City of Cathedral City, CA



Client Contact:	Andrew Lee
Phone Number:	(760) 770-0340
Email:	alee@cathedralcity.gov
Project Cost:	$1.1 million
Completion Date:	On-Going

RELEVANCE TO BANNING

- *HSIP Funding Experience*
- *Construction Management*
- *Inspection Services*
- *Grant Funded Project Experience*
- *Labor Compliance Monitoring*

DESCRIPTION

This project is a State-funded HSIP project requirements Cycle 10: Pedestrian Signal encompassing construction of a pedestrian crossing signal at Ramon Road near Candlewood Drive. The project includes a pedestrian, signal, or median fencing on Ramon Road from Landau Boulevard to Whispering Palms Trail and various signing and striping improvements. The project requires construction engineering support which includes labor compliance monitoring and enforcement, inspection and materials testing in accordance with State-funded HSIP requirements.

SERVICES

Services include full-service construction management assistance, labor compliance monitoring and enforcement, inspection, and materials testing.

KEY STAFF

Terry Renner, P.E., P.L.S., Q.S.D., Justin Schlaefli, P.E., T.E., P.T.O.E., Jeannette Barlow, Greg Laywer

CV SYNC – PHASE I & II

Coachella Valley Association of Governments, City of Coachella Valley, CA



Client Contact: Jonathan Hoy
Phone Number: (760) 346-1127
Email: jhoy@cvag.org
Project Cost: $109.0 million
Completion Date: Current

RELEVANCE TO BANNING

- *Public Works Construction Management Inspection Project*
- *Traffic Signal, Synchronization and Special Inspections*
- *Electrical Inspections*
- *State and Federal Grant Management*

DESCRIPTION

This project located in the Coachella Valley consists of upgrading the local agencies existing legacy (outdated) traffic signal controllers, traffic management systems, and communication systems with the latest off-the-shelf technologies in order to provide inter-agency traffic signal synchronization along three regional roadways including Highway 111, Ramon Road and Washington Street. The project improvements include advanced traffic management systems (ATMS), advanced transportation controllers (ATC), selected Intelligent Transportation System (ITS) elements, ITS sub-systems, and Ethernet/IP-based communications that will be expandable and scalable for future integration of ITS technologies and strategies, such as Integrated Corridor Management (ICM), Smart Cities, and Connected and Autonomous Vehicles. This project includes a Regional Traffic Management Center (RTMC) and local Traffic Operation Centers (TOC) that will have the capability to monitor, control of connected traffic signals, and be used as a monitoring tool for research and analysis to help determine regional system enhancements, operations, and maintenance.

SERVICES

Services included bid administration and pre-construction assistance, grant funding administration, construction management, inspection, and project closeout services.

KEY STAFF

Terry Renner, P.E., P.L.S., Q.S.D., Justin Schlaefli, P.E., T.E., P.T.O.E., Stephen Biscotti, Michael Counce, Ron Musser, P.L.S.

REFERENCES

Please see the Table below for a small, but representative list of agencies who have and continue to request TKE to assist them in delivering valuable projects to their communities. We respectfully request that you verify our qualifications with the listed references.

AGENCY	CONTACT NAME	PHONE NUMBER/ EMAIL ADDRESS	SERVICES PROVIDED	DATES SERVICES PROVIDED
City of Calimesa 908 Park Avenue Calimesa, CA 92320	**Will Kolbow** *City Manager*	(909) 795-9801 wkolbow@cityofcalimesa.net	Grant and Local Funded Street, Pedestrian and Signal Design	2012 – Present
City of Montclair 5111 Benito Street Montclair, CA 91763	**Rosemary Hoerning** *Executive Director of Engineering & Major Projects Manager*	(909) 721-1786 rhoerning@cityofmontlcair.org	Grant and Local Funded Street, Pedestrian and Signal Design	2019 – Present
City of Fontana 16489 Orange Way Fontana, CA 92335	**Phil Burum** *Deputy City Manager*	(909) 350-6727 pburum@Fontana.org	Grant and Local Funded Street, Pedestrian and Signal Design	2000 – Present
City of Jurupa Valley 303 W 8930 Limonite Avenue Jurupa Valley, CA 92509	**Paul Toor** *Director of Public Works/City Engineer*	(951) 332-6464 ptoor@jurupavalley.org	Grant and Local Funded Street, Pedestrian and Signal Design	2021 – Present

SECTION F | PRICE PROPOSAL (SUBMITTED SEPERATELY)

Per the instructions in the RFP, TKE's Price Proposal will be submitted separately via the City's online procurement portal, OpenGov.com.

City of Banning

RFP 25-101 Design Services for

The Pedestrian Crossing Upgrades at 19 Intersections Throughout The City of Banning

Consulting Engineering Fee

Task No.	Task	Project Manager Hours	Project Manager $	Project Engineer/Surveyor Hours	Project Engineer/Surveyor $	Assistant Engineer/Designer Hours	Assistant Engineer/Designer $	Clerical Hours	Clerical $	Surveying Hours	Surveying $	Sub-Consultants[2.] $	Total $
Design Scope of Services													
Task 1 - Project Management													
1.1	Kickoff Meeting	2	$ 360	4	$ 680		$ -	1	$ 95		$ -		$ 1,135
1.2	Progress Meetings	8	$ 1,440	16	$ 2,720		$ -	4	$ 380		$ -		$ 4,540
1.3	Invoicing	4	$ 720	8	$ 1,360		$ -	4	$ 380		$ -		$ 2,460
Task 2 - Preliminary Investigation/Site Assessment													
2.1	Data Colleciton, Survey and Site Reconnaissance	8	$ 1,440	30	$ 5,100	60	$ 9,000	8	$ 760	24	$ 6,360		$ 22,660
Task 3 - Preliminary Engineering Design													
3.1	60% Design	8	$ 1,440	40	$ 6,800	80	$ 12,000	8	$ 760		$ -		$ 21,000
3.2	90% Design	4	$ 720	20	$ 3,400	40	$ 6,000	8	$ 760		$ -		$ 10,880
3.3	100% Design	2	$ 360	12	$ 2,040	20	$ 3,000	8	$ 760		$ -		$ 6,160
Task 4 - Specifications and Cost Estimates													
4.1	90% and Final	4	$ 720	16	$ 2,720	24	$ 3,600	16	$ 1,520		$ -		$ 8,560
Task 5 - Bidding/Construction Support													
5.1	RFI's Addenda, Submittal Review, As-Builts	8	$ 1,440	24	$ 4,080	16	$ 2,400	8	$ 760		$ -		$ 8,680
	Subtotal:	48	$ 8,640	170	$ 28,900	240	$ 36,000	65	$ 6,175	24	$ 6,360	$ -	$ 86,075

Rates:		**Design Total:**	$ 86,075
Project Manager	$ 180 /HR	**Rounded Design Total:**	**$ 86,100**
Project Engineer/Surveyor	$ 170 /HR		
Assistant Engineer/Designer	$ 150 /HR		
Clerical	$ 95 /HR		
Survey Crew	$ 265 /HR		

TKE Engineering, Inc.

SECTION G | VALUE ADDED SERVICES (SUBMITTED SEPERATELY)

Per the instructions in the RFP, TKE's value added services response will be submitted separately via the City's online procurement portal, OpenGov.com.

SECTION H | EVIDENCE OF INSURANCE (SUBMITTED SEPERATELY)

Per the instructions in the RFP, TKE's evidence of insurance will be submitted separately via the City's online procurement portal, OpenGov.com.



Prepared By:

TKE Engineering, Inc.
2305 Chicago Ave.
Riverside, CA, 92507

AGREEMENT FOR PROFESSIONAL SERVICES (C01196) FOR DESIGN SERVICE FOR PEDESTRIAN CROSSINGS AT 19 INTERCHANGE BY AND BETWEEN CITY OF BANNING AND TKE ENGINEERING, INC.

THIS AGREEMENT FOR PROFESSIONAL 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 TKE Engineering, Inc., 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 a Request for a Proposal (RFP 25-101) for the performance of the services for Design Services for Pedestrian Crossings at 19 Intersections 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 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

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 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).

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 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 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.

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
Terry Renner	Senior 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.

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

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.

1.15 Debarment or Suspension.

Consultant represents and warrants that, as of the Effective Date of this Agreement, Consultant is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Consultant 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. Consultant 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 Consultant or any subcontractor becomes debarred or suspended during the Term of this Agreement, Consultant shall immediately notify 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 Eighty-Six Thousand Seventy-Five Dollars ($86,075.00) (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 III 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.

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.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through December 31, 2026, 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.

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 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.

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) 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"), 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 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.

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 A.2.

3) 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 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 sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants 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 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.

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 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 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 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.

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 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 CIP Projects Manager City of Banning 99 East Ramsey Street Banning, California 92220 Email: psafari@banningca.gov
With a courtesy copy to:	John Pinkney, City Attorney Slovak Baron Empey Murphy & Pinkney 74774 Highway 111 Indian Wells, California 92210 Email: pinkney@sbemp.com

If to Consultant: Attn: Terry Renner
Senior Vice President
TKE Engineering, Inc.
2305 Chicago, Ave.
Riverside, CA, 92507
Email: trenner@tkeengineering.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.

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.

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

Art Vela, Date
Acting City Manager

ATTEST:

Sandra Calderon Date
Acting Administrative City Clerk

APPROVED AS TO FORM:
Slovak Baron Empy Murphy & Pinkney

John Pinkney 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 Design Service for Pedestrian Crossing at 19 Interchange prepared in connection therewith:

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

SECTION A | UNDERSTANDING AND APPROACH

PROJECT UNDERSTANDING

The City of Banning (City) is requesting proposals for professional engineering design services for the Pedestrian Crossing Upgrades at 19 Intersections throughout the City of Banning as part of an awarded HSIP Cycle 11 Grant. The City has adopted a Local Road Safety Plan (LRSP) to establish a strategic framework for identifying, analyzing, and prioritizing roadway safety infrastructure improvements. The LRSP crash analysis revealed that 65% of all citywide crashes occurred at unsignalized intersections, including 62% of fatal crashes and 70% of severe injury crashes. Pedestrians were identified as vulnerable roadway users (VRUs), comprising only 7% of total crashes but representing 46% of fatalities and 12% of severe injuries.

Based on these findings, the City has identified 19 unsignalized intersections with pedestrian crossings as high-priority locations for safety upgrades. These intersections represent areas with the highest concentrations of fatal and injury-related crashes and are located at the following 19 intersections:

1. Monarch Way and Wilson Street
2. Apex Street and Ramsey Street
3. 20th Street and Wilson Street
4. Nicolet Street and 21st Street
5. Nicolet Street and Sims Street
6. Wilson Street and 10th Street
7. Alessandro Road and Hoffer Street
8. Wilson Street and Hargrave Street
9. Alessandro Road and George Street
10. Nicolet Street and Alessandro Road
11. Livingston Street and 2nd Street
12. San Gorgonio Avenue and Lincoln Street (Route 243)
13. San Gorgonio Avenue and Westward Avenue (Route 243)
14. Nicolet Street and 20th Street
15. Nicolet Street and 2nd Street
16. San Gorgonio Avenue and George Street
17. Nicolet Street and Murray Street
18. Wilson Street and Florida Street
19. Westward Avenue and 4th Street

This initiative is funded through the Highway Safety Improvement Program (HSIP) and all project activities must comply with applicable state regulations and the Caltrans Local Assistance Procedures Manual (LAPM).

TKE is prepared to provide comprehensive Design Services for the Pedestrian Crossing Upgrades at the 19 designated intersections with services that include the preparation of Plans, Specifications, and Estimates (PS&E), as well as construction support. Based on the LRSP recommendations, TKE will incorporate proven countermeasures such as:

- Installation of curb extensions
- ADA-compliant curb ramps
- Rectangular Rapid Flashing Beacons (RRFBs)
- High-visibility crosswalks
- Advanced warning signs and pavement markings

TKE brings extensive experience in delivering HSIP, ATP, CDBG an numerous other grant-funded projects. TKE has provided design and construction management for more than $300 million in grant-funded transportation projects and is therefore fully versed in Caltrans project development standards. We are committed to supporting the City in achieving its roadway safety goals through thoughtful design, regulatory compliance, and community-focused solutions.

APPROACH

Our approach to this HSIP funded pedestrian improvement project, recognizing that both schedule and budget are of primary concern, dictates that design decisions must be made quickly and carefully.

When this is coupled with the various constraints present for a pedestrian safety improvement project, it is critical that the City choose a consultant with a proven track record of delivering. With a familiar team of senior level traffic and street design professionals, TKE is the right choice for this project.

With this pedestrian safety improvement project, our experience tells us that there has to be a proactive approach to completing the work. This includes early identification of critical design elements for the project locations and accurate cost estimating throughout the entire process. In preparing this proposal, our team established key issues so we can "hit the ground running" to make this a successful project for the City.

COMMUNICATION

TKE will implement continuous communications with City staff during project implementation to ensure a smooth transition between agency approvals. In addition, deliverables will be provided at every stage of project development for City review to ensure that the project is proceeding efficiently to avoid any potential rework. Continuous communications will ensure that project needs and objectives are met and the project remains on schedule.

CRITICAL ISSUES

Identification of Critical Design Elements

Our approach to identifying critical issues will be to immediately go into the field and document all the critical design elements so they can be presented to the City. This will give us a head start on instructing our survey team about what detailed information to collect. Some of these elements include key ground elevation information at the curb returns and bulb outs to determine how ADA access and drainage will be maintained for each of these locations.

Design

TKE has extensive experience working with various agencies on design of pedestrian activated warning devices such as Rapid-Rectangular Flashing Beacons (RRFB) and In-Roadway Warning Lights (IRWL). TKE designers have experience with the most common vendors in the traffic signal and pedestrian warning industry and experience with a variety of equipment. TKE designers have hands-on experience with traffic signal and pedestrian warning equipment including communications (wireless, fiber, ethernet-over-copper, cellular), detection (loop, radar, puck, video), controller (ATC, NEMA, Caltrans), cabinets and more. As a result, we can adapt and bring domain knowledge of a variety of equipment types and options which the City may operate or may desire to implement.

Ramp Transitions

For ramp construction projects, transitions to existing improvements are typically the most challenging component of design, especially in fully developed areas where buildings were constructed with insufficient setbacks to properly install the proposed improvements to today's standards.

With new requirements for ADA ramp construction, private improvements such as fences, walls, and landscaping may be impacted. TKE will identify such impacts early during project design and will develop an action plan for working with residents that may be impacted. Our goal will be to complete ramp design that will fully comply with ADA requirements at the same time as minimizing private property impacts or the need for additional rights-of-way.

Right-Of-Way

Upon determination of construction limits, TKE will assess right-of-way needs. Based on our preliminary research of existing right-of-way limits it appears as if right-of-way will not be required to create ADA pathways around any proposed improvements.

Accurate Cost Estimating

TKE understands the limits on ATP and SRTS funding. Because of the limited budget for this project, it is important to keep costs controlled. Our approach to controlling costs is to provide frequent and accurate cost estimates by using TKE's detailed cost estimating database. In addition to using this database, TKE utilizes our considerable experience with Construction Management to assist in providing constructability reviews and cost estimating based on current information from our on-going projects. Finally, with the current economic climate, construction costs are widely varying. We will also

discuss the project elements with local contractors to assure that we have the most current construction information available so that the City can ensure the most value for the public's dollar.

Familiarity With Funding Source

TKE is well versed with Caltrans Local Assistance requirements as well as the general guidelines for implementing HSIP funded projects. They include:

- Requesting that Caltrans furnish an expenditure authorization number.
- Submitting allocation request and finance letters to Caltrans Local Assistance requesting reimbursable costs allocation
- Ensuring Caltrans prepares a Program Supplement Agreement for City execution. If the City does not have a "State Funds Master Agreement" on file with Caltrans, one will be required.
- Ensuring that the City acquires Local Assistance approval for all required environmental clearances (CEQA) and right-of-way needed for the project.
- Ensuring that the project complies with the requirements of the Americans with Disabilities Act.
- Processing invoices to Caltrans Local Assistance for reimbursement.

SCOPE OF WORK

Task 1. Project Management

TKE's Project Manager will be responsible for the entire project team. He will attend all meetings, prepare agendas and corresponding meeting minutes together with collection of signatures for meeting attendees (sign-in sheets). He will meet with the City at appropriate times and will meet as needed with agencies, residents, property owners, and utilities in addition to the meetings presented below. He will also update the project budget and schedule prior to each City meeting for discussion with staff.

Task 1.1 Initial 'Kick Off' Meeting

Within 2 weeks after contract execution, we propose to meet with the City staff to conduct introductions, review project obligations/scope and to discuss all project requirements in detail. TKE will set up and manage the project, provide utility coordination (if necessary), perform quality assurance and quality control prior to each milestone submittal and in conformance with federal, state and city standards. TKE's Project Manager and Project Engineer will attend the meeting to determine project protocol and obtain City record drawings.

Task 1.2 Progress Meeting

TKE will coordinate monthly progress virtual meetings with City's Project Design Team (PDT) to update the City of the project progress and schedule status. TKE will maintain continuous awareness of the status of each task as it proceeds and make provisions to expedite and resolve any difficulties that may impede progress.

If necessary, TKE will facilitate other meetings with City Departments and other key stakeholders, creating meeting agendas with input from the city, and other stakeholders and preparing and distributing meeting minutes within 7 calendar days of the meeting.

Task 1.3 Invoicing

TKE will invoice the city on a monthly basis. With each monthly invoice, TKE will provide a detailed project schedule with continuous updates and executive summary of project status and the remaining budget for each task. Direct costs will be supported by a copy of receipts. Any change orders/additional work requests will be cleared and approved by the City prior to additional work being completed.

Deliverables: Schedule, Kick-Off Meeting, Work Plan, Meeting Agendas and Meeting Minutes, Monthly Invoices, Schedule, Project History File

Task 2. Preliminary Investigation/ Site Assessment

TKE will conduct a field visit of each of the 19 locations to evaluate all locations against the project scope of work. TKE will review and verify the location and type of existing improvements, intersection geometrics,

posted speed limits, on street parking conditions, and any other information that may alter the proposed upgrades.

Deliverables: Field Review Notes, Photo Logs

TASK 3. ENGINEERING DESIGN

Task 3.1 Design Plans 60%, 90% and 100%

TKE will compile all gathered information and prepare 60%, 90% and 100% design plans.

– ENVIRONMENTAL

Per the RFP, the project is assumed to be categorically exempted under CEQA requirements.

– 60% DESIGN

60% Design will include preparation geometric roadway improvement exhibits, preliminary construction drawings, preliminary technical specifications, preliminary construction estimates, and completed geotechnical report.

Construction drawings will show proposed street geometrics including locations of proposed asphalt concrete pavement, curb and gutters, sidewalk, ramps, pedestrian improvements, signing and striping. In addition, preliminary street and sidewalk grades will be prepared to establish project grading requirements. Proposed improvements will be designed in accordance with the City's current street design standards and specifications. The proposed improvements will be designed to minimize removals, grading and earthwork.

For the drawings, we will prepare a title sheet, construction notes sheet, demolition sheets, plan/profile sheets, signing and striping sheets, and necessary detail sheets.

The title sheet shall include the title of the job, a vicinity map showing the City in relationship to surrounding communities, a location map showing the project limits, a list of abbreviations used, benchmark data, general notes, construction notes and quantities, an index for the drawings, list of utilities with phone numbers, and references on the City's standard title block.

The construction note sheet will show general construction notes and project specific requirements.

The demolition sheet will show existing improvement demolition including limits of pavement removal, saw cutting locations and limits and concrete cross gutters and curbs, if required. In addition, the plan will specify relocation of private improvements such as mailboxes fences, drive approaches, etc. as required.

Plan sheets will show proposed improvements at 1"=40' scale including curb and gutter, sidewalk, ramps, driveways, pavement limits, existing utility relocations, water service relocations, and manhole, valve, and vault cover grade adjustments. For the profile portion of the drawings, we will show existing and proposed pavement elevations at centerline top of curb and centerline with appropriate design data.

The construction details will include connections and ADA ramp or RRFB details, all at appropriate drawing scales.

The signing and striping sheets will include all required pavement markings, lane stripes and signage in accordance with the MUTCD, California supplement and all other applicable City requirements, for the project limits. The sheets will be prepared at 1"=40' scale and include full geometrical layouts at each intersection.

For the specifications, we will amend the City Standards Technical Provisions as required for the projects. The construction specifications will be prepared in Microsoft Word (current version) format in accordance with City standards.

In addition, we will prepare quantity estimates for all proposed improvements prepared using an excel spreadsheet showing an itemized construction cost breakdown. Descriptions of work, unit prices, and quantities will be included in the spreadsheet.

Deliverables: 60% Design Sheets

– 60% DESIGN REVIEW MEETING

After the City has completed its review, we will meet with City staff to acquire Staff's comments.

Deliverables: Meeting Agenda, Minutes and Final Design Approval

– 90% DESIGN

90% design will include incorporation of City comments, final street design and signing and striping plans. We will verify that the project will comply with ADA design requirements and that adequate drainage will be achieved.

90% Design will be submitted with a project summary memorandum together with updated project specifications and estimates.

Deliverables: 90% Design Sheets

– 90% DESIGN REVIEW MEETING

After the City has completed its review, we will meet with City staff to acquire Staff's comments.

Deliverables: Meeting Agenda, Minutes and Final Design Approval

– 100% DESIGN

100% design will include incorporation of City comments, final plans, specifications, and estimates, ready for public bidding. Final documents will include mylars and hard copy specifications with signatures and electronic copies of final documents.

100% Design will be submitted with a project summary memorandum together with an updated project schedule, additional stakeholder meeting summary, and internal plan review documentation.

Deliverables: One (1) Full-Size Mylar of 100% Drawings; Hard Copy of Specifications and Estimate, Electronic Files of Final Plans (AutoCAD 2021), Specifications and Estimate

TASK 4. SPECIFICATIONS AND COST ESTIMATES

TKE will prepare a complete set of technical specifications based on the City's general and special provisions and Standard Specifications for Public Works Construction ("Greenbook"). We will also prepare cost estimates based on construction bid items and quantities from the 90% and final design plans. A detailed breakdown of each lump sum item will be provided for comparison with other similar projects, which will include adequate contingencies to account for the unpredictability of materials costs.

Deliverables: Final specs (Word Document) and Cost Estimates (Excel), Electronic Versions of Each Submittal

TASK 5. BIDDING/CONSTRUCTION SUPPORT

TKE will provide the following:

- Respond to Requests for Information (RFIs) during the project advertisement period, and log questions and responses.
- Prepare project addenda at the direction of the City
- Attend the pre-bid and pre-construction meetings.
- Review shop drawings and submittals provided by the Contractor to ensure compliance with the contract plans and specifications, and then issue recommendations for acceptance, rejection, or revision within a reasonable timeframe following receipt.
- Provide engineering design services (upon written authorization from the City) for revisions to construction documents resulting from changed or unforeseen conditions, or other change order work required due to actions of the City (assuming a minimum of 3 site visits).
- Upon completion of the project, use information based on redlined information provided by the Contractor and the City to prepare as-built plans to be submitted to the City within one month of receipt of as-built redlines.

Deliverables: Meeting Attendance, Response to Bidder's/Contractor's RFIs, Addenda, Submittal Reviews, As-Built Plans

CLIENT SATISFACTION

TKE is committed to meeting the City's deadlines as they are crucial for several reasons, including:

Client Satisfaction: Our focus on meeting deadlines ensures that the City is satisfied. Timely completion reflects professionalism and reliability, enhancing trust between the City and TKE.

Quality Control: TKE takes pride in our reputation for thoroughness, rapid turnaround, cost efficiency and overall quality of work, and believes that a high level of quality is needed on all PS&E packages. High quality design yields the following tangible results:

- Ease of oversight
- Smoother processing
- Healthy number of bidders
- Consistent bids
- Minimized construction support cost
- Absence of design-related change orders
- Reduced claims and dispute resolution costs

TKE believes that the most successful quality assurance program is one that is applied inherently throughout the entire design process and all design activities. This program requires not only formal procedures for checking, but encourages the conscientious effort of experienced people to always "create quality" in every task performed throughout the design process.

This program has become a natural element in all aspects of TKE's design and management activities, and will guide our work on this contract:

- Staff training and development
- Assignment of experienced staff
- Continuity of staffing
- Project-specific work plan
- Schedule compliance
- Comprehensive field review and compilation of site data
- Established design procedures
- Established detailing standards
- Established checking procedures, including independent in-house QA/QC review
- Dual (independent) quantity estimates
- Review by Constructability expert

This Quality Assurance/Quality Control program is in place to ensure that PS&E documents prepared by TKE continue to exceed the standards of our clients and that we will deliver the project on schedule and within budget.

Contractual Obligations: Often, contracts include penalties for delays. In addition, grant funding typically has strict expenditure deadlines. Meeting deadlines ensures compliance with these agreements, avoiding legal issues and financial penalties for both the City and the Contractor.

Risk Management: TKE understands that delays can introduce various risks, including weather-related setbacks, resource shortages, or unforeseen complications. TKE's goal on every construction project is to mitigate these risks by maintaining a structured and controlled project timeline.

Safety: Rushing work due to delays can compromise safety standards, something both the City and TKE will not tolerate on any construction project. Meeting deadlines allows for adequate planning and execution, ensuring proper safety protocols are followed.

TKE's attention to meeting project deadlines is not merely about completing tasks on time; it's about maintaining efficiency and cost-effectiveness, all with a focus on safety and client satisfaction.

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 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 Consultant 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, 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.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

City of Banning

RFP 25-101 Design Services for

The Pedestrian Crossing Upgrades at 19 Intersections Throughout The City of Banning

Consulting Engineering Fee

Task No.	Task	Project Manager Hours	Project Manager $	Project Engineer/Surveyor Hours	Project Engineer/Surveyor $	Assistant Engineer/Designer Hours	Assistant Engineer/Designer $	Clerical Hours	Clerical $	Surveying Hours	Surveying $	Sub-Consultants[2] $	Total $
Design Scope of Services													
Task 1 - Project Management													
1.1	Kickoff Meeting	2	$ 360	4	$ 680		$ -	1	$ 95		$ -		$ 1,135
1.2	Progress Meetings	8	$ 1,440	16	$ 2,720		$ -	4	$ 380		$ -		$ 4,540
1.3	Invoicing	4	$ 720	8	$ 1,360		$ -	4	$ 380		$ -		$ 2,460
Task 2 - Preliminary Investigation/Site Assessment													
2.1	Data Collecito, Survey and Site Reconnaissance	8	$ 1,440	30	$ 5,100	60	$ 9,000	8	$ 760	24	$ 6,360		$ 22,660
Task 3 - Preliminary Engineering Design													
3.1	60% Design	8	$ 1,440	40	$ 6,800	80	$ 12,000	8	$ 760		$ -		$ 21,000
3.2	90% Design	4	$ 720	20	$ 3,400	40	$ 6,000	8	$ 760		$ -		$ 10,880
3.3	100% Design	2	$ 360	12	$ 2,040	20	$ 3,000	8	$ 760		$ -		$ 6,160
Task 4 - Specifications and Cost Estimates													
4.1	90% and Final	4	$ 720	16	$ 2,720	24	$ 3,600	16	$ 1,520		$ -		$ 8,560
Task 5 - Bidding/Construction Support													
5.1	RFI's Addenda, Submittal Review, As-Builts	8	$ 1,440	24	$ 4,080	16	$ 2,400	8	$ 760		$ -		$ 8,680
	Subtotal:	48	$ 8,640	170	$ 28,900	240	$ 36,000	65	$ 6,175	24	$ 6,360	$ -	$ 86,075

Rates:

Project Manager	$ 180 /HR
Project Engineer/Surveyor	$ 170 /HR
Assistant Engineer/Designer	$ 150 /HR
Clerical	$ 95 /HR
Survey Crew	$ 265 /HR

Design Total: $ 86,075

Rounded Design Total: $ **86,100**

TKE Engineering, Inc.

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.

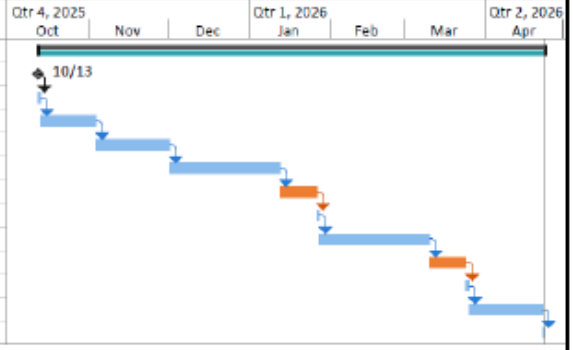
II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

PROJECT SCHEDULE

CITY OF BANNING
RFP 25-101 DESIGN SERVICES FOR THE PEDESTRAIN CROSSING UPGRADES AT 19 INTERSECTIONS THROUGHOUT THE CITY OF BANNING
TKE PROJECT SCHEDULE

ID	Task Name	Duration	Start	Finish
1	**Project Design**	**139 days**	**Mon 10/13/25**	**Thu 4/23/26**
2	NTP	0 days	Mon 10/13/25	Mon 10/13/25
3	Kick-Off Meeting	1 day	Mon 10/13/25	Mon 10/13/25
4	Preliminary Investigation	15 days	Tue 10/14/25	Mon 11/3/25
5	Prepare Base Drawings	20 days	Tue 11/4/25	Mon 12/1/25
6	60% Design	30 days	Tue 12/2/25	Mon 1/12/26
7	City Review	10 days	Tue 1/13/26	Mon 1/26/26
8	Review Meeting	1 day	Tue 1/27/26	Tue 1/27/26
9	90% Design PS&E	30 days	Wed 1/28/26	Tue 3/10/26
10	City Review	10 days	Wed 3/11/26	Tue 3/24/26
11	Review Meeting	1 day	Wed 3/25/26	Wed 3/25/26
12	100% Design PS&E	20 days	Thu 3/26/26	Wed 4/22/26
13	Submitt 100% Design Packag	1 day	Thu 4/23/26	Thu 4/23/26



CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

PREPARED BY: **Patrick Safari, Capital Improvement Projects Manager**
Nathan Smith, Deputy Director of Public Works/City Engineer

MEETING DATE: **October 14, 2025**

SUBJECT: **Consideration of Resolution 2025-141, Awarding a Construction Contract for Project No. 2023-04 Rectangular Rapid Flashing Beacon at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street, to All American Building Services in the amount of $592,850 and Approving a 10% Contingency for a Total Budget of "Not-to-Exceed" $652,135**

RECOMMENDATION:

Adopt Resolution 2025-141.

BACKGROUND:

Based on collision data obtained from the UC Berkeley Transportation Injury Mapping System (TIMS) and existing site conditions, City staff determined that there are pedestrian safety concerns at the unsignalized intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street. The data indicated a total of 34 pedestrian or bicycle collisions in a 3-year period. The intersection of Ramsey Street and 16th Street is part of a segment of Ramsey Street that includes four traffic lanes of divided roadway with painted median and a speed limit of 40 miles per hour. The intersections of Ramsey Street and 6th Street, 2nd Street and Martin Street are part of a segment of Ramsey Street that includes two traffic lanes and a speed limit of 25 miles per hour.

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(014). The agreements authorized the City of Banning to start the Preliminary Engineering (PE) phase.

On March 14, 2023, the City Council approved Resolution 2023-46 awarding a Professional Services Agreement for the Design of Rectangular Rapid Flashing Beacon (RRFB) at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street to STC Traffic, Inc. in the amount of $64,780.

On August 8, 2025, staff released an Invitation for Bids (IFB) for Project No. 2023-04 Rectangular Rapid Flashing Beacon (RRFB) at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street on the City's public bidding platform. The bids were due on September 18, 2025. In response to the IFB, three (3) bids were received from the following consultants:

	Contractor	Amount
1)	Demo Leaders, Inc.	$483,386
2)	All American Building Services	$592,850

3) Calmex Engineering, Inc. $782,620

Demo Leaders, 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.

Demo Leaders, Inc. additive alternate bid for slurry seal at a cost of $351,000 was disproportionately higher than the rest of the twenty-four (24) bid items combined at a cost of $132,386. This inconsistency creates ambiguity regarding the actual proposed cost and calls into question the reliability of the total bid price.

For the reason's mentioned above, All American Building Services is considered the lowest responsive and responsible bidder.

JUSTIFICATION:

The Project will improve safety of the unsignalized intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street by installing RRFB devices which will enhance pedestrian visibility and driver awareness. The RRFB is applicable to many types of pedestrian crossings, but it is particularly effective at multilane roadway crossings such as Ramsey Street with speed limits equal or less than 40 miles per hour. The project will also include the design of ADA compliant pedestrian curb ramps, streetlights, signage and pedestrian crosswalk striping at each intersection.

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 All American Building Services in the amount of $592,850.

FISCAL IMPACT:

Staff recommends awarding an agreement to All American Building Services, Inc. in the amount of $592,850 and approving a 10% contingency in the amount of $59,285 for a total “not-to-exceed” project budget of $652,135.

The project costs are eligible and expected to be partially 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	$185,220
Measure “A” (Sales Tax)	$275,000
SB1 (Gas Tax)	$191,915
Total	$652,135

The project shall be funded through the following expenditure accounts:

Account No.	Amount
101-4900-431.93-16 (Street Improvements – Measure “A”)	$460,220
102-4904-431.93-15 (Street Improvements – SB1)	$191,915

The City of Banning will receive monthly HSIP funds reimbursements from the State of California. An appropriation for the total "not-to-exceed" amount is required in the accounts listed above.

ALTERNATIVES:

Do not approve Resolution 2025-141 and provide alternative direction to staff.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
Yes

ATTACHMENTS:
1. Resolution 2025-141.docx
2. Resolution 2023-046.pdf
3. Resolution 2021-91.pdf
4. All American Building_Cost Proposal.pdf
5. C01205 PWC - Construction of the Ramsey Street Pedestrian Crosswalks.docx
6. Caltrans_HSIP_Finance_Letter.docx

RESOLUTION 2025-141

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION CONTRACT FOR PROJECT NO. 2023-04 RECTANGULAR RAPID FLASHING BEACON (RRFB) AT THE INTERSECTIONS OF RAMSEY STREET AND 2ND STREET, 6TH STREET, 16TH STREET AND MARTIN STREET, TO ALL AMERICAN BUILDING SERVICES IN THE AMOUNT OF $592,850 AND APPROVING A 10% CONTINGENCY FOR A TOTAL BUDGET OF "NOT-TO-EXCEED" $652,135.

WHEREAS, based on collision data obtained from the UC Berkeley Transportation Injury Mapping System (TIMS) and existing site conditions, City staff determined that there are pedestrian safety concerns at unsignalized intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin 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(014) authorizing the City of Banning to start the Preliminary Engineering (PE) phase; and

WHEREAS, on March 14, 2023, the City Council approved Resolution 2023-46 awarding a Professional Services Agreement for the Design of Rectangular Rapid Flashing Beacon (RRFB) at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street to STC Traffic, Inc. in the amount of $64,780; and

WHEREAS, on August 8, 2025, staff released an Invitation for Bids (IFB) for Project No.2023-04 Rectangular Rapid Flashing Beacon (RRFB) at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street Project on the City's public bidding platform; and

WHEREAS, on September 18, 2025, in response to the IFB, three (3) bids were received ranging in costs from $483,386 to $782,620; and

WHEREAS, Demo Leaders Inc., the lowest bidder, was disqualified due to failure to submit the bid bond by the required deadline and inconsistencies in the actual proposed cost; and

WHEREAS, the Project will improve safety of the unsignalized intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street by installing RRFB devices which will enhance pedestrian visibility and driver awareness; 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 All American Building Services in the amount of $592,850; and

WHEREAS, the total project budget of $652,135, 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 partially reimbursed by the State of California Department of Transportation Cycle 10 Highway Safety Improvement Program (HSIP); and

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 All American Building Services in the amount of $592,850 and approving a 10% contingency for a total budget of "not-to-exceed" $652,135 for the Rectangular Rapid Flashing Beacon (RRFB) at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street Project

SECTION 2. The City Council authorizes the City Manager, or their designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Construction Contract with All American Building Services.

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 October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative
City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-141, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Construction Contract with All American Building Services

RESOLUTION 2023-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF RECTANGULAR RAPID FLASHING BEACONS AT THE INTERSECTIONS OF RAMSEY STREET AND 2ND, 6TH, 16TH AND MARTIN STREETS TO STC TRAFFIC, INC. OF CARLSBAD, CA IN THE AMOUNT OF $64,780, ESTABLISHING A TOTAL PROJECT BUDGET OF $71,258, AND REJECTING ALL OTHER PROPOSALS

WHEREAS, City staff determined that there are significant pedestrian safety concerns at the unsignalized intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin 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(014); and

WHEREAS, on November 14, 2022, staff released a Request for Proposals (RFP) for the Design of Rectangular Rapid Flashing Beacon at the Intersections of Ramsey Street and 2nd Street, 6th Street, 16th Street and Martin Street to six (6) consultants on the on-call engineering list approved by City Council on July 12, 2022 under Resolution 2022-99; and

WHEREAS, on December 13, 2022, in response to the RFP, five (5) proposals were received ranging in costs from $28,000 to $138,230; 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 STC Traffic, Inc. in the amount of $64,780; and

WHEREAS, the lowest proposal was deemed non-responsive by the Engineering Staff because the cost was not adequate to accomplish all the tasks as outlined in the RFP; and

WHEREAS, the scope of work will include the design of Rectangular Rapid Flashing Beacon (RRFB), ADA compliant pedestrian curb ramps, streetlights, signage and pedestrian crosswalk striping at each intersection; and

WHEREAS, the total project budget of $71,258, 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 City Council approves the Professional Services Agreement between STC Traffic, Inc., and the City of Banning.

SECTION 2. The City Manager or his designee is authorized to execute the Professional Services Agreement with STC Traffic, Inc. and to make necessary budget adjustments, appropriations, transfers, and approving change orders within the approved contingency.

SECTION 3. The City Council rejects all other proposals received on December 13, 2023.

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 March 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 2023-46, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of March 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

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

RRFB RAMSEY ST PEDESTRIAN CROSSWALKS				ALL AMERICAN BUILDING SERVICES	
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	$24,000	$ 24,000
2	Traffic Control	1	LS	$9,000	$ 9,000
3	SWPPP	1	LS	$9,000	$ 9,000
4	Construction Surveying	1	LS	$4,000	$ 4,000
5	Clearing and Grubbing	1	LS	$8,000	$ 8,000
6	Unclassified Excavation (Final Quantity)	45	CY	$200	$ 9,000
7	Utility Coordination	1	LS	$4,000	$ 4,000
8	6" PCC Type "A" Curb and Gutter per City of Banning Std. No. C-200	350	LF	$55	$ 19,250
9	Construct PCC Cross Gutter and Spandrel per City of Banning Std. No. C-211	200	SF	$55	$ 11,000
10	Construct PCC ADA Access Ramp Type I per City of Banning Std. No. C-214	9	EA	$8,500	$ 76,500
11	Construct PCC ADA Access Ramp Type II per City of Banning Std. No. C-215	2	EA	$8,500	$ 17,000
12	Construct PCC Driveway Approach per City of Banning Std. No. C-208	1	EA	$6,000	$ 6,000
13	Construct 4" PCC Sidewalk per City of Banning Std. No. C-213	3000	SF	$45	$135,000
14	Asphalt Concrete Paving. Match Existing Section	30	TONS	$250	$ 7,500
15	Aggregate Base. Match Existing Section	1050	CY	$50	$ 52,500
16	Construct Trench Drain per Detail "B" on Sheet 2	70	LF	$80	$ 5,600
17	Construct Sidewalk Underdrain	15	LF	$250	$ 3,750
18	Replace Existing 2'X4' Curb Inlet Grate	1	EA	$1,500	$ 1,500
19	Relocate/Adjust to Grade Existing Utility Box	3	EA	$3,000	$ 9,000
20	Install Traffic Signage	1	LS	$4,000	$ 4,000
21	Install Traffic Striping and Pavement Markings	1	LS	$27,000	$ 27,000
22	Install Carmanah R920-E Solar Rectangular Rapid Flashing Beacon Assembly (or	8	EA	$7,500	$ 60,000
23	Install Type 1-A Standard Pole with Foundation	6	EA	$3,000	$ 18,000
24	Install Street Light Pole with Foundation	2	EA	$8,000	$ 16,000
25	Additive Altrenate Bid: Slurry Seal	22500	SF	$2.50	$ 56,250
	Total				**$592,850**

CONTRACT (C01205)

CITY OF BANNING CONTRACT FOR
HSIP RRFB RAMSEY STREET PEDESTRIAN CROSSWALKS & IFB 25-106

THIS CONTRACT ("Contract") is made and entered this _____ ("Effective Date"), by and between the CITY OF BANNING, a California municipal corporation ("City") and All American Building Services, a California Corporation ("Contractor"). Contractor's California State Contractor's license number is 921499; Class A/B. Contractor's DIR registration number is 1000790148.

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 HSIP RRFB Ramsey Street Pedestrian Crosswalks ("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 Five Hundred Ninety-Two Thousand Eight Hundred Fifty Dollars ($592,850.00) 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

City Council Approval: _____

By: _____
City Manager Date

ATTEST:

By: _____
Administrative City Clerk Date

APPROVED AS TO FORM:

By: _____
City Attorney Date

_____
("CONTRACTOR")

By: _____
Name: Date
Title:

Title:

DEPARTMENT OF TRANSPORTATION

Date: 12/31/2024 EA No:
D_CO_RT: 08-RIV-0-BAN
Project No: HSIPSL-5214(014)
Adv. Project Id: 0822000018
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
Agency Preliminary Engineering		$13,300.00	$13,300.00	$13,300.00	$0.00
Agency Preliminary Engineering		$51,480.00	$51,480.00	$51,480.00	$0.00
Construction		$524,563.00	$185,220.00	$185,220.00	$339,343.00
Totals:		**$589,343.00**	**$250,000.00**	**$250,000.00**	**$339,343.00**

Participation Ratio: 42.42%

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#3: Allocate $185,000 of HSIP state funds for CON. Maximum reimbursement rate 100%. REQ#2: Caltrans allocates an additional $51,480 of HSIP SOF fund for PE component, due to cost increase, under Proj ID# H10-8-002, on 2/22/2023.

ACCOUNTING INFORMATION HSIPSL-5214(014)

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
0822000018	24102	2030010551		$185,220.00	2324	$0.00	$185,220.00	06/30/2029		
0822000018	22102	2030010551		$51,480.00	2122	$50,894.85	$585.15	06/30/2027		
0822000018	21102	2030010551		$13,300.00	2021	$13,300.00	$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.

5214014 R3 FL 12.31.24

Final Audit Report 2024-12-31

Created:	2024-12-31
By:	Alberta Snowden (s140573@dot.ca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA8hjpvmyEOU6zYE3IVSWApzom2IoQrFBc

"5214014 R3 FL 12.31.24" History

Document created by Alberta Snowden (s140573@dot.ca.gov)
2024-12-31 - 5:20:54 PM GMT- IP address: 149.136.17.253

Document emailed to Raimund Yambao (raimund.yambao@dot.ca.gov) for signature
2024-12-31 - 5:21:04 PM GMT

Email viewed by Raimund Yambao (raimund.yambao@dot.ca.gov)
2024-12-31 - 6:17:05 PM GMT- IP address: 149.136.17.251

Document e-signed by Raimund Yambao (raimund.yambao@dot.ca.gov)
Signature Date: 2024-12-31 - 6:17:24 PM GMT - Time Source: server- IP address: 149.136.17.251

Agreement completed.
2024-12-31 - 6:17:24 PM GMT

Powered by Adobe Acrobat Sign

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Ralph Wright, Parks and Recreation Director** **Marisol Lopez, Economic Development Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-142, Accepting Community Development Block Grant (CDBG) Funds for Fiscal Year 2025/2026 in the amount of $155,678 for the Banning Senior Center Project # 2 (5.BN.64-25) in the amount of $141,828; Banning Peace Center Food Program (5.BN.65-25) in the amount of $5,000; the Court Appointed Special Advocate (CASA) program (0.282-25) in the amount of $5,000; and the Teens Continue to lead program (0.284-25) in the amount of $3,850.**

RECOMMENDATION:

Adopt Resolution 2025-142.

BACKGROUND:

The submittal of the selected project applications for the 2025/2026 CDBG Program funding was approved by City Council on October 8, 2024, under Resolution 2024-159. The Resolution was rescinded on November 12, 2025 by the City Council and Resolution 2024-176, was adopted to correct a clerical error in the original Resolution. The execution of the 2025/2026 CDBG Supplemental Agreement is required for the City to obtain and utilize CDBG Funds.

JUSTIFICATION:

To utilize Fiscal Year 2025/2026 CDBG program funds, the City is required to execute a Supplemental Agreement attached hereto by Reference. The CDBG FY 2025/2026 funding will be allocated to the Banning Senior Center Project # 2 (5.BN.64-25) in the amount of $141,828; Banning Peace Center Food Program (5.BN.65-25) in the amount of $5,000; the Court Appointed Special Advocate (CASA) program (0,282-25) in the amount of $5,000; and the Teens Continue to lead program (0.284-25) in the amount of $3,850.

The Banning Senior Center Project # 2 and the Banning Peace Center Food Program are reimbursable grants that the City will administer and ensure proper completion of the projects. Both the CASA Program and the Boy's and Girls Club program received additional funds from other County Districts or Cooperating Cities and will be administered by the County Housing and Workforce Solutions Department.

FISCAL IMPACT:

By approving the CDBG Supplemental Agreement, Fiscal Year 2025/2026, the City anticipates receiving $141,828 for the Banning Senior Center Improvements; $5,000 for the Banning Peace Center Food Center Program; $5,000 for the Court Appointed Special Advocate program; and $3,850 for the Teens Continue to lead program. Acceptance of these funds are restricted exclusively for these approved

projects.

With the adoption of Resolution 2025-142 - changes to the budget will include:
Added Appropriations -

Expenditure Accounts

110-5500-446.42-10	$5,000	- Banning Peace Center Food Program
110-5500-461.90-85	$141,828	- Cap Exp / Senior Center improvements

Revenue Accounts

110-5500-331.20-02	$146.828	- Federal Revenue from CDB Grants

The remaining $8,850 is disbursed directly from the County of Riverside.

ALTERNATIVES:

The City Council can choose to not adopt Resolution 2025-142 thereby not authorizing the execution of the CDBG 2025/2026 Supplemental Agreement and forfeit receiving $155,678 in CDBG funds. This can also potentially jeopardize future CDBG grant funds being awarded to the City of Banning.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-142, Accepting 2025-26 CDBG Funds and Supplemental Agreement.docx
2. Cover Letter - 2025-2026 CDBG Program.pdf
3. CDBG - Supplemental Agreement 2025-2026.pdf
4. Resolution_2024-159__CDBG_Acceptance.pdf
5. Resolution_2024-176__CDBG_Supplemental_Agreement.pdf

RESOLUTION 2025-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ACCEPTING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2025/2026 IN THE AMOUNT OF $156,678 FOR THE BANNING SENIOR CENTER PROJECT #2 (5BN.64-25) IN THE AMOUNT OF $141,828; BANNING PEACE CENTER FOOD PROGRAM (5.BN.65-25) IN THE AMOUNT OF $5,000; THE COURT APPOINTED SPECIAL ADVOCATE (CASA) PROGRAM (0.282-25) IN THE AMOUNT OF $5,000; AND THE TEENS CONTINUE TO LEAD PROGRAM (0.284-25) IN THE AMOUNT OF $3,850.

WHEREAS, the City of Banning has been submitting applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Housing and Workforce Solutions (HWS) Department annually; and

WHEREAS, the submittal of the approved project applications for CDBG 2025/2026 program funding was initially approved by the City Council on October 8, 2024 under Resolution 2024-159; and

WHEREAS, Resolution 2024-159 was rescinded to correct a clerical error and the approved project applications were re-approved by the City Council under Resolution 2024-176; and

WHEREAS, the projects submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is necessary that the supplemental agreement be approved by the City Council through resolution order for the City and its residents to obtain and utilize the federally funded CDBG grant funds; and

WHEREAS, final whereas statement.

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

SECTION 1. The City Council approves the Supplemental Agreement with Riverside County Housing and Workforce Solutions for the Community Development Block Grant FY 2025/2026 for a two-year term in an amount of $155,678, attached hereto as Exhibit A

SECTION 2. The City Council authorizes the mayor to execute the Supplemental Agreement with Riverside County Housing and Workforce Solutions on behalf of the City Council and the City Manager to make non-substantive changes to the Community Development Block Grant FY 2025/2026 if necessary in the future.

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 14th day of October, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-42, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A

Supplemental Agreement for the Use of 2025/2026
Community Development Block Grant Funds

HWS HOUSING AND WORKFORCE SOLUTIONS
ENGAGE. ENCOURAGE. EQUIP.

August 26, 2025

Ralph Wright, Parks and Recreation Director
City of Banning
PO Box 998
Banning, CA 92220

RE: SUPPLEMENTAL AGREEMENT FOR THE 2025-2026 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

Dear Mr. Wright:

Enclosed, please find two (2) copies of the above-referenced Supplemental Agreement for your city's 2025-2026 CDBG program year. This agreement covers the following activities:

5.BN.64-25	Banning Senior Center ADA Improvements Phase II	$141,828
5.BN.65-25	Banning Peace Center Food Program	$5,000
0.282-25	Court Appointed Special Advocate (CASA) Program	$5,000
0.284.25	Teens Continue to Lead	$3,850

Upon review of the agreement, please have all copies executed and returned to this office, together with the following documentation:

1. Your City Council's approval of the Agreement and authorization to execute (Adopted Resolution and/or Certified Minute Order);
2. Evidence of Workmen's Compensation Insurance pursuant to *Section 15 A* of the Supplemental Agreement; and
3. Original Certificates of Insurance and certified copies of endorsements pursuant to *Section 15 D (3)* of the Supplemental Agreement.

In order for the County to comply with HUD's CDBG program timeliness requirements, your city's fully-executed agreements and required documentation must be returned to this office no later than sixty (60) days from the date of this letter.

In the event that the properly executed agreements and documentation are not received by the deadline date, your city will be in jeopardy of forfeiting your 2025-2026 CDBG funding.

A fully executed Supplemental Agreement will be forwarded to you, as well as the authorization to incur costs. Please be advised that this is not a notice to proceed. The County will not reimburse the City of Banning for any expenditure prior to the issuance of the *Authorization to Incur Costs*.

Furthermore, the County will not issue the Notice to Proceed until an appropriate representative of the City has completed the CDBG Subrecipient training.

Should you have any questions or to schedule a CDBG Subrecipient Training, please contact your CDBG Program Manager Anna Varona-Doromal at (951) 955-1113.

Sincerely,

Susana Orozco
Principal Development Specialist

File No.: 5.BN.64-25, 5.BN.65-25, 0.282-25, 0.284-25

SUPPLEMENTAL AGREEMENT FOR THE USE OF 2025-2026 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

This Supplemental Agreement ("Agreement") is entered into by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, herein called, "COUNTY," and the **CITY OF BANNING**, herein called "CITY." COUNTY and CITY are collectively referred to as "Parties" and individually as "Party."

The COUNTY and CITY mutually agree as follows:

1. GENERAL. COUNTY and CITY have executed a Cooperation Agreement, dated August 4, 2023 ("Cooperation Agreement"), whereby CITY elected to participate with COUNTY, which has qualified as an "Urban County" for purposes of receiving Community Development Block Grant (CDBG) funds ("CDBG"), and to assist and undertake essential community development and housing assistance activities pursuant to the Housing and Community Development Act of 1974, Title 1, as amended, Public Law 93-383 hereinafter referred to as "Act." Said Cooperation Agreement, is incorporated herein by reference and made a part of this Agreement as if each and every provision was set forth herein.

2. PURPOSE. CITY has been allocated **$155,678** in CDBG Entitlement funds for the 2025-2026 CDBG program year. CITY promises and agrees to undertake and assist with the community development activities (Public Service Activities), within its jurisdiction, by utilizing the sum of **$5,000** CDBG Entitlement Funds, as specifically identified in Exhibit(s) A, B, C, and D, attached hereto, and are incorporated herein by this reference, for the following project(s) (collectively, the "Projects"):

A) 5.BN.65-25 Banning Peace Center Food Program $5,000

CITY has allocated $8,850 from its 2025-2026 CDBG allocation to certain activities identified below, hereinafter referred to as "County-wide Activities," (Public Service Activities) that will be directly administered by COUNTY:

B) 0.282-25 Court Appointed Special Advocate (CASA) Program, $5,000.

C) 0.284-25 Teens Continue to Lead, $3,850.

CITY promises and agrees to undertake and assist with the community development

activities (Public Facility Activities) with the remaining $141,828 from its 2025-2026 CDBG allocation to activities identified below, hereinafter referred to as Public Facility Activities, specifically identified in Exhibit(s) A, B, C, and D, attached hereto, and are incorporated herein by this reference, for the following project(s):

D) 5.BN.64-25 Banning Senior Center ADA Improvements Phase II, $141,828.

3. TERMS OF AGREEMENT. The term of this Agreement for the implementation of the (Public Service Activities) Project(s) shall be for a period of one (1) year from July 1, 2025, to termination on June 30, 2026. The term of this Agreement for the implementation of the (Public Facility Activities) Project(s) shall be for a period of two (2) years from July 1, 2025, to June 30, 2027.

4. COMPLETION SCHEDULE. CITY shall proceed consistent with the completion schedule set forth in Exhibit(s) A, B, C, and D, attached hereto and incorporated herein.

5. EXTENSION OF TIME. In the event the Project(s) are not substantially completed by the time set forth in the applicable completion schedule(s) due to a force majeure event (See Section 40 below), the COUNTY may consider extending the schedule for the completion of the project(s). Times of performance for other activities may also be extended in writing by COUNTY. If substantial progress toward completion in conformance with the completion schedule, as determined by COUNTY in its discretion, of the project(s) not made during the term of this Supplemental Agreement, COUNTY may suspend or terminate this Supplemental Agreement pursuant to the termination procedures set forth in the section titled "Termination," and the entitlement funds associated with the Project(s) may be reprogrammed by the COUNTY after appropriate notice is provided to the City.

6. LETTER TO PROCEED. CITY shall not initiate nor incur expenses for the CDBG-funded Projects or activities covered under the terms of this Supplemental Agreement as set forth in Exhibit(s) A, B, C, and D, attached hereto, prior to receiving written authorization from COUNTY to proceed.

7. NOTICES. Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the CITY or COUNTY is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received

at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

COUNTY	CITY
Heidi Marshall, Director	Ralph Wright, Parks and Recreation Director
Riverside County HWS	City of Banning
P.O. Box 1528	PO Box 998
Riverside, CA 92502	Banning, CA 92220

8. DISBURSEMENT OF FUNDS.

A. COUNTY's Board of Supervisors shall determine the final disposition and distribution of all funds received by COUNTY under the Act consistent with Sections 2 and 3 of this Supplemental Agreement. COUNTY, through its Department of Housing, and Workforce Solutions, shall make payment of the CDBG funds to CITY as set forth in the attached Exhibit(s) A, B, C, and D. It is the CITY's responsibility to monitor all project activities set forth in the attached Exhibit(s) A, B, C, and D, and to ensure compliance with applicable federal regulations and the terms of this Supplemental Agreement.

B. CITY shall comply with timely drawdown of CDBG Entitlement funding by expeditiously implementing and completing the COUNTY-approved, CDBG-funded Projects. CITY acknowledges that CITY's drawdown performance directly impacts the COUNTY's overall program drawdown rate. If the CITY's unobligated CDBG fund balance, as of January 31, 2026, exceeds one hundred and seventy-five percent (175%) of the CITY's 2025-2026 CDBG allocation, the COUNTY may, in its sole discretion, take the necessary administrative actions to reduce the CITY's CDBG fund balance. Necessary actions include, but are not limited to, reprogramming the excess CDBG fund balance to other eligible activities as selected by COUNTY. COUNTY may, in its sole and absolute discretion, authorize CITY in writing, prior to January 31, 2026, to exceed the CDBG fund balance

requirement.

C. CITY shall comply with timely drawdown of CDBG funds by submitting monthly requests for reimbursement or other COUNTY approved reimbursement schedules. All disbursements of CDBG funds will be on a reimbursement basis and made within thirty (30) days after the COUNTY has received the CITY's reimbursement request including documentation supporting expenditures.

D. All authorized obligations incurred in the performance of the Supplemental Agreement for projects eligible under the following CDBG regulations must be reported in writing to COUNTY no later than June 1, 2027:

1. Acquisition [24 Code of Federal Regulations (CFR) 570.201 (a)]
2. Clearance Activities [24 CFR 570.201 (d)]
3. Interim Assistance [24 CFR 570.201 (f)]
4. Code Enforcement [24 CFR 570.202 (c)]

All public service activities [24 CFR 570.201 (e)] and other eligible activities under this Supplemental Agreement must be implemented, completed, and obligations reported in writing to the COUNTY by the CITY no later than the completion schedules set forth in the attached Exhibits to this Supplemental Agreement. "CFR" as used herein refers to the Code of Federal Regulations.

9. RECORDS AND INSPECTIONS.

A. CITY shall establish and maintain financial, programmatic, statistical, and other supporting records of its operations and financial activities in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and 24 CFR Section 570.502 (a), as they relate to the acceptance and use of federal funds under this Agreement. Said records shall be retained for a period of four (4) years from the date that the activity or program funded with the CDBG Grant is closed out by the COUNTY and reported as complete in the Comprehensive Annual Performance and Evaluation Report (CAPER). Exceptions to the four (4) year retention period requirement, pursuant to 2 CFR 200.333 include, but not limited to, the following:

i. if any litigation, claim, or audit is started prior to the expiration of the four (4) year period;

ii. when the CITY is notified in writing by the COUNTY, HUD, or other Federal agency to extend the retention period;

iii. records for real property and equipment acquired with CDBG funds must be retained for four (4) years after final disposition;

iv. when the records are transferred by the CITY to the COUNTY, HUD, or other Federal agency, the four (4) year period is not applicable.

B. CITY shall obtain an external audit in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Section 200.500). Audits shall usually be performed annually but not less frequently than every two years. Nonprofit institutions and government agencies that expend less than $750,000 a year in Federal awards are exempt from Federal audit requirements, but records must be available for review by appropriate officials of the Federal grantor agency or subgranting entity. The audit report shall be submitted to the COUNTY within 180 days after the end of the COUNTY'S fiscal year.

C. CITY shall maintain a separate account for the CITY'S CDBG Entitlement funds received as set forth in Exhibit(s) A, B, C, and D attached hereto.

D. Pursuant to 2 CFR 200.336, CITY shall, during the normal business hours, make available to COUNTY, the U.S. Department of Housing and Urban Development (HUD), or other authorized representative, for the examination and copying, all of its records and other materials with respect to matters covered by this Agreement and provide reasonable access to CITY staff for the purpose of interview and discussion related to the records and documents.

E. CITY shall not retain any program income as defined in 24 CFR 570.500. Said program income shall be used only for the activities that are the subject of this Agreement. Further, all provisions of this Agreement shall apply to such activities.

F. The CITY shall ensure that at least fifty-one percent (51%) of the persons benefiting from all CDBG-funded activities or projects designated as serving limited clientele [24 CFR 570.208(a)(2)(i)] are of low and moderate-income and meet the applicable household income guidelines. The CITY shall provide the required income certification and direct benefit documentation, in writing, to the COUNTY pursuant to the reporting requirement of each activity as set forth in Exhibit(s) A, B, C, and D, attached hereto. In the event that CITY engages the services of a sub-contractor to implement CDBG-funded activities, the CITY must collect, in writing, all required income certification and direct

benefit documentation from subcontractors prior to submittal to the COUNTY pursuant to the reporting requirement of each activity as set forth in Exhibit(s) A, B, C, and D, attached hereto.

10. COMPLIANCE WITH LAWS. CITY shall comply with all applicable federal, state, and local laws, regulations, and ordinances and any amendments thereto and the federal regulations and guidelines now or hereafter enacted pursuant to the Act. More particularly, CITY is to comply with those regulations found in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and 24 CFR Part 570. CITY is to abide by the provisions of the Community Development Block Grant Manual, prepared by COUNTY and cited in the above-mentioned Cooperation Agreement. CITY shall comply, if applicable, with Section 3 of the Housing & Urban Development Act of 1968 (12 U.S.C.A. Section 1701u), as amended, a copy of which is attached hereto as Exhibit "S", and incorporated herein by this reference. CITY shall adhere to the regulations as set forth in Exhibit "R", attached hereto and incorporated herein by this reference, pertaining to inherently religious activities. CITY shall comply with the Additional Federal Requirements, if applicable, attached hereto as Exhibit "AFR", and incorporated herein by this reference.

11. COOPERATION WITH HOUSING ACTIVITIES. CITY shall cooperate with COUNTY in undertaking essential community development and housing assistance activities, specifically urban renewal and public assistance housing, and shall assist COUNTY in implementing and undertaking the goals and strategies identified in the 2024-2029 Five Year Consolidated Plan, pursuant to 24 CFR Part 91 and other requirements of the Community Development Block Grant Program.

12. LEAD AGENCY FOR COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to Title 14 CCR Section 1501(d), the CITY is designated as the lead agency for the projects that are the subject matter of this Supplemental Agreement.

13. HOLD HARMLESS AND INDEMNIFICATION. In contemplation of the provisions of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the Code, the Parties hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of the Code,

agree that each Party shall be liable for any damages including, but not limited to, claims, demands, losses, liabilities, costs and expenses including reasonable attorneys' fees, resulting from the negligent or wrongful acts or omissions of their employees or agents in the performance of this Agreement, and each Party shall indemnify, defend and hold harmless the other Parties from such claims, demands, damages, losses or liabilities for their negligence.

The hold harmless and indemnification obligations set forth herein shall survive the termination and expiration of this Agreement. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CITY from indemnifying the Indemnitees to the fullest extent allowed by law.

14. INSURANCE. Without limiting or diminishing the CITY's obligation to indemnify or hold the COUNTY harmless, CITY shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of COUNTY OF RIVERSIDE Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds

a. Workers' Compensation:

If the CITY has employees as defined by the State of California, the CITY shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

b. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CITY'S performance of its obligations hereunder. Policy shall name the County of Riverside as Additional Insured. Policy's limit of liability shall not be less than $2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply

separately to this agreement or be no less than two (2) times the occurrence limit.b.1 Sexual Abuse or Molestation (SAM) Liability:

If the work will include contact with minors, and the Commercial General Liability policy is not endorsed to include affirmative coverage for sexual abuse or molestation, CITY shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than $2,000,000 per occurrence or claim.

c. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside as Additional Insured.

d. General Insurance Provisions - All lines:

(i). Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(ii). The CITY must declare its insurance self-insured retentions. If such self-insured retentions exceed $500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CITY'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

(iii). CITY shall cause CITY'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in

writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CITY shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

(iv). It is understood and agreed to by the parties hereto that the CITY'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

(v). If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of or, the term of this Agreement, including any extensions thereof, exceeds five (5) years, the COUNTY reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if; in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CITY has become inadequate.

(vi). CITY shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

(vii). The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

(viii). CITY agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

15. INDEPENDENT CONTRACTOR. The CITY is, for purposes relating to this Supplemental Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CITY (including its employees, agents and subcontractor's) shall in no event be entitled to any benefits to which the COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and the CITY shall hold the COUNTY harmless from any and all claims that may be made against the COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Supplemental Agreement. It is further understood and agreed by the parties that the CITY in the performance of this Supplemental Agreement is subject to the control or direction of the COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

16. NONDISCRIMINATION. CITY shall abide by 24 CFR Sections 570.601 and 570.602 of Title 24 of the Code of Federal Regulations which requires that no person in the United States shall on the grounds of race, color, national origin, sex, sexual orientation, gender identity, or veterans status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development funds.

CITY shall abide by and include in any subcontracts to perform work under this Supplemental Agreement, the following clause:

"During the performance of this Supplemental Agreement, CITY and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, veterans status, sexual orientation, gender identity, age (over 40) or sex. CITY and subcontractors shall insure that the evaluation and treatment of their employees and applicants

for employment are free of such discrimination. CITY and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12900 et seq.). The applicable regulations of the Fair Employment and Housing Commission are implementing California Government Code Section 12990 et seq., set forth in Chapter 1 of Division 4.1 of Title 2 of the California Administrative Code are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CITY and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement."

17. PROHIBITION AGAINST CONFLICTS OF INTEREST

A. CITY and its assigns, employees, agents, consultants, officers and elected and appointed officials shall become familiar with and shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and the CDBG regulations prohibiting conflicts of interest contained in 24 CFR 570.611.

B. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

C. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

D. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

E. CITY understands and agrees that no waiver of exception can be granted to the

prohibition against conflict of interest except upon written approval of HUD pursuant to 24 CFR 570.611(d). Any request by CITY for an exception shall first be reviewed by COUNTY to determine whether such request is appropriate for submission to HUD in the COUNTY'S sole and absolute discretion. In determining whether such request is appropriate for submission to HUD, COUNTY will consider the factors listed in 24 CFR 570.611(d)(2).

F. Prior to the distribution of any CDBG funding under this Supplemental Agreement, CITY shall provide COUNTY, in writing, a list of all employees, agents, consultants, officers and elected and appointed officials who are in a position to participate in a decision making process, exercise any functions or responsibilities, or gain inside information with respect to the CDBG activities funded under this Agreement. CITY shall also promptly disclose to COUNTY any potential conflict, including even the appearance of conflict that may arise with respect to the CDBG activities funded under this Supplemental Agreement.

G. Any violation of this Section 17 shall be deemed a material breach of this Supplemental Agreement, and the Supplemental Agreement shall be immediately terminated by the COUNTY.

18. LOBBYING. CITY certifies to the best of its knowledge and belief, that:

a. No federally-appropriated funds have been paid or will be paid, by or on behalf of the CITY, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally-appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the CITY shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. CITY shall require that the language of this certification be included in the award

documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

19. TERMINATION.

A. CITY. CITY may not terminate this Agreement except upon express written consent of COUNTY, pursuant to 2 CFR 200.339 (a)(3).

B. COUNTY. Notwithstanding the provisions of Paragraph 19a above, COUNTY may suspend or terminate this Supplemental Agreement upon a ten (10) day written notice to CITY of action being taken and the reason for such action including, but not limited to, the following reasons:

(1) In the event CITY fails to perform the covenants herein contained at such times and in such manner as provided in this Supplemental Agreement; and

(2) In the event there is a conflict with any federal, state or local law, ordinance, regulation or rule rendering any of the provisions of this Supplemental Agreement invalid or untenable; or

(3) In the event the funding from the Department of Housing and Urban Development referred to in Sections 1 and 2 above is terminated or otherwise becomes unavailable.

C. This Agreement may be terminated and/or funding suspended, in whole or in part, for cause in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200.339). Cause shall be based on the failure of the CITY to materially comply with either the terms or conditions of this Agreement. Upon suspension of funding, the CITY agrees not to incur any costs related thereto, or connected with, any area of conflict from which the COUNTY has determined that suspension of funds is necessary. CITY acknowledges that failure to comply with Federal statutes, regulations, or the terms and conditions of this Agreement may be considered by the COUNTY in evaluating future CDBG and non-CDBG funding applications submitted by CITY.

D. Upon suspension or termination of this Supplemental Agreement, CITY shall return any unencumbered funds which it has been provided by COUNTY. In accepting said funds, COUNTY does not waive any claim or cause of action it may have against CITY for breach of this

Supplemental Agreement.

E. Reversion of Assets

1. Upon expiration or termination of this Supplemental Agreement, the CITY shall transfer to the COUNTY any CDBG funds on hand at the time of expiration of the Supplemental Agreement as well as any accounts receivable held by CITY which are attributable to the use of CDBG funds awarded pursuant to this Supplemental Agreement.

2. Any real property under the CITY'S control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the CITY in the form of a loan) in excess of $25,000 is either:

(i) Used to meet one of the National Objectives pursuant to 24 CFR 570.208 until five years after expiration of this agreement, or for such longer period of time as determined to be appropriate by the COUNTY; or

(ii) Not used in accordance with Clause (i) above, in which event the CITY shall pay the COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

20. PUBLICITY. Any publicity generated by CITY for the Projects funded pursuant to this Supplemental Agreement will make reference to the contribution of the COUNTY, the Department of Housing, and Workforce Solutions, and the Community Development Block Grant Program in making the project possible.

21. PROGRAM MONITORING AND EVALUATION. CITY and its subcontractors shall be monitored and evaluated in terms of its effectiveness and timely compliance with the provisions of this Supplemental Agreement and the effective and efficient achievement of the CDBG National Objectives as set forth in Exhibit(s) A, B, C, and D, attached hereto. Quarterly reports shall be due on the last day of the month immediately following the end of the quarter being reported. The quarterly written reports shall include, but shall not be limited to, the following data elements:

A. Title of program, listing of components, description of activities/operations.

B. The projected goals, indicated numerically, and also the goals achieved (for each report period). In addition, identify by percentage and description, the progress achieved towards

meeting the specified goals and identify any problems encountered in meeting goals.

C. If the CDBG-funded activity meets a National Objective under 24 CFR 570.208 (a)(2)(i), CITY will report the following:

1) Total number of direct beneficiaries (clientele served) with household incomes at:

- Above 80% MHI
- Between 50% and 80% MHI (Low-Income)
- Between 30% and 50% MHI (Very Low-Income)
- Less than 30% MHI (Extremely Low-Income)

2) Total number and percent (%) of the clientele served that have household incomes at or below 80% MHI

3) Racial ethnicity of clientele

4) Number of Female-Headed Households

D. CITY shall report, in writing, and cause its subcontractors to report, in writing, beneficiary statistics monthly to Housing and Workforce Solutions (HWS) on the pre-approved *Direct Benefit Form* and *Self-Certification Form* (certifying income, family size, and racial ethnicity) as required by HUD. Updated forms are to be provided to CITY by HWS should HUD implement changes during the term of this Supplemental Agreement. CITY and subcontractors will collect and provide all necessary data required by HUD pertaining to the Specific Outcome Indicators as identified in HUD's Community Planning and Development (CPD) Outcome Performance Measurement System.

22. PRIOR AUTHORIZATION. CITY shall obtain COUNTY's written approval from HWS prior to implementing the following "high risk" activities funded with CDBG assistance:

A. Construction of public facilities (project plans and specifications);

B. Acquisition of real property;

C. Historic Preservation;

D. Relocation; and

F. Economic Development

23. PRIOR COUNTY APPROVAL (CONSTRUCTION ACTIVITIES). CITY shall obtain COUNTY's written approval, through its HWS, of the project plans, specifications, and construction documents prior to CITY'S construction of same for all projects consisting of CDBG-funded construction activities. The COUNTY neither undertakes nor assumes nor will have any responsibility or duty to CITY or to any third party to review, inspect, supervise, pass judgment upon or inform CITY or any third party of any matter in connection with the development or construction of the improvements, whether regarding the quality, adequacy or suitability of the plans, any labor, service, equipment or material furnished to the property, any person furnishing the same, or otherwise. CITY and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to CITY or to any third party by the COUNTY in connection with such matter is for the public purpose of assisting with a community development and housing activity pursuant to the Act, and neither CITY (except for the purposes set forth in this Agreement) nor any third party is entitled to rely thereon. The COUNTY shall not be responsible for any of the work of construction, improvement, or development of the property.

It is the responsibility of CITY, without cost to COUNTY, to ensure that all applicable local jurisdiction land use requirements will permit development of the property and construction of the improvements and the use, operation, and maintenance of such Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Sponsor to any local jurisdiction or County permit or other local jurisdiction or County approval necessary for the development of the Property, or waive any applicable local jurisdiction or County requirements relating thereto. This Agreement does not (a) grant any land use entitlement to CITY, (b) supersede, nullify, or amend any condition which may be imposed by the local jurisdiction in connection with approval of the development described herein, (c) guarantee to CITY or any other party any profits from the development of the Property, or (d) amend any local jurisdiction or County laws, codes or rules.

City agrees and acknowledges that it is the responsibility of City to obtain a legal determination at City's sole cost and expense, as to whether prevailing wages must be paid during construction of the

Project. If the Project is subject to prevailing wages, then City shall be solely responsible to pay its contractors and subcontractors the required prevailing wage rate. City agrees to indemnify, defend, and hold County harmless from and against any liability arising out of and related to City's failure to comply with any and all Davis Bacon and or prevailing wage requirements.

24. PRIOR COUNTY APPROVAL (AQUISITION ACTIVITIES). CITY shall obtain COUNTY's written approval and authorization to proceed, through HWS, of all CDBG-funded real property acquisition activities.

25. REAL PROPERTY ACQUIRED OR PUBLIC FACILITY CONSTRUCTED WITH CDBG FUNDS. When CDBG funds are used, in whole or in part, by CITY to acquire real property or to construct a public facility, CITY will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Section 200.311); National Environmental Policy Act of 1969 (42 U.S.C.A. §4321, et seq.); the California Environmental Quality Act (Cal. Pub. Resources Code §21000, et seq.); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C.A. §4630, et seq.); and the COUNTY's Five Year Consolidated Plan. In addition, the following is to occur:

a. Title to the real property shall vest in CITY;

b. The real property will be held by CITY, or the constructed facility will be maintained by the CITY, for a minimum period of five (5) years from the date the CDBG-funded activity is closed-out and reported as complete by the COUNTY through the Comprehensive Annual Performance and Evaluation Report (CAPER);

c. While held by CITY, the real property or the constructed facility is to be used exclusively for the purposes for which acquisition or construction was originally approved by COUNTY;

d. Written approval from COUNTY must be secured if the property or the facility is to be put to an alternate use that is consistent with the COUNTY'S Five Year Consolidated Plan or the applicable federal regulations governing CDBG funds;

e. Should CITY desire to use the real property or the constructed facility, prior to the completion of the mandatory five-year period, for a purpose not consistent with applicable federal regulations governing CDBG funds or to sell the real property or facility, then:

(1) If CITY desires to retain title, CITY will reimburse COUNTY the amount that represents the percentage of current fair market value that is identical to the percentage that CDBG funds initially comprised of monies paid to acquire the property or construct the facility; or

(2) If CITY sells the property or facility or is required to sell the property or facility, CITY shall reimburse COUNTY the amount that represents the percentage of proceeds realized by the sale that is identical to the percentage that CDBG funds initially comprised of monies paid to acquire the property or construct the facility. This percentage amount will be calculated after deducting all actual and reasonable cost of sale from the sale proceeds.

26. PURCHASE, USE AND REVERSION OF PERSONAL PROPERTY ASSETS

For organizations using CDBG funds for equipment, the following principles apply:

Acquisition (2 CFR 200.313(a)): Title to equipment acquired with CDBG funds is vested in your organization, subject to the conditions described in the following section.

Use (2 CFR 200.313(c)): Your organization must use equipment purchased with CDBG funds for the CDBG program or project as long as needed, whether or not the program or project continues to be supported by Federal funds.

During the time that your organization or its designee is using equipment for the CDBG funded program, you must also make the equipment available for use on other Federally funded projects or programs, provided that such use does not interfere with work on the CDBG funded program (2 CFR 200.313(c)(2)).

When no longer needed for the CDBG funded program, other Federally- supported agencies may use the equipment, in the following order of priority: (i) Activities under a Federal award from HUD, then (ii) Activities under Federal awards from other Federal agencies. This includes consolidated equipment for information technology systems (2 CFR 200.313(c)(i)(ii)).

HUD prohibits your organization from using CDBG-acquired equipment to provide services for a fee that competes unfairly with private companies that provide equivalent services unless specifically

authorized by Federal statute (2 CFR 200.313(c)(3)).

With the approval of the grantee, you may trade in equipment acquired with CDBG funds for updated equipment (2 CFR 200.313(c)(4)).

Disposition (2 CFR 200.313(e)): When original or replacement equipment acquired with CDBG funds is no longer needed for the original program or other activities currently or previously assisted with Federal funds, the following rules of disposition will apply:

(1) Equipment with a current fair market value of $10,000 or less (per unit) may be retained, sold, or otherwise disposed of with no further responsibility to the Federal agency or pass-through entity.

(2) Except as provided in § 200.312(b), or if the Federal agency or pass-through entity fails to provide requested disposition instructions within 120 days, items of equipment with a current fair market value in excess of $10,000 (per unit) may be retained or sold by the recipient or subrecipient. However, the Federal agency is entitled to an amount calculated by multiplying the percentage of the Federal agency's contribution towards the original purchase by the current market value or proceeds from the sale. If the equipment is sold, the Federal agency or pass-through entity may permit the recipient or subrecipient to retain, from the Federal share, $1,000 of the proceeds to cover expenses associated with the selling and handling of the equipment.

(3) The recipient or subrecipient may transfer title to the property to the Federal Government or to an eligible third party provided that the recipient or subrecipient must be entitled to compensation for its attributable percentage of the current fair market value of the property.

(4) In cases where a recipient or subrecipient fails to take appropriate disposition actions, the Federal agency or pass-through entity may direct the recipient or subrecipient to take disposition actions.

PERSONAL PROPERTY – SUPPLIES.

(2 CFR 200.3.14) Title to supplies will vest in your organization upon acquisition, subject to the following conditions:

If there is a residual inventory of unused supplies exceeding $10,000 upon completion of the program and the supplies are not needed for any other Federal award, you may keep the supplies for use in other activities or sell them when the CDBG award or agreement ends. But in either case, you must compensate the grantee for its share. The amount of compensation must be computed in the same manner as for equipment (see 2 CFR 200.313(e)(2)).

As long as the Federal Government retains an interest in the supplies, you must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services (2 CFR 200.314(b)).

- In all cases in which the residual inventory of supplies is sold, the proceeds are considered program income.

27. ENTIRE AGREEMENT. This Supplemental Agreement, including any attachments or exhibits hereto constitutes the entire Supplemental Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

28. SEVERABILITY. Each section, paragraph and provision of this Supplemental Agreement is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall remain in full force and effect.

29. EMPLOYMENT OPPORTUNITIES TO BE CAUSED BY PROJECT. CITY agrees to notify in writing, and to cause any subcontractor implementing CDBG-funded Projects to notify, in writing, the Riverside County Workforce Development Center of any and all job openings that are caused by the CDBG-funded Projects under this Supplemental Agreement.

30. MINISTERIAL ACTS. The Director of Housing and Workforce Solutions or designee(s) are authorized to take such ministerial actions as may be necessary or appropriate to implement the terms, provisions, and conditions of this Supplemental Agreement as it may be amended from time-to-time by COUNTY.

31. PROJECT ELIGIBILITY. As to CITY or its claimants, COUNTY shall bear no liability for any later determination by the United States Government, the U.S. Department of Housing and Urban Development, or any other person or entity that CITY is or is not eligible under 24 CFR Part 570 to receive CDBG entitlement funds from the COUNTY.

32. SOURCE OF FUNDING. CITY acknowledges that the source of funding pursuant to this Supplemental Agreement is Community Development Block Grant funds (CFDA 14.218), and the Grant Award Number is B-25-UC-06-0506.

33. ASSIGNMENT. The CITY shall not make any assignment or transfer in any form with respect to this Supplemental Agreement, without prior written approval of the COUNTY.

34. INTERPRETATION AND GOVERNING LAW. This Supplemental Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Supplemental Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Supplemental Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

35. WAIVER. Failure by a party to insist upon the strict performance of any of the provisions of this Supplemental Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's rights to insist and demand strict compliance by the other party with the terms of this Supplemental Agreement thereafter.

36. JURISDICTION AND VENUE: Any action at law or in equity arising under this Supplemental Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Supplemental Agreement shall be filed only in the Superior Court of the State of California, located in Riverside, California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction

37. USE OF PROPERTY. Whenever federal CDBG funds or program income are used, in whole or in part, for the purchase of equipment or personal property, the property shall not be transferred from its originally funded use, by CITY or the CITY'S subcontractor implementing the CDBG-funded activity, for a period of five (5) years from the close-out date of the grant from which CDBG assistance was provided. The CITY shall maintain a current inventory for COUNTY monitoring and review.

38. AUTHORITY TO EXECUTE. The persons executing this Supplemental Agreement or exhibits attached hereto on behalf of the parties to this Supplemental Agreement hereby warrant and represent that they have the authority to execute this Supplemental Agreement and warrant and represent

that they have the authority to bind the respective parties to this Supplemental Agreement to the performance of its obligations hereunder.

39. EFFECTIVE DATE. The effective date of this Supplemental Agreement is the date the parties sign the Supplemental Agreement. If the parties sign the Supplemental Agreement on more than one date, then the last date the Supplemental Agreement is signed by a party shall be the effective date.

40. COUNTERPARTS. This Supplemental Agreement may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

41. FORCE MAJEURE.

A. Performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, pandemic, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the other party, acts or failure to act of a public or governmental agency or entity, or any causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) calendar days after it obtains knowledge of the event.

42. MODIFICATION OF AGREEMENT. This Supplemental Agreement may be modified or amended only by a writing signed by the duly authorized and empowered representative of COUNTY and CITY respectively.

43. DIGITAL AND ELECTRONIC SIGNATURES. The parties agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17). The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Remainder of Page Intentionally Blank]

[Signatures on Following Page]

IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Agreement as of the dates set forth below.

COUNTY OF RIVERSIDE,
a political subdivision of the
State of California

BY: _____
Juan Garcia,
Deputy Director

Date: _____

APPROVED AS TO FORM:

MINH C. TRAN

COUNTY COUNSEL

By: _____
Paula S. Salcido,
Deputy County Counsel

CITY OF BANNING,
a general law city,

BY: _____
Name:

Title:

Date: _____

ATTEST:

BY: _____
City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney

EXHIBIT "R"

24 C.F.R. § 5.109

Equal participation of faith-based organizations in HUD programs and activities.

Effective: March 4, 2024

(a) ***Purpose.*** Consistent with Executive Order 13279, entitled "Equal Protection of the Laws for Faith-Based and Community Organizations," as amended by Executive Order 13559, entitled "Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations," and as amended by Executive Order 14015, entitled "Establishment of the White House Office of Faith-Based and Neighborhood Partnerships," this section describes requirements for ensuring the equal participation of faith-based organizations in HUD programs and activities. These requirements apply to all HUD programs and activities, including all of HUD's Native American Programs, except as may be otherwise noted in the respective program regulations in title 24 of the Code of Federal Regulations (CFR), or unless inconsistent with certain HUD program authorizing statutes.

(b) ***Definitions.*** The following definitions apply to this section:

Direct Federal financial assistance means Federal financial assistance provided when a Federal Government agency or an intermediary, as defined in this section, selects the provider and either purchases services from that provider (*i.e.,* via a contract) or awards funds to that provider to carry out an activity (*e.g.,* via grant, sub-grant, sub-award, or cooperative agreement). The recipients of sub-grants or sub-awards that receive Federal financial assistance through State-administered programs (*e.g.,* flow-through programs) are considered recipients of direct Federal financial assistance. In general, Federal financial assistance shall be treated as direct, unless it meets the definition of indirect Federal financial assistance.

Federal financial assistance means assistance that non-Federal entities receive or administer in the forms of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

Indirect Federal financial assistance means Federal financial assistance provided when the choice of the provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of Government-funded payment. Federal financial assistance provided to an organization is considered indirect when the Government program through which the beneficiary receives the voucher, certificate, or other

similar means of Government-funded payment is neutral toward religion meaning that it is available to providers without regard to the religious or non-religious nature of the institution and there are no program incentives that deliberately skew for or against religious or secular providers; and the organization receives the assistance wholly as a result of a genuine and independent private choice of the beneficiary, not a choice of the Government. The availability of adequate secular alternatives is a significant factor in determining whether a program affords true private choice.

Intermediary means an entity, including a nongovernmental organization, acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that accepts Federal financial assistance and distributes that assistance to other entities that, in turn, carry out activities under HUD programs.

Religious exercise has the meaning given to the term in 42 U.S.C. 2000cc-5(7)(A).

(c) *Equal participation of faith-based organizations in HUD programs and activities.*

(1) Faith-based organizations are eligible, on the same basis as any other organization, to participate in any HUD program or activity for which they are otherwise eligible. Neither the Federal Government, nor a State, Tribal, or local government, nor any other entity that administers any HUD program or activity, shall discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization.

(2) Nothing in this section shall be construed to preclude HUD from making an accommodation, including for religious exercise, with respect to one or more program requirements on a case-by-case basis in accordance with the Constitution and laws of the United States.

(3) HUD shall not disqualify an organization from participating in any HUD program for which it is eligible on the basis of the organization's indication that it may request an accommodation with respect to one or more program requirements, unless the organization has made clear that the accommodation is necessary to its participation and, in accordance with the Constitution and laws of the United States, HUD has determined that it would deny the accommodation.

(4) In addition, decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not based on the organization's religious character, affiliation, or lack thereof, or based on the organization's religious exercise. Notices of funding opportunity, grant agreements, and cooperative agreements shall include language substantially similar to that in appendix A to this subpart, where faith-based organizations are eligible for such opportunities.

(d) *Independence and identity of faith-based organizations.*

(1) A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its autonomy, right of expression, religious character, authority over its governance, and independence, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs; provided that, it does not use direct Federal financial assistance, whether received through a prime award or sub-award, to support or engage in any explicitly religious activities, including

activities that involve overt religious content such as worship, religious instruction, or proselytization.

(2) A faith-based organization that receives direct Federal financial assistance may use space (including a sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple, synagogue, church, mosque, or other place of worship) to carry out activities under a HUD program without concealing, altering, or removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members on the basis of their acceptance of or adherence to the religious tenets of the organization consistent with paragraph (i) of this section, and include religious references in its organization's mission statements and other governing documents.

(e) ***Explicitly religious activities.*** If an organization engages in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance and participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal financial assistance. The use of indirect Federal financial assistance is not subject to this restriction. Nothing in this part restricts HUD's authority under applicable Federal law to fund activities, that can be directly funded by the Government consistent with the Establishment Clause of the U.S. Constitution.

(f) ***Intermediary responsibilities to ensure equal participation of faith-based organizations in HUD programs.*** If an intermediary—acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that is administering a program supported by Federal financial assistance—is given the authority to select a nongovernmental organization to receive Federal financial assistance under a contract, grant, sub-grant, sub-award, or cooperative agreement, the intermediary must ensure that such organization complies with the requirements of this section. If the intermediary is a nongovernmental organization, it retains all other rights of a nongovernmental organization under the program's statutory and regulatory provisions.

(g) ***Nondiscrimination and beneficiary notice requirements*** —(1) *Nondiscrimination.* Any organization that receives Federal financial assistance under a HUD program or activity shall not, in providing services supported in whole or in part with Federal financial assistance, or in their outreach activities related to such services, discriminate against a beneficiary or prospective beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, an organization that participates in a program funded by indirect Federal financial assistance need not modify its program or activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program.

(2) ***Beneficiary notice.***

(i) An organization providing services under a program supported by direct Federal financial assistance from HUD, or an entity that administers indirect Federal financial assistance from HUD, must give written notice to beneficiaries and prospective beneficiaries of certain protections in a manner and form prescribed by HUD, including by incorporating

the notice into materials that are otherwise provided to beneficiaries. The required language for this written notice to beneficiaries is set forth in appendix C to this subpart.

(ii) For the Housing Choice Voucher (HCV), Project-Based Voucher (PBV), and Section 8 Moderate Rehabilitation programs, the respective recipient (*i.e.*, Public Housing Agency) is required to provide the written beneficiary notice. For the Housing Opportunities for Persons with AIDS (HOPWA) program, the grantee or project sponsor that is responsible for making eligibility determinations is required to provide the written beneficiary notice. For the Continuum of Care (CoC) and Emergency Solutions Grants (ESG) programs, the recipient or subrecipient that is responsible for determining the eligibility of each family or individual is required to provide the written beneficiary notice. The participating or prospective providers (landlords) are not responsible for providing the written beneficiary notice for indirect aid recipients. The notice must include the following information:

(A) Nondiscrimination requirements of paragraph (g)(1) of this section;

(B) Notification that a beneficiary or prospective beneficiary may report an organization's violation of these protections, including any denials of services or benefits by an organization, by contacting or filing a written complaint with the Center for Faith-Based and Neighborhood Partnerships or the intermediary that awarded funds to the organization; and

(C) For direct Federal financial assistance only, prohibitions with respect to explicitly religious activities as set forth in paragraph (e) of this section.

(3) ***Notice timing.*** The written notice described in paragraph (g)(2) of this section must be given to a prospective beneficiary prior to the time the prospective beneficiary enrolls in the program or receives services from the program. When the nature of the service provided or exigent circumstances make it impracticable to provide such written notice in advance of the actual service, an organization must advise beneficiaries of their protections at the earliest available opportunity.

(4) ***Alternative option information.*** HUD may determine that the notice described in paragraph (g)(2) of this section must inform each beneficiary or prospective beneficiary about how to obtain information from HUD, or a State agency or other entity administering the applicable program, about other federally funded service providers in their area that provide the services available under the applicable program.

(h) ***No additional assurances from faith-based organizations.*** A faith-based organization is not rendered ineligible by its religious nature to access and participate in HUD programs. Absent regulatory or statutory authority, no notice of funding opportunity, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering Federal financial assistance from HUD shall require otherwise eligible faith-based organizations to provide assurances or notices where they are not required of similarly situated secular organizations. All organizations that participate in HUD programs or activities, including organizations with religious character, motives, or affiliation, must carry out eligible activities in accordance with all program requirements, including those prohibiting the use of direct financial assistance to engage in explicitly religious activities, subject to any accommodations that are granted to organizations on a case-by-case basis in accordance with the Constitution and laws of the United

States. No notice of funding opportunity, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering financial assistance from HUD shall disqualify otherwise eligible faith-based organizations from participating in HUD's programs or activities on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to disqualify a similarly situated secular organization.

(i) ***Exemption from Title VII employment discrimination requirements.*** A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1). is not forfeited when the organization participates in a HUD program. Some HUD programs, however, contain independent statutory provisions that impose certain nondiscrimination requirements on all grantees. Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(j) ***Acquisition, construction, and rehabilitation of structures.*** Direct Federal financial assistance may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under a HUD program or activity. Where a structure is used for both eligible and explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), direct Federal financial assistance may not exceed the cost of the share of acquisition, construction, or rehabilitation attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity. However, acquisition, construction, or rehabilitation of sanctuaries, chapels, or other rooms that a HUD-funded faith-based organization uses as its principal place of worship, may not be paid with direct Federal financial assistance. Disposition of real property by a faith-based organization after its use for an authorized purpose, or any change in use of the property from an authorized purpose, is subject to Government-wide regulations governing real property disposition (2 CFR part 200, subpart D) and the HUD program regulations, as directed by HUD.

(k) ***Commingling of Federal and State, tribal, and local funds.*** If a State, tribal, or local government voluntarily contributes its own funds to supplement direct Federal financial assistance for an activity, the State, tribal or local government has the option to segregate those funds or commingle them with the direct Federal financial assistance. However, if the funds are commingled, the requirements of this section apply to all of the commingled funds. Further, if a State, tribal, or local government is required to contribute matching funds to supplement direct Federal financial assistance for an activity, the matching funds are considered commingled with the direct Federal financial assistance and, therefore, subject to the requirements of this section. Some HUD programs' requirements govern any activity assisted under those programs. Accordingly, recipients should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(l) ***Tax exempt organizations.*** In general, HUD does not require that a recipient, including a faith-based organization, obtain tax-exempt status under section 501(c)(3) of the Internal Revenue Code to be eligible for funding under HUD programs. Many grant programs, however, do require an organization to be a nonprofit organization in order to be eligible for funding. Notices of funding availability that require organizations to have nonprofit status will

specifically so indicate in the eligibility section of the notice of funding availability. In addition, if any notice of funding availability requires an organization to maintain tax-exempt status, it will expressly state the statutory authority for requiring such status. Applicants should consult with the appropriate HUD program office to determine the scope of any applicable requirements. In HUD programs in which an applicant must show that it is a nonprofit organization but this is not statutorily defined, the applicant may do so by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State or other governmental taxing body or the State secretary of State certifying that—

(i) The organization is a nonprofit organization operating within the State; and

(ii) No part of its net earnings may benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant; or

(4) Any item described in paragraphs (l)(1) through (3) of this section, if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

(m) ***Rule of construction.*** Neither HUD nor any recipient or other intermediary receiving funds under any HUD program or activity shall construe these provisions in such a way as to advantage or disadvantage faith-based organizations affiliated with historic or well-established religions or sects in comparison with other religions or sects.

[69 FR 41717, July 9, 2004, as amended at 80 FR 75934, Dec. 7, 2015; 81 FR 19416, Apr. 4, 2016; 85 FR 82315, Dec. 17, 2020; 89 FR 15711, Mar. 4, 2024]

EXHIBIT "S"

Economic Opportunities for Low- and Very Low-Income Persons
CONTRACT REQUIREMENTS
24 CFR Part 75

RIVERSIDE COUNTY

Section 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Section 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The threshold is $100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

(ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

Section 75. 5 Definitions.

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5. The following definitions also apply to this part:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

Contractor means any entity entering into a contract with:

(1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

(2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial

consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in §75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in §75.3(a)(2).

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in §§75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

§75.19 Requirements.

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) Participants in YouthBuild programs.

(b) *Contracting.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

§75.21 Targeted Section 3 worker for housing and community development financial assistance.

(a) *Targeted Section 3 worker.* A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in §75.5; or

(ii) A YouthBuild participant.

(b) [Reserved]

§75.23 Section 3 safe harbor.

(a) *General.* Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in §75.19; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

(b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide

benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to §75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per §75.25(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

(ii) The number of labor hours worked by Targeted Section 3 workers as defined in §75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

§75.25 Reporting.

(a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to §75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the

total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in §75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

§75.27 Contract provisions.

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance

§75.29 Multiple funding sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to §75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in §75.3(a)(2), the recipient or recipients

must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

§75.31 Recordkeeping.

(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.

(d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

§75.33 Compliance.

(a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

(b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.

Additional Federal Requirements (AFR)

Whereas, the work under this Agreement is subject to applicable Federal, State, and local laws and regulations, including but not limited to the regulations pertaining to the Community Development Block Grant program (24 CFR *Part 570)* and the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards *(2 CFR Part 200)*. Contractor, sub-contractors, Consultants, and sub-consultants agree to comply with, and are subject to, all applicable requirements as follows:

1. ***Equal Employment Opportunity*** - Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Contractor/Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, general identity or national origin. Contractor/Consultant will ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex sexual orientation, general identity or national origin. The Contractor/Consultant will take affirmative action to ensure that applicants are employed and the employees are treated during employment, without regard to their race color, religion, sex, sexual orientation, general identity or national origin. Such actions shall include, but are not limited to, the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor/Consultant agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this non-discriminating clause.

2. ***Copeland "Anti-Kickback" Act*** *(18 U.S.C. 874 and 40 U.S.C.A. Section 3145):* All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to HUD.

3. ***Davis-Bacon Act, as amended*** *(40 U.S.C.A. Section 3141-3148):* When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. *A. Section 3141-3148*) and as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under the Davis Bacon Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the U.S. Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the U.S. Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to HUD.

4. ***Contract Work Hours and Safety Standards Act*** *(40 U.S.CA.. 32701 through 3708):* Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards (40 U.S.C.A. 32701–3708), as supplemented by Department of Labor Regulations (29 CFR Part 5). Under Section 40 U.S.C.A. 3702, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the

standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. 40 U.S.C.A. 3704of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. ***Rights to Inventions Made Under a Contract or Agreement***— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

6. ***Rights to Data and Copyrights*** – Contractors and consultants agree to comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part 27.404-3, Federal Acquisition Regulations (FAR).

7. ***Air Pollution Prevention and Control (formally known as the Clean Air Act) (42 U.S.C.A. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C.A. Section 1251 et seq.), as amended:***—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C.A. 1251 *et seq.*). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

8. ***Byrd Anti-Lobbying Amendment*** *(31 U.S.C.A. 1352)*— Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

9. ***Debarment and Suspension*** *(Executive Orders (E.O. s) 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 2424. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

10. ***Drug-Free Workplace Requirements***— The Anti-Drug Abuse Act of 1988 (41 U.S.C.A. Section 8101-8103)requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 2425.

11. ***Access to Records and Records Retention***: The Consultant or Contractor, and any sub-consultants or sub-contractors, shall allow all duly authorized Federal, State, and/or County officials or authorized representatives access to the work area, as well as all books, documents, materials, papers, and records of the Consultant or Contractor, and any sub-consultants or sub-contractors, that are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions. The Consultant or Contractor, and any sub-consultants or sub-contractors, further agree to maintain and keep such books, documents, materials, papers, and records, on a current basis, recording all transactions pertaining to this agreement in a form in accordance with generally acceptable accounting principles. All such books and records shall be retained for such periods of time

as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least four (4) years after the expiration of the term of this Agreement.

12. ***Federal Employee Benefit Clause:*** No member of or delegate to the congress of the United States, and no Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

13. ***Energy Efficiency*:** Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, Dec. 22, 1975; 42 U.S.C.A. Section 6201, et. seq., 89 Stat. 871).

14. ***Procurement of Recovered Materials (2 CFR 200.322.)*** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with 42 U.S.C. Section 6962 of the Solid Waste Disposal Act (42 U.S.C.A. Section 6901, et seq.), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

15. ***Build America, Buy America (BABA) Act:*** The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

16. Violence Against Women Act (VAWA): VAWA provides housing protections for survivors of domestic and dating violence, sexual assault and stalking ('domestic violence"). VAWA 2022 reauthorizes, amends, and strengthens the VAWA of 1994, as amended (Pub. L. 103-322, tit. IV, sec. 40001-40703; 34 U.S.C. 12291 et seq.) HUD's implementing regulations for VAWA'S protections, rights, and responsibilities are codified in 24 CFR part 5, subpart L, and related provisions in HUD's program regulations (HUD's VAWA regulations). VAWA 2022 amendments took effect on October 1, 2022 and 2022 VAWA's reauthorization includes new implementation requirements. Grantees, subrecipients and developers shall ensure compliance with all requirements of VAWA including but not limited to: (a) Assure domestic violence survivors are not denied assistance as an applicant, or evicted, or have assistance terminated as a tenant because applicant or tenant is or has been a victim of domestic violence; (b) Implement an emergency transfer plan allowing domestic violence survivor to move to another safe and available unit; (c) Provide protections against denial, terminations, and evictions that directly result from being a victim of domestic violence; (d) Implement a low barrier certification process and allow self-certification of domestic violence.

SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)

I. GENERAL INFORMATION

CITY NAME: City of Banning UEI#: F996EVLCRCG3

ADDRESS: PO Box 998

Banning, CA 92220

CITY PROGRAM CONTACTS: Mike Story, Executive Director

SUBRECIPIENT NAME: Sunrise Life Development

ADDRESS: PO Box 998, Banning, CA 92220

PHONE: 9098755556 FAX :

E-MAIL: mstory@sunrisechurch.org

PROJECT NAME: Banning Peace Center Food Program

PROJECT LOCATION: 4024 W. Wilson Street, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**

CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**

PROJECT FUNDING SUMMARY: **$5,000**

Project to be administered by County (HWS) on behalf of CITY: YES ☐ NO ☐

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2025-2026** Community Development Block Grant for the **Banning Peace Center Food Program** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The Banning Peace Food Center provides emergency assistance to low- to moderate-income clients. Clients receive emergency relief food boxes, baby items, and senior products. CDBG funds will be used to purchase food, supplies, and other program-related expenses.*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). CITY certifies that the activity (ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(B)

CFR Reference: Low Mod Limited Clientele Income Certification

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year	Total *Unduplicated Persons*
Activity #1		*80*	*80*

Unit of Service is defined as: *Clients Served*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it and its subrecipients have the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact City's performance under this Agreement. Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$5,000**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total Non-CDBG Funds	Total Activity/Project Budget	Notes
Total Direct Program Expenses Salaries Fringe Office Space (Program Only) Utilities Communications Reproduction/Printing Supplies and Materials Mileage Equipment (Program Only) Audit Transportation Other: program related expenses	**$ $5,000** X X	*$0*	*$5,000*	
Total Indirect Program Expenses Indirect Costs (Specify)*	**$**			
TOTAL CDBG BUDGET	**$5,000**	$0	$5,000	

* **All indirect costs must be pre-approved by the County. City must submit an Indirect Cost Allocation Plan to County, in a form specified by County, demonstrating the appropriate share of general and administrative costs.**

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL							
PRIVATE							
OTHER							

TOTAL: $0

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained.

The City and its subrecipients will maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

i Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention:

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data:

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure:

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs:

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections:

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits, the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, CITY will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	Start Date	Completion Date
Complete CDBG Training	September 2025	September 2025
Implement Program Activities	July 1, 2025 [1]	----------
Execute Supplemental Agreement & Notice to Incur Cost	September 2025	January 2026
City Submits Quarterly Performance Reports to County	October 2025	March 27, 2026 [2]
County Monitoring of City Performance	TBD	TBD
City Submits Monthly Direct Benefit Reports	October 2025	March 27, 2026 [3]
City Submits Reimbursement Requests	October 2025	March 27, 2026 [4]

1 The Notice to Incur Cost Letter will provide the specific program implementation date for this CDBG-funded activity.

2, 3, 4 Submittal of required documentation is determined by the specific benefit period of the CDBG-funded activity. Confirm performance requirements with CDBG Program Manager.

CDBG Program Services Complete **June 30, 2026**

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

Sponsor must collect Self-Certifications with supporting income documents and demographic information from **EVERY individual or family participating in CDBG-funded activities or the parent/legal guardian of every child participating in CDBG-funded activities.** This includes family income, family size, and race. Sponsor is required to submit the 1st 200 Self- Certifications forms with supporting income documentation and 25% thereafter to HWS along with the Direct Benefit Reports on a monthly basis unless otherwise authorized in writing by CDBG program staff.

Once the Notice to Incur Cost letter is received, City must submit monthly reimbursement requests unless another schedule is approved, in writing, by HWS. Further, at least 75% of all 2025-26 CDBG funds must be drawn down by January 12, 2026, and 100% of all 2025-26 CDBG funds must be drawn down by March 27, 2026.

File No.: 0.282-25

EXHIBIT B

SPONSOR'S AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)

I. GENERAL INFORMATION

SPONSOR NAME: Voices for Children	**UEI #: ULFBHZQXYRT6**

ADDRESS: 11870 Pierce Street, Ste. 260
Riverside, CA 92505

PROGRAM CONTACTS: Jessica Munoz, Executive Director
(951) 472-9301 **FAX:** (858) 569-7151

E-MAIL: JessicaM@speakupnow.org

PROJECT NAME: CASA Program

PROJECT LOCATION: 11870 Pierce Street, Suite 260, Riverside, CA 92505

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**

CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**

PROJECT FUNDING SUMMARY: **$90,050**

2nd District	**$20,000**
3rd District	**$20,000**
4th District	**$20,000**
City of Beaumont	**$10,000**
City of Banning	**$5,000**
City of Lake Elsinore	**$7,050**
City of Murrieta	**$8,000**

II. SCOPE OF SERVICE

A. Activities

Sponsor will be responsible for administering a **2025-2026** Community Development Block Grant for the **CASA Program** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The Voices for Children CASA program assigns trained volunteers, appointed by a judge, to represent the best interests of an abused or neglected child in court. These volunteers conduct independent investigations into the child's circumstances, report their findings to the court, monitor the provision of services, and offer consistent support to the child throughout the legal process. CDBG funds will be used for staff salaries and benefits (direct costs).*

EXHIBIT B

B. National Objective

All activities funded with CDBG funds must comply with one or more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). Sponsor certifies that the activity (ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(A)

CFR Reference: Low Mod Limited Clientele Presumed

C. Levels of Accomplishment – Goals and Performance Measures

The Sponsor agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year	Total *Unduplicated Persons*
Activity #1		*45*	*45*

Unit of Service is defined as: Clients Served

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. Sponsor Capacity

By executing this Sponsor's Agreement, the Sponsor certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

Sponsor will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact Sponsor's performance under this Agreement. Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside Grantee will monitor the performance of the Sponsor against goals and performance standards as stated above. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sponsor within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

EXHIBIT B

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$90,050**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the Sponsor shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and Sponsor.

Line Item	CDBG Granted Funds	Total Non-CDBG Funds	Total Activity/Project Budget	Notes
Total Direct Program Expenses	**$ 90,050**	$1,965,000	$2,055,050	
Salaries	X			
Fringe	X			
Office Space (Program Only)	X			
Utilities				
Communications				
Reproduction/Printing				
Supplies and Materials				
Mileage				
Equipment (Program Only)				
Audit				
Transportation				
Other:				
Total Indirect Program Expenses	**$**			
Indirect Costs (Specify)*	X			
TOTAL CDBG BUDGET	**$90,050**	$1,965,000	$2,055,050	

EXHIBIT B

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL	State/Local Boca-Victims of Crime Ac	$1,500,000					$1,500,000
PRIVATE	Cooperation/Foundations	$465,000					$465,000
OTHER							

TOTAL: $1,965,000

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The Sponsor agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The Sponsor shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

i Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

EXHIBIT B

2. Records Retention

The Sponsor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Sponsor shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The Sponsor understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Sponsor's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Sponsor's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sponsor has control over CDBG funds, including program income.

6. Audits & Inspections

All Sponsor records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sponsor within 30 days after receipt by the Sponsor. Failure of the Sponsor to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Sponsor hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits, the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance)

EXHIBIT B

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, Sponsor will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	Start Date	Completion Date
Complete Sponsor Training	September 2025	September 2025
Implement Program Activities	July 1, 2025	----------
Execute Sponsor's Agreement & Notice to Incur Cost [1]	September 2025	December 2025
Sponsor Submits Quarterly Performance Reports to County	October 2025	March 27, 2026 [2]
Sponsor Submits Monthly Direct Benefit Reports	October 2025	March 27, 2026 [3]
Sponsor Submits Reimbursement Requests	October 2025	March 27, 2026 [4]

[1] **The Notice to Incur Cost Letter will provide the specific program implementation date for this CDBG-funded activity.**

[2, 3, 4] **Submittal of required documentation is determined by the specific benefit period of the CDBG-funded activity. Confirm performance requirements with CDBG Program Manager.**

CDBG Program Services Complete	June 30, 2026

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

Sponsor must collect eligibility Self-Certifications from EVERY participant in the CDBG-funded program. At a minimum, participants must certify that they are (Select only one: abused child, severely disabled adult, migrant farm worker, homeless person, victim of domestic violence, illiterate adult, or persons living with AIDS). The participants must report their race as well. All of this documentation must be submitted to HWS on a monthly basis unless otherwise authorized in writing by CDBG program staff.

Please note: if the participant is unable or incapable of providing the information, the Sponsor or a third party may report the information on behalf of the participant (e.g., Sheriff's Department, Mental Health/DPSS, other referring agency, etc.)

Once the Notice to Incur Cost letter is received, sponsor must submit monthly reimbursement requests unless another schedule is approved, in writing, by HWS. Further, at least 75% of all 2025-26 CDBG funds must be drawn down by January 12, 2026, and 100% of all 2025-26 CDBG funds must be drawn down by March 27, 2026.

File No.: 0.284-25

EXHIBIT C

SPONSOR'S AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)

I. GENERAL INFORMATION

SPONSOR NAME: Boys & Girls Clubs of the San Gorgonio Pass **UEI #:** CM9MN3YNAKJ8

ADDRESS: PO Box 655
Beaumont, CA 92223

PROGRAM CONTACTS: Megan Grisham, Program Manager

PHONE: (951)692-3259 **FAX:** (951) 922-0009

E-MAIL: bgcmegan@yahoo.com

PROJECT NAME: Teens Continue to Lead

PROJECT LOCATION: 240 W. Ramsey Street, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**

CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**

PROJECT FUNDING SUMMARY: **$8,850**

5th District **$5,000**
City of Banning **$3,850**

II. SCOPE OF SERVICE

A. Activities

Sponsor will be responsible for administering a **2025-2026** Community Development Block Grant for the **Teens Continue to Lead** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The Boys and Girls Club of San Gorgonio Pass offers a teen program for ages 13-18 during summer and school breaks. The Teens Continue to Lead program offers mentorship and courses in character and leadership, the arts, health and life skills, education, technology, and sports and recreation. CDBG funds will be used for staff salaries (direct cost), consumable supplies, and other program-related expenses.*

EXHIBIT C

B. National Objective

All activities funded with CDBG funds must comply with one or more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). Sponsor certifies that the activity (ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(B)

CFR Reference: Low Mod Limited Clientele Income Certification

C. Levels of Accomplishment – Goals and Performance Measures

The Sponsor agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year	Total *Unduplicated Persons*
Activity #1		*10*	*10*

Unit of Service is defined as: *Teens Served*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. Sponsor Capacity

By executing this Sponsor's Agreement, the Sponsor certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

Sponsor will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact Sponsor's performance under this Agreement. Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside Grantee will monitor the performance of the Sponsor against goals and performance standards as stated above. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sponsor within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

EXHIBIT C

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$8,850**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the Sponsor shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and Sponsor.

Line Item	CDBG Granted Funds	Total Non-CDBG Funds	Total Activity/Project Budget	Notes
Total Direct Program Expenses	**$ 8,850**	*$37,500*	*$46,350*	
Salaries	X			
Fringe	X			
Office Space (Program Only)				
Utilities				
Communications				
Reproduction/Printing				
Supplies and Materials	X			
Mileage				
Equipment (Program Only)				
Audit				
Transportation				
Other: program related expenses	X			
Total Indirect Program Expenses	**$**			
Indirect Costs (Specify)*				
TOTAL CDBG BUDGET	**$8,850**	$37,500	$46,350	

EXHIBIT C

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL	OJP	$10,000					$10,000
STATE/LOCAL	ELOP	$15,000					$15,000
PRIVATE	SCE	$5,000					$5,000
OTHER	Spearman Foundation	$7,500					$7,500

TOTAL: $37,500

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The Sponsor agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The Sponsor shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

i Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

EXHIBIT C

2. Records Retention

The Sponsor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Sponsor shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The Sponsor understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Sponsor's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Sponsor's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sponsor has control over CDBG funds, including program income.

6. Audits & Inspections

All Sponsor records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sponsor within 30 days after receipt by the Sponsor. Failure of the Sponsor to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Sponsor hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits, the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance)

EXHIBIT C

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, Sponsor will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	Start Date	Completion Date
Complete Sponsor Training	September 2025	September 2025
Implement Program Activities	July 1, 2025	----------
Execute Sponsor's Agreement & Notice to Incur Cost [1]	September 2025	December 2025
Sponsor Submits Quarterly Performance Reports to County	October 2025	March 27, 2026[2]
Sponsor Submits Monthly Direct Benefit Reports	October 2025	March 27, 2026 [3]
Sponsor Submits Reimbursement Requests	October 2025	March 27, 2026[4]

[1] **The Notice to Incur Cost Letter will provide the specific program implementation date for this CDBG-funded activity.**

[2, 3, 4] **Submittal of required documentation is determined by the specific benefit period of the CDBG-funded activity. Confirm performance requirements with CDBG Program Manager.**

CDBG Program Services Complete June 30, 2026

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

Sponsor must collect Self-Certifications with supporting income documentation and demographic information from **EVERY parent or legal guardian of every child participating in CDBG-funded activities.** This includes family income, family size, and race. Sponsor is required to submit the 1st 200 Self- Certifications forms with supporting income documentation and 25% thereafter to HWS along with the Direct Benefit Reports on a monthly basis unless otherwise authorized in writing by CDBG program staff.

Once the Notice to Incur Cost letter is received, sponsor must submit monthly reimbursement requests unless another schedule is approved, in writing, by HWS. Further, at least 75% of all 2025-26 CDBG funds must be drawn down by January 12, 2026, and 100% of all 2025-26 CDBG funds must be drawn down by March 27, 2026.

EXHIBIT D
File No.: 5.BN.64-25

SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(NON-PUBLIC SERVICE)

I. GENERAL INFORMATION

CITY NAME: City of Banning UEI #: F996EVLCRCG3

ADDRESS: PO Box 998

Banning, CA 92220

PROGRAM CONTACTS: Ralph Wright, Parks and Recreation Director

PHONE: 9519223241 FAX:

E-MAIL: rwright@banningca.gov

PROJECT NAME: Banning Senior Center ADA Improvements Phase II

PROJECT LOCATION: 789 N. San Gorgonio, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE:

CDBG ELIGIBILITY CODE: 570.201 (c)

PROJECT FUNDING SUMMARY: **$141,828**

Project to be administered by County (HWS) on behalf of City: YES ☐ NO ☒

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2025-2026** Community Development Block Grant for the **Banning Senior Center ADA Improvements Phase II** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The City of Banning will use CDBG funding for ADA improvements to the Banning Senior Center, all outlined in their CASp Report. Eligible CDBG expenses will include design, construction, inspections, project management, compliance, monitoring, and other related costs. Banning Senior Center ADA Improvements Phase II*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). City certifies that the activity(ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(A)

CFR Reference: Low Mod Limited Clientele Presumed

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to implement and complete the following activity(ies):

Activity #1 Construct ADA Improvements to Banning Senior Center

Activity #2 Complete Design, inspections, project management compliance, and monitoring

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one):
- ☒ Creating Suitable Living Environments
- ☐ Providing Decent Affordable Housing
- ☐ Creating Economic Opportunities

Outcome (select one):
- ☒ Availability/Accessibility
- ☐ Affordability
- ☐ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact the City or subrecipient's performance under this Agreement.

Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the

County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **$141,828** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total of Non-CDBG Funds	Total Activity/Project Budget	Notes
Design/Engineering Costs	X	$8,000	$149,828	
Project Administration Costs	X			
Construction Costs	X			
Acquisition Costs				
Relocations Costs				
Capital Equipment Costs				
Code Enforcement				
Clearance				
Interim Assistance				
Indirect Costs: project related expenses	X			
TOTAL CDBG BUDGET	**$141,828**	$8,000	$149,828	

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL							
STATE/LOCAL	City Funds	$8,000					$8,000
PRIVATE							
OTHER							

TOTAL: $8,000

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

I Records providing a full description of each activity undertaken;
ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
iii. Records required to determine the eligibility of activities;
iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, City will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

Tasks / Milestone	Start Date	Completion Date
Complete CDBG Training	September 2025	September 2025
Implement Project Activities	Upon Notification from HWS	
Execute Supplemental Agreement & Notice to Incur Cost	September 2025	January 2026

Tasks / Milestone	Start Date		Completion Date
Submit Quarterly Performance Reports to County	October 2025	Through	June 2027
County Monitoring of City Program/Performance	To be determined by Program Manager		

Specific Project Activities

1. City executes Supplemental Agreement; receives Authorization to Incur Cost letter
2. City prepares final construction documents (incorporating Special Federal Provisions) for HWS review and approval
3. HWS authorizes City to advertise for bids
4. HWS reviews and approves bidding process
5. City awards construction contract
6. City and HWS conduct "pre-construction meeting"
7. HWS authorizes City to issue "Notice to Proceed"

City Submits Reimbursement Requests
Monthly Submittal ☐
Other Schedule ☒ To be determined by Program Manager

CDBG-funded Project Complete June 30, 2027

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

City must follow proper procurement and construction policies and procedures of the City and CDBG regulations. No construction will shall commence using CDBG funding without prior Notice to Proceed. Pre-Construction meeting required. City is required to contact the County Program Manager for review prior to submission of RFP, construction activity or cost without prior written approval. County must be contacted 10 days in advance for attendance of Pre-Construction meeting. Original Certified payrolls to be submitted on a weekly basis to County.

This public facility project meets a National Objective of the CDBG program by primarily serving, severely disabled adults that are presumed to have low and moderate incomes. Upon project completion, City/Sponsor must continue collecting eligibility Self-Certifications and report annual Direct Benefit data (income limit categories and race information) to HWS for five (5) years.

RESOLUTION 2024-159

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ACCEPTING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2024/2025 IN THE AMOUNT OF $159,408 FOR THE BANNING SENIOR CENTER (5.BN.61-24) IN THE AMOUNT OF $43,144; DYSART PARK IMPROVEMENT PROJECT (5.BN.62-24) IN THE AMOUNT OF $105,000; AND THE BANNING PEACE CENTER FOOD PROGRAM IN THE AMOUNT OF $11,264

WHEREAS, the City of Banning has been submitting applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Housing and Workforce Solutions (HWS) annually; and

WHEREAS, the submittal of the approved project applications for CDBG 2024/2025 program funding was approved by the City Council on October 24, 2023 under Resolution 2023-171; and

WHEREAS, the projects submitted herein meets the CDBG program guidelines and/or requirements; and

WHEREAS, it is necessary that the supplemental agreement be approved by the City Council through resolution in order for the City and its residents to obtain and utilize the federally funded CDBG grant funds.

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

SECTION 1. The City Council approves the Supplemental Agreement with Riverside County Housing and Workforce Solutions for the Community Development Block Grant FY 2024/2025 for a one-year term in an amount of $159,408, attached hereto as Exhibit A.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Community Development Block Grant FY 2024/2025 and to execute the Supplemental Agreement with Riverside County Housing and Workforce Solutiuons 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 2024-159, 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:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Supplemental Agreement for the Use of 2024-2025
Community Development Block Grant Funds

RESOLUTION 2024-176

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ACCEPTING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2024/2025 IN THE AMOUNT OF $159,408 FOR THE BANNING SENIOR CENTER (5.BN.61-24) IN THE AMOUNT OF $43,144; DYSART PARK IMPROVEMENT PROJECT (5.BN.62-24) IN THE AMOUNT OF $105,000; AND THE BANNING PEACE CENTER FOOD PROGRAM IN THE AMOUNT OF $11,264, AND RESCINDING RESOLUTION 2024-159

WHEREAS, THE City of Banning has been submitting applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Housing and Workforce Solutions (HWS) annually; and

WHEREAS, the submittal of the approved project applications for CDBG 2024/2025 program funding was approved by the City Council on October 24, 2023 under Resolution 2023-171; and

WHEREAS, the projects submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is necessary that the supplemental agreement be approved by the City Council through resolution in order for the City and its residents to obtain and utilize the federally funded CDBG grant funds.

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

SECTION 1. The City Council approves the Supplemental Agreement with Riverside County Housing and Workforce Solutions for the Community Development Block Grant FY 2024/2025 for a one-year term in an amount of $159,408.

SECTION 2. The City Council authorizes the mayor to execute the Supplemental Agreement with Riverside County Housing and Workforce Solutions on behalf of the City Council and the City Manager to make non-substantive changes to the Community Development Block Grant FY 2024/2025 if necessary, in the future.

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 12th day of November 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 2024-176, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of November 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
CDBG Supplemental Agreement for FY 2024-25

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Arturo Vela, Director of Public Works/Interim City Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-143, Awarding a Professional Services Agreement for the Banning Armory Resilience Centers Project to Richard Yen & Associates Architects & Planners, Inc. in the Amount of $759,850**

RECOMMENDATION:

Approve Resolution 2025-143.

BACKGROUND:

On August 22, 2023, City Council authorized the submission of a grant application to the California Strategic Growth Council for funding under the Community Resilience Centers (CRC) Program. This program supports the planning, development and enhancement of neighborhood-level Community Resilience Centers, which are designed to serve as year-round hubs for community services and programs, while also functioning as resource-equipped shelters during climate related and other emergency activities.

The City submitted a CRC grant application for funding to support project development activities, including community outreach, facility assessments, and design work necessary to retrofit the former California National Guard Armory building (Art L. Welch Community Center) located at 2041 W. Nicolet Street. The proposed project aims to convert the facility into a dual-purpose Community Resilience Center and Emergency Operations Center, providing both emergency shelter during disasters and ongoing community programming throughout the year.

Following the State's review process, the California Strategic Growth Council awarded the City a grant in the amount of $1,070,620. The grant term commenced on April 21, 2025, the date of contract execution, and will remain in effect for two years from that date.

In response to the grant award and the associated project timeline, City staff developed and issued a Request for Proposals (RFP) via ProcureNow, soliciting qualified firms to provide services in alignment with the grant program guidelines, the City's application and the executed grant agreement. The selected firm will be responsible for preparing a community engagement plan, emergency preparedness assessment and report, facility assessment, and comprehensive project scope including design and cost estimates.

The RFP was advertised in the local newspaper officially released through ProcureNow on July 7, 2025. In response, the City received 6 proposals by the submission deadline of August 29, 2025 summarized below:

	Consultant	Score
1)	Richard Yen & Associates Architects & Planners, Inc.	83.67
2)	ELS Architecture and Urban Design	78.00
3)	SVA Architects, Inc.	76.33
4)	IDS Group, Inc.	73.67
5)	Dunbar Architecture	67.67
6)	Lionakis	61.33

With this award and completion of this planning project, it is staff's intention to seek further grant funding for the construction phase through the California Strategic Growth Council under the Community Resilience Centers Program or alternative sources.

JUSTIFICATION:

To fulfill the City's grant obligations and advance its strategic goals, it is necessary to enter into a Professional Services Agreement for planning and development activities related to the conversion of the former Armory building into a Community Resilience Center and Emergency Operation Center for the Banning community.

Staff conducted a comprehensive evaluation of submitted proposals, considering qualifications, cost, relevant experience, and responsiveness to the Request for Proposals with both value added services and the overall approach taken into consideration. Based on this evaluation, staff recommends awarding the Professional Services Agreement to Richard Yen & Associates Architects & Planners, Inc. (RY+AO) in the amount of $759,850.

FISCAL IMPACT:

The Professional Services Agreement in the amount of $759,850 will be funded through the Community Resilience Centers Program grant award. To facilitate this, an appropriation from to Account 704-3200-412.33-11 in the amount of $759,850 is required. Grant reimbursements will be requested periodically throughout the duration of the project.

ALTERNATIVES:

Do not approve Resolution 2025-143 and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-143.docx
2. CC Resolution No. 2023-147.pdf
3. Grant Agreement.pdf
4. Proposal.pdf
5. C01207 - PSA Richard Yen for Banning Armory final.pdf

RESOLUTION 2025-143

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE BANNING ARMORY RESILIENCE CENTERS PROJECT TO RICHARD YEN & ASSOCIATES ARCHITECTS & PLANNERS, INC. IN THE AMOUNT OF $759,850

WHEREAS, on August 22, 2023, City Council authorized the submission of a grant application to the California Strategic Growth Council for funding under the Community Resilience Centers Program; and

WHEREAS, the City submitted application requested funds to support project development activities, including community outreach, facility assessments, and design work necessary to retrofit the former California National Guard Armory building located at 2041 W. Nicolet Street in an effort to convert the facility into a dual-purpose Community Resilience Center and Emergency Operations Center; and

WHEREAS, California Strategic Growth Council awarded the City a grant in the amount of $1,070,620 which is effective two years from its grant execution, April 21, 2025; and

WHEREAS, City staff developed and issued a Request for Proposals (RFP) soliciting qualified firms to provide services in alignment with the grant program guidelines, the City's application and the executed grant agreement; and

WHEREAS, the RFP was advertised in the local newspaper on and officially released through ProcureNow on July 7, 2025 and in response, the City received 6 proposals as summarized below:

	Consultant	**Score**
1)	Richard Yen & Associates Architects & Planners, Inc.	83.67
2)	ELS Architecture and Urban Design	78.00
3)	SVA Architects, Inc.	76.33
4)	IDS Group, Inc.	73.67
5)	Dunbar Architecture	67.67
6)	Lionakis	61.33

WHEREAS, the Professional Services Agreement in the amount of $759,850 will be funded through the Community Resilience Centers Program grant award and an appropriation to Account 704-3200-412.33-11 (Professional Services) in the amount of $759,850 is required with the understanding that grant reimbursements will be requested periodically throughout the duration of the project.

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

SECTION 1. The City Council approves the Professional Services Agreement with Richard Yen & Associates Architects & Planners for the Banning Armory Resilience Centers project for a 3-year term in an amount of $759,850 and subsequent amendments to extend the Agreement for up to two additional single year terms upon satisfactory performance, with a total not-to-exceed amount of $759,85 over five (5) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Professional Services Agreement and to execute the Professional Services Agreement with Richard Yen & Associates Architects & Planners, 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 14th day of October, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-143, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk,
City of Banning, California

EXHIBIT A
Agreement Document Title

(Attach Agreement Document)

RESOLUTION 2023-147

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR GRANT FUNDS FOR THE COMMUNITY RESILIENCE CENTERS PROGRAM FROM THE CALIFORNIA STRATEGIC GROWTH COUNCIL AND AUTHORIZING THE EXECUTION OF APPLICATION-RELATED DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE

WHEREAS, the City of Banning proposes to implement the Banning Armory Community Resilience Center Project; and,

WHEREAS, the City of Banning has the legal authority and is authorized to enter into a funding agreement with the State of California and the California Strategic Growth Council; and

WHEREAS, the City of Banning intends to apply for Project Development grant funding from the California Strategic Growth Council's Community Resilience Centers (CRC) Program for the Banning Armory Community Resilience Center Project.

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

SECTION 1. The City of Banning City Manager or designee is hereby authorized and directed to prepare and file an application for funding with the California Strategic Growth Council and take such other actions as necessary or appropriate to obtain funding.

SECTION 2. The City of Banning City Manager or his designee is hereby authorized and directed to execute the funding agreement with the California Strategic Growth Council and any amendments thereto.

SECTION 3. The City of Banning City Manager or designee is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

PASSED, APPROVED AND ADOPTED this 22nd day of August 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 2023-147, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of August 2023 by the following vote, to wit:

AYES: Flynn, Gonzales, Minjares, and Sanchez.

NOES:

ABSENT: Wallace.

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

SCO ID: 0650-SGC24103

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
STANDARD AGREEMENT
STD 213 (Rev. 04/2020)

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
SGC24103	GO-LUCI-0650

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
Governor's Office of Land Use and Climate Innovation, hereinafter referred to as "STATE"

CONTRACTOR NAME
City of Banning, hereinafter referred to as "GRANTEE"

2. The term of this Agreement is:

START DATE
April 18, 2025

THROUGH END DATE
April 17, 2027

3. The maximum amount of this Agreement is:
$1,070,620.00 (One Million Seventy Thousand Six Hundred Twenty Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits		Title	Pages
	Exhibit A	Scope of Work	47
	Exhibit B	Budget Detail and Payment Provisions	9
	Exhibit C	Attachments	13
+ -	Exhibit D	CRC Award Letter	1
+ -	Exhibit E	Commitment of Leveraged Funds	2
+ -	Exhibit F	CRC Grantee Publicity Guidelines	4
+ -	Exhibit G	Equipment Inventory Record	1
+ -	Exhibit H	CRC Certificate of Compliance with Russia Sanctions	6
+ -	Exhibit I	Partnership Agreement	9

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
City of Banning

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
99 East Ramsey Street	Banning	CA	92220

PRINTED NAME OF PERSON SIGNING	TITLE
Robert Fisher	Police Lieutenant (Acting City Manager)

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
STANDARD AGREEMENT
STD 213 (Rev. 04/2020)

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
SGC24103	GO-LUCI-0650

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME			
Governor's Office of Land Use and Climate Innovation			
CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
1400 10th Street	Sacramento	CA	95814
PRINTED NAME OF PERSON SIGNING	TITLE		
Thomas Cameron	Chief Executive Deputy Director, SGC		
CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)		
	SCM Vol 1, 4.04(A)(4)		

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Exhibit A, Scope of Work

1. Key Terms and Definitions

A. "Advance Payment"

Any payment made to a contractor before work has been performed or goods have been delivered. Advance payments are permitted only if authorized by statute.

B. "Application or Proposal"

Submittal comprised of responses and supporting documents to apply for the Community Resilience Centers (CRC) Project Development Grant.

C. "Capital Projects"

Construction or retrofit of the CRC facility or campus amenities

D. "Core Components"

The CRC model is intentionally flexible to account for the vast spectrum of communities across California. Core components, however, include the following:

i. Multi-stakeholder partnerships
ii. Robust, meaningful, anmd culturally appropriate community engagement throughout all phases (design, application, implementation, and evaluation)
iii. Physical infrastructure investments to the CRC Facility (new construction and/or retrofits)
iv. CRC Campus Amenities, like transportation to the CRC and community gardens
v. Social infrastructure investments in services and programs, to ensure ongoing year-round usage of the CRC and strengthening of local community resilience

E. "CRC"

The Community Resilience Center (CRC) Program of the California Strategic Growth Council.

F. "CRC Facility"

Facility serving as Community Resilience Center. Campus Amenities and community resilience services and programs must be connected to and based out of the CRC Facility, respectively.

G. "CRC Program Guidelines"

CRC Round 1 Program Guidelines amended on December 14, 2023.

H. "CRC Project"

Projects that will be implemented with CRC grant funds through this Grant Agreement, and that are compliant with Exhibit B, Work Plan and Budget and the CRC Program Guidelines.

I. "CRC Project Components"

Components included in the CRC Project, as described in Exhibit B, Work Plan and Budget and therefore subject to this Grant Agreement.

J. "Direct Costs"

Costs directly tied to the implementation of the Community Resilience Centers grant, including, but not limited to personnel costs, subcontracts, equipment costs, travel expenses, etc.

K. "Grant Agreement"

Refers to this Project Development Grant Agreement and all attachments and appendices.

L. "Grant Term"

Project Development Grant terms are two (2) years, with the option to extend on a case-by-case basis.

M. "Indirect Costs"

Expenses of doing business that is of a general nature. These costs are not directly tied to the grant but are necessary for the general operation of the organization.

N. "Partnership Agreement"

A CRC Partnership Agreement is an agreement between two (2) or more parties that is not legally binding and outlines the responsibilities of each of the parties to the agreement. This must be signed by all members of the Collaborative Stakeholder Structure.

O. "Pre-development Activities"

Include, but are not limited to, community engagement; feasibility studies; market analysis; environmental assessments, surveys, and remediation; site acquisition; site and development plans; project designs; permitting; financial planning (e.g., preliminary budget and construction financing).

P. "Project Area"

All CRC Project Development Grant Applicants are required to define a Project Area. The Project Area must encompass the CRC Facility, Campus Amenities connected to the CRC Facility, and community resilience services and programs based out of the CRC Facility.

Q. "Project Development Grant"

Funding for pre-development and basic infrastructure activities for development of CRCs.

R. "Rural Communities"

A rural community as defined by Health and Safety Code 50199.21.

S. Entities involved in the grant implementation process:

i. **"Co-Applicant":** Entities other than the lead Applicant that enter into a Partnership with other organizations to apply for a Project Development Grant.
ii. **"Fiscal Agent":** A legal entity with legal authority, history, and capacity to administer state funds. A Fiscal Agent can make disbursements on behalf of the Grantee.
iii. **"Grantee":** Designated Lead Applicant that has an agreement for grant funding with the State.
iv. **"Lead Entity":** The Lead Applicant or Co-Applicant responsible for leading the implementation of a specific portion of the CRC Project.
v. **"Lead Agency":** For the purposes of California Environmental Quality Act (CEQA) requirements outlined in Section 19, the term Lead Agency refers to the local administrative approving entity.
vi. "**LCI**": Governor's Office of Land Use and Climate Innovation, as of July 1, 2024, is the new name for the Governor's Office of Planning and Research.
vii. **"OPR":** Office of Planning and Research, now known as the Governor's Office of Land Use and Climate Innovation.
viii. **"Parties**": SGC and Grantee, collectively
ix. **"Partners":** Entities other than the Grantee that enter into a Partnership with the Grantee and other organizations to implement Community Resilience Centers grant activities. Referred to as "Co-Applicants" during the application stage.
x. **"SGC":** The California Strategic Growth Council.
xi. **"SGC Grant Manager":** Day-to-day point of contact during the grant term.
xii. **"State":** Any state agency with an oversight role over the funding or CRC Project.
xiii. **"Subcontractors":** Third-party entities procured by either Grantee or a Partner.

2. Community Resilience Centers Program Background

The Community Resilience Centers (CRC) Program ("CRC Program") is part of the State's Climate Budget Package, which totaled over $15 billion to tackle wildfire and drought challenges, build more resilient communities, promote sustainable agriculture, and advance a nation-leading climate agenda. Senate Bill (SB) 155 (Committee on Budget and Fiscal Review, Chapter 258, Statutes of 2021) created the SGC's CRC program with "funding…for the construction or retrofit of facilities to serve as community resilience centers that mitigate the public health impacts of extreme heat and other emergency situations exacerbated by climate change." Enabling statute names

specific functions for resilience centers, including: hydration stations, cooling centers, clean air centers, respite centers, and community evacuation and emergency response centers. The FY22-23 budget allocated $110 million to the CRC Program from the General Fund's Climate budget. A total of $98.6 million was available for the CRC Program's Funding Round 1 (FY 22- 23). Chapter 574 (A.B. 211, Statutes of 2022), signed by the Governor in late September 2022, created additional program requirements that Staff have since incorporated into the Round 1 Guidelines.

3. CRC Project Development Grants

The purpose of CRC Project Development Grants is to advance the development of Community Resilience Centers through the funding of pre-development and basic infrastructure costs. These grants are intended to bolster community-serving facilities' capability to serve as a Community Resilience Center and prepare grantees for future CRC funding opportunities and other related funding streams. CRC Project Development Grants build on previous and ongoing local community engagement efforts. CRC Project Development activities should focus on community engagement, feasibility studies and analysis, and site planning and design, as well as broader community resilience to climate emergencies and intersecting social and economic issues.

The CRC Program is administered by the California Strategic Growth Council (SGC). The Grant Agreement will be executed between the Grantee and the SGC; the Grantee will work with the SGC during grant implementation.

The Grantee and the SGC are collectively referred to as "Parties." "Co-Applicants" identified in the CRC application are referred to as "Partners," but are not parties to this Grant Agreement.

4. Project

The SGC released the final CRC Program Guidelines for this Grant Agreement on July 27, 2023, and amended guidelines on December 14, 2023. In accordance with the Program Guidelines, Grantee applied and on April 24, 2024, the SGC awarded a grant to fund the project described in the application, subject to any conditions contained within the Award Letter (Exhibit D, CRC Award Letter). This will be referred to as the "Project" throughout

5. Grant Term

The grant term will commence on the date that both Parties have signed the Grant Agreement. The SGC will notify Grantee when work may begin. All work must be completed within two (2) years of executing the Grant Agreement, with the option to extend on a case-by-case basis.

This Grant Agreement shall terminate upon completion of the project or at the end of the grant term, but no later than payment of the last project invoice. Grantee's obligations under this Grant Agreement will only be discharged once all terms of this Grant Agreement are fulfilled.

6. Authorized Signatories

The SGC Executive Director or designee is authorized to sign this Grant Agreement and related documents on behalf of the SGC.

Grantee's Authorized Signatory or designee is authorized to sign this Grant Agreement and grant-related documents as shown in the Authorized Signatory Form (Exhibit C, Attachments).

Grantee must keep the Authorized Signatory Form up to date. Within seven (7) working days of any change to the Authorized Signatory or to the Delegated Authorized Signatory, Grantee shall notify the SGC Grant Manager in writing of the change. The written notice shall be sent as an electronic mail (email) attachment to be filed with the Grant Agreement.

If the Authorized Signatory or designee is unable to sign a deliverable or related document on behalf of Grantee, Grantee must submit an updated letter signed by the Authorized Signatory designating another individual to sign in their place. If the Authorized Signatory or Delegated Authorized Signatory are funded through this Grant Agreement, Grantee must designate a different individual to sign the invoices.

7. Project Representatives

The project representatives are the primary contacts for the SGC and Grantee. The SGC and Grantee must keep the Project Representatives Form (Exhibit C, Attachments, Attachment 2: Project Representatives Form) up to date. Any changes to the Project Representatives by either Grantee or the SGC shall be made by providing seven (7) working days advance written notice to the other party. The written notice shall be sent as an electronic mail (email) attachment to be filed with the Grant Agreement.

The SGC Grant Manager will function as the project representative for the SGC. Unless otherwise stated within this Grant Agreement, all correspondence and documents will be sent to the SGC Grant Manager as described in Section 37 Document Submission.

8. Independent Grantee

Grantee, and the agents and employees of Grantee, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees, or agents of the SGC.

9. Subcontractors

A. Contractual Relationship

i. The SGC's contractual relationship is with Grantee, and not any of its Partners or Subcontractors. Grantee is entitled to make use of its own staff, Partners, and Subcontractors, as identified in the Budget Detail Worksheet (Exhibit B, Work Plan and Budget) and will comply with all applicable laws and requirements for subcontracts that arise out of or in connection with this Grant Agreement.

ii. Grantee shall manage, monitor, and accept responsibility for the performance of its own staff, Partners, and Subcontractors, and will conduct Project activities and services consistent with professional standards for the industry and type of work being performed under this Grant Agreement.

iii. Nothing contained in this Grant Agreement or otherwise, shall create any contractual relationship between the SGC and any Partners or Subcontractors, and no subcontract shall relieve Grantee of its responsibilities and obligations hereunder.

iv. Grantee agrees to be as fully responsible to the SGC for the acts and omissions of Partners and Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Grantee.

v. Grantee's obligation to pay Partners and Subcontractors is an independent obligation from the SGC's obligation to make payments to Grantee. As a result, the SGC shall have no obligation to pay or to enforce the payment of any moneys to any Partner or Subcontractor.

10. No Third-Party Beneficiaries

This Grant Agreement is not intended for the benefit of any person or entity other than the Parties, and no one other than the Parties themselves may enforce any of the rights or obligations created by this Grant Agreement, including Partners or Subcontractors.

11. Assignment

This Grant Agreement is not assignable by Grantee, either in whole or in part, without the consent of the SGC in the form of an amendment.

12. Approval

This Grant Agreement is of no force or effect until signed by both Parties. Grantee may not commence performance until such approval has been obtained. Costs incurred or expended prior to execution of the Grant Agreement will not be reimbursed.

13. Incorporation

The performance of this grant must be conducted in accordance with this Grant Agreement and the CRC Program Guidelines, as well as enabling legislation for the CRC Program. The CRC Program Guidelines and all the attachments to this Grant Agreement are hereby incorporated by reference into this Grant Agreement as though set forth in full in this Grant Agreement.

14. Modifications and Amendments

Any modification or amendment of the terms of this Grant Agreement must be within the intent of the CRC Program. Requests to increase the overall grant amount or to significantly alter the deliverables of the CRC Program will not be approved because of the competitive nature of the process that resulted in the award of this Grant Agreement. Modification and amendment requests will be considered at the sole discretion of the SGC. All requests will be determined to be either a modification or an amendment on a case-by-case basis by the SGC in a manner consistent with this section.

A. Modifications

Modifications are minor changes to Exhibit B, Work Plan and Budget, as defined below. They require a formal, written request be submitted to and approved by the SGC Grant Manager. Modification requests must be submitted in writing to SGC at least thirty (30) calendar days prior to when the modification is needed.

Examples of actions that require a modification include but are not limited to changes in the Work Plan, Budget, Deliverables, Tasks, Subtasks, or Grantee's Authorized Signatories and Subcontractors as described below.

i. Work Plan and Budget Detail

Grantee must keep the Work Plan and Budget Detail Worksheet (Exhibit B, Work Plan and Budget) up to date. For substantive changes to the Work Plan or Budget which are not considered modifications, please see Subsection B.

ii. Changes to Budget

Changes of up to five percent (5%) of the total budget or $100,000, whichever is less, may be shifted between tasks. Changes shall be made by providing a written request to the SGC Grant Manager before submission of the affected invoice and shall be effective upon written approval from the SGC Grant Manager.

iii. Changes to Deliverables and Tasks

Changes to deliverable due dates within the grant term and minor changes to task/subtask descriptions shall be made by providing a written request to the SGC Grant Manager before submission of the affected invoice and shall be effective upon written approval from the SGC Grant Manager. Task and subtask descriptions are the details regarding methods used to achieve deliverables.

iv. Grantee's Authorized Signatories and Subcontractors

Grantee must keep Authorized Signatory Form up to date. Within seven (7) working days of any change to the Authorized Signatory or to the Delegated Authorized Signatory, Grantee shall notify the SGC Grant Manager in writing of the change in accordance with Section 6 of this Grant Agreement.

v. Material Changes

Material changes to the Work Plan and Budget or Grant Term that are not considered modifications shall follow the amendment process, described in Subsection B of this Grant Agreement.

B. Amendments

Amendments are material changes to the Grant Agreement. Any material change to this Grant Agreement requires an amendment, with the exception of the modifications detailed above in Section 14(A) Modifications. No change to this Grant Agreement shall be valid unless made in accordance with this section. No oral understanding or change not incorporated in this Grant Agreement is binding on any of the Parties.

Examples of actions that require an amendment include but are not limited to material changes in the Work Plan and Budget as outlined below. Changes to the Work Plan and Budget Detail Worksheet require an amendment if they involve one or more of the following alterations:

i. Budget shifts of more than five percent (5%) of the total grant budget or $100,000, whichever is less, between tasks
ii. Elimination or alteration of tasks or deliverables
iii. Elimination or change in Partners or terms in the CRC Partnership Agreement
iv. Change to the Grant term
v. Other substantive change requests not listed

C. Process for Modification and Amendment Requests

Except as otherwise specified, Grantee must request and obtain prior written approval by the SGC Grant Manager before any change (modification or amendment) to this Grant Agreement is valid.

i. Timeline

The SGC will only process modification or amendment requests once per grant year, unless mission critical changes are needed. As each request may take time and correspondence to review and resolve, there will be dedicated windows of time for request submission, review, and processing of requests according to the following timeline:

- Submit Requests: July – November
- Review and Correspondence: July – December
- Final Processing and Execution: November – January

ii. Requirements

Requests for modifications or amendments must be made during the timeline noted above and must meet the following requirements:

- Be submitted in writing on official letterhead and signed by the Authorized Signatory or designee on file with the SGC.
- Explain the purpose of the request, how the request is consistent with the CRC Guidelines and intent of the CRC Program, and the effect of not approving the request.
- Include supporting documentation to validate the request.
- Be submitted to the SGC Grant Manager at least sixty (60) calendar days prior to when the amendment is needed (or 30 days for modifications). New amendment requests from Grantee will not be considered less than three (3) months prior to the end of the Project Completion Period.
- Use the Amendment and Modification Request Form which includes the Grant Agreement number, a detailed explanation of the proposed amendment, reason for the amendment, and the effect of not approving the request.
- Include a copy of the document(s) requested for amendment that shows the requested changes.

iii. Review

The SGC Grant Manager will make reasonable efforts to review and respond in writing to complete modification and amendment requests within fifteen (15) working days from receipt of request to approve or deny the request for amendment, including the reason for the decision. The SGC's response to Grantee may include additional questions, and the SGC may require additional time to make a determination (i.e., approval or denial) about the request. SGC may consider requests for expedited review.

iv. SGC Approval

If SGC approves a modification request, the modification may take effect immediately. For amendment requests, the SGC Grant Manager will make reasonable efforts to process amendments within thirty (30) days of the approval date. If the SGC approves the amendment request, the SGC will notify Grantee and prepare amendment documents for Grantee within another ten (10) working days, or as soon as feasible. The amendment will not be in effect until both Parties have signed the Grant Agreement amendment.

If the SGC rejects the amendment request in writing, Grantee may file a Dispute pursuant to Section 41 of this Grant Agreement.

15. Grantee Responsibilities

The SGC Grant Manager will notify Grantee when work may proceed. Grantee is responsible for the following:

A. Use of Grant Funds

Using grant funds only as intended for the Project.

B. Completion of Work

Completing work on time and within budget. This includes meeting all milestones and deliverables, as described in the Work Plan (Exhibit B, Work Plan and Budget), unless otherwise agreed to by all parties through the amendment process described in Sections 14 Modifications and Amendments.

C. Invoice Submission

Submitting invoices for reimbursement using the Invoice Template in Exhibit C, Attachments (Attachment 4), including any supporting documents. Invoice submission will be consistent with the practice and policies of the SGC, and any changes to the invoicing process will be communicated to Grantee.

D. Advance Pay

Submitting appropriate Advance Pay documentation, if utilizing Advance Pay, as set forth in Section 30. Advance Pay requests and documentation shall be consistent with the practice and policies of the SGC, and programmatic requirements will be communicated to Grantee.

E. Final Report Submission

Submitting a final report with the last invoice, using the Final Report Template in Exhibit C, Attachments, Attachment 3: Final Report Form and Instructions.

F. Compliance

Complying with all terms and conditions of this Grant Agreement, including all incorporated documents. Complying with all statutes, rules, and regulations applicable to this Grant Agreement.

G. Project Records

Maintaining an accounting system that accurately reflects all fiscal transactions and provides accounting information, retaining all records and required documents as specified in Section 38 Records Management and Retention and providing all required documents during an audit, as specified in Section 40 Audit.

16. Insurance Requirements

A. Governmental Organizations

Grantee that is a governmental organization may provide evidence of sufficient self-insurance to satisfy the insurance requirements below.

B. Non-governmental Organizations

If Grantee is not a governmental organization or is unable to provide evidence of sufficient self-insurance, then the insurance requirements contained in this subsection apply.

Grantee must ensure the following insurance policies are obtained and kept in force for the term of this Grant Agreement, with no lapses in coverage, that cover any acts or omissions of Grantee and its employees engaged in carrying out any tasks specified in this Grant Agreement:

i. **Workers' Compensation Insurance**: Workers' Compensation Insurance in an amount of not less than the statutory requirement of the State of California (California Labor Code § 3700 et seq.).
ii. **Commercial General Liability Insurance**: Commercial General Liability Insurance in an amount of not less than $1,000,000 per occurrence for bodily injury and property damage combined.
iii. **Motor Vehicle Liability**: Motor vehicle liability with limits not less than $1,000,000 per accident for bodily injury and property damage combined. Such insurance shall cover liability arising out of a motor vehicle including owned or hired, and non-owned motor vehicles.

C. Additional Insured Parties

Insurance policies must name the State of California, its officers, agents, employees, and servants as additional insured parties for the commercial general liability and automobile liability insurance, but only with respect to work performed under this Grant Agreement.

D. Certificate of Insurance

Grantee is responsible for guaranteeing that a copy of each Certificate of Insurance is submitted to the SGC Grant Manager within sixty (60) calendar days of the Grant Agreement signature. The grant number must be included on each submitted Certificate of Insurance.

E. Policy Cancellation

Grantee must notify the SGC Grant Manager prior to any insurance policy cancellation or substantial change of policy, including lapse of coverage, change in coverage amount, or change in carrier. Grantee shall submit proof of new or updated policy based on insurance requirements within thirty (30) days of policy cancellation or substantial policy change. Failure to provide proof of insurance may result in termination of this Grant Agreement.

F. Partners and Subcontractors

Grantee is responsible for determining the appropriate level of insurance, if any, for its Partners and/or Subcontractors.

17. Non-Discrimination Clause

A. Non-Discrimination

During the performance of this Grant Agreement, Grantee and its Subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, color, ancestry, national origin, religion, creed, age (over 40), mental disability, physical disability, sex, gender (including pregnancy, childbirth, breastfeeding, or related medical conditions), sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, and military and veteran status. Grantee and Subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

Grantee and Subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f)) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Div. 4.1, Ch. 5,). Those regulations are incorporated into this Grant Agreement by reference and made a part hereof as if set forth in full.

B. Written Notice

Grantee and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Grant Agreement.

C. Inclusion in Subcontracts

Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Grant Agreement.

18. Conditions for Beginning Work

A. Project Readiness

Readiness requirements for Project Development Grants ensure that the proposed components can be completed within the grant term. Please see the list of readiness requirements in the subsections below.

Readiness requirements must be complete prior to beginning project implementation, unless otherwise specified in the subsections below. The SGC has sole discretion to determine when the Grantee has demonstrated readiness for each Project.

B. General Requirements

Upon grant execution and demonstration of Project readiness in compliance with CRC Program Guidelines and the CRC Grants Management Manual, Grantee may begin work on all planning, pre-development, community engagement, and community resilience service and program activities. Grantee or Partner costs associated with

project management, or the Collaborative Stakeholder Structure may also be spent upon grant execution. Project readiness requirements include the following:

i. **Permits:** Grantee must complete a permitting plan in alignment with the CRC Program Guidelines prior to Project implementation. All permits required to implement project components must be obtained within the grant term but must be obtained prior to implementing relevant Project components.
ii. **Site Control:** Prior to Project implementation, Grantees who are establishing or expanding facilities must demonstrate site control in alignment with the CRC Program Guidelines and CRC Grant Management Manual.
iii. **Operations and Maintenance Plan:** Grantee must have an Operations and Maintenance Plan in place prior to Project implementation, detailing indebtedness for all properties included in the CRC Project in alignment with CRC Program Guidelines.
iv. **Additional Requirements:** The State may request additional documentation to assess site readiness and Project feasibility.

Grantee must meet additional readiness requirements for capital projects. See Section 19 Capital Project Requirements for more information.

C. Documentation of Readiness

Grantees are required to provide sufficient evidence of compliance with readiness requirements. The SGC has sole discretion to determine when the Grantee has demonstrated readiness for each Project. In coordination with Grantee, the SGC will document completion of each required readiness component and will notify Grantee via email that project work may begin.

D. Failure to Meet Readiness Requirements

Projects that do not meet the relevant readiness requirements of the Grant Agreement or CRC Program Guidelines will be deemed to be infeasible and ineligible for reimbursement until appropriate documentation is submitted to the SGC and the SGC has provided written notice to proceed.

19. Capital Project Requirements

A. Capital Project Readiness

For Project Development Grants that include basic infrastructure components or capital projects that will be constructed during the grant term, Grantees must demonstrate readiness in accordance with all applicable laws and regulations for the Project, as well as the relevant requirements outlined in Section 8.3 Site-Readiness of the CRC Program Guidelines and the CRC Grants Management Manual prior to beginning construction.

Readiness requirements vary by Project but may include the following:

i. **CEQA:** Documentation of California Environmental Quality Act (CEQA) compliance, if relevant (see Subsection B below).
ii. **Site Analysis:** A current Project Site Analysis, with any updates if relevant.
iii. **Facility Floor Plan and/or design documents or plans:** Relevant design documents, with any updates if relevant.
iv. **Project Schedule:** A Project Schedule that must include project activities and durations and must be broken down in sufficient detail to manage the work.

In some cases, the items included in Section 19(A)(i) – (iv) may be completed as part of the Grantee's approved Project work plan. Readiness will be assessed and approved independently for each individual CRC Project Component. Grantee may only expend direct project costs for each capital project under this Grant Agreement once Grantee receives written notice from the SGC. Please see Subsection 19.C.

B. California Environmental Quality Act (CEQA) Requirements

For Project Development Grants that include basic infrastructure components or capital projects that will be constructed during the grant term, Grantees must observe applicable CEQA requirements.

i. **Applicable Law:** Grantee is responsible for complying with all applicable laws and regulations for the Project, including the California Environmental Quality Act (CEQA) (PRC § 21000 et seq.) if applicable.
ii. **Documentation:** Documentation of CEQA compliance must be provided to the SGC within the first year of the grant term to establish capital project readiness prior to Project implementation and before beginning construction. The following documentation is acceptable to demonstrate CEQA compliance:

a. Documentation for projects to which CEQA does not apply:

- A signed letter or similar document from the head of the administrative approving entity (e.g., Planning Director) of the lead agency stating that CEQA does not apply to the Project and the basis for that determination.

b. Documentation for projects that are categorically or statutorily exempt:

- A CEQA Notice of Exemption (NOE) that has been approved by the appropriate body pursuant to their obligations under CEQA; or
- Other documentation confirming that the project is exempt from CEQA, including but not limited to:

(1) A resolution adopted by the legislative body of the lead agency (e.g., City Council, Board of Supervisors) confirming a project's exemption. If a resolution or similar mechanism is not available or does not exist, meeting minutes

documenting the legislative body's consideration and approval of the project's CEQA compliance may be submitted.

(2) A signed letter or similar document from the head of an administrative approving entity (e.g., Planning Director) of the lead agency.

c. Documentation for all other projects subject to CEQA:

- A file-stamped Notice of Determination
- Grantees that are federally recognized tribes with projects taking place on tribal lands are not required to comply with CEQA, however they must document that they have complied with alternative processes or programs the tribe implements to evaluate environmental impacts. This can be documented with a signed letter or similar document from an authorized representative of the tribe stating that the tribe has complied with all tribal programs or processes for evaluating environmental impacts for the project.
- Although not required to establish readiness for Project implementation, Grantee must inform the SGC if any legal claims are filed challenging any of the approvals for the Project, including CEQA approvals, within 3 business days of service of the complaint.

iii. **Statutes of Limitation:** Grantees must notify SGC when the statutes of limitations have lapsed for each Project, and if any legal challenges arise. If a legal challenge is brought against a Project, SGC has the authority to issue a Stop Work Order.

C. Documentation of Capital Project Readiness

Grantees are required to provide sufficient evidence of compliance with readiness requirements. The SGC has sole discretion to determine when the Grantee has demonstrated readiness for each Project. In coordination with Grantee, the SGC will document completion of each required readiness component. When all requirements for beginning project work for capital projects have been met, the SGC Grant Manager will provide notice via email that project work on capital projects may begin. In cases where work on capital projects began prior to the grant term, the Grantee should provide the appropriate readiness documents to the SGC Grant Manager prior to invoicing for any capital project costs.

D. Failure to Meet Capital Project Readiness Requirements

Projects that do not meet the relevant readiness requirements of the Grant Agreement or CRC Program Guidelines will be deemed to be infeasible and ineligible for reimbursement until appropriate documentation is submitted to the SGC and the SGC has provided written notice to proceed.

20. Timeliness

Time is of the essence in this Grant Agreement. The SGC and Grantee will work collaboratively to ensure this Grant Agreement is administered in a timely fashion.

21. Project Monitoring and Oversight

A. Monitoring

Project monitoring and oversight is essential to ensure the Project stays within scope and is completed on schedule and within budget in accordance with this Grant Agreement and the requirements of the CRC Grants Manual. Grantee must work with the SGC Grant Manager to accommodate monitoring requests.

B. Access

The Grantee agrees to provide access to project files, project site(s), and records of expenditures to the SGC when requested for the purposes of monitoring and oversight of the CRC project and funding.

C. Project Meetings

Once the Grant Agreement is executed, the SGC Grant Manager may request a regularly occurring meeting with Grantee's Grant Manager to discuss the CRC Project. The Grantee check-in meeting schedule will align with the invoicing schedule. Partners agree to participate in two (2) full collaborative check-ins each grant year.

D. Site Visits

The SGC retains the right to conduct annual site visits during the grant term. At the SGC's discretion, site visits may occur more frequently.

E. Final Inspection

Grantee agrees that the SGC or designated representative has the right to conduct a final inspection of completed Projects, as determined by the SGC. For construction Projects, this may require certification by the appropriate registered professional (such as California Registered Civil Engineer or Geologist) that the Project has been completed in accordance with final plans and specifications and any modifications.

If Grantee or Lead Entity arranges a final inspection, Grantee must notify the SGC Grant Manager of the inspection date at least ten (10) working days prior to the inspection in order to provide the SGC the opportunity to participate.

22. Performance

A. Performance

The SGC has sole discretion to determine if Grantee is performing in accordance with the Grant Agreement.

B. Non-Performance

Non-performance issues can include but are not limited to: misuse of funding for ineligible expenses; inability to meet performance requirements or scheduled milestones; failure to complete or failure to make a good faith effort to complete the CRC Project as a whole or any CRC Project Components; failure to adhere to the CRC Partnership Agreement (Exhibit I, Partnership Agreement); and/or failure to comply with the Guidelines or terms and conditions of the Grant Agreement.

i. **Notification**: The SGC will notify Grantee, in writing, if non-performance is determined, and will provide instructions and a timeline to rectify all cases of non-performance. Grantee must respond to a determination of non-performance within thirty (30) days either by: a) acting on corrective actions and notifying the SGC of actions taken, or b) disputing the SGC's findings in writing. The SGC, without waiver of other rights or remedies, may require the Grantee to re-perform any actions defined in this Grant Agreement if determined to be not performed in accordance with the Grant Agreement.
ii. **Withholding Payment**: The SGC may withhold any payments due to Grantee until the Grantee brings the individual project or CRC Project back into full compliance. Costs and expenses for these actions shall be borne by the applicable Grantee, Partner, or Subcontractor.
iii. **Stop Work Order**: The SGC has the right to issue a Stop Work Order for an individual project or the CRC Project and suspend payments to the Grantee.
iv. **Failure to Correct**: If Grantee fails to correct any non-performance to the SGC's satisfaction, the SGC may elect to terminate the entire Grant Agreement or any part thereof. Grantee may be liable for immediate repayment to the SGC of all amounts disbursed by the SGC under this Grant Agreement for the individual Project or a task within an individual Project as applicable and only if non-performing. The SGC may, at its sole discretion, examine the extent of Grantee compliance for work partially completed and determine costs eligible for reimbursement. This paragraph will not be deemed to limit any other remedies available to the SGC for breach of this Grant Agreement.
v. **Termination**: Upon termination by the SGC, Grantee must deliver all invoices, reports, and other deliverables required by this Grant Agreement up to the time of termination. Grantee must deliver all materials within sixty (60) calendar days of the termination date.

23. Procurement

A. Procurement Standards

Grantees and their Partners must comply with the following standards when purchasing supplies and equipment or contracting for construction and other services.

i. **Separation of Duties**: No single person shall have the authority to approve, execute, record, and maintain custody of any resulting assets from the same transaction. If this is not possible due to the limited size of staff or when the process is decentralized, additional safeguards should be implemented.
ii. **Conflict of Interest**: Maintain a written code of conduct for employees involved in the awarding and administering of contracts that ensures ethical administration and avoids conflicts of interest.
iii. **Maximize Competition**: To ensure grant funds are spent efficiently and that costs are reasonable, procurement processes should encourage full and open competition whenever feasible.
iv. **Cost Reasonableness**: Grantees must ensure the costs for goods and services purchased with grant funds are reasonable. A cost is considered reasonable if it does not exceed what a prudent person would incur under similar circumstances at the time the decision was made. A cost reasonable analysis must be completed as part of any procurement. The SGC has the sole discretion to determine if a cost is reasonable. Any costs that do not meet the requirements of this Agreement may not be reimbursed by the State.
v. **Recordkeeping**: Grantees must maintain documentation of their normal procurement policy and competitive bid process, including the use of sole source purchasing, as well as documentation evidencing compliance with prevailing wage requirements, if applicable. Records shall be maintained which are sufficient to track the procurement actions taken.

B. Procurement Methods

Grantees and their Partners should utilize one of the following procurement methods to ensure full and open competition:

i. **Supply Purchase**: Supply purchases are when purchasing goods, materials, and supplies costing less than $5,000 per unit with CRC grant funds. Supply purchases may be completed without soliciting quotes if the price is determined to be reasonable based on research, experience, or other information. Documentation of the purchase order/contract and receipt/invoice must be maintained. To maximize competition, supply purchases should be distributed equitably among qualified vendors when practicable.
ii. **Equipment and Electronics Purchase**: Equipment and electronics purchase procedures apply when utilizing CRC grant funds to purchase equipment, electronics, or goods prone to theft, loss, or misuse. The reasonableness of costs must be verified by soliciting, obtaining, and documenting price rate or quotes from at least two (2) qualified vendors.
iii. **Professional Services Contract**: Professional service contract procedures apply when utilizing CRC grant funds to pay for professional services.

When procuring professional services, a Request for Proposals (RFP) or Statement of Qualifications (SOQ) must be issued and at least two (2) proposals must be solicited, obtained, and documented. Factors other than price may be considered in awarding contracts, however, all evaluation criteria must be established in advance and included in the solicitation. The professional service contract should either be a fixed-price or cost-reimbursement contract with the vendor offering the most advantageous proposal, considering price and other pre-defined criteria. Copies of the RFP/SOQ, solicitation efforts, proposals received, and a completed proposal evaluation must be submitted to the SGC.

iv. **Construction Contract**: When utilizing CRC grant funds to pay for construction services, an Invitation for Bids (IFB) or Notice Inviting Bids (NIB) must be formally advertised and at least two (2) proposals must be solicited, obtained, and documented. Price should be the sole determining factor in awarding construction contracts and a fixed-price contract must be used. Copies of the IFB/NIB, proof of publication, solicitation efforts, bids received, and a completed bid evaluation must be submitted to the SGC.

C. Procurement Limitations

Any entity that is revoked, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from the CRC Project may not receive a CRC-funded contract or conduct work on any CRC-funded project.

D. Grantee Procurement Policies and Procedures

Grantees and their Partners may follow their own established procurement policies and procedures as their primary process only if they meet these procurement standards and procurement methods.

24. Self-Dealing and Arm's Length Transactions

All expenditures for which reimbursement pursuant to this Grant Agreement is sought must be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of Grantee or any employee or agent of Grantee.

25. Equipment

A. Purchase

Purchase of equipment using grant funds is allowable only with prior approval by the SGC Grant Manager. Cost of equipment purchased shall be substantiated by purchase receipt.

B. Grant-Funded Equipment

If grant funds are used to purchase equipment that costs $5,000 or more, each such piece of equipment is "grant-funded equipment."

C. Ownership

For any equipment purchased or built with funds that are reimbursable as a direct cost of the CRC Project, as determined by the SGC, the Grantee, Partner, or Subcontractor, as applicable, must be the sole owner on the title.

D. Dedicated Use

During the Project Completion Period, equipment must be dedicated to the described use in the same proportion and scope as was in the Grant Agreement, unless the SGC agrees otherwise in writing.

E. Equipment Inventory Record

For the duration of the useful life of each grant-funded equipment, the grantee shall maintain an Equipment Inventory Record (Exhibit G, Equipment Inventory Record) identifying each grant-funded equipment, the expected useful life of each item, and the ultimate disposition (disposal or donation). The Equipment Inventory Record will be provided by the SGC Grant Manager. The requirements of this section will survive termination of this agreement.

Grantee must maintain an Equipment Inventory Record for grant-funded equipment purchased or built with funds provided under this Grant Agreement. In addition, items of grant-funded equipment or supplies that are prone to theft, loss, and misuse and may contain sensitive data (e.g., computers, printers, smartphones, tablets, cameras, GPS devices, etc.) costing less than $5,000 must be inventoried. Details on the inventory record are to be provided in the Grant Management Manual.

The Equipment Inventory Record must be updated annually and upon request. See CRC Grant Management Manual, Section XIII, Reporting Requirements, for more information.

F. Equipment Leasing

If equipment is leased, a cost-benefit analysis justifying the decision to lease versus purchase equipment must be provided to the SGC Grant Manager for approval prior to leasing equipment. Cost of leased equipment charged to the grant must be substantiated with receipts identifying equipment was leased, lease rate and total cost.

G. Equipment Rates

Use of equipment by the Grantee may be charged to the grant at a rate set by the California Department of Transportation Labor Surcharge and Equipment Rental Rate Guide. Use of Grantee equipment must be substantiated with an equipment usage log that identifies the equipment used, rate, and total rental cost (if leased).

H. Assumption of Risk

Grantee will assume all risk including cost for maintenance, repair, loss, destruction, and damage to all equipment until disposition of equipment. The SGC may, at its discretion, repair any damage or replace any lost or stolen items and deduct the cost thereof from Grantee's invoice to the SGC, or require Grantee to repair or replace any

damaged, lost, or stolen equipment to the satisfaction of the SGC with no expense to the State.

I. Theft of Equipment

In the event of theft, a report must be filed immediately with the California Highway Patrol (State Administrative Manual § 8643 [Lost, Stolen, or Destroyed Property]).

J. Disposition of Equipment

On completion or early termination of the Grant Agreement, the SGC will either require that the equipment be returned or authorize the continued use of such equipment at or around the Project Area; in making that determination, the SGC will consider the useful life of the equipment, and the Grantee may be required to refund the SGC for the fair market value of equipment that continues to have a usable life, but is no longer required for grant implementation. The SGC may, at its discretion, authorize that the equipment be donated to a charitable organization in the community in which the Project Area is located.

K. Changes in Ownership or Use

If the ownership or use of equipment changes to a use not in accordance with the CRC Guidelines or Grant Agreement, the Grantee may be required to reimburse the State in a manner determined by the SGC.

26. Computer Software

Grantee must ensure that the appropriate systems and controls are in place so that funds under this Grant Agreement will not be used for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

27. Vehicles

A. Ownership

For any vehicles acquired with funds that are reimbursable as a direct cost of the CRC Project, the Grantee, Lead Entity, or Subcontractor, as applicable, must be the sole owner on title.

B. Dedicated Use

During the Project Completion Period, vehicles must be dedicated to the described use in the same proportion and scope as was in the Grant Agreement, unless the SGC agrees otherwise in writing.

C. Maintenance

Vehicles acquired – including, but not limited to, bicycles, cars, buses, vans, rail passenger equipment – must be maintained in a state of good repair and dedicated to the described use during the grant term and to public transportation use for their full useful lives.

D. Vehicles for Public Transit

Vehicles acquired for purposes of public transit must be maintained in a state of good repair and dedicated to that public transportation use for their full useful lives, which, for the purpose of this Grant Agreement, will be determined in accordance with standard State and national transit practices and applicable rules and guidelines, including any extensions of that life cycle achievable by reconstruction, rehabilitation, or enhancements. If the ownership or use of the vehicles change to a use not in accordance with the Grant Agreement, Grantee may be required to reimburse the State for their fair market value.

E. Vehicles for General Project Work

Vehicles acquired for general project work (i.e., work trucks) must be maintained in a state of good repair for their full useful lives, which, for the purpose of this Grant Agreement, will be determined in accordance with standard State practices. If the ownership or use of the vehicles change to a use not in accordance with the Grant Agreement, Grantee may be required to reimburse the SGC for their fair market value.

F. Changes in Ownership or Use

If the ownership or use of vehicles changes to a use not in accordance with the CRC Guidelines or Grant Agreement, the Grantee may be required to reimburse the State in a manner determined by the SGC.

28. Infrastructure

A. Ownership

For any rights of way, real and personal property, leases, improvements and infrastructure funded as a reimbursable direct cost of the CRC Project, the Grantee, Lead Entity, or an appropriate public agency or Subcontractor, as applicable, must be the sole owner of the title or leasehold.

Grantee, Partner, or Subcontractor, as applicable, must ensure all necessary rights of way, property ownership, or leases have been secured prior to construction. Purchases of all real property required for the CRC Project must be free and clear of liens, conflicting easements, obstructions, and encumbrances. Any property acquisition by Grantee must not involve eminent domain proceedings or threat of eminent domain proceedings.

B. Dedicated Use

Each site acquired or improved upon with funding provided under this Grant Agreement must remain dedicated for a minimum of 15 years to the described use in the same proportion and scope as was in the Grant Agreement, unless the SGC agrees otherwise in writing. If Grantee becomes aware that the property funded by the SGC grant funding is sold or the use is substantially changed, Grantee shall notify the SGC or its successor in writing within 7 calendar days of becoming aware of this change. If the ownership or use of the property changes to a use not in accordance with the Grant

Agreement, Grantee may be required to reimburse the State in a manner determined by the SGC.

C. Deed Restrictions

By the end of the grant term, Grantee must provide the SGC with a recorded deed restriction, Memorandum of Unrecorded Grant Agreement (MOUGA), or Notice of Unrecorded Grant Agreement for each site acquired or improved upon with funding provided under this Grant Agreement. The recorded deed restriction, MOUGA, or Notice of Unrecorded Grant Agreement must demonstrate the site's dedicated use as a community-serving facility for a minimum of 15 years after Project implementation is complete. When directed to do so by the SGC, Grantee further agrees to record a deed restriction, MOUGA, or Notice of Unrecorded Grant Agreement limiting use of property subsequently acquired or improved upon with CRC funds in furtherance of the Project covered by this Grant Agreement in a manner which advances the SCG's CRC Program goals.

D. Capital Projects

Capital Projects owned or operated by public entities must include the public agency on the application or include an executed agreement with that public agency for the completion of the resilience center upgrades for which funding is sought before the grant agreement is signed.

E. Maintenance

Grantee, Partner, or Subcontractor, as applicable, is obligated to continue operation and maintenance of the physical aspects of the CRC Project for its full useful life, which, for the purpose of this Grant Agreement, includes any extensions of that life achievable by reconstruction, rehabilitation or enhancements, in accordance with the described use in the same proportion and scope as in the Grant Agreement, unless the SGC, Grantee, Partner, or Subcontractor (as applicable) agrees otherwise in writing.

Grantee may be excused from its obligations for operation and maintenance of the Project site only upon written approval from the SGC. The CRC Project and its facilities must be maintained, supervised, and inspected by adequate and well-trained staff and/or professionals and technicians as the project reasonably requires.

F. Changes in Ownership or Use

If the ownership or use of infrastructure changes to a use not in accordance with the CRC Guidelines or Grant Agreement, the Grantee may be required to reimburse the State in a manner determined by the SGC.

29. Ownership of Deliverables

Grantee hereby grants to the State a royalty-free, nonexclusive, transferable, world-wide license to reproduce, translate, and distribute copies of any and all materials it produces pursuant to this Grant Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on the State's behalf.

30. Payment

A. Payment Terms

i. Except as may be allowed under Subsection E, Grantee will be paid on a reimbursement basis.
ii. To receive reimbursement payments of grant funds, Grantee must submit an invoice reflecting costs incurred for eligible program activities and expenses.
iii. Invoices may be submitted by the Grantee quarterly. Grantees may submit invoices as frequently as bimonthly with SGC Grant Manager approval. Please see Section 32 Invoicing of this Grant Agreement for details.

B. Cost Principles

i. All costs to be reimbursed must be consistent with the CRC Program Guidelines.
ii. All costs to be reimbursed must be reasonable.
iii. Indirect costs total up to 12% of the awarded CRC funds, with the exception of Federally Recognized Native American Tribes, who may use the indirect cost rate negotiated with the federal government, as defined by the CRC Program Guidelines. Indirect costs are costs of doing business that are of a general nature. These costs are not directly tied to the grant but are necessary for the general operation of the organization.
iv. The SGC will reimburse Grantee only for actual expenses incurred during the term of this Grant Agreement, as specified in the Budget Detail Worksheet (Exhibit B, Work Plan and Budget).

C. Reimbursement

i. To receive reimbursement payments of grant funds, Grantee must submit an invoice reflecting costs incurred for eligible program activities and expenses.
ii. Invoice submission will be consistent with the practice and policies of the SGC, and any changes to the invoicing process will be communicated to grantee. Please see Section 32 Invoicing of this Grant Agreement for details.
iii. Upon receipt and approval of an itemized invoice and required supporting documentation, the SGC agrees to reimburse Grantee for actual expenditures for tasks completed, in accordance with the rates specified in the Budget Detail Worksheet (Exhibit B, Work Plan and Budget).
iv. Payment shall be made within forty-five (45) days upon receipt and approval of an invoice. Failure to comply with requirements may result in non-payment or delayed payment.

v. The SGC will not reimburse for funds spent on activities that occur prior to grant execution.

D. Retainage

The SGC will withhold the final five percent (5%) of the total grant budget, to be paid once the SGC determines that all terms of the Grant Agreement, including any final reporting requirements, have been satisfied.

E. Advance Pay

i. The SGC is authorized to provide eligible Grantees advance payments of CRC grant award. The SGC may approve advance payments under this grant at its sole discretion.
ii. All requests for advance payments shall be submitted to the SGC in writing using the Advance Pay Request form, which will be provided upon request, along with complete documentation of the Grantee's eligibility for advance payments in accordance with Government Code section 11019.1. Any material changes to the request form must be reported to the SGC in writing within 30 days.
iii. Advance payments shall not exceed 25% of the total grant award.
iv. All advance payments and the amount of any advance payment is subject to the SGC's sole discretion. The amount advanced shall be limited to the minimum immediate cash requirements necessary to carry out the scope of work.
v. All funds received as an advance payment must be deposited into a federally insured, interest-bearing account that provides the ability to track interest earned and withdrawals.
vi. Grantees must provide progress reports on the spend down of advanced funds on no less than on a quarterly basis, include a summary of work completed, proof of expenditure, and other associated information. Grantees must report the interest earned on advanced funds to the SGC, upon the SGC's request.

31. Payee Data Record Form - STD 204

This form must be completed by all Grantees. It requires Grantees to provide payee information, entity information, Tax Identification Number (TIN), and payee residency status.

32. Invoicing

A. General Requirements

Grantees are responsible for submitting invoices for reimbursement using the invoice template provided by the SGC and included in Attachment 4: Invoice and Progress Report Template, including any supporting documentation. Invoice submission will be

consistent with the practice and policies of the SGC, and any changes to the invoicing process will be communicated to Grantee.

B. Invoice Package

An invoice, supporting documentation, deliverables or other evidence of work completed, and the appropriate reporting materials are collectively referred to as the "Invoice Package."

The full Invoice Package must include the following:

i. Completed invoice form on official letterhead signed by the Authorized Signatory, or authorized designee on file with the SGC, certifying the expenditures are for actual expenses for the tasks performed under this Grant Agreement.
ii. Supporting documentation for costs incurred. Each cost category and task must correspond to a cost category and task identified in the Budget Detail Worksheet (Exhibit B, Work Plan and Budget
iii. Deliverables and/or evidence of work completed.
iv. Progress reports and other reports, as applicable.

The SGC has the discretion to determine the sufficiency of work completed and completeness of an Invoice Package.

C. Invoice Summary

The Grantee will complete one (1) "Invoice Summary" form, compiled with all the "Invoice Detail" forms (Non-Payroll and Payroll forms) and supporting documentation, and submit to the SGC Grant Manager.

D. Invoice Detail

An "Invoice Detail" form shall be filled out by the Partner or Grantee for each CRC Funded Project and Grantee Costs and shall include details of Non-Payroll and Payroll expenses, along with supporting documentation for each line item.

Grantees must ensure that:

i. Expenses are broken out at the task level.
ii. Expenses under each task are broken out by cost type (i.e., personnel, travel, supplies, etc.).
iii. Travel and equipment are clearly identified.
iv. All costs seeking reimbursement are eligible costs indicated in the Grant Agreement and CRC Program Guidelines. The SGC Grant Manager may ask for additional documentation to verify cost reasonableness.
v. Supporting documentation is provided for each line item and is clearly referenced.

E. Supporting Documentation

i. **Requirement**: Grantee and Partners must submit supporting documentation, including progress reports, for all itemized costs.

ii. **Documentation**: Documentation may include but is not limited to copies of purchase orders, receipts, Subcontractor invoices, and timesheets or timesheet summaries. These items must contain sufficient information to establish that the specific service was rendered, or purchase was made. Original supporting documentation is not required and should be retained by the Grantee.

iii. **Indirect/Overhead Costs**: Supporting documentation does not need to be provided for indirect/overhead costs. However, the Grantee must maintain records of indirect/overhead costs to be made available upon request from the SGC. Grantee shall invoice in accordance with the indirect/overhead cost rate(s) approved for each project and plan under the grant.

iv. **Personnel/Staff Time**: A timesheet summary template (Timecard Template) will be provided to report personnel costs, but note that Grantee and Partners can also use their own summary format as long as it includes the following information:

- Name of individual
- Date(s) on which the work was performed
- Specific grant-related activities or objectives to which the individual's time was devoted
- Hourly rate
- Amount of time worked
- Certification signature

v. **Non-Hourly Personnel/Staff Time:** For staff positions that do not bill at an hourly rate, Grantees should work with their payroll/financial office to provide supporting documentation that reflects the staff pay for the hours worked. Individual employee timesheets, activity logs, and/or payment records do not need to be submitted as supporting documentation, though such documents must be retained by the Grantee and Partners in case of an audit (see Section 40 Audit).

vi. **Certification**: It is the responsibility of the Grantee to certify that the information submitted is true and correct by signing the personnel/staff time supporting documents. If the Authorized Signatory is being funded with SGC funding, ensure timesheets or time reports are signed and verified by another qualified person from the organization.

F. File Naming Convention

Supporting documentation should use the following naming convention and be clearly referenced in the Invoice Detail tab:

"SGC241[XX]_ [Invoice #]_[Task #]_[Support Docs]_x"

G. Documentation Discrepancies

When there are discrepancies between a reimbursement request amount and the supporting documentation provided, the SGC will only reimburse for the amount on supporting documentation. If the Grantee can demonstrate the remaining unverified costs, that amount will be applied to the following invoice reimbursement.

H. Invoice Submission

Grantees will submit invoice packages via the SGC-provided online submission platform unless otherwise requested by the SGC. After uploading all documents, the Grantee must email their SGC Grant Manager and copy the CRC Staff email (crc@sgc.ca.gov) and the SGC Accounts Payable office (accountspayable@opr.ca.gov) to notify them of the submission and attach a signed PDF of the invoice summary to be processed.

I. Invoice Disputes

i. In the event of an invoice dispute, the SGC Grant Manager will notify the Grantee in writing within fifteen (15) working days of receipt of the disputed invoice. During the dispute, both parties shall deal in good faith to resolve the dispute and the Grantee shall continue to meet its responsibilities and obligations under the terms of the Grant Agreement.

ii. If a Grantee contests the decision made by the SGC Grant Manager, the Grantee shall submit a written "Notice of Dispute" on official letterhead. The "Notice of Dispute" shall include:

- The Grant Agreement number
- A complete description of the basis for the dispute
- Legal authority or pertinent facts, supporting arguments and documentation
- Action requested for resolution

iii. The "Notice of Dispute" shall be sent to crc@sgc.ca.gov, with copies sent via email to the SGC Grant Manager contacts on the Project Representatives Form (Exhibit C, Attachments, Attachment 2).

iv. Within 30 days after receipt of the "Notice of Dispute," the SGC CRC Program Manager shall review the dispute and submit a written decision to Grantee, which shall include:

- The decision made
- An explanation for the decision
- Whether the decision shall be conclusive and binding or can be appealed and the steps to take to appeal the decision

J. Non-Conforming Invoice Packages

If the SGC determines that Grantee submitted false or materially inaccurate invoices, supporting document or components of the Application, the SGC may impose any and all available remedies, including requesting reimbursement of already disbursed payments or termination of the Grant Agreement

K. Final Invoice

The final invoice for each CRC Project should include a request for reimbursement of the final five percent (5%) of the total requested budget, as discussed in Section 30(D).

33. Travel Reimbursement

Travel expenses directly related to the performance of this Grant Agreement will be subject to the State of California travel reimbursement rates in effect during the term of this Grant Agreement.

A. Reimbursement

The SGC will only reimburse for actual expenditures incurred for in-state travel with the exception of "incidentals" as specified in the CRC Program Guidelines.

B. Travel Records

Grantee shall maintain, and submit upon request, detailed travel records and supporting documents (e.g., travel request and approval forms, expense claims, invoices, receipts for lodging and transportation) showing the date and purpose of the grant-related travel, destination, and, in the case of travel by automobile, the number of miles driven.

C. Travel Costs

Grantee shall ensure travel costs are included in the Budget Detail Worksheet (Exhibit B, Work Plan and Budget) and are tied to tasks and deliverables in the Work Plan (Exhibit B, Work Plan and Budget).

D. Indemnification and Hold Harmless

Grantee and any person traveling pursuant to this Grant Agreement shall indemnify and hold harmless the SGC and State of California for any liabilities resulting from such travel.

34. Leveraged Funds

Leveraged funding is funding from non-CRC sources which supports activities that are integrated into the overall CRC Proposal as defined in Exhibit B, Workplan and Budget. Leveraged funding must support the implementation of the Strategies selected to achieve the CRC Program Objectives, as determined by SGC. Leveraged funds must be spent for the purposes of the CRC Project.

If relevant, Grantee shall ensure it and its Partners report on the leveraged funding expended in the Annual Leveraged Funding Report form. Grantee must retain supporting documentation of leveraged funding that will be made available to the State upon request. Grantees shall ensure adequate books and accounts are maintained documenting leveraged funding in accordance with generally accepted accounting principles, consistently applied.

Grantee must only report eligible leveraged funding expenditures. Expenditure of leveraged funding will only count if it advances a critical CRC project component or deliverable as required by the CRC Program Guidelines and outlined in the proposal scope. If leveraged funding sources change during the grant term, Grantee will notify the SGC at the subsequent reporting due date.

Changes in leveraged funding sources that impact the Budget and Schedule of Deliverables may require an amendment to the Grant Agreement.

35. Revenue

All revenue generated as a part of any Project by Grantee, Partner or Subcontractor must be used to further the CRC Project to the extent reasonably possible. Grantee must keep records of revenue expenditures for audit purposes. Grantee agrees to maintain records of revenue generated and provide a report to the SGC upon request.

36. Reporting Requirements

Grantee must provide period progress reports and information as requested by the SGC Grant Manager. All reports must be completed using templates attached to this Grant Agreement or provided by the SGC and submitted using the naming conventions provided by the SGC Grant Manager.

A. Quarterly Progress Reports

Grantee will submit quarterly progress reports to accompany quarterly invoices unless the Grantee has received approval to submit bimonthly invoices or the SGC has requested bimonthly reporting, in which case cadence for both invoice and progress report shall be every other month.

B. Annual Reports

Grantees must provide an inventory of purchased equipment and any leveraged funding on an annual basis, if applicable.

C. Final Report

When the Project is completed, Grantee must submit a Final Report with the last invoice. To complete and submit the Final Report:

i. Submit the Final Report with the last invoice. If Grantee does not submit the Final Report with the last invoice, then the last invoice will be considered incomplete and returned following process specified in Section 32 Invoicing.
ii. Use the Final Report template (Attachment 3).
iii. Make sure the Final Report is signed by the person authorized to sign on the most current Authorized Signatory Form (Attachment 1).

iv. Put enough detail in the Final Report to show that Grantee fulfilled the terms of the Grant Agreement and that both the last invoice and the five percent (5%) retention should be paid for completing the project.

For further detail on reporting requirements, the Grantee may refer to the CRC Program Guidelines and CRC Grant Management Manual.

37. Document Submission

A. Submission Method

When this Grant Agreement requires Grantee to provide invoices, reports, or other documents to the SGC Grant Manager, Grantee must use the SGC-provided online submission platform and email unless requested otherwise by the SGC.

B. Email Communications

All email communication must contain the Grant Agreement number and Grantee's name in the subject line.

C. Submission of Invoices

i. Grantee shall submit invoices quarterly (or up to bimonthly with SGC approval), in arrears, to the SGC Grant Manager.
ii. A request for payment shall consist of an Invoice Package, comprised of an invoice, supporting documentation, deliverables or other evidence of work completed, and the appropriate reporting materials.
iii. Grantee must submit invoices to the SGC online submission platform. Following submission, Grantee must email the Invoice (PDF) to AccountsPayable@OPR.CA.GOV and copy the SGC Grant Manager.
iv. Grantees must include the Grant Agreement number and Grantee's name in the subject line.

Refer to Section 32 Invoicing for additional details and requirements.

38. Records Management and Retention

A. Project File

Grantee shall establish an official file containing adequate documentation of all actions taken with respect to the Project, including copies of the Grant Agreement, changes, amendments, letters, email correspondence, financial records, and required reports for a minimum of four (4) years following the final payment of funds or until completion of any action and resolution of all issues which may arise as a result of an audit, whichever is later.

B. Ledger Account

Grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the attached Budget

and Schedule of Deliverables in Exhibit B, Work Plan and Budget. Separate bank accounts are not required. Grantee must maintain financial records of expenditures incurred during the CRC Project in accordance with generally accepted accounting principles.

C. Period of Record Retention

Grantee, Partners, and Subcontractors must maintain copies of Project records four (4) years after all terms of the Grant Agreement are fulfilled, unless a longer period of records retention is stipulated.

D. Protection

Grantee, Partners, and Subcontractors shall adequately protect all records, physical and electronic, from loss, damage, or destruction during the four (4) year retention period.

E. Access

Grantee agrees that the State or designated representative will have the right during normal business hours to review and to copy any records and supporting documentation pertaining to the performance of the Grant Agreement and interview any employees who might reasonably have information related to such records.

F. Audit

Grantee agrees that the State will have the right to audit records and interview staff of any Partners and Subcontractors related to performance of the Grant Agreement. For additional detail, please see Section 40 Audit.

39. Personally Identifiable Information (PII)

Information or data, including but not limited to all records and supporting documentation that personally identifies an individual or individuals, is confidential in accordance with California Civil Code Sections 1798, et seq. and other relevant state or federal statutes and regulations. Grantee must ensure that all such information or data that comes into possession under this Grant Agreement is appropriately safeguarded in perpetuity, and must not release or publish any such information, data, or records.

40. Audit

A. Audit Period

Grant funded projects are subject to audit by the State of California during the grant term and for up to four (4) years following the termination of the Grant Agreement. Grantee agrees that the SGC, Department of Finance, Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. The audit may consist of examining and auditing pertinent books, documents, papers, and

records including financial transactions and supporting documents, general accounting systems, internal controls, management practices, policies, and procedures pertaining to the performance of this Grant Agreement. Audits may also include, but are not limited to, inspections of project records; ownership and usage records of equipment, vehicles, and infrastructure; and maintenance records of equipment, vehicles, and infrastructure.

B. Process and Notification

At any time, the SGC, Department of Finance, Bureau of State Audits, or their designated representative may request to review Grantee's records to ensure proper grant management. Grantee shall be given advance notice when the grant-funded Project is selected for an audit or review by the SGC, Department of Finance, Bureau of State Audits, or their designated representative. Grantee agrees to allow the auditor(s) access to such records during normal business hours, excluding State of California holidays, and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the SGC to audit records and interview staff in any Partnership Agreement and subcontract related to performance of this Grant Agreement in accordance with Government Code Section 8546.7.

C. Partners and Subcontractors

Partners and Subcontractors employed by the Grantee and paid with moneys under the terms of this Grant Agreement shall be responsible for maintaining accounting records as specified above and in Section 38 Records Management and Retention.

D. Compliance

Grantee shall comply with the above and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code Section 10115.10.

The SGC may require recovery of payment from the Grantee, issue a Stop Work Order or terminate the Grant Agreement, as warranted, based on an audit finding, or any other remedies available in law or equity.

41. Dispute Resolution

A. General Disputes

The following section pertains to the general occurrence of disputes under the grant agreement between the SGC and Grantee. Examples of such disputes include, but are not limited to, invoice discrepancies between the work claimed in the invoice and agreed-upon project activities, significant increase in the cost of an activity, invoices for activities not approved under the project.

i. During a dispute, Grantee shall continue to meet its responsibilities and obligations under the terms of this Grant Agreement.

ii. In the event of a dispute unrelated to the dispute of an invoice, Grantee shall first attempt to resolve the dispute with the SGC Grant Manager.
iii. If Grantee contests the decision made by the SGC Grant Manager, Grantee shall submit a written "Notice of Dispute" on official letterhead, according to Subsection C below.

B. Invoice Disputes

For information on invoice disputes, please see Section 32 Invoicing for additional details and requirements.

C. Contesting a Dispute Decision

If Grantee contests a decision made by the SGC Grant Manager, Grantee may submit a written "Notice of Dispute" on official letterhead. The "Notice of Dispute" shall include:

i. The Grant Agreement number
ii. A complete description of the basis for the dispute
iii. Legal authority or pertinent facts, supporting arguments and documentation
iv. Action requested for resolution

D. Submission of Notice of Dispute

The "Notice of Dispute" shall be sent to crc@sgc.ca.gov, with copies sent via email to the SGC Grant Manager contacts on the Project Representatives Form (Exhibit C, Attachments, Attachment 2).

E. Dispute Resolution

Within 30 days after receipt of the "Notice of Dispute," the SGC CRC Program Manager shall review the dispute and submit a written decision to Grantee, which shall include:

i. The decision made
ii. An explanation for the decision
iii. Whether the decision shall be conclusive and binding or can be appealed and the steps to take to appeal the decision

42. Stop Work

If it is determined, at the sole discretion of the SGC, that Grantee is not meeting the terms and conditions of this Grant Agreement, immediately upon receiving a written notice from the SGC to stop work, Grantee shall cease all work under this Grant Agreement.

The SGC has the sole discretion to determine that Grantee meets the terms and conditions after a stop work order, and to send through certified mail a written notice to Grantee to resume work under this Grant Agreement.

If Grantee issues a Stop Work Order to a Partner, or if Grantee and/or Partners issue a Stop Work Order to any Subcontractors, they must notify the SGC within ten (10) working days of issuing the order.

43. Health Impacts

If the SGC has a reasonable concern about the public health impact of a Project Component, the SGC may require Grantee to further study and mitigate the impact as directed by the SGC. Section 30 Payment, of this Agreement notwithstanding, Grantee may request any required study and mitigation to be considered an eligible cost for reimbursement based on the fiscal inability of the entity required to perform the directed work.

44. Termination

A. Completion of Project

This Grant Agreement shall terminate upon completion of the project or at the end of the grant term, but no later than payment of the last project invoice.

B. Early Termination

Either Party may terminate this Grant Agreement upon thirty (30) days advance written notice to the other Party. The notice shall specify the reason for early termination and may permit Grantee or the SGC to rectify any deficiency(ies) prior to the early termination date.

i. Upon any termination, Grantee must deliver all invoices, reports, and other deliverables required by this Grant Agreement up to the time of termination. Grantee must deliver all materials within sixty (60) calendar days of the termination date.
ii. Upon receipt of notice from the SGC of early termination, Grantee shall immediately take action to ensure neither it nor any Partner or Subcontractor incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities.
iii. The SGC will examine the extent of Grantee compliance for work partially completed and reasonably determine costs eligible for reimbursement based on final invoices submitted and compliance with this Grant Agreement.

C. Budgetary Termination and Amendment

If funding for any fiscal year is reduced or deleted by the Budget Act or funding becomes unavailable, for any reason, for purposes of this program, the SGC shall have the sole discretion to either terminate this Grant Agreement with no liability occurring to the SGC or offer an amendment to reflect the reduced amount.

i. SGC will notify Grantee in writing 30-days prior to termination or amendment pursuant to this section.

ii. Grantee will be compensated for work already performed under the agreement, if sufficient funding exists, but will not be able to perform any further work or incur any additional costs once it receives notice of termination from the SGC.

45. CRC Grant Publicity Guidelines

Grantee agrees that it will acknowledge the SGC in all publications, websites, signage, invitations, and other media-related and public-outreach products related to the CRC grant. The SGC Grant Manager will provide the SGC logo files and guidance on their usage directly to Grantee. Grantee agrees to adhere to the CRC Publicity Guidelines provided by the SGC (Exhibit F, CRC Grantee Publicity Guidelines). If Grantee is planning an event or announcement, needs sample materials, or needs assistance or advice regarding digital or print materials, press, social media, and/or general communications, please contact your SGC Grant Manager.

A. Long-Form Materials

Long-form written materials, such as reports, must include the following standard language about the SGC and CRC:

> *"The California Strategic Growth Council's (SGC) Community Resilience Centers Program (CRC) funds neighborhood-level resilience centers to provide shelter and resources during climate and other emergencies, as well as year-round services and programming that strengthen community connections and ability to withstand disasters. For more information, visit https://sgc.ca.gov/grant-programs/crc."*

B. Press Releases, Flyers, and Visual Materials

Any informational materials that do not qualify as long-form but include at least a paragraph of text, such as press releases, media advisories, short case studies, some flyers, etc., should include following language:

> *"[Project Name] is supported by the California Strategic Growth Council's Community Resilience Centers (CRC) Program."*

Grantee may, at times, produce promotional materials that are primarily visual in nature, such as banners, signage, certain flyers, and sharable images for social media. In such cases, when including the above boilerplate language acknowledging the SGC support is not practical, Grantee should instead include the official logo of the SGC, preceded by the words "Funded by."

46. Right to Publish

A. Right to Publish

Subject to any restrictions on the publication, disclosure, dissemination and use of data or information set forth in this Agreement or under any applicable law, Grantee shall

have the right to publish, disclose, disseminate, and use, in whole and in part, any data and information received or developed under this Agreement.

B. Review Process

i. Grantee shall ensure that publications, presentations, and other public releases resulting from work performed under this Agreement are provided to the SGC for review at least thirty (30) calendar days prior to publication and will identify the proposed recipient(s).
ii. During the first twenty (20) calendar days of such review period, the SGC may provide notice to the Grantee that it intends to rebut some or all aspects of the presentation, publication, or other media release. The SGC will then have thirty (30) calendar days from the date of notice to prepare and submit such rebuttal to the recipient(s) identified by the Grantee.
iii. Within the review period, the SGC may provide feedback to the Grantee; the Grantee will give good faith consideration to such feedback but has no obligation to make any changes in said material, other than the removal of any material whose disclosure is prohibited or restricted by this Agreement or by any applicable law.
iv. Any of the above referenced time periods maybe modified upon agreement of both Parties. Neither Party may unreasonably deny such requests.

C. Terms & Conditions Required for State-Funded Research Grants

The Parties shall comply with the California Taxpayer Access to Publicly Funded Research Act (Government Code Section 13989 et seq.), including but not limited to:

i. Grantee is responsible for ensuring that any publishing or copyright agreements concerning submittal of peer-reviewed manuscripts based on work performed under this Agreement fully comply with Government Code Section 13989 et seq.
ii. For a peer-reviewed manuscript accepted for publication, Grantee shall ensure that the peer-reviewed manuscript be available no later than 12 months after the official date of publication on a publicly accessible repository approved by the SGC, including but not limited to:
    - CSU ScholarWorks at the Systemwide Digital Library (http://www.calstate.edu/library), or
    - UC California Digital Library (https://www.cdlib.org/), or
    - PubMed Central (https://www.ncbi.nlm.nih.gov/pmc/).
iii. Grantee shall instruct the Principal Investigator to report to the SGC the final disposition of the peer-reviewed manuscript, including but not limited to:
    - whether it was published,

- where it was published,
- when it was published,
- when the 12-month period after publication expires; and
- where the manuscript will be available for open access.

iv. The SGC shall retain information regarding all issued research grants that resulted in published works.

47. Copyrights

A. Copyrightable Works

All rights in copyrightable works first created by Grantee in the performance of the Budget and Schedule of Deliverables, in Exhibit B, Work Plan and Budget, under this Agreement are the property of Grantee. Grantee shall grant the State a fully paid-up, royalty-free, nonexclusive, sublicensable, irrevocable license to use, reproduce, prepare derivative works, and distribute copies of the deliverables identified in Exhibit B, to fulfill the State's government purposes.

B. Reserved Rights

Notwithstanding the above, if the purpose of the Budget and Schedule of Deliverables is specifically to create a copyrightable work for use by the State then all rights in such copyrightable work will be the property of the State, subject to a reserved right for Grantee to use the copyrightable work for educational and research purposes and to allow other educational and nonprofit institutions to do so for educational and research purposes.

C. Written Requests

The SGC may make written requests for delivery of works first created in the performance of the Budget and Schedule of Deliverables, but which were not identified as deliverables. To the extent Grantee is legally able to do so, Grantee shall grant a fully paid-up, royalty-free, nonexclusive, sublicensable, irrevocable license to use, reproduce, prepare derivative works, and distribute copies, to fulfill the State's government purposes.

48. Indemnification

Grantee agrees to indemnify, defend, and hold harmless the State of California, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all Grantees, Partners, Subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Grant Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Grantee in the performance of this Grant Agreement.

49. Waiver of Rights

This section refers to the Grantee's voluntary waiver of certain causes of action (lawsuits) against the SGC in the event of harm or liability related to the grantee's actions while implementing the grant project.

i. Grantee waives any and all rights to any type of express or implied indemnity (i.e., contractual relationship) or right of contribution from the SGC, its officers, agents, or employees for any liability arising from, growing out of, or in any way connected with this Grant Agreement.
ii. Grantee waives all claims and recourses against the SGC, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Grant Agreement, except claims arising from the gross negligence of the SGC, its officers, agents, and employees.
iii. None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing.

50. Force Majeure

Neither the State nor Grantee will be responsible hereunder for any delay, default, or nonperformance of this Grant Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, or other contingencies unforeseen by the State or Grantee, its Partners, Subcontractors, or vendors, and beyond the reasonable control of such party.

51. Compliance with Laws and Regulations

By signing this Grant Agreement, Grantee certifies that it shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, including the California Environmental Quality Act, and shall secure and/or maintain any permits required by authorities having jurisdiction over the Project(s).

52. Americans with Disabilities Act

Grantee assures the SGC that Grantee complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.). Grantee is expected to know, understand, and comply with ADA requirements. To that end, the SGC encourages Grantee to review guidance from: the U.S. Department of Justice Civil Rights Division at www.ada.gov; the State of California Civil Rights Department at: https://calcivilrights.ca.gov/peoplewithdisabilities; and the Pacific ADA Center at www.adapacific.org. The SGC also encourages Grantee to

coordinate with local, regional, and/or state disability rights organizations on opportunities for staff training and education.

53. Drug-Free Workplace Certification

In signing this Grant Agreement, Grantee certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace as outlined in this section.

A. Statement Publication

Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

B. Establishment of a Drug-Free Awareness Program

Establish a Drug-Free Awareness Program, as evidenced by a drug-free workplace policy statement, to inform employees about:

i. The dangers of drug abuse in the workplace.
ii. The person's or organization's policy of maintaining a drug-free workplace.
iii. Any available counseling, rehabilitation, and employee assistance programs.
iv. Penalties that may be imposed upon employees for drug abuse violations.

C. Employee Awareness

Every employee who works on this Grant Agreement will:

i. Receive a copy of the company's drug-free workplace policy statement.
ii. Agree to abide by the terms of the company's statement as a condition of employment on this Grant Agreement.

D. Failure to Comply

Failure to comply with these requirements may result in suspension of payments under this Grant Agreement or termination of this Grant Agreement or both, and Grantee may be ineligible for award of any future State of California agreements if the SGC determines that any of the following has occurred: Grantee has made false certification or violated the certification by failing to carry out the requirements as noted above (Gov. Code §8350 et seq.).

54. Air/Water Pollution Violation Certification

Under State of California laws, Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the California Air Resources Board or

an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

55. Environmental Justice

In the performance of this Grant Agreement, Grantee must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of California, consistent with Government Code Section 65040.12, subdivision (e).

56. Union Organizing

By signing this Grant Agreement, Grantee hereby acknowledges the applicability of Government Code Sections 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Grant Agreement and hereby certifies that:

i. No grant funds disbursed by this Grant Agreement will be used to assist, promote, or deter union organizing by employees performing work under this Grant Agreement.
ii. If Grantee makes expenditures to assist, promote, or deter union organizing, Grantee must maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee must provide those records to the Attorney General upon request.

57. Prevailing Wage

A. General Requirements

CRC-funded Projects may be subject to State Prevailing Wage Requirements, pursuant to Section 1700 of the California Labor Code. The California Labor Code requires payment of local prevailing wages to workers and laborers on state government contracts in excess of $1,000 for public works projects.

B. Public Works

A "public work" is the construction, alteration, demolition, installation, repair or maintenance work done under contract and paid for in whole or in part out of public funds. The definition applies to private contracts when certain conditions exist. Grantee can identify additional stipulations and exceptions under Cal. Labor Code § 1720 et seq.

C. Grantee Responsibilities

Grantee must ensure the following on "public work" activities under this Grant Agreement:

i. Prevailing wages are paid;
ii. The Project budget and invoices for labor reflects prevailing wage requirements, or if exempt, provide the applicable exemption to the SGC with the Project budget; and
iii. The Project complies with all other requirements of prevailing wage law, including but not limited to, keeping accurate payroll records, and complying with all working hour requirements and apprenticeship obligations.

D. Partners and Subcontractors

Grantee shall ensure that its Partners and Subcontractors, if any, also comply with prevailing wage requirements. Grantee shall ensure that all agreements with its Partners and Subcontractors to perform work related to this Project contain the above terms regarding payment of prevailing wages on public works projects.

58. Recycled Contents Products

Grantee must ensure each Lead Entity certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision must specify that the cartridges so comply (Pub. Contract Code § 12205).

59. Relocation

If a project is subject to State Relocation Law and a relocation plan is required by State Relocation Law (Gov. Code, § 7260 et seq.) and Section 6038 of the Relocation Assistance and Real Property Guidelines (25 Cal. Code of Regulations, Div. 1, Ch. 6, § 6000 et seq.) for the Project Area, Grantee must provide a copy of the relocation plan.

60. Expatriate Corporations

Grantee hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

61. Corporation Qualified to do Business in California

When work under this Grant Agreement is to be performed in California by a corporation, the corporation must be in good standing and currently qualified to do business in the state. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

62. Certificate of Compliance with Russia Sanctions

Per Executive Order N-6-22, all contractors and Grantees that have agreements valued at $5 million or more with agencies or departments subject to the California Governor's authority are directed to report their compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as sanctions imposed under state law, if any. Grantees subject to the certification requirement should carefully review the Executive Order and the economic sanctions imposed in response to Russia's actions in Ukraine, including, but not limited to, the federal executive orders identified in Executive Order N-6-22, sanctions identified by the U.S. Department of the Treasury, and sanctions imposed under state law, if any. A certification of compliance, included as Attachment C-6, must be returned to the SGC prior to any disbursement of grant funds.

Additionally, should the SGC at any time determine Grantee is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The SGC shall provide Grantee advance written notice of such termination, allowing Grantee at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the SGC.

63. Governing Law and Venue

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Venue will be in Sacramento County, California.

64. Unenforceable Provision

If any provision of this Grant Agreement is unenforceable or held to be unenforceable, then the Parties agree that all other provisions of this Grant Agreement have force and effect and shall not be affected thereby.

65. Budget Contingency Clause

A. Budget Act Appropriations

If the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, SGC may terminate pursuant to Section 43 this Grant Agreement shall have no further force nor effect. In this event, the SGC shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Grant Agreement, and Grantee shall not be obligated to perform any provisions of this Grant Agreement.

66. Recovery of Funds

In the event the SGC determines grant funds are not being used, or have not been used, for purposes in accordance with this Agreement, the CRC Program Guidelines or the CRC Grant Management Manual, the SGC has discretion to take appropriate action under this Grant Agreement, in law or in equity, including but not limited to:

i. Requiring Grantee to forfeit any unexpended portion of the grant funds, including but not limited to any retention withheld from invoices;
ii. Requiring Grantee to repay any funds improperly expended.

67. Terms that Survive Grant Agreement

The following Sections survive the termination or expiration of the Grant Agreement: 6, 8, 16, 21, 25, 28, 34 ,38, 39, 40, 46, 47, 48, 57, 58, 63, 65, and 67.

Exhibit B, Work Plan and Budget

CRC Project Development Grant Work Plan

Project Name: Banning Armory Community Resilience Centers Project

This Project will advance the development of the Armory as a multi-benefit Community Resilience Center with campus amenities that can provide evacuation/climate resilient shelter, be an Emergency Operations Center (EOC), and offer year-round programs to build climate and community resilience. The Project's Collaborative Stakeholder Structure (CSS) will facilitate community inclusivity in decision-making, and the Community Engagement Plan will raise Project awareness, emergency preparedness, and communal engagement.

The following tables provide an overview of the tasks, performance measures, and timeline for the CRC Project Development Grant as well as the grant budget.

High Level Activities	**Performance Measures** [Any appropriate deliverables, metrics, milestones]	**Timeline** [Start and End Date]
TASK 1: Conduct Project Develpment Activities to Meet Readiness Requirements for Implementation		
Subtask A: Develop Request For Proposals Develop RFP documents for architecture, engineering, and a professional services consultant who will create community engagement plan and conduct/manage outreach; conduct facility condition assessment and needs assessment; provide complete plans, specifications and estimates. SOW will include CRC Project Development grant compliance requirements. Issue RFP, score responses and execute contract.	1. Copies of RFP solicitation efforts, completed proposal evaluation, winning proposal 2. Copy of executed Professional Services Contract for Architect/Engineering/Professional services in compliance with CA Public Contract Code and City Procurement Policy	Grant Execution - Month 7
Subtask B: Facility Needs Assessment Interviews	- Completed interview assessment forms and surveys	Month 8

Consultant will conduct needs assessment interviews/surveys with City of Banning, Banning Parks & Recreation Department, Riverside County Emergency Management Department, and Project Advisory Council to identify projected headcounts and space requirements for EOC, Climate-resilient shelter, emergency shelter, and year-round programming at the Armory, as well as campus amenities.		- Month 9
Subtask C: Facility Needs Assessment Consultant will compile results of public meetings (see Task 3D: Community Engagement Plan Final Report), interviews, and surveys into a comprehensive Needs Assessment Report. Report will detail: projected headcounts; and space, technology, and equipment needs for the Armory to function as an evacuation shelter, climate-resilient shelter, EOC, and facility for year-round programs.	- Needs Assessment Report identifying user needs	Month 9 - Month 11
Subtask D: Facility Condition Assessment Consultant will perform Armory facility condition testing/assessments including health and fire safety elements, environmental hazards, ADA compliance, seismic risks, building code compliance, building systems (HVAC, electrical, plumbing), building structure (foundations, walls, roof, stairs, windows), and	- Facility Condition Assessment Report identifying necessary retrofits for the Community Resilience Center	Month 7 - Month 12

property (landscaping, parking lots, sidewalks).		
Subtask E: Project Scope, Design, and Estimates Consultant will utilize Needs Assessment Report and Facility Condition Assessment Report to develop project scope, designs and estimates for future implementation of facility retrofitting and campus amenities based upon the future Community Resilience Center/EOC Facility Needs and Condition Assessments (2). These designs will include, but are not limited to: proposed project timeline, necessary permits, proposed CEQA/environmental activities, floor plans, and site analysis activities.	- Designs and Estimates for Implementation phase Project readiness compliant with CRC Guidelines, including construction cost estimates, CRC facility floor plan, tentative project schedule	Month 13 - Month 22
TASK 2: Implement Project Advisory Committee/Collaborative Stakeholder Structure to ensure inclusive-decision-making		
Subtask A: Facilitate Kickoff Advisory Committee Meeting Organize all logistics for the meeting and send out meeting invitation. Draft Agenda, finalize all meeting materials, and hold the meeting.	- Meeting materials (agenda, sign-in sheet, handouts, and notes)	Grant Execution - Month 2
Subtask B: Facilitate 23 Advisory Committee Meetings Organize/schedule 23 Advisory Committee meetings (monthly for the 2-year grant period) including: Identify/reserve meeting location; post meeting notification/agenda/minutes on City website 72 hours prior to	1. Advisory Committee meeting schedule 2. Committee meeting notices/agenda/minutes posted on City website 3. Committee agendas, minutes, invitations	Month 2 - End of Grant Term

meeting; assist Advisory Committee Secretary with meeting invitations/agendas as needed. CSS will inform the development of the project - both facility needs and program activities.		
Subtask C: Project Status Reports Develop monthly Project status reports with financials for presentation at monthly Advisory Committee meetings.	- Monthly project status reports	Month 2 - End of Grant Term
Subtask D: Meeting Follow-Up Assist with distribution of meeting minutes and follow-up on Action Items.	1. Meeting minutes distribution lists to meeting members 2. Action Items lists	Month 2 - End of Grant Term
TASK 3: Outreach/Community Engagement Plan		
Subtask A: Community Engagement Plan Development Determine specific methods for informing, educating, and involving the community to advance development of climate-resilient infrastructure programs that build community and climate resilience.	1. Community Engagement Plan	Grant Execution - End of Grant Term
Subtask B: Pre-Implementation Organizational Activities Assist Consultant with organization of town meetings; development of bilingual outreach materials including flyers, posters, surveys, online	1. Town Meetings schedule, agendas and meeting materials 2. Outreach materials 3. Press Releases and Social Media Posts	Grant Execution -

polls, social media posts, press releases; development of Project webpage on the City website; introduce Consultant to Advisory Committee members for organizing Committee outreach.	4. Project Webpage 5. List of community event outreach opportunities 6. Copy of surveys/polls	Month 4
Subtask C: Emergency Preparedness Assessments Coordinate with Riverside County Emergency Management Department to develop emergency preparedness assessments to assess the community's emergency preparedness level in the event of a disaster and to inform community engagement methods to priority populations. Assist Consultant and Advisory Committee with distributing/conducting community Emergency Preparedness Assessments and produce final report.	1. Completed Emergency Preparedness Assessment 2. Emergency Preparedness Report	Month 2 - Month 4
Subtask D: Plan Implementation Utilize community events, public meetings, and the City website to distribute multi-lingual natural hazards/climate risk information and gather feedback on the Armory facility, campus amenities, and programs through forms, surveys, printed materials, and online polls. Advisory Committee members will also support in facilitating outreach to their respective members and priority populations.	1. Copies of completed polls, surveys, and feedback from community events 2. List of community events and public meetings attended	Month 5 - Month 16
Subtask E: Plan Evaluation	- Community Engagement Plan Final Report	Month 5

Public feedback collected through community engagement activities will be anonymized and compiled into a comprehensive Community Engagement Plan Final Report. This report will help shape Project development and will be shared to ensure the Project's successes can be leveraged by other communities.		- Month 23
Subtask F: Celebration Phase City will develop public events, press releases, webpage/social media announcements to highlight the Project's outcomes and positive impact on community/climate resilience and emergency preparedness.	1. Webpage and Social Media Announcements 2. Press Releases	Month 22 - End of Grant Term
TASK 4: Electrical Connectivity/Grid Improvements		
Subtask A: Invitation for Bids (IFB) City will prepare bid documents and issue an IFB to identify a contractor for general (civil) construction work for the electrical upgrades.	1. Copy of IFB, solicitations efforts, completed bid evaluation, winning/lowest bid 2. Copy of executed Public Works contract with contractor in compliance with CA Public Contract Code and City Procurement Policy	Grant Execution - Month 3
Subtask B: Permits Apply to Banning Public Works Dept. For encroachment and traffic control permits. Apply to Banning Building Dept. for building permits: encroachment permit and traffic control permit – for electric infrastructure/grid connectivity upgrades; building permit – for exterior installation of new electrical switch gear.	1. Permits issues 2. Project Schedule	Month 4 - Month 4

Subtask C: Procurement Procure necessary supplies and equipment for electrical upgrades.	- Proof of procurement invoices or receipts of supplies and equipment necessary for upgrades, consistent with amounts in the bid	Month 5 - Month 11
Subtask D: Complete Electrical Connectivity Improvements Complete installation of: new point of connection to the three-phase primary distribution line; new primary conduit and conductor from point of connection to new three-phase transformer; new secondary conduit and conductor from transformer to service at the facility; new metered service switchgear. Inspection to be performed upon completion of electrical upgrades.	1. Completed installation of electrical connectivity/grid improvements confirmed by letter of completion 2. Inspection Report	Month 12 - Month 15
Task 5: Grant Administration		
Subtask A: Grant Administration Grant administration activities include execution of grant agreement, invoicing, regular check-ins, annual progress reports, inventory of purchased equipment, final report including lessons learned, barriers and success stories.	1. Quarterly Invoices 2. Quarterly Progress Reports & Annual Progress Reports 3. Inventory of Purchases Equipment (annually and end of grant term) 4. Final Report	Grant Execution - End of Grant Term
Subtask B: Complete Project Required Plans Prepare and execute recorded deed restriction or Memorandum of Unrecorded	1. Unrecorded Deed Restriction or MOUGA 2. Final Operations & Maintenance Plan	Grant Execution -

Grant Agreement (MOUGA) to document long term use of the community-serving facility. Update and finalize Operations and Maintenance Plan.		End of Grant Term
The Parties may make minor changes to the timeline and deliverables due without the requirement of an amendment. See Exhibit A, Section 14 Modifications and Amendments.		

CRC Project Development Grant Budget Detail Worksheet

Project Name: Banning Armory Community Resilience Centers Project

Grant Task	Budget Total
TASK 1: Project Development Activities	$850,000.00
TASK 2: Implementation Collaborative Stakeholder Structure (CSS)	$2,400.00
TASK 3: Outreach/Community Engagement Plan	$10,600.00
TASK 4: Electrical Connectivity/Grid Improvements	$180,608.12
TASK 5: Grant Administration	$27,012.00
TOTAL	**$1,070,620.00**
The Parties may make minor changes to the timeline and deliverables due without the requirement of an amendment. See Exhibit A, Section 14 Modifications and Amendments.	

Exhibit C, Attachments

Attachment 1: Authorized Signatory Form

Grantee Authorized Signatory:

Print Name: Robert Fisher	Print Title: Police Lieutenant (Acting City Manager)
Signature:	Date:

Delegated Authorized Signatories:

#1 Print Name:	Print Title:
Signature:	Date:

Document(s) Authorized to sign: (circle all that apply)

All Grant Related Documents ***or***

Grant Agreement Grant Amendments Budget Amendments

Reports Invoices Other _____

#2 Print Name:	Print Title:
Signature:	Date:

Document(s) Authorized to sign: (circle all that apply)

All Grant Related Documents ***or***

Grant Agreement Grant Amendments Budget Amendments

Reports Invoices Other _____

Attachment 2: Project Representatives Form

The SGC

Name	Title	Phone Number	Email
Jess McCool	Resilient Community Associate Planner	(916)832-7198	Jessica.mccool@sgc.ca.gov

Grantee

Name	Title	Phone Number	Email
Jennifer Jackson	Grants Program Manager	(951)392-7193	Jjackson@banningca.gov
Nate Smith	Deputy Director of Public Works	(951)922-3182	Nsmith@banningca.gov
Arturo Vela	Director of Public Works	(951)922-3134	Avela@banningca.gov

Attachment 3: Final Report Form and Instructions

INSTRUCTIONS

Utilize the following report template to describe your CRC project's successes to-date in increasing Climate and Community Resilience AND your collaborative's next steps in finalizing and fully implementing your Community Resilience Center. Note that you do not have to use the table format provided, but your report should detail all of the requested information. Please feel free to add table rows as needed and include any additional information or attachments at the end of this report. For ease of reference, the CRC Program Objectives have been detailed below.

CRC PROGRAM OBJECTIVES

CRC Program's Project Development Grant Objectives (Section 4.1 of CRC Program Round 1 Guidelines), include:

1. Advance the development of sites identified by local residents for use as Community Resilience Centers that build climate resilience and community resilience, both during emergencies and year-round.
2. Construct climate-resilient infrastructure to: (a) ensure or improve access to a CRC and to (b) strengthen local community resilience in connection with a proposed CRC.
3. Demonstrate consistency with the State's Planning Priorities contained in Section 65041.1 of the Government Code. These priorities intend to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including urban, suburban, and rural communities.

Project Development Grants serve as a bridge to prepare for implementing a future CRC that will:

1. Offer multi-benefit physical community-serving spaces, resilient to current and future climate hazards.
2. Provide integrated delivery of essential services and programming to local communities during and following disasters, emergencies, and disruption events, including resources and assistance for folks experiencing and navigating post-disaster recovery, as well as year-round to address ongoing community needs and build community cohesion.
3. Integrate physical infrastructure projects with social infrastructure, through community driven partnerships and programming to increase climate resilience, expand economic opportunities, and reduce health, environmental, and social inequities across California.
4. Leverage and build a skilled, diversified, and trained workforce and promote local workforce development and training opportunities, with a focus on preparing community members for healthy, safe, and sustaining high-quality career pathway jobs in a future net zero carbon economy that are resilient to current and future climate change impacts.

5. Build, strengthen, and sustain local leadership and grassroots engagement in civic and community development, and climate resilience awareness and activities

FINAL REPORT

Community Resilience Centers (CRC) Program, Round 1 **Project Development Grant**	
Grantee:	Grant Number:
Project Name:	
Project Location (City, County):	

A. Project Summary

1. Provide a brief summary of the work completed under this grant, including context about the community where the project is located. Please highlight any notable achievements, particularly with respect to CRC priority populations.
2. Describe and explain any differences between the planned results, as listed in the Work Plan, and the actual results. Describe any barriers that impeded the progress of the grant, any corrective actions taken, and the outcomes. Report on successful strategies used to achieve results. Discuss how these lessons learned can be useful for other communities

B. Partnerships and Collaborative Stakeholder Structure Expansion:

1. Describe current partnerships and notable achievements to-date:

Organization Name	Organization Type	CRC Role	Notable Achievements	Next Steps planned with this Partner or CSS member

2. Outline any partnerships you will seek out next to contribute to the CSS, CRC activities, or project overall:

Organization Name (if known)	Organization Type (if known)	What would you like this Partner to add to the CSS and/or CRC?	Next Steps to cultivate this partnership

C. Community outreach, engagement, and involvement of community organizations and residents in decision-making power:

1. Describe achievements and successes to-date with this objective.
2. Outline areas you would like to further develop your proposal for future successes in this objective.

D. Priority Populations: Each CRC proposal must identify, work with, and intentionally serve the needs of priority populations (Section 2.3):

1. Describe achievements and successes to-date with this objective.
2. Outline areas you would like to further develop your proposal for future successes in this objective.

E. Capital Projects: Infrastructure for CRC facility or campus amenities:

1. Describe notable achievements and successes in capital projects completed during the grant term:

CRC Facility or Campus Amenity	Infrastructure Element	Results/ Outcomes for CRC, community members, or organization	Denote if this was completed, or describe next steps
e.g., CRC Facility	e.g., Solar roof installation	e.g., Energy efficient CRC with lower operations costs	e.g., Completed

e.g., Campus Amenity	e.g., Pavement and road improvements	e.g., Improved ingress/ egress routes for CRC	e.g., Pre-development to support future expansion of public transportation lines

2. Outline additional construction required for the future full implementation of your CRC:

CRC Facility or Campus Amenity	Infrastructure Element	Desired Results/ Outcomes for CRC, community members, or organization	Next steps to achieve this outcome
e.g., CRC Facility	e.g., Solar roof installation		
e.g., Campus Amenity	e.g., Bus stop infrastructure and route modification for existing line	e.g., Improved connection to CRC	e.g., Additional coordination with transit agency to plan route modifications and bus stop Secure capital funds for bus stop

3. Site Readiness Requirements Progress to-date:

Site Readiness Requirements	Progress (Completed; In Progress; Not Started; Other)	Describe next steps, include notes on any anticipated barriers
California Environmental Quality Act (CEQA) (consult with the public agency or agencies that have permitting authority over the Projects in the application to determine what is required to comply with CEQA and/or complete environmental review)		
Project Site Analysis (demonstrating road capacity around the CRC site, land-use analysis, and consultation with emergency service providers about site location especially as it pertains to ingress and egress)		

Permits (identify all permits required to implement additional CRC components and plan/ timing to obtain)		
Financial Feasibility (including but not limited to market studies, project pro-forma, sources and uses statements, proposed operating budget, multi-year pro-forma or other feasibility documentation as relevant)		
Project Schedule (baseline project schedule for further implementation of the CRC)		
Facility Condition Assessment (conducted by a licensed professional that provides an overview of the current condition of building systems and structures, cost of repair or replacement of any building systems or structures, costs associated with replacement of building components as they degrade, the expected useful life of building systems and structures, and recurring probable expenditures)		
Construction Cost Estimates (created by a third-party to the Grantee team that gives cost estimates for the total proposed Capital Project)		
CRC Facility Floor Plans (detail space for features identified in the proposal such as seating, storage of emergency supplies, potential battery storage, etc.)		
Operations and Maintenance Plan (plan that provides high-level information on anticipated operations and maintenance costs, schedules, roles, and responsibilities and details indebtedness for the CRC property)		
*If public agency is the awardee, evidence of a Passed Formal Resolution.		

F. Technical Assistance, Subject Matter Experts, or specialized contractors:

1. Describe expertise utilized during the grant term:

TA, SME, or Contractor Name	Type of Expertise	CRC Role/ Need	Notable Achievements	Denote if this was completed, or describe next steps
e.g., NAME	e.g., Emergency Management Expert	e.g., Expertise in Sheltering Operations for disaster activation	e.g., created activation procedures in collaboration with…	e.g., implementing new communications alert systems during disaster

2. Outline outstanding needs for expertise to fully implement your CRC vision:

TA, SME, or Contractor Name (if known)	Type of Expertise	CRC Role/ Need	Desired Results/ Outcomes for CRC	Describe next steps, include notes on any anticipated barriers
e.g., NAME	e.g., Emergency Management Expert	e.g., Expertise in Sheltering Operations for disaster activation	e.g., create activation procedures in collaboration with…	e.g., Ongoing training for incoming staff to activate CRC as an overnight shelter

G. Funding and Funding Sources to reach full CRC implementation:

This refers to the cost of work **beyond** the scope of the Project Development Grant.

1. Project Cost and Funding

Estimated project cost:	$
Further funds secured:	$
Current funding gap:	$

2. What funding sources have you identified to help implement the CRC?

Grant or Funding Source Name	Type of Funding (Philanthropic, state, federal government, other)	Estimated Funding	Funding progress (intend to apply; applied; awarded; other)	Describe next steps, include notes on any anticipated barriers
e.g., NAME			e.g., Identified, application opening in 2029	e.g., Secure contractor for grant application development

H. Program Feedback

Based on your experiences with this grant program, please provide feedback about how the SGC staff can improve future grant programs.

CERTIFICATION

I certify that this Final Report is accurate and that this project complies with the Agreement. I further certify that any expenditure discussed in this report is allowed under the Agreement and that all funds were expended for the purposes of this Project.

Name: _____ Title: _____

Signature: _____ Date: _____

Attachment 4: Invoice and Progress Report Template

Please see CRC Invoice and Progress Report templates attached. An editable excel template will be provided to all Grantees by their SGC Grant Manager and will include the information below.

CRC Invoice Coversheet

Please see the CRC Invoice Coversheet form attached.

Community Resilience Centers (CRC) Program

Enter an "x" in the applicable report type.

Monthly Reimbursement ____ Advance Pay ____

Reimbursement requests must:

1. be submitted by the last day of the quarter and include costs from the previous quarter and/or on the date specified in grant agreement;
2. be supported by documentation that fully substantiates costs;
3. include the service period of costs;
4. be submitted quarterly, even if zero expenditures are reported; and
5. do not include any CRC Ineligible Costs

Grantee Name:		Invoice #:	
Project Name:		Invoice Period:	
Remittance Address:		Service Period:	
		Invoice Date:	
SGC Grant #:		Approval Date:	

Project Development Grant	
TASK 1:	$ -
TASK 2:	$ -
TASK 3:	$ -
TASK 4:	$ -
TOTAL	$ -

Prepared by: _____
Title: _____
Date: _____

Authorized Signer: _____
x _____
Title: _____
Date: _____

CRC Invoice Detail

Please see the CRC Invoice Detail form attached.

Community Resilience Centers (CRC) Program

Invoice Detail: Non-Payroll

Indirect Cost Rate Type:
NICRA %:

Service Period	Tasks	Cost Category	Vendor Name	Expense Description	Invoice Total	Supporting Document/Page #	Indirect Cost Rate	Total Cost

$0.00

Invoice Detail: Payroll

Indirect Cost Rate Type:
NICRA %:

Service Period	Task	Entity Name	Employee Name & Role	Hourly Rate	Total Hours	Total	Supporting Document/Page #	Indirect Cost Rate	Total Cost

$0.00

CRC Progress Report

[TO BE PRINTED ON GRANTEE LETTERHEAD]

Grantee Name:		Grant Number:	
Project Name:			
Invoice Number:	Invoice Period:	(Start Date)	(End Date)

Work Plan Task #	**Description of Work Performed**
Task [#]	Please describe the work completed during this invoice period and refer to specific deliverables in the Budget and Work Plan using **bold** text to denote the deliverable submitted. Please also note any key events or milestones in the upcoming period.

CERTIFICATION

By my signature below, I certify that I have full authority to execute this progress report on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this progress report, and any accompanying supporting documents, for the above-mentioned Program are true and correct to the best of my knowledge for the purposes and conditions as outlined in the Grant Agreement.

Print Name: _____ Print Title: _____

Signature: _____ Date: _____

Exhibit D, CRC Award Letter

Please see CRC Award Letter attached.

CALIFORNIA STRATEGIC GROWTH COUNCIL

May 3, 2024

Jennifer Jackson
City of Banning
99 E Ramsey Street
Banning, CA 92220
Jjackson@banningca.gov

RE: Award Notification – Community Resilience Centers (CRC) Program, Round 1, Project Development Grant Award, City of Banning, *"Banning Armory Community Resilience Center Project (Armory Project)"*

Dear City of Banning and partners,

The California Strategic Growth Council (SGC) is pleased to inform you that the Council approved a Community Resilience Centers project development award of $1,070,620.00 to the City of Banning for *"Banning Armory Community Resilience Center Project (The Armory)"* at its April 24, 2024, meeting. Round 1 of CRC is funded by a FY 2022-2023 budget appropriation from the General Fund. This program funding increases opportunities for the communities most impacted by climate change to respond to climate emergencies and provide year-round services and programs to enhance both climate resilience and community resilience. SGC is committed to support community-driven projects and achieve equitable, resilient communities and landscapes for all Californians. Congratulations on your successful application.

This letter provides a conditional commitment of grant funds. CRC staff will initiate the Post-Award Consultation (PAC) process soon by scheduling a meeting with the Awardee and sending a review package including review checklists for project development activities. This process will involve altering the scope of work to reflect the reduced award amount; addressing any outstanding issues identified by CRC staff, reviewers, and the interagency panel; and finalizing the grant agreement. Grantees and Partners will need to work closely and collaboratively with CRC Staff to address all issues prior to grant execution. All requested documentation and changes should be finalized within three (3) to four (4) months after the Council makes awards.

Following execution of the grant agreement, grant funds will be disbursed on a quarterly basis. All reimbursed costs must meet the requirements for reimbursable tasks outlined in the grant agreement. CRC has been authorized to offer advanced payment to Grantees that are registered as 501(c)(3) nonprofit organizations, subject to meeting specified requirements, in accordance with AB 590 (Hart, 2023). We will follow up on the terms for accessing advance pay. Please note that no funds will be reimbursed for costs and expenses incurred prior to grant agreement execution. Further guidance on these topics is forthcoming.

We look forward to our partnership in the coming years. If you have any questions, please contact the Program Team at CRC@sgc.ca.gov.

Sincerely,

Lynn von Koch-Liebert
Executive Director
California Strategic Growth Council

1400 Tenth Street, Sacramento, CA 95814 ● www.sgc.ca.gov ● (916) 324-9775

Exhibit E, Commitment of Leverage Funds

City of Banning
Public Works Department

December 17, 2024

To: Strategic Growth Council/Community Resilience Center Grant Team

Re: Leveraged Funds Letter of Commitment – **Banning Armory Community Resilience Center Project**

Dear SGC/CRC Team,

This letter outlines details of additional funding sources that we are bringing to our CRC project, the **Banning Armory Community Resilience Center Project**, and which are listed on our Application Workbook Budget.

Amount: **$ 75,842.92**

Source/Type of Funding: City – Local Funds

Dates Available: **7/01/2024 – 6/30/2027**

These funds are available for any aspect of the Electric Upgrade construction project (Task 4) and are not dependent on or related to the CRC grant.

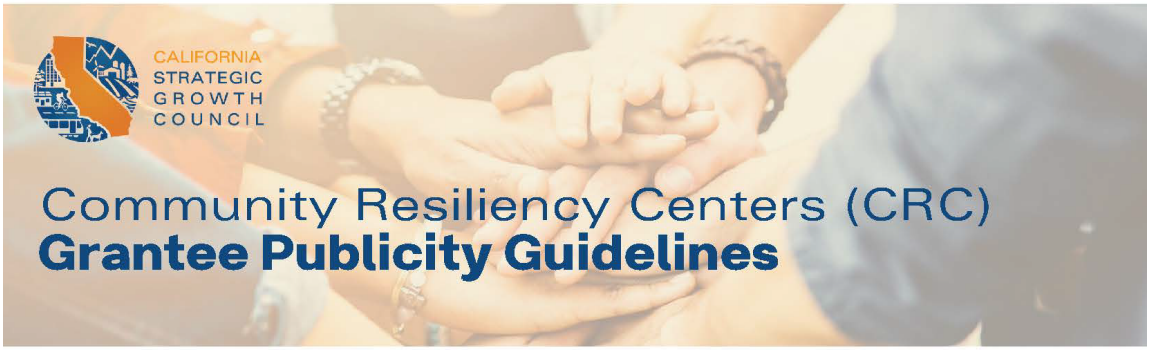
Sincerely,

Art Vela, P.E.
Director of Public Works

99 E. Ramsey Street • P.O. Box 998 • Banning, CA 92220-0998 • (951) 922-3100

Exhibit F, CRC Grantee Publicity Guidelines

Please see CRC Grantee Publicity Guidelines, attached.



Welcome to the CRC Grant Program!

Dear Round 1 Community Resilience Centers Grantee,

Congratulations, and welcome to the California Strategic Growth Council (SGC) Awardee Community, and on your CRC Grant award! All of your hard work has paid off! We look forward to working closely with you to fund neighborhood-level resilience centers.

Your work is important and deserves to be celebrated – both in your community and as a model for others. To help you spread the word, the Communications and External Affairs team at SGC has prepared this Grantee Publicity Guidelines document. As you plan communications, outreach, and events related to your CRC award, please utilize this resource.

If you are planning an event or announcement and need advice, assistance, or sample materials, please don't hesitate to contact your CRC Grant Manager and/or the CRC inbox at CRC@sgc.ca.gov.

Thank you for your inspiring work to implement collaborative, community-driven, place-based projects: your work will help build capacity to sustain climate action in your community. We look forward to partnering with you!

Publicity Guidelines

Please acknowledge the California Strategic Growth Council in all publications, websites, signage, invitations, and all media-related and public outreach products related to the CRC grant. Below are templates of boilerplate language used to describe what the SGC and CRC programs are.

For Long-Form Materials

Long-form materials are written content that is more than 1,000 words in length. For these types of documents use the following language:

The California Strategic Growth Council's (SGC) Community Resilience Centers Program (CRC) funds neighborhood-level resilience centers to provide shelter and resources during climate and other emergencies, as well as year-round services and programming that strengthen community connections and ability to withstand disasters. For more information, visit https://sgc.ca.gov/grant-programs/crc/.

For Short-Form Materials

Short-form materials are written content that is less than 1,000 words in length. For these types of documents, such as press releases, media advisories, social media posts, short case studies, flyers, etc., use the following language:

"[Project Name] is supported by the California Strategic Growth Council's Community Resilience Centers Program."

Visuals

Grantees may at times produce promotional materials that are primarily visual in nature, such as banners, signage, posters, certain flyers, and sharable images for social media. In such cases, we encourage grantees to include the official SGC logo. When using SGC's logo, focus on creating the most color contrast between the logo and background to contribute to inclusive communications. For example, use the color version only when the logo appears on a light background; on backgrounds of a darker color, use the white version of the logo.

Signage

Grantees are encouraged to post signs on project construction sites stating that SGC is providing financing through the CRC Program in an appropriate location(s), typeface and size (consult the CRC team for best practices). Below is a sample of suggested language:

[PROJECT NAME]
"This Project has been made possible by financing from the Community Resilience Centers Program through the California Strategic Growth Council."

Please also include the SGC logo. Refer to the *Visuals* section above for logo guidelines.

Press Releases/Conferences

Grantees are encouraged to distribute press releases for major milestones throughout the lifecycle of the grant. If you would like a quote from SGC leadership for a press release, please submit the press release to the CRC Grant Manager at least two weeks before the release will be published.

Please alert SGC to any press conferences related to the grant by emailing your CRC Grant Manager. This allows CRC staff to try and attend, if approved by SGC management.

Photos

We ask that grantees share between 8-12 high-resolution, color photos with their CRC Grant Manager during the lifecycle of their grant. These photos can include pictures of people involved with the project, the project area, and/or activities conducted during the grant term. Sending photos to SGC allows us to share photos of your project's progress across our communications platforms. We will attribute the photos to your organization and community.

Social Media

We encourage grantees to use social media to share the process of creating and developing a CRC proposal, as well as stages of the project's implementation. We love seeing grantees' progress from vision to reality. Please tag @CalSGC in all Tweets related to the grant; tag @California-Strategic-Growth-Council in all LinkedIn posts related to the grant; and on Facebook and other platforms, please mention the California Strategic Growth Council in content related to the grant. (Reference guidelines *For Short-Form Materials* above for sample language).

Our Digital Platforms

Twitter: twitter.com/CalSGC

Linkedin: linkedin.com/company/strategic-growth-council/

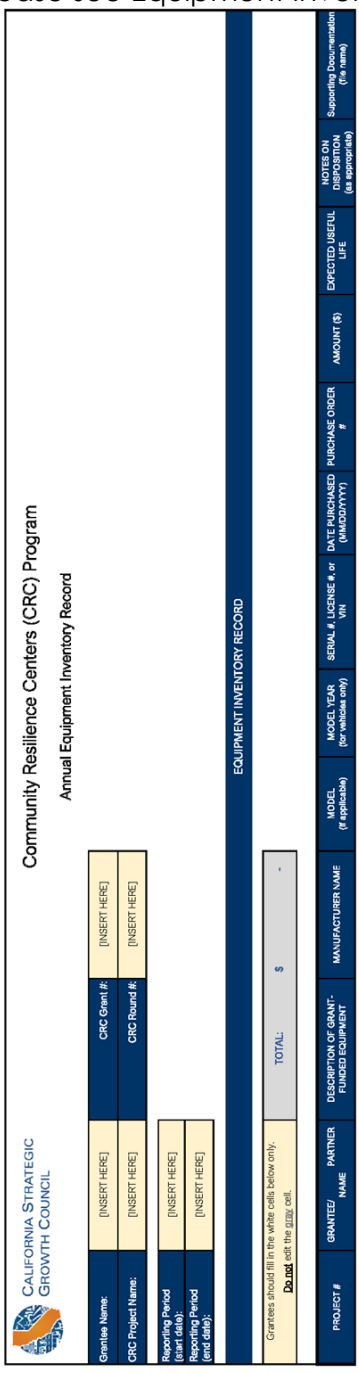
Website: sgc.ca.gov/

Stay in Touch!

The SGC team is here to help! We love to work with awardees to brainstorm communication strategies and outreach plans. By staying in contact with the CRC team, we can help make any event you plan a success! We can make leadership available for media interviews, coach you on how to pitch to media, help you identify reporters, and help secure participation by State officials. Contact the CRC Grant Manager any time you want to collaborate on any type of communication and outreach.

Exhibit G, Equipment Inventory Record

Please see Equipment Inventory Record form attached.



CALIFORNIA STRATEGIC GROWTH COUNCIL

Community Resilience Centers (CRC) Program

Annual Equipment Inventory Record

Grantee Name:	[INSERT HERE]	CRC Grant #:	[INSERT HERE]
CRC Project Name:	[INSERT HERE]	CRC Round #:	[INSERT HERE]
Reporting Period (start date):	[INSERT HERE]		
Reporting Period (end date):	[INSERT HERE]		

EQUIPMENT INVENTORY RECORD

Grantees should fill in the white cells below only. Do not edit the gray cell.

TOTAL: $ -

PROJECT #	GRANTEE/ PARTNER NAME	DESCRIPTION OF GRANT-FUNDED EQUIPMENT	MANUFACTURER NAME	MODEL (If applicable)	MODEL YEAR (for vehicles only)	SERIAL #, LICENSE #, or VIN	DATE PURCHASED (MM/DD/YYYY)	PURCHASE ORDER #	AMOUNT ($)	EXPECTED USEFUL LIFE	NOTES ON DISPOSITION (as appropriate)	Supporting Documentation (File name)

Exhibit H, Certificate of Compliance with Russia Sanctions

Please see SGC memorandum on Certificate of Compliance with Russia Sanctions attached.

2nd JOINT MEMO

April 22, 2022

To: Executive Branch Departments and Agencies

Re: Executive Order N-6-22 regarding Sanctions Against Russia (¶¶ 4-5)

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding sanctions against Russia and Russian entities and individuals. The EO directs all agencies and departments (Agencies) that are subject to the Governor's authority to take certain steps described below. Constitutionally independent state entities are encouraged to take these steps as well.

On March 16, 2022, the Department of General Services (DGS) and the California Department of Technology (CDT) issued a Joint Memo offering guidance for compliance with EO Paragraphs #1, #2, and #3.

This Joint Memo provides guidance to assist state agencies with compliance concerning EO Paragraphs #4 and #5. Agencies should continue to involve their legal counsel in compliance efforts and decisions and to keep written records in each applicable contract or grant file demonstrating compliance efforts.

Agencies are recommended to comply with EO Paragraphs #4 and #5 within 45 days of the date of this Joint Memo.

Defined Terms:

- "Contract" refers to *all* types of agreements and grants, regardless of form (e.g., Std 213, Std 65, Fi$Cal PO, etc.).
- "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law.
- "Paragraphs" refers to the EO's operative paragraphs.

Compliance with Paragraphs #4 and #5:

Paragraph #4 within the EO provides:

> *All agencies and departments subject to my authority shall direct grantees, and contractors with agreements valued at $5 million or more, to report to the agency or department regarding their compliance with economic sanctions.*

Please note that since the March 2022 joint guidance memo, the federal government has imposed new sanctions on Russia and Russian entities and individuals. Agencies are advised to regularly check the U.S. Department of the Treasury's list of sanctioned individuals and entities at the following sites:

- https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions;
- https://home.treasury.gov/news/press-releases/jy0608; and
- https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions.

Agencies may wish to sign up for email updates from the U.S. Department of the Treasury as well.

Paragraph #5 within the EO provides:

> *All agencies and departments subject to my authority shall direct all grantees, and contractors with agreements valued at $5 million or more, to report on steps they have taken in response to Russia's actions in Ukraine, including, but not limited to, desisting from making new investments in, or engaging in financial transactions with, Russian entities, not transferring technology to Russia or Russian entities, and directly providing support to the government and people of Ukraine.*

In order to comply with Paragraphs #4 and #5 of the EO:

- Agencies should identify all current contracts and grants valued at $5 million or more.
    - "Valued at $5 million or more" includes contracts and grants with a *value to the contractor or grantee* of $5 million or more, even if the amount paid by the Agency to the contractor or grantee is less than $5 million or is zero. This includes, but is not limited to, revenue-generating agreements, in-kind agreements, concessions, and agreements where the contractor receives payments from the public or a third party.
    - For example, in some recycling contracts, the state does not make any payments to the contractor, but the value of the contract is based on the monetary value to the contractor of the recycled materials they collect from the state. See, e.g., State Contracting Manual volume 1, sections 3.16.B and 7.45.
- Agencies should determine the appropriate addressee names and addresses for notices and information related to such contracts and grants.
- Agencies must notify such contractors and grantees of the reports contemplated in EO Paragraphs #4 and #5 and how to they can submit them (see a template notice below). Agencies should recommend that contractors/grantees consult their own legal counsel as needed regarding compliance with sanctions and reporting to the state.

- While the EO is silent on a timeframe in which to notify such contractors and grantees about EO Paragraphs #4 and #5, it is recommended that Agencies do so within 45 days of the date of this Joint Memo.
- Attached is a template notice and contractor/grantee response form that Agencies should use for EO Paragraphs #4 and #5. These notices may be sent and responded to electronically.
- Agencies should ensure the notice clearly informs contractors/grantees where to send their reports.
- Agencies should keep track of contractor and grantee reports.
- Agencies that have more than one contract/grant valued at $5 million or more with a single contractor/grantee may send and receive one EO Paragraph #4 and #5 notice and report for each such contractor/grantee; however, each applicable contract/grant file should include copies of the response form and report.
- **Please note that for contracts issued by DGS or CDT on behalf of an Agency, the Agency is responsible for sending the EO Paragraph #4 and #5 notices and receiving contractor reports.**
- **For Leveraged Purchase Agreements (LPAs), DGS will issue the EO Paragraph #4 and #5 notices for Contracts with statewide usage valued at or above $5 million. DGS will then provide Agencies with the list of LPA contractors DGS contacted. If, after receiving that list, an Agency determines it has any LPA Contracts valued at or above $5 million that are *not* on the DGS list, the Agency is responsible for issuing the EO Paragraph #4 and #5 notices for those.**

Further Guidance and Contacts:

DGS and CDT will issue further guidance shortly regarding EO Paragraph #6, including language for future contracts and solicitations.

For questions relating to CDT contracts, please contact:

Lisa Cooper
Office of Legal Services
lisa.cooper@state.ca.gov

For other questions regarding this Memo, please contact your DGS-OLS assigned attorney.

Attachment: Template Notice to Send to Contractors and Grantees of Agreements Valued at ≥ $5 Million (EO Paragraphs #4 and #5)

Template Notice to Send to Contractors and Grantees of Agreements Valued at ≥ $5 Million (EO Paragraphs #4 and #5)

April XX, 2022

[Name Here]
[Title Here]
[Name of Business or Organization]
[Address line 1]
[Address line 2]
[email address]

RE: Contractor and Grantee Report on Compliance with Economic Sanctions in Response to Russia's Actions in Ukraine

Dear [Name Here]:

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (EO) regarding sanctions in response to Russian aggression in Ukraine. The EO is located at https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf.

The EO directs all agencies and departments that are subject to the Governor's authority to take certain steps, including directing that all state contractors and grantees with agreements valued at $5 million or more to report to the agency/department regarding their compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as sanctions imposed under state law, if any.

The EO also directs all agencies and departments that are subject to the Governor's authority to direct that their grantees and contractors with agreements valued at $5 million or more to report on the steps they have taken in response to Russia's actions in Ukraine

Please review the economic sanctions imposed in response to Russia's actions in Ukraine, including, but not limited to, the federal executive orders identified in the EO, the sanctions identified on the U.S. Department of the Treasury website (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions), and sanctions imposed under state law, if any. Once complete, please report to the state regarding your compliance with the economic sanctions imposed by the U.S. government, as well as sanctions imposed under state law, if any, using the attached reporting form and return it **within 60 calendar days** to the individual listed below.

Additionally, within 60 calendar days of this letter, please provide a written report describing the steps, if any, you have taken in response to Russia's actions in Ukraine. An example can be found at this link: **https://www.calpers.ca.gov/page/newsroom/for-the-record/2022/calpers-responds-to-governor-gavin-newsom**.

Note that responses may be subject to disclosure under the California Public Records Act. Accordingly, it is within the discretion of the respondent to determine what information to provide. Additionally, please do not include any confidential information or disclosures that could pose security risks.

Please attach the report to the notice form below and return it to the individual listed below.

Responsive notices and reports should be sent to:

[Agencies: INSERT CONTACT NAME, AGENCY NAME, AND RETURN EMAIL OR ADDRESS HERE]

Sincerely,

[Name]
[Title]

COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE

Contract Number(s) and/or Grant Number(s): _____(Attach additional page as needed)

Per Executive Order N-6-22, all contractors and grantees that have agreements valued at $5 million or more with agencies/departments subject to the California Governor's authority are directed to report to their contracting or grantor agency or department regarding their compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as sanctions imposed under state law, if any.

Please insert the contractor/grantee name and Federal ID Number (if available) and complete the notice and attach a report as described below.

NOTICE

Having conducted a good faith review, I attest that the contractor/grantee is in compliance with the economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as sanctions imposed under state law, if any.

Contractor/Grantee Name (Printed)	*Federal ID Number (or n/a)*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date	

Please attach a report to this notice form and return it to the individual identified in the cover letter within 60 calendar days, describing the steps, if any, you have taken in response to Russia's actions in Ukraine.

Note that responses may be subject to disclosure under the California Public Records Act. Accordingly, it is within the discretion of the respondent to determine what information to provide. Additionally, please do not include any confidential information or disclosures that could pose security risks.

Exhibit I, Partnership Agreement

Please see Grantee Partnership Agreement attached.

PARTNERSHIP AGREEMENT FOR THE COLLABORATIVE STAKEHOLDER STRUCTURE FOR THE BANNING ARMORY COMMUNITY RESILIENCE CENTER PROJECT

This Partnership Agreement ("Agreement") for the Banning Armory Community Resilience Center Project ("Project") Collaborative Stakeholder Structure is made and entered into this 16th day of December, 2024, by and between the City of Banning ("City") and

- Riverside County Emergency Management Department ("EMD")
- Banning Unified School District ("BUSD")
- Morongo Band of Mission Indians ("MBMI")
- Banning Chamber of Commerce ("COC")
- Our Savior's Lutheran Church ("OSLC")

(each a "Partner" and collectively the "Partners") to represent a commitment to complete a signed version by the execution of the Grant Agreement for the Strategic Growth Council's Community Resilience Center Project Development Grant Program. Although titled "Partnership Agreement," this Agreement, once finalized, will function as a Memorandum of Understanding and is not intended to be legally binding.

General Terms and Conditions

1. Background and Recitals

A. This Agreement is entered into pursuant to requirements of the Community Resilience Centers (CRC) Program Guidelines and the **Banning Armory Community Resilience Center Project** proposal ("Proposal") and memorializes basic terms to govern the planning and implementation of the scope of work included in the Proposal.

B. Through this Agreement, the Partners commit to work together to implement the projects identified in the Proposal as funded by the CRC grant. The Grantee has developed the project included in the Proposal with the understanding of the CRC program requirements and is prepared to lead and participate for the term of the CRC grant.

C. Through CRC, the California Strategic Growth Council (SGC) funds the planning, development, and implementation of neighborhood-level Community Resilience Centers that empower communities, respond to climate emergencies, and provide year-round services and programs to enhance both climate resilience and community resilience.

D. **The City of Banning** is the Grantee responsible for the grant from SGC ("CRC Grant") to fund a range of activities within the **City of Banning** at the **Banning Armory building** and property located at **2041 W. Nicolet Street** and the Project Area as depicted in the attachment: Banning Armory Project, Project Area Map_1 of 1.

E. CRC Partners are organizations eligible to participate in the program and fully support the objectives, goals, strategies, and projects identified within the submitted CRC Grant Application.

F. SGC requires this Agreement to set forth the agreed upon governance structure and terms of operation required to implement the **Banning Armory Community Resilience Center Project** including but not limited to, the expectations and responsibilities of the Parties, legal and financial terms, and community engagement and decision-making processes.

G. Parties desire to enter into this Agreement to establish a Collaborative Stakeholder Structure for matters pertaining to the CRC Grant and the implementation of the scope of work within the forenamed Project Area.

H. Parties acknowledge and agree that other Partners may be added to this Agreement, decided through a democratic process amongst the Collaborative and in consultation with SGC.

2. Roles and Responsibilities

Grantee

As the Grantee, **the City of Banning** commits to all duties and responsibilities corresponding to the Grantee role under the **Banning Armory Community Resilience Center Project** for the term of the CRC Grant. **The City of Banning** is fully committed to the activities and deliverables of the CRC Proposal, the requirements of the CRC Grant, and the stipulations of this Agreement, and agrees to take all actions necessary to effectuate the requirements of the CRC Grant in accordance with the State of California requirements.

As Grantee, **the City of Banning's** responsibilities include but are not limited to:

A. Commitment to Partners
   a. Commitment to plan and implement the project schedule;
   b. Commitment to work collaboratively;
   c. Leverage available funds; and
   d. Commitment to build equitable policies collaboratively with Partners in the Collaborative Stakeholder Structure

B. Roles and Responsibilities
   a. Coordinating all components of the CRC Proposal and processing the approval of the CRC Proposal through the SGC as may be necessary or appropriate;
   b. Facilitating resident and neighborhood involvement through the establishment and participation in a Project Advisory Committee / Collaborative Stakeholder Structure;
   c. Overseeing and coordinating the CRC Proposal project;
   d. Submitting all invoices and associated summary reports, and annual reports to the CRC Program staff;

e. Participating in regular check-in meetings with CRC Program staff;
f. Providing **City of Banning** staff support during the entirety of the grant term; and
g. Achieving and monitoring goals and associated indicators as defined by the CRC Proposal and the CRC Grant Guidelines.

C. Governance

a. Ensuring diverse and inclusive representation in the Collaborative Stakeholder Structure;
b. Sharing decision-making power with Partners in the Collaborative Stakeholder Structure;

Partners
Partners, also referred to as Project Advisory Committee members/Collaborative Stakeholder Structure Partners, are responsible for implementing specific strategies stipulated within the Collaborative's workplan, and must have the staff capacity, expertise, and organizational/project management abilities to deliver on their commitments within the overall workplan.

The following entities will serve as Collaborative Stakeholder Structure Partners on the **Banning Armory Community Resilience Center Project** for the term of the CRC Grant.

A. Riverside County Emergency Management Department (EMD)
   a. EMD's role includes: selecting an organization Committee representative; ensuring representative participation in Committee meetings, activities, and decision-making; providing guidance, organizational knowledge, and assistance in coordinating disaster-preparedness assessments and materials; participating in outreach activities as defined by the Project Community Engagement Plan (e.g., surveys, social media posts, community events, etc.).

B. Banning Unified School District (BUSD)
   a. BUSD's role includes: selecting an organization Committee representative; ensuring representative participation in Committee meetings, activities, and decision-making; identifying priority population resident representative for Committee; participating in outreach activities as defined by the Project Community Engagement Plan; coordinating with City to identify/develop Project campus amenities; coordinating with City to develop workforce training and other educational CRC programs.

C. Banning Chamber of Commerce (COC)
   a. COC's role includes: selecting an organization Committee representative; ensuring representative participation in Committee meetings, activities, and decision-making; participating in outreach activities as defined by the Project Community Engagement Plan; coordinating with City to identify/develop economic development/workforce training programs; working with City to leverage private funding opportunities for CRC programs.

D. Morongo Band of Mission Indians (MBMI)
   a. MBMI's role includes: selecting an organization Committee representative;

ensuring representative participation in Committee meetings, activities, and decision-making; identifying priority population resident representative for Committee; participating in outreach activities as defined by the Project Community Engagement Plan.

E. Our Savior's Lutheran Church (OSLC)
   a. OSLC's role includes: selecting an organization Committee representative; ensuring representative participation in Committee meetings, activities, and decision-making; identifying priority population resident representative for Committee; participating in outreach activities as defined by the Project Community Engagement Plan; coordinating with City on food distribution, and other homelessness-specific programs.

3. Proposal Overview

The Project will complete activities to advance the development of the former California Army National Guard Armory ("Armory") building and property as a multi-benefit Community Resilience Center capable of providing emergency evacuation shelter, climate-resilient shelter, an Emergency Operations Center ("EOC"), and year-round programs to build climate and community resilience. Activities will build local partnerships and unite physical and social infrastructure to equip Banning residents with essential skills and resources to surmount economic and social inequities, overcome adversity, and emerge more resilient together.

CRC Collaborative Stakeholder Structure

A. The City will coordinate formation of the Collaborative Stakeholder Structure, to be known as the Project Advisory Committee ("Committee"). The democratic and representative Committee will be comprised equally of members including the Grantee, Collaborative Stakeholder Structure Partner representatives, and resident representatives.

B. The Committee will have ongoing representation from the Grantee, Regional and Community-Based Organizations (one representative per organization; alternate/substitute attendees are permitted); and priority population/resident representatives (as many representatives as to equal the number of representatives from Regional and Community-Based Organizations). At any time, should new partners/organizations request to be added to the Collaborative Stakeholder Structure (CSS), the request will be added to a future meeting agenda as a presentation. At the conclusion of the presentation, Committee members will vote by simple majority whether to approve the request for inclusion.

C. Identification of resident representatives for Committee membership will be facilitated by Committee Community-Based Organizations to their respective priority populations. As part of the Identification process, consideration should be given to those individuals who best represent the diversity and priority population at large. Residents must understand and commit to the requirements and responsibilities (e.g., 2-year commitment) of serving on the committee prior to installation as a member.

D. Appointment of any member to a Committee position, new or replacement, will be accomplished via a simple majority vote of the Committee at a regularly scheduled meeting.

E. Committee members who miss more than three meetings without reasonable cause will be asked to resign or can be removed by a majority vote of Committee members. Additionally, members who fail to follow rules of decorum per Robert's Rules of Order may also be subject to removal by majority vote.

F. Every effort will be made to ensure diverse representation of age, race/ethnicity, gender, sexual orientation, and socio-economic status/class in all Committee members. Partners will work collaboratively to ensure that community resident representation is diverse and inclusive.

G. Committee officers (Chair, Vice Chair, and Secretary) will be elected by members and will be responsible for convening and presiding over meetings, as well as developing and distributing minutes of the meetings. Officers will serve a one-year term. In the event that an officer is unable or unwilling to fulfill their term, Committee members will nominate a replacement and elect by simple majority vote.

H. The Committee will meet monthly at a pre-determined location in or near the Armory. Meeting minutes will be provided to members one week prior to each monthly meeting. Quarterly Meetings will be open to the public, with notices of meeting date, time, location, and multi-lingual agendas being posted at least 72 hours prior to each meeting at City Hall and on City and Partner websites. Virtual participation will be made available if possible, with details included in quarterly meeting notices.

I. All Committee members, including resident and priority population representatives, will be encouraged to fully participate in meetings including suggesting agenda items, contributing to discussions of agenda items, requesting reports, and voting. Each meeting will include a Project status report from the Grantee which will include grant expenditures.

J. The Committee will provide guidance and decision-making to ensure Armory Project activities are completed within the predetermined timeframe and budget. Project challenges will be reviewed and evaluated, with the Committee providing options for resolution.

K. Any substantial changes to project scope, activities, or budget will be presented to the Committee during a regularly scheduled meeting, where all members will have the opportunity to provide comment and recommendations. Public attendees will have a designated time during the meeting to provide comment. The Grantee must consider all Committee recommendations and suggested alternatives. The Grantee is responsible for presenting any substantive project or scope of work changes to the SGC.

L. Every opportunity will be made to ensure decision-making occurs at regular, or specially scheduled, Committee meetings. In cases where expedient action is required for administrative, non-programmatic changes (i.e., a timeliness issue such as an upcoming

contract expiration or quick action needed for a calendar booking, etc.), emergency decisions can be made via email with appropriate Committee member notification, discussion, and voting. Emergency decisions will be reported on and revisited during the next regularly scheduled Committee meeting.

M. The Committee will resolve disputes by forming an ad hoc subcommittee comprised of members appointed by the Committee Chair. These members will hear the dispute, gather facts, and present recommendations for resolution, followed by a vote in which involved parties will recuse themselves. In the event that disputes are unable to be resolved through this process, the Riverside County Community Action Partnership Dispute Resolution Program will be contacted to provide community mediation services.

4. Legal and Financial Considerations

The **City of Banning** will maintain legal, fiscal, and fiduciary responsibilities, including managing grant funds in accordance with SGC regulations, policies, and guidelines. The **City of Banning** is responsible for the development and submission of all reports to CRC Program staff and additional funding agencies, bookkeeping, accounting, and grant compliance services.

The **City of Banning** does not assume liability for any third-party claims for damages arising out of this Agreement and each Partner does not assume liability to SGC for damages arising out of this Agreement.

Legal and Financial Relationship
This Agreement represents a collaborative effort prepared by the Partners. This Agreement is intended solely as an expression of general intent and interest and is to be used for general coordination purposes. The Partners do not make financial commitments by executing this Agreement or by participating in the Collaborative Stakeholder Structure. Partners are not promised or entitled to reimbursement for participation in the Collaborative Stakeholder Structure.

When purchasing supplies and equipment or contracting for construction and other services, Grantees and their Partners must follow their own established procurement policies and procedures as their primary process, with the exception that it must follow the standards outlined in this SGC's Procurement Guidelines where it conflicts with its own local requirements. In cases where a Grantee or Partner lacks written procurement policies, SGC's Procurement Guidelines, as outlines in the Grant Agreement and Grant Management Manual, must be followed unless explicit written approval has been granted by SGC.

5. Equal Opportunity (Non-discrimination Clause)

The **City of Banning** is committed to equal employment opportunity and to ensuring that all employees have a work environment that is free of conduct that could be considered discriminatory or harassing based on an employee's protected status. The **City of Banning** will not allow anyone, including any supervisor, co-worker, vendor, client, or customer, to unlawfully harass or discriminate against employees or applicants for employment. The **City of Banning** will take prompt and effective remedial action upon discovery of such conduct.

6. Miscellaneous Provisions

A. This Agreement may be revised during Post-Award Consultation or upon written agreement of the parties to comply with all administrative, statutory, and CRC Program requirements. This Agreement creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated, and mutually beneficial manner to meet the purposes of this Agreement.

B. **Term**. This Agreement is effective upon the day and date last signed and executed by the duly authorized representatives of the Parties and shall be in effect for the period of the CRC grant.

7. Media. Public information such as press releases, media interviews, public service announcements, marketing and promotional materials concerning the Partners shall be proposed to and approved by unanimous agreement of the Partners.

IN WITNESS, WHEREOF, the parties hereto have executed this Partnership Agreement on December 16, 2024, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

Grantee Signature Line

City of Banning - Doug Schulze, City Manager

Collaborative Stakeholder Structure Partner 1
Signature Line

Riverside County Emergency Management Department
(Name of Authorized Signatory, Role in Organization)

FORM APPROVED COUNTY COUNSEL
BY: MELISSA R. CUSHMAN 1/30/2025 DATE

7

Collaborative Stakeholder Structure Partner 2
Signature Line

Banning Unified School District
(Name of Authorized Signatory, Role in Organization)

Collaborative Stakeholder Structure Partner 3
Signature Line

Morongo Band of Mission Indians
(Name of Authorized Signatory, Role in Organization)

Collaborative Stakeholder Structure Partner 4
Signature Line

Banning Chamber of Commerce
(Name of Authorized Signatory, Role in Organization)

Collaborative Stakeholder Structure Partner 5
Signature Line

Our Savior's Lutheran Church
(Name of Authorized Signatory, Role in Organization)

END OF DOCUMENT

Banning Armory Community Resilience Center

Statement of Understanding and Approach

Firm Experience & Expertise

RY+AO Architects brings proven expertise in critical facility planning and community design. We recently completed Southern California Edison's Irwindale EOC, Security Operations Center, AG&R Grid Control Center, and a Regional Telecom Hub Needs Assessment and Design. In partnership with Holmes, our structural engineering collaborator, we have assessed and retrofitted over 100 mission-critical facilities for seismic resilience.

Beyond critical infrastructure, we have extensive experience designing civic and community spaces, including Escondido City Hall (with an integrated community center), the 4S Ranch Boys & Girls Club, Confluence Park Community Center, and Solis Park at FivePoint Valencia. These projects demonstrate our ability to create facilities that are resilient, functional, and deeply rooted in community identity.

Project Understanding

The City of Banning, with the support of the **Community Resilience Center (CRC) Grant Agreement**, is transforming its historic 1950s Armory into a **dual-purpose Community Resilience Center (CRC) and Emergency Operations Center (EOC)**. This facility must serve two equally important roles: a **welcoming civic destination** for daily programs and services, and a **resilient, mission-critical hub** capable of safeguarding the community during emergencies.

The reimagined Armory will:

- Provide **evacuation and climate-resilient shelter** with capacity for community safety during extreme heat, wildfire smoke, and other climate-driven events.
- **Operate as a fully capable EOC**, with secure command, communications, and resilient infrastructure to support emergency response and continuity of operations.
- Deliver **year-round community programming**, including recreation, youth services, and food distribution that strengthen social resilience.
- Include **campus amenities** such as shaded outdoor gathering spaces, drought-tolerant landscapes, renewable energy systems, and flexible infrastructure adaptable for both community events and emergency staging.

Meeting this vision requires integrating **community engagement, technical rigor, and fiscal responsibility** while complying with CRC Grant requirements. RY+AO has a proven record of balancing these priorities in both **mission-critical facilities and civic projects**, giving us a strong foundation to guide Banning through this transformation.

Our Approach

1. **Inclusive Community Engagement**
   Community participation is central to the success of the Armory transformation. Our process begins with **building trust** and ensuring that all voices in Banning's diverse community are heard and reflected in the design.

   To achieve this, RY+AO has partnered with **PLAYCE Studio,** a leader in participatory design and public engagement. Their respected **PLAYCE methodology** integrates traditional engagement techniques with team-building and creative visioning exercises. By using play, storytelling, and hands-on activities, stakeholders become collaborators and champions of the project from the start.

   Together, we will deliver a **Community Engagement Plan (CEP)** that ensures transparency, inclusivity, and accessibility.

   Key strategies include:
   - **Bilingual, ADA-compliant engagement** through workshops, forums, surveys, and digital platforms.
   - **Pop-up community conversations** at existing community venues and events to "meet people where they are."
   - **Interactive site tours** to generate real-time dialogue about opportunities and challenges on the ground.
   - **Visioning workshops** using PLAYCE's creative tools, such as "blue sky" exercises, collaging, and magazine cover games, to unlock innovative ideas for the Armory's future.
   - **"Try It On" design simulations** that let participants experiment with full-scale props or temporary installations, building consensus through hands-on exploration.
   - **Community Meetings I & II**, structured to move from big-picture visioning to clear, achievable design strategies, while demonstrating how public input directly shapes outcomes.

   This two-month engagement process will culminate in a **Final Engagement Report** documenting outreach activities, feedback, and design impacts. Beyond informing design, the process will build long-term community pride, ownership, and readiness.

   As an added benefit, PLAYCE Studio will invite a City staff member to participate in their **PLAYCE Engagement Academy**, equipping the City with an in-house facilitator skilled in inclusive outreach. This ensures that the project leaves not only a resilient facility but also a legacy of collaboration and capacity-building for Banning's future.

- **Relevant Experience:** RY+AO has successfully led inclusive engagement on civic projects such as the **Solis Park Community Center** and the **4S Ranch Boys & Girls Club**, where broad participation shaped facilities that reflect community identity. Similarly, PLAYCE Studio has delivered award-winning public engagement programs across the country, demonstrating their ability to turn diverse input into actionable, inspiring design outcomes.

2. Comprehensive Needs & Facility Assessment

We will combine stakeholder interviews, surveys, and workshops with a technical facility assessment. This includes evaluating structural integrity, seismic resilience, hazardous materials, ADA compliance, fire/life safety, and MEP systems. We will also conduct an Emergency Preparedness Assessment to confirm the facility can effectively support command operations and sheltering during crises.

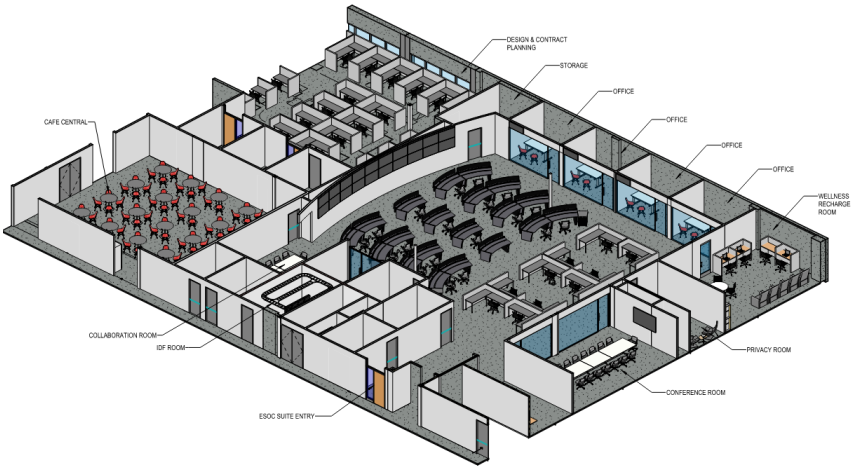
This effort is guided by our disciplined design methodology:

1. **Define objectives and budget** – We begin by understanding operational priorities and financial requirements.
2. **Translate into a program** – These are transformed into spatial requirements that become the roadmap for design.
3. **Align budget with vision** – Only once the program is established do we integrate costs with client objectives, ensuring solutions are both practical and aspirational.

- *Relevant Experience:* Our team recently completed **Southern California Edison's Regional Telecom Hub Needs Assessment** and **AG&R Grid Control Center**, both of which required detailed spatial, technical, and operational analyses to align program needs with facility capabilities.

Below example of the SCE's Edison Security Operation Center (ESOC) Need Assessment and Space Planning at Westminster Combined Facility.

Example of Space Planning 3D View:



Example of a programming assessment Data Sheet: Control Center of ESOC

Program Summary

Space	FTE CURRENT	FTE GROWTH	FTE TOTAL	Seat	SF/Unit	SF/Room	Qty	Area (SF)	Total (SF)	Comment
ESOC										
ESOC Operating Group										
SOC CONTROL CENTER	11	9	20	20	125	2500	1	2500		1. (19) sit/stand consoles 2. (1) 6x8 cubicle for specialist 3. (2) radio wheeler consoles 2. Media Wall: 40' main screen + multiple smaller screens on the sides 3. total TV counts on media wall: 20 on main screen; 2 on each side wall
PRIVATE OFFICE	1	4	5			150	5	750		visibility to the control room
STORAGE						50	1	50		
CONFERENCE ROOM							1	600		Preferred electric privacy glass wall at one side; 30'x20' standard
COLLABORATION SPACE				12				350		white bd., map table; can accommodate 12 standings people. can be shared with conference room, open pockets, etc.
TOTAL	12	13	25						4,250	

Example of an equipment list: Control Center of ESOC

EQUIPMENT LIST (FF&E)						
ASSET NAME	SIZE	QTY	MANFUFACTURER	IMAGE	LOCATION	COMMENT
Media Wall 1 - Main	55"	20	tbd		Control Center	Assume monitors will be combined in groups of (4) per 14A circuit
Media Wall 2 - Side	55"	2	tbd		Control Center	
Media Wall 3 - Side	55"	2	tbd		Control Center	
Console		20	Winsted - Impulse Amplify Dual Sit/stand Console		Control Center	sit/stand consoles, stackable cubbys, 3 monitors, prefer size is bigger than 24"
Base Console		2	Winsted		Control Center	for mobile radios, along side with console workstation

3. Integrated CRC + EOC Design

For the new City of Banning EOC, a core objective is enabling the Armory to function as a fully capable Emergency Operations Center while serving daily community needs.

Key design approaches:

a. Dual-Use Design

- Retrofit the existing Armory to **Risk Category IV** standards wherever feasible, allowing it to safely function as an Emergency Operations Center during disasters while serving daily community programming in normal conditions.

  Design spaces with **flexible partitions, durable finishes, and resilient building systems** so rooms can shift from classes, meetings, or youth programs to EOC operations during an emergency.

b. Secure and Functional Zones

- Develop a **zoned floor plan** that separates secure, mission-critical EOC areas (command room, communications hub, server room) from public-facing CRC spaces (multipurpose rooms, classrooms, kitchen).
- Incorporate **redundant building systems** (HVAC, power, IT backbone) designed by AlfaTech to support continuous EOC operations while ensuring comfort for daily community use.

c. Resilience-Ready Infrastructure

A resilient structure is the backbone of a Community Resilience Center. If a facility cannot withstand natural hazards, it cannot fulfill its most vital role—protecting the community during emergencies.

In partnership with **Holmes**, our team will implement **seismic retrofits, diaphragm strengthening, and structural upgrades** to ensure life safety and continuity of operations. We will also provide a **generator site with fuel storage, hardened utility connections, and redundant communications systems** (satellite and backup) to maintain EOC readiness.

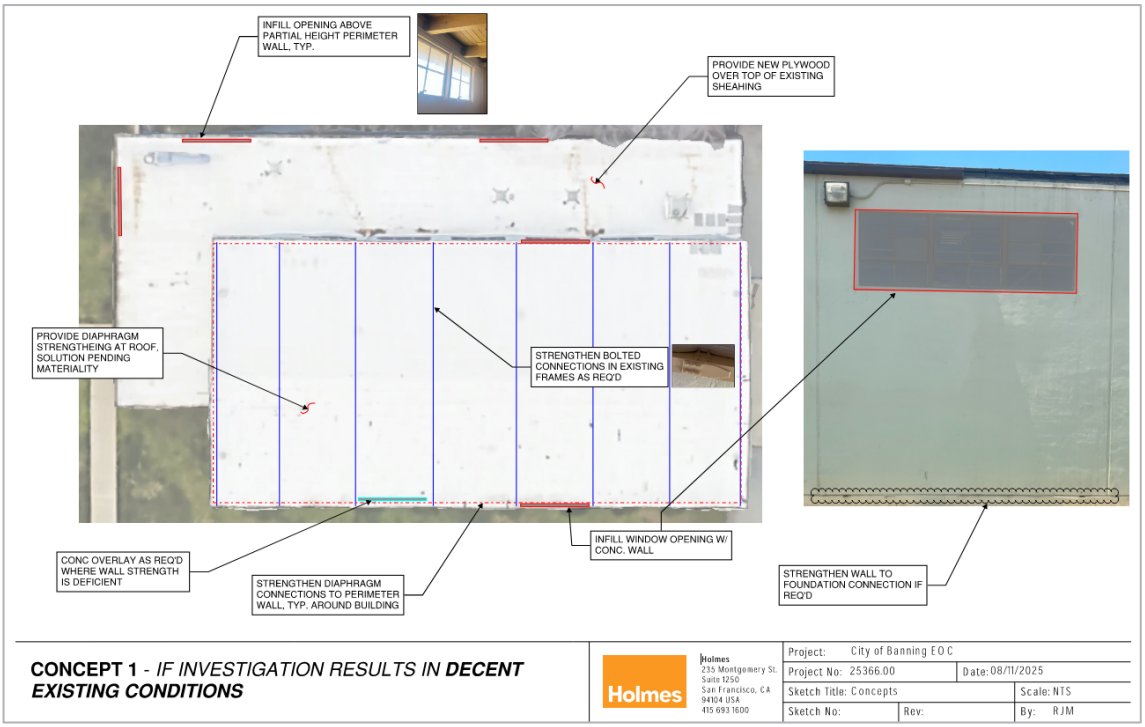
Our process begins with a review of existing documentation and on-site assessments to confirm the Armory's current condition. Where needed, we will expand evaluation using **FEMA P-58 benchmarks**—the national standard for seismic resilience—to guide **cost-effective retrofit strategies** that strengthen integrity and long-term operability. Beyond seismic performance, Holmes will also evaluate risks such as wind, fire, and climate-driven events, integrating both structural and non-structural measures into a **comprehensive hazard mitigation strategy**.

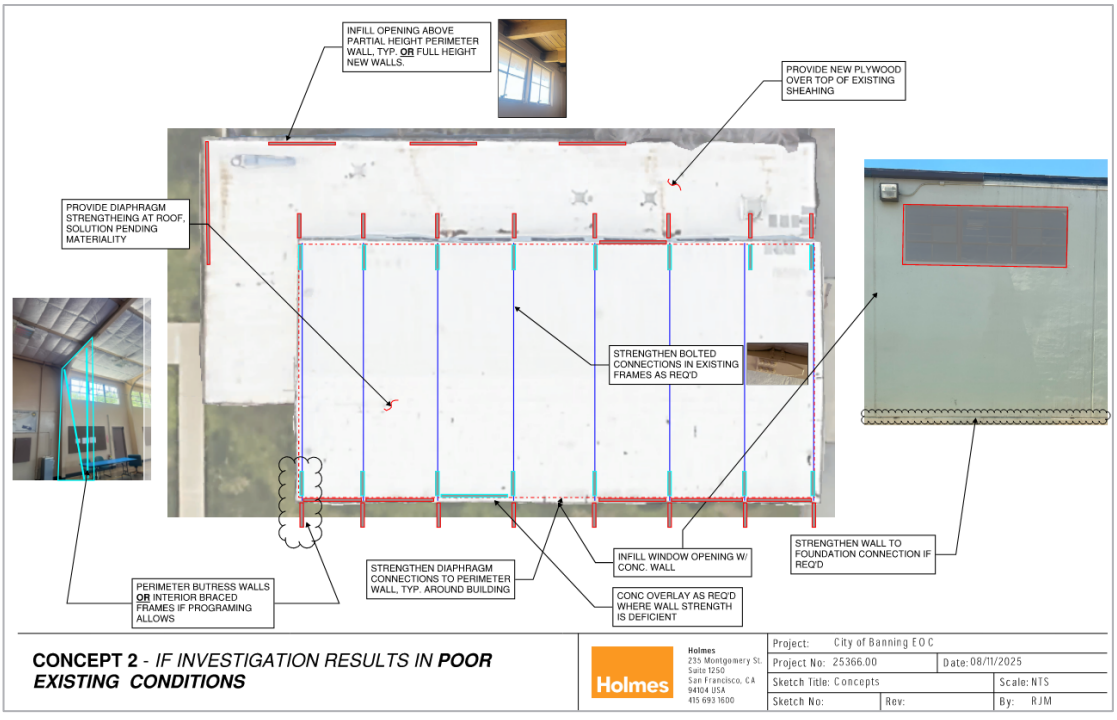
To support decision-making, we will present the City with **retrofit and EOC placement options** ranging from moderate upgrades within the Armory to a new dedicated EOC facility. We will guide the City in weighing resilience, cost, and operational disruption to identify the solution that delivers the greatest long-term value.

Potential EOC Strategies:

Scheme	Existing condition of Amory building	Retrofit to Seismic Design Risk Category	Retrofit scheme	EOC Placement	Cost
1	Decent	IV	Strengthen Roof diaphragm, infill openings, less intrusive to existing spaces	Inside Armory Bldg	Lowest
2	Poor	IV	Strengthen Roof diaphragm, infill openings, buttresses – more intrusive to existing spaces	Inside Armory Bldg	Medium - High
3	Poor	II	Strengthen Roof diaphragm, infill openings, less intrusive to existing spaces	New bldg.	High

And potential structural retrofit schemes:





4. Community Life & Outdoor Civic Identity

Equally important as the building itself is transforming the Armory site into a **welcoming civic destination**. Building on its current uses, such as classes, food distribution, and recreational programs, we will create an outdoor environment that extends community life while reinforcing resilience and identity. The site will function as a daily amenity for residents, a venue for cultural and recreational programming, and a resource adaptable to emergency staging when needed.

1. **Arrival & Identity**
    - A welcoming public plaza with shaded portals and civic-scale signage.
    - Cultural storytelling elements such as murals, public art, and interpretive displays that celebrate Banning's heritage and resilience values.
2. **Family & Youth Spaces**
    - Outdoor classrooms, play structures, and flexible gathering areas.
    - Safe open sightlines and circulation paths that balance activity, visibility, and security.
    - Game tables and casual seating to encourage intergenerational use and community interaction.
3. **Flexible Infrastructure for Daily & Civic Life**
    - Shaded, durable spaces adaptable for daily activities such as markets, fitness programs, or food distribution.
    - Infrastructure designed to host food truck events, outdoor movie nights, holiday celebrations, arts and crafts fairs, performances, and other community gatherings.
    - Multipurpose outdoor spaces that can convert to emergency functions such as staging, supply distribution, or triage during a disaster.



4. **Resilient Systems**
    - Solar canopies providing both renewable power and shaded gathering areas.
    - Drought-tolerant landscapes and stormwater management features that serve as living teaching tools while reducing long-term maintenance costs.
5. **Cohesive Civic Identity**
    - Unified materials, colors, and graphics that tie the building and site together.
    - A design language that communicates confidence and readiness in emergencies while remaining warm, inviting, and approachable in daily life.

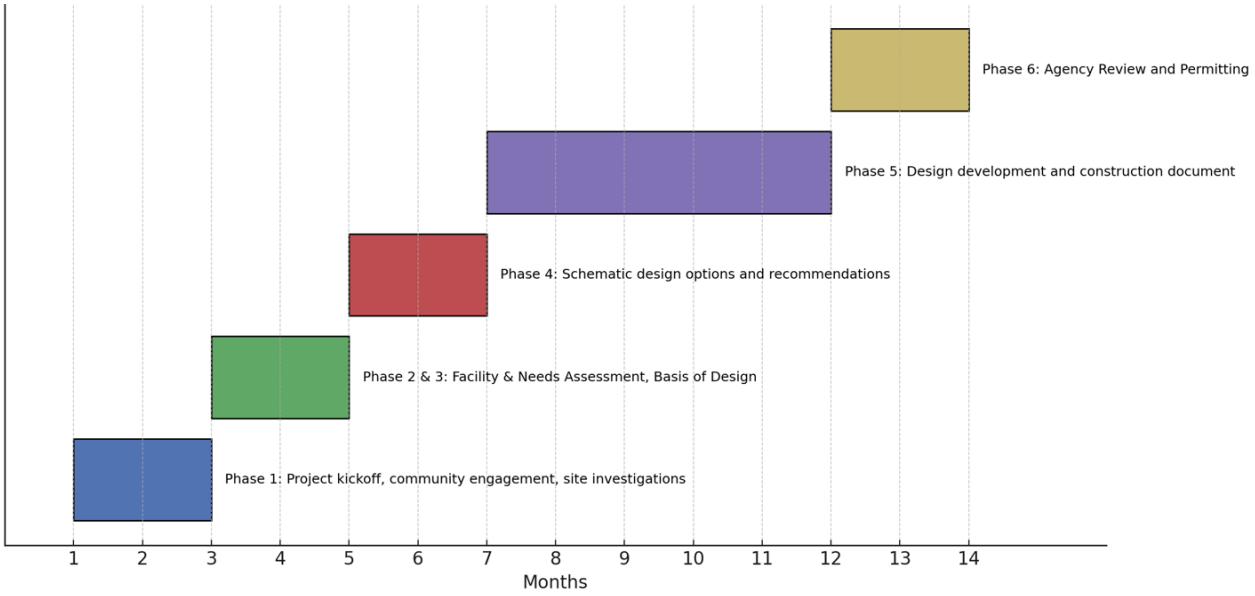


Project Schedule

We anticipate a **12–14 month effort** from initiation to construction documents:

Phase 1 (Months 1–3): Project kickoff, community engagement, site investigations.
Phase 2 & 3 (Months 3–5): Facility & Needs Assessment, Basis of Design.
Phase 4 (Months 5–7): Schematic design options and recommendations.
Phase 5 (Months 7–12): Desing development and construction document.
Phase 6 (Months 12–14): Agency Review and Permitting.

Project Schedule:



Plan to Address Fluctuations in Service Needs and Price Adjustments

We recognize that the scope of services for the Community Resilience Center may evolve as the project progresses, particularly given the dual-use nature of the facility and the reliance on grant funding. Our approach is to remain flexible while maintaining transparency and fiscal accountability.

1. Scalable Staffing and Resources
Our project team is structured with both core staff and specialized consultants who can be scaled up or down depending on the City's needs. For example, if additional community engagement sessions are requested, we can expand Place Studio's hours accordingly. Similarly, if fewer sessions are required, resources will be reduced to match.

2. Defined Unit Rates for Adjustments
To manage costs fairly, we provide a schedule of hourly rates for each discipline. Any fluctuation in service needs, whether an increase or reduction, will be adjusted based on these unit rates. This ensures the City pays only for the services actually performed while maintaining a predictable cost framework.

3. Transparent Change Authorization
Any adjustments to the scope of services will be documented through a written request and approved by the City before work proceeds. We will provide a clear breakdown of added or reduced hours, along with associated cost impacts, so that decisions can be made with full visibility.

4. Proactive Communication
We will monitor service needs closely during project execution. If fluctuations arise, our Project Manager will promptly notify the City, propose alternatives, and recommend the most cost-effective solution. This proactive coordination prevents budget surprises and schedule delays.

5. Commitment to Budget Stewardship
While we have planned our base scope to fully satisfy the RFP requirements, we understand that unforeseen needs may arise (e.g., additional analysis, extended stakeholder engagement, or revised design iterations). Our commitment is to work collaboratively with the City to identify efficiencies before increasing scope and cost, ensuring that all adjustments deliver tangible value.

Time Commitment & Delivery
RY+AO is fully committed to delivering this project on schedule and within budget. Dedicated personnel will ensure seamless coordination, with phased planning that minimizes disruption to operations while allowing continuous feedback.

Why Choose RY+AO Architects?
RY+AO delivers more than design, we create civic assets that safeguard public safety and identity. Our decades of mission-critical expertise and community design experience uniquely position us to help Banning realize a facility that is trusted, resilient, and adaptable for generations.

For this effort, RY+AO has teamed with PLAYCE Studio to craft a thoughtful, strategic community outreach program.

Together, the partnership will engage stakeholders, foster meaningful dialogue, and ensure community voices play an integral role in shaping the project's vision.



Introduction

PLAYCE is our placemaking methodology that integrates traditional public engagement techniques with team building and organizational development principles utilizing the power of play to build trust within a group, create consensus around an idea, and develop a strategy to move that idea forward.

The PLAYCE approach to public engagement invites stakeholders to be collaborative problem solvers from the onset of the process by becoming active participants in the project process. Stakeholders become project champions; ideas move to consensus sooner and concepts are tried on for size early, ensuring greater future success.

We are very excited about the potential for our award-winning engagement and visioning methodology PLAYCE to assist the City of Banning and the neighborhood surrounding the Armory as it seeks to reimagine the Armory as a multi-benefit Community Resilience Center with campus amenities that can provide an evacuation/climate resilient shelter, be an Emergency Operations Center (EOC), and offer year-around programs to build climate and community resilience.

Purpose of Community Engagement

The purpose of inviting the Banning community to participate in the Banning Armory Community Resilience Center Project is to build awareness, trust, and a sense of shared ownership between the City and its residents, businesses, and stakeholders. Engagement will ensure that the design, programs, and operations of the Armory reflect the community's priorities—serving as both a climate-resilient shelter and a year-round hub for emergency preparedness, resilience-building, and connection. Public input will guide the vision, goals, and strategies for the project, ensuring that outcomes are both innovative and achievable, with clear and measurable benefits. A successful plan is one the community can see itself in—practical in its recommendations, ambitious in its possibilities, and inspiring in its call to action. The public engagement program should be:

Transparent – to ensure that the plan process is open and accessible

Equitable and inclusive – to provide every member of the community ample opportunity to participate by providing a variety of platforms for participation and ensure special effort is made to include traditionally marginalized groups in the process

Accessible and safe – to make it easy for people to participate, make them confident that their opinions are important and to provide settings in which they feel secure in sharing their thoughts and ideas

Relevant – to clearly document engagement outcomes in the plan and ensure they are reflected in the vision, goals and strategies and in the final plan

Following are elements of the Community Engagement Plan for the City of Banning Armory Community Resilience Centers Project:

Community Engagement Plan

A Community Engagement Plan (CEP) will be prepared for the project summarizing the techniques we will use to ensure that every resident, stakeholder and interested person has ample opportunity to provide input into the plans and detail the platforms through which public input will be solicited. The CEP will also include overlaps and integration with existing planning bodies and networks, including the Project Advisory Committee and Key Stakeholder Groups.

The CEP will include a proposed engagement schedule and include techniques for publicizing engagement meetings and events. These strategies include social media, news releases, community announcements, press coverage, and media interviews. We will assemble an email database, updated throughout the plan process, to publicize engagement events and updates through e-blasts. Postal mailings of postcards and flyers can also be considered.

A draft CEP will be distributed for review by the Project Advisory Committee prior to the kickoff meeting, revised and distributed again as needed. The CEP should be amended and updated during the plan process as conditions warrant, for example, if changes are needed because one or another engagement technique turns out to be more or less effective and we want to do more or less of it as a result.

All engagement activities will be photo-documented, and their results tabulated and documented for inclusion in the Final Engagement Report. Proposed participation elements can include a variety of the following opportunities, and are anticipated to occur at various time during the project schedule.

Pop Up Community Conversation – Meeting the Public In Public

We will "meet the public where they are" by setting up pop-up style engagement tables at existing community venues and events across Banning. These approachable, in-the-moment interactions allow us to connect with a wide range of residents, businesses, and visitors—engaging them in short but meaningful conversations about the Armory's transformation into a Community Resilience Center. These events will provide opportunities to share project goals, gather input on community needs for year-round programming, emergency preparedness, and climate resilience, and invite participants to imagine how the Armory can serve them in daily life and during emergencies.

Pop-up conversations build early awareness, signal transparency and inclusivity, and encourage continued involvement throughout the project. Community maps, visuals of the Armory and potential improvements, informational handouts, engagement schedules, and short surveys will help participants share their perspectives. Visioning activities will draw from PLAYCE's proven engagement tools—creating interactive, creative moments that make it easy for people to share ideas and see themselves as co-creators of the Center's future. Visioning experiences can include a variety of the PLAYCE activities some of which are noted in Community Meeting description below.

These relaxed and fun events are particularly effective because they provide an opportunity to share the project with stakeholders and to collaborate on tactics to overcome perceived and actual barriers to redevelopment, and to demonstrate how good design and public realm activation can improve quality of life for the community. These intimate interactions help us to build foundations of trust and relationships within the community.

Survey

A neighborhood survey will be distributed via Survey Monkey or similar online platform with paper copies available for those who cannot or do not want to participate online. This survey instrument will be developed with the support of the Project Advisory Committee. Localized issues will be highlighted, and demographic information will be sought to ensure that a diversity of community members have weighed in. The survey will be held open for enough time to allow all community members to respond. Using Survey Monkey's "skip logic" function, we can direct respondents to specific categories of questions.

Community Meeting 1 and Tour

Deeper discussions around needs and desires can take place through two sets of interactive Community meetings that will articulate priorities and translate them into goals and design strategies.

Each Community Meeting includes three elements: an educational element, during which progress on the plan is reviewed and input sought on the content of the evolving document; collaboration, group games and exercises that assist in team building in which participants work together to develop an understanding of their shared priorities and preferences for the future; and individual input with exercises and games that help participants to express their own visions for a preferred future.

As part of Community Meeting 1 participants will be invited to join in "blue sky" visioning, imagining no constraints – including time and money – to develop the future of the Armory Community Resilience Center. Techniques can include icebreakers and games designed to challenge and draw participants out on their priorities and small group conversations. Techniques could include discussions revolving around four key questions: "What is holding us back," "what could be possible for the space and the community," "what will it take for success" and "what partners or resources do we need?" Others include a "roles and contribution" discussion inviting each participant to define a role they see for themselves in the plan process or the contribution they see they would like to make. Individual or small group activities can include a magazine cover game in which participants develop an imaginary national magazine cover celebrating the project's success 10 or 20 years in the future –adapted for in-person and online use; and collaging a vision of the community's perfect future using magazines, scissors, construction paper and glue sticks in the in-person iteration, and electronic collaging using free digital tools.

Looking closely at a site helps us close gaps in knowledge and reach individuals and groups with specific insights and experiences that will enrich the project.

It is often difficult to see a place you experience every day with new eyes. An interactive site tour as part of the Community Meeting 1 can help us do that. Site tours lend themselves to better understanding of specific opportunities, such as EOC needs, community recreation needs, as well as staff and operation needs. This method is particularly effective because they take place as the group is looking at physical issues, barriers or opportunities and engaging in real-time dialog about opportunities to overcome barriers and improve the quality of life in the community. In our experience, we realize better outcomes, a more engaged public and better project understanding than if these meetings take place in conference rooms and meeting halls.

We will develop specific tour topics to be considered in the CEP, establish goals and objectives for the tour, and outline tour discussion topics. Each participant will receive a tour packet with a background summary, tour route, questions for discussion and vignettes, concepts and/or precedent images so the future can be visualized by participants.

An additional option that has seen tremendous success in other projects is an opportunity to "Try a Design" on for size. We can create this at two different scales and can deploy them at various times during the process. The first scale we call "Prop Play" and this can include bringing light weight and inexpensive props such as boxes, buckets, colorful tape, pool noodles and hula hoops to the various sites, and invite the community participants to move the items around to create life scale concept plans that can be explored, tested and adjusted in real time. This can also be done at a table top scale if weather or timing does not permit being on the site. This unique opportunity allows community participants to be directly connected with design, they are part of the decision-making process in a very accessible way and can see their contributions when concepts are developed into real life installations.

The larger scale "Trying it On" is akin to a tactical urbanism approach which brings near-final design ideas to life in temporary, low cost, creative ways which are coordinated with various program elements to mimic the real life intention of the design. Here we engage with the broader community, those impacted who may not have been a part of the planning process, but who will be at the affect of the design. Physical exploration and extended conversations allow the participant to share authentic feedback that still has time to influence the final outcomes.

Community Meeting II: Sharing of Outcomes, Precedents and How we got there

The second community meeting builds on the ideas, priorities, and visions developed during the first meeting and throughout prior engagement activities. This session focuses on sharing how community input directly shaped the project's emerging goals, design concepts, and program strategies for the Armory Community Resilience Center. The purpose is to affirm the community's role in the process, demonstrate transparency, and provide opportunities for further refinement before finalizing recommendations.

The meeting will begin with a clear presentation of outcomes, showing how needs, desires, and constraints have been synthesized into preliminary design strategies, operational recommendations, and year-round programming ideas. Visuals will include concept drawings, precedent imagery from other successful resilience centers, and data summaries that trace the path from initial "blue sky" ideas to tangible, achievable solutions. This educational component will help participants understand not only *what* is being proposed, but *why*—including how input from the first meeting, site tours, pop-up events, and advisory committee feedback informed the concepts.

Following this presentation, participants will rotate through interactive stations where they can engage with various aspects of the proposed plan:

- Design Station – View and comment on conceptual layouts, circulation patterns, and spatial uses.
- Programming Station – Explore proposed year-round activities and programs, and emergency preparedness functions, adding suggestions or highlighting top priorities.

- Precedent Station – Review examples of other resilience-focused community facilities and discuss which ideas might be adapted for Banning.
- "How We Got Here" Station – An illustrated timeline and engagement map showing the journey from initial conversations to current concepts, emphasizing where community voices made key contributions.

The collaboration segment will invite small-group discussions to identify what resonates most strongly, what could be improved, and what must be protected as the project moves toward implementation. Tools could include real-time polling, dot-voting on priorities, and "if this, then what?" scenario games to help the community weigh trade-offs.

For individual input, participants can complete comment cards, annotate drawings, or record short video/audio messages sharing their thoughts. Activities like "Headline the Future" (writing the newspaper headline they'd love to see in 10 years about the Armory's success) or "Postcard to the Future" (a personal message to future users of the facility) can add a creative and personal dimension to feedback.

The session will close with a next steps and celebration moment—thanking participants for their contributions, explaining how final refinements will be made, and inviting them to remain involved through the final design and implementation stages. This approach ensures that the community leaves the meeting not only informed, but motivated, and confident that their voices are shaping the future of the Armory Community Resilience Center.

VALUE ADD

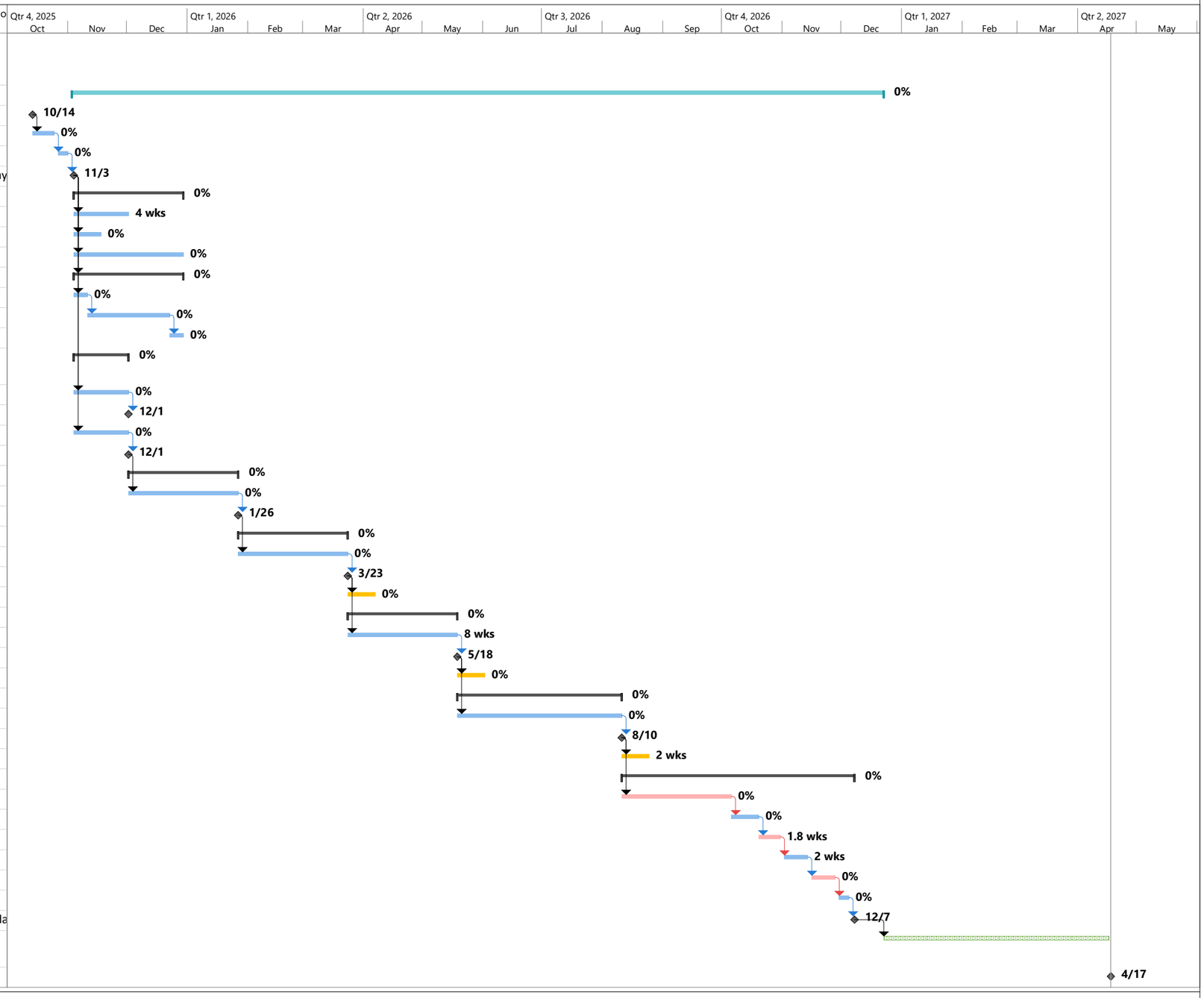
PLAYCE's engagement approach builds lasting community capacity, ensuring benefits extend well beyond the Banning Armory Community Resilience Centers Project. Our hands-on methods—visioning workshops, interactive site tours, and "Try It On" exercises—equip participants with skills in facilitation, consensus-building, and problem-solving they can apply to future challenges.

As an added benefit, we propose that an appropriate City employee—such as from Planning or Parks and Recreation—participate in our PLAYCE Engagement Academy during the project. This immersive training will provide the City with an in-house facilitator skilled in inclusive engagement and will foster a long-term relationship between that staff member and the community. This connection strengthens trust, allows for more meaningful collaboration in future projects, and keeps the City closely attuned to community needs for years to come.

By combining immediate project impact with the development of local champions—both in the community and within City staff—PLAYCE leaves a legacy of collaboration, preparedness, and self-determination that positions Banning for a resilient and thriving future.

Banning Armory Community Resilience Center - Design Schedule

ID	Task Name	Duration	Start	Finish	Predecesso
1	**Banning Armory Community Resilience Center Design Schedule**				
2	TOTAL PROJECT DESIGN DURATION	59.4 wks	Mon 11/3/25	Tue 12/22/26	
3	Vendor Selection	0 days	Tue 10/14/25	Tue 10/14/25	
4	Contract Award & Notice to Proceed	1.8 wks	Tue 10/14/25	Fri 10/24/25	3
5	AE team mobilization	1 wk	Mon 10/27/25	Fri 10/31/25	4
6	Kick Off Meeting	0 days	Mon 11/3/25	Mon 11/3/25	5FS+1 day
7	**Site Investigation & Documentation**	**8 wks**	**Tue 11/4/25**	**Mon 12/29/25**	
8	Land Survey & Base Map	4 wks	Tue 11/4/25	Mon 12/1/25	6
9	As-built Drawings	2 wks	Tue 11/4/25	Mon 11/17/25	6
10	Geotech Investigation and Report	8 wks	Tue 11/4/25	Mon 12/29/25	6
11	**Outreach/Community Engagement Plan**	**8 wks**	**Tue 11/4/25**	**Mon 12/29/25**	**6**
12	Community Engagement Plan Development	1 wk	Tue 11/4/25	Mon 11/10/25	6
13	Outreach & Community Meetings	6 wks	Tue 11/11/25	Mon 12/22/25	12
14	Community Engagement Plan Report	1 wk	Tue 12/23/25	Mon 12/29/25	13
15	**Facility Assessement & Emergency Preparedness Assessement**	**4 wks**	**Tue 11/4/25**	**Mon 12/1/25**	
16	Facility Condition Assessment	4 wks	Tue 11/4/25	Mon 12/1/25	6
17	Facility Condition Assessement Report	0 days	Mon 12/1/25	Mon 12/1/25	16
18	Emergency Preparedness Assessment	4 wks	Tue 11/4/25	Mon 12/1/25	6
19	Emergency Preparedness Assessment Report	0 days	Mon 12/1/25	Mon 12/1/25	18
20	**Need Assessement**	**8 wks**	**Tue 12/2/25**	**Mon 1/26/26**	
21	Need Assessement	8 wks	Tue 12/2/25	Mon 1/26/26	19
22	Need Assessmement Report	0 days	Mon 1/26/26	Mon 1/26/26	21
23	**Schemetic Design**	**8 wks**	**Tue 1/27/26**	**Mon 3/23/26**	
24	Schemetic Design	8 wks	Tue 1/27/26	Mon 3/23/26	22
25	100% SD Submittal	0 days	Mon 3/23/26	Mon 3/23/26	24
26	City PM & Stakeholders SD Submittal review	2 wks	Tue 3/24/26	Mon 4/6/26	25
27	**Design Development**	**8 wks**	**Tue 3/24/26**	**Mon 5/18/26**	
28	Design Development	8 wks	Tue 3/24/26	Mon 5/18/26	25
29	100% DD Submittal	0 days	Mon 5/18/26	Mon 5/18/26	28
30	City PM & Stakeholders DD Submittal review	2 wks	Tue 5/19/26	Mon 6/1/26	29
31	**Construction Document**	**12 wks**	**Tue 5/19/26**	**Mon 8/10/26**	
32	Construction Document	12 wks	Tue 5/19/26	Mon 8/10/26	29
33	90% CD Submittal	0 days	Mon 8/10/26	Mon 8/10/26	32
34	City PM & Stakeholders CD Submittal review	2 wks	Tue 8/11/26	Mon 8/24/26	33
35	**Permitting Process**	**17 wks**	**Tue 8/11/26**	**Mon 12/7/26**	
36	IFP (Issued for Plan Check) #1	8 wks	Tue 8/11/26	Mon 10/5/26	33
37	A&E Plan Check Correction	2 wks	Tue 10/6/26	Mon 10/19/26	36
38	IFP #2	1.8 wks	Tue 10/20/26	Fri 10/30/26	37
39	A&E Plan Check Correction	2 wks	Mon 11/2/26	Fri 11/13/26	38
40	IFP#3	2 wks	Mon 11/16/26	Fri 11/27/26	39
41	A&E Plan Check Correction	1 wk	Mon 11/30/26	Fri 12/4/26	40
42	Plan Check Approval & 100% CD Bid Set	0 days	Mon 12/7/26	Mon 12/7/26	41FS+1 da
43	Time Between Project Completion and Grant Expiration	16.6 wks?	Wed 12/23/26	Fri 4/16/27	42
44	Grant Funding Valid Through End Date	0 days	Sat 4/17/27	Sat 4/17/27	



Critical	Task	Manual Task	Duration-only	Baseline Milestone	Summary	External Tasks	Inactive Milestone
Critical Split	Split	Start-only	Baseline	Milestone	Manual Summary	External Milestone	Inactive Summary
Critical Progress	Task Progress	Finish-only	Baseline Split	Summary Progress	Project Summary	Inactive Task	Deadline

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month One					
Award- Contract Issuance	**Project Mobilization:** Contract Award - 1.) RY+AO Consultant Contract 2.) City schedule all Dept. Interviews with RY+AO	Mobilization 1-2 wks.			
Kick-off Mtg.	**Introductions, Strategic Overview Goals & Objectives:** Community Engagement Plan, FCA, Emergency Preparenss, Need assessment, City Business Unit, Dept Organizations, Stakeholders.	During Mobilization Period (Anticipate during Weeks 1- 2 schedule City Dept. Interviews)			
Outreach/ Community Engagement Plan	City to provide contact list of key community stakeholders, support project webpage setup, review engagement materials.	Week 1-8	Partner with **Playce Studio**, lead development of Community Engagement Plan, design engagement strategy, coordinate materials for City's project webpage, facilitate workshops/forums/meetings, document meeting and provide reports. Prepare Community Engagement Report		
Facilities Condition Assessment / Facilities Surveys/ Emergency Preparedness Assessment	**Initial Dept. Mtgs.:** Meet with Needs Assessment Mgmt.. Introduce detailed City Dept. Assessment Survey Strategy. Mtg. 1 General overall + Individual Dept. mtg. as req'd.	Week 3-4	a.) A&E team will survey exisitng building and funish as-built drawings if the City unable to obtain as-built drawings from the Nationl Guard. b.) RY+AO A&E team schedule tour of existing EOC, perform a general survey of the existing spaces and inventory of essential furniture and equipment for the EOC facility c.) Initial meeting with City of Banning Mgr./Operations Mgmt. Team to establish objectives and goal of the needs assessment. d.) Based on Initial meeting, schedule Dept. Interviews to validate current and future requirements. e.) discuss optional Business Resiliency , future operational forecasts, technological , shared work place, shared commom spaces with community center considerations.	Structural Stds. Business Resiliency Assessment. Determine what standards of assessment if any the City may consider to assure operational sustainability during a significant Seismic or catastrophic event: FEMA, ASCE, Non-Structural. Identify any Structural Business Resiliency Requirements	MEP, Assess Overall age of existing facilities. Establish MEP Operational Resiliency requirements. Review internal facility asset management Rpts. Assess if existing MEP Non-Structural Assets Assessment is required

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Two					
Faculties Assessment / Organization Programming- Benchmark Existing Conditions / Develop Future Growth & Space Recommendations	1. Conduct interviews and surveys with the City of Banning Parks & Recreation Department, Riverside County Emergency Management Department, and the Project Advisory Council to identify projected headcounts and space requirements for the EOC, climate-resilient shelter, emergency shelter, year-round programming, and campus amenities. 2. For the EOC, benchmark organizational needs in collaboration with department managers to develop a Facilities Space Occupancy Survey informed by asset inventories, structural assessments, and Risk Category IV standards. Hold departmental meetings as needed, with bi-monthly program management meetings included. City to provide Facility Condition Assessment data and asset information for existing building systems and equipment.	week 5-8	Our team will evaluate the existing conditions including the following: 1. Site – Assess the location, accessibility, zoning, adjacent properties, infrastructure, and environmental conditions. 2. Existing Conditions: a) Site and Structure – Review existing buildings, their history, past modifications, and critical infrastructure. b) Structural Assessment – Inspect structural integrity, identify visible deficiencies, and evaluate material longevity. c) MEP and HVAC Systems Evaluation – Assess system capacity, efficiency, reliability, and upgrade requirements. d) ADA Compliance Review – Evaluate accessibility per ADA Titles I, II, and III, and recommend necessary modifications. e) Space Utilization Analysis – Inventory functional spaces, dimensions, usage rates, and alignment with operational needs. f) Functional Analysis – Assess the facility's suitability for EOC operations, workflow efficiency, and spatial adequacy. g) Site Advantages and Disadvantages – Identify strengths, weaknesses, security concerns, infrastructure proximity, and resilience factors. h) Environmental and Risk Assessment – Identify environmental hazards, site vulnerabilities, and potential risks.	Structural Physical survey pre-existing City of Banning EOC Facility. If Optional FEMA P-58 Stds. are integrated, present findings & deficiencies.	Physical survey all pre-existing City of Banning Faculties utilize MEP. Identify Non-Structural and Operational Resiliency Gap Analysis.

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Two					
Programming	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs. as req'd.		Facilitate programmatic collaboration with user groups to document current and future uses, and assess projected space needs over three- and five-year periods. Evaluate how each functional component (EOC, shelters, year round programming, amenities) can optimize operations, including benchmarking of existing activities. Analyze physical proximity needs and identify opportunities for beneficial co-location with related functions. Develop benchmark spatial assessments, growth models, and optimized adjacencies to guide planning.	Develop Structural recommendations. Present all City of Banning Structural assessments	Develop MEP Assessment recommendations. Present all City of Banning MEP assessments.
			1. Meet with key user groups (EOC staff, shelter managers, program coordinators, Park & Rec operations) to identify issues, priorities, objectives, and operational requirements. 2. Develop planning scenarios to optimize space allocation, shared-use opportunities, and adjacencies among functional components. 3. Establish programming logic in coordination with the City Manager and EOC leadership to guide facility planning. 4. Engage City support services (IT, environmental, security, safety) to define infrastructure and operational requirements tied to the Needs Assessment. 5. Conduct two cross-functional workshops with all user groups and support services to identify shared goals, unmet needs, and operational overlaps. 6. Assess space requirements for each functional component by comparing existing facilities and assets against 3–5 year projections, with discussion of a 10-year growth model.		
Month Three					
Analyze Programmatic Data / Convert to Floor Plans / Bldg. Plans / Master Plan	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs. as req'd. CRC & EOC Program and Concpetual Design Review Mtgs. with City Prog. Mgr. and individual Dept. upon completion.		Develop conceptual Design. Translate Program to Space Plans. Develop preliminary Space Plans. Collaborate with A&E Team to assess consultant finding. Review findings with City Program Mgr. and ea. City Dept. head.	Integrate structural findings with RY+AO	Integrate MEP findings with RY+AO
Feasibility Studies			Define spatial requirements for each functional component of the facility, including the EOC, climate-resilient shelter, emergency shelter, year-round programming, and campus amenities. Prepare block plans showing adjacencies, growth capacity, and shared-use opportunities among user groups. Translate programming findings into conceptual layouts, and develop three plan options integrating existing and proposed spaces to support all resilience functions.	Structural recommendations integrated with RY+AO	MEP recommendations integrated with RY+AO

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Fourth					
Findings			**A summary of the Deliverables is outlined below:**	***Deliverables:***	***Deliverables:***
City Deliverables	Prog Mgr. Mtgs. / Advisory Committee mtgs. as required. Individual Dept. mtgs. to review Final Dept. - Review w/City Prog. Mgr. approval sign off. / City Council Presentation		**Existing Conditions Report** 1).Overview and visual assessment of the site and structure. 2). Evaluation of MEP, HVAC, and ADA compliance. 3). Space utilization analysis and functional assessment. 4). Site advantages, disadvantages, and environmental constraints. 5). Recommendations on city needs, technology impacts, and EOC functionality. 6). Site visits and stakeholder interviews for data gathering. **Needs Assessment Report** 1). Detailed site description and existing conditions summary. 2). Structural, MEP, HVAC, and ADA compliance assessments. 3). Functional analysis and space utilization breakdown. 4). Environmental and physical constraints. 5). Summary of Needs Assessment findings. 6). At least three options: retrofitting, expansion, or new construction. 7). Conceptual site plans, space allocation, and cost estimates. 8). Strengths, weaknesses, and comparative analysis of alternatives. 9). Final recommendation. **Emergency Preparedness Assessment Report** 1). Coordination with County Emergency Mgmt & Advisory Committee 2). Evaluation of facility readiness for EOC and shelter use 3). Identify deficiencies that may be mitigated through this project	Structural recommendations integrated with RY+AO	MEP recommendations integrated with RY+AO
Final Draft Workshop / City Council Presentation if required			A presentation of the findings and recommendations to the Banning City Mgr./Ops Mgr. / City Council meeting if required.		
Month Fifth					
Project Scope, Design and Esimates	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs.		RY+AO leads the AE team to start design phase based on the Need Assessment Report, The design phase is anticipated to take approximately 6–7 months.		



ABOUT RY+AO

With an emphasis on architecture, planning, and relationships, RY+AO provides exceptional services to public and private clients while fostering lasting relationships across every aspect of our work.

Headquarters: 731 South Highway 101, Suite 1M, Solana Beach, CA 92075

Other offices: Orange County, Silicon Valley, Oakland, Atlanta, New York, Orlando

DESIGNING EXCELLENCE, BUILDING PARTNERSHIPS, AND SHAPING COMMUNITIES

RY+AO is a full-service architectural firm with over 30 years of experience providing architectural services to municipalities, quasi-governmental agencies, public private partnerships (PPP), and healthcare providers across Southern California. Our legacy in civic architecture dates back to 1983 with the award-winning Escondido City Hall design, selected from a global competition.

Following our 2022 merger with renowned Orange County firm, AO, RY+AO expanded our capabilities with 325 additional design professionals and specialized studios in mixed-use, parking, interiors, healthcare, office, multifamily residential, and more.



Our firm offers a balanced group of experienced professionals combining design excellence with technical proficiency and reliability. RY+AO demonstrates consistent growth, strong cash flow, and a proven ability to meet financial obligations and client commitments. Backed by a diverse portfolio and deep resources, we are well-equipped to manage complex projects from planning through construction.

We proudly collaborate with clients like the **City of La Quinta, City of Santa Clara, Southern California Edison, and SoCalGas.** Our work spans the state, with a strong presence in Southern California, offering services such as:

- Facility assessment
- Programming and space planning
- Architectural design and master planning
- Feasibility studies of varying scope and scale
- Tenant improvements and ground-up construction
- Seismic upgrades, retrofits, and more

LITIGATION HISTORY: RY+AO is currently not and has not been apart of any litigation, mediation, arbitration, regarding the perfomance of any services similar to the Services in which RY+AO has been involved in the past 5 years.

PROJECT STAFFING

We have assembled a highly qualified, knowledgeable and coordinated team that is highly communicative, focused on best practices, and uncompromising in the pursuit of common best solutions. Our team will succeed because we seek not individual success; rather we measure our achievements by our client's success. **Jianshan Liang,** Principal, as primary contact and person resbonsible for overall corporate commitment and **Robert Schuster** as Senior Project Architect respectively will comprise our core architectural team and will direct the team's project consultants. All communications will be managed by this core team, in coordination with the client and client's consultants.

RY+ AO provides senior staff responsible for the critical elements of the project scope as follows:

- Victor Donoso, Senior Job Captain, T 619.224.3605
- Nazanin Mojahed, Senior Job Captain, T 714.639.9860
- Giovanni Sandoval, Programmer Designer, T 619.224.3605
- Giovanni Torres, Job Captain Surveyor, T 619.224.3605

ALFATECH – MEP, FIRE & LIGHTING

Alfatech is a leading engineering design and consulting firm specializing in mechanical, electrical, plumbing, fire protection, and lighting design. With a reputation for innovative, sustainable, and cost-effective solutions, Alfatech delivers fully integrated systems that enhance performance and efficiency across complex building types.

Contact: **Tarkan Altay,** Principal | tarkan.altay@atce.com

HOLMES – STRUCTURAL

Holmes is an internationally recognized structural engineering firm known for creative, resilient, and constructible designs. With expertise spanning hospitality, mixed-use, and coastal projects, Holmes provides structural solutions that balance efficiency, safety, and architectural intent.

Contact: **James Rosewitz**, Principal & Commercial Manager | T 415.693.1600 | james.rosewitz@holmes.us

SWS – CIVIL

SWS Engineering offers comprehensive civil engineering services with a focus on site design, grading, drainage, and utility coordination. Their local expertise ensures seamless integration of infrastructure with site planning while navigating municipal and environmental requirements.

IN-SITE LANDSCAPE ARCHITECTURE – LANDSCAPE

In-Site Landscape Architecture specializes in the design of engaging outdoor environments that connect people with place. Their work spans hospitality, mixed-use, and community-driven projects, delivering landscapes that balance beauty, sustainability, and functionality.

LANDMARK – GEOTECHNICAL

ffers a broad range of consulting services on diverse projects in both the public and private sectors. The firm specializes in geotechnical engineering, engineering geology, soils and construction materials testing, and inspection services.

Contact: **Greg Chandra,** Principal Engineer | T 760.360.0665 | gchandra@landmark-ca.com

DUEX – DRY UTILITY

DUEx is a dry utility consultant offering specialized expertise in the coordination and design of electrical, telecom, and gas infrastructure. Their work streamlines utility planning and ensures reliable, cost-effective service integration across all project phases.

Contact: **Ian Sanchez,** Founder | ian@duexperts.com | T 714.398.9162

PLAYCE STUDIO – COMMUNITY OUTREACH

PLAYCE Studio leads meaningful community engagement efforts that inform design and planning processes. With expertise in outreach, facilitation, and communication strategies, PLAYCE ensures projects reflect community priorities while fostering transparency and collaboration.

Contact: **Joy Kuebler**, President & CEO | joy@playcestudio.com | T 909.714.0284

ORNESS – KITCHEN/FOOD SERVICE DESIGN

Orness brings specialized expertise in commercial kitchen and food service design, delivering highly efficient and operationally sound solutions for hospitality and resort projects. Their work emphasizes functionality, flow, and compliance with the latest health and safety standards, ensuring back-of-house operations support exceptional guest experiences.

Contact: **Ken Relethford,** President & Sr. Design Consultant | krelethford@ornessdesigngroup.com | T 858.457.5955

Key Principal staff are properly licensed to practice in the State of California.

JIANSHAN LIANG, ARCHITECT, LEED AP

PRINCIPAL-IN-CHARGE



Ms. Liang is a high-achieving, California-licensed architect with 20 years of architectural experience. Her varied project experience includes public utilities, hospitality, civic, public buildings, K-12 school, public transportation, military facilities, church, commercial retail, and mixed-use projects. She is proficient in Revit and BIM management, and has strong communication and team leadership skills.

"Architecture inspires life and life inspires architecture."

EDUCATION

Master of Architecture, Washington University
Bachelor of Science, Architecture
Guangdong University of Technology

REGISTRATIONS

Licensed Architect in CA
LEED Accredited Professional (LEED AP)

PROFESSIONAL EXPERIENCE

SCE Admin Building, Westminster, CA
Managed an 87,630 SF tenant improvement project within an existing 116,000 SF administration and meter lab building, enhancing facility functionality and space utilization.

SCE Alhambra New Warehouse, Alhambra, CA
Project encompassed a 55,000 SF new-build warehouse, featuring 45,000 SF of storage space and 10,000 SF of office area with assembly room. Additional elements included ADA-compliant restrooms, various office layouts, crew room, and map room.

SCE Voluntary Seismic Program, Multiple Locations
- SCE GO2 & GO3, Rosemead, CA: FEMA E-74 assessments
- SCE Southbay Service Center South Bay, Torrance, CA: ASCE 41 Tier 1 & 2 and FEMA E-74 assessments

SoCal Gas Honor Rancho, Santa Clarita, CA
Spearheaded tenant improvements and a critical expansion with the addition of a second floor, enhancing the entire building's functionality and upgrading its seismic resilience to a Category 4 classification.

Collins Aerospace, Anaheim, CA
This project presented the unique challenge of providing facilities for two of client's wholly-owned subsidiaries within one pre-existing warehouse space. Isolated testing rooms were designed to reduce the sound transmission to 30 dba as well as manufacturing assembly areas and office renovations.

Hollywood Park Casino, Inglewood, CA*
A 110,000 SF facility that includes a casino with 100 table games and high limit gaming rooms, Off Track
Betting Room hosting over 1,600 patrons, sport bar, restaurant and lounge.

Hollywood Park Retail, Inglewood, CA
500,000 SF of retail on 300 acres with a mix of retail, entertainment, residential, office, civic and recreational uses.

Hyatt Centric Hotel, Downtown Los Angeles, CA
A 15-story hotel with ground level dining, roof top bar and lounge, and 134 luxurious guest rooms. The four star property is Hyatt's boutique hotel brand.

Viejas Resort Phase II, Alpine, CA*
Phase 2 expansion provided subsequent hotel tower, casino connection, restaurants, bar and lounges, meeting rooms, and an 11,000 SF ballroom with pre-function and overflow spaces.

San Diego Central Library, San Diego, CA
9-story 366,000 SF structural topped with an iconic steel-and-mesh lattice dome over a two-story rare-book reading room. The Central Library also houses a charter high school on the sixth and seventh floors.

Tiverton Casino & Hotel, Tiverton, RI*
On a 45-acre site this project is a 130,000 SF facility with an 85,000 SF casino with 1000 slot machines and 32 table games, a center bar, restaurant and food court venues. The 84-room hotel includes meeting rooms and a fitness center.

The Watermark, San Diego, CA
A major mixed-use destination featuring 400,000 SF Class-A office, 325,000 SF retail, theater, boutique hotel and a Whole Foods Market. Its defining design feature is a Central Park gathering space.

Encanto Elementary School, San Diego, CA*
A 16,700 SF expansion for new classroom building at existing site to provide 12 additional classrooms and science lab for 3rd to 5th grade students.

SD Airport Terminal 2 Expansion, San Diego, CA*
A 470,000 SF terminal expansion providing 10 additional boarding gates on the airport's west side. Terminal 2 expansion included additional restaurants and shops.

812 Main Street Hotel, Venice Beach, CA
A 3-story 43,000 SF building with 43-suite luxury boutique hotel and 5 condominium homes with multi-level underground parking facility.

* Project completed prior to joining RY+ AO

RICHARD YEN, ARCHITECT

MANAGING PRINCIPAL



With over 40 years of architectural experience, Mr. Yen is the founding partner of Richard Yen & Associates and managing principal of RY+AO. He also co-founded Pacific Associates Planners Architects, an international firm recognized for winning the National Endowment for the Arts competition for Escondido City Hall. His work includes the historic preservation and relocation of SDG\&E's Station A near what is now the San Diego Padres baseball complex.

"Passionate, competent and driven to create a better built environment for our generation and those to come."

EDUCATION

Bachelor of Architecture, Arizona State University

REGISTRATIONS

Licensed Architect in CA

PROFESSIONAL EXPERIENCE

Escondido City Hall, Escondido, CA
The plan for the site comprises 43 acres and houses 350,000 SF of building and 350,000 SF of parking or 1,400 parking spaces. In addition to the 108,000 SF City Hall, the facilities planned to be erected on the site include a 160,000 SF. regional government office building; a 25,000 SF conference center; a 500 seat (25,000 SF) civic theater; a 2,500 seat (110,000 SF) regional auditorium; and a 25,000 SF fine art museum.

SCE Voluntary Seismic Program
Since 2017, RY&A has provided management of Southern California Edison Voluntary Seismic Program for all of their building's seismic vulnerability. Professional services provide requirements to qualify engineers to perform an assessment of Edison's buildings to identify need for seismic strengthening.

SCE Wildomar Service Center, Wildomar, CA
The project includes parking for 1 75 commercial trucks and 120 cars plus a 4-bay fleet repair and wash bay.

SDG&E Station A, San Diego, CA
Provided historic documentation of the Station "A" facade. Every coursing of brick, windows, doors, hardware, paint colors were photographed and drawn in accordance with the Historic American Building Survey Guidelines. Re-construction documents will allow the facade to be incorporated into the new baseball park scheduled for construction on the old Station "A" site.

SDG&E Metro Service Center, San Diego, CA
A 4-bay fleet repair center and wash bay for 300 cars, including 100 commercial truck parking lot.

East Village Master Plan, San Diego, CA
The project was a Master Plan feasibility study for a nine block portion of downtown owned exclusively by San Diego Gas & Electric. The plan provided a vision for the redevelopment of the land in the East Village area of downtown San Diego. The mixed use design included two hotels, one high rise signature tower, a mid-rise hotel and supporting convention facilities.

Francis Parker Lower School, Mission Hills, CA
The expansion plan contemplated the addition of ten new classrooms and the renovation of all sixteen existing classrooms, the construction of a new library, technology center, two new science classrooms, two foreign language labs and a new cafeteria. Thematically, the architectural character maintains the charm and feel of the existing structures while balancing the integration of technology throughout all new and old spaces.

Additional Service Center and Yard Experience

- SCE Gateway 6030 & 6050 EOC Expansion
- SCE ESOC HVAC Revision – IT Server Room
- SCE Westminster Admin Building
- SCE Alhambra Warehouse & Yard
- SCE Alhambra Building D
- So Cal Edison Emergency Operations Center
- So Cal Edison GO2 Conference Center
- SCE Alhambra Data Center
- So Cal Edison Rosemead Data Center Study
- So Cal Edison Tehachapi Service Center
- So Cal Gas Co. El Centro Operations Base
- So Cal Edison Valley Substation Annex Building
- So Cal Edison Wildomar Service Center
- So Cal Gas Co. Yukon Customer Service Center
- So Cal Gas Co. Murrieta Base
- So Cal Edison GO3 Floors 2 & 3 T.I.
- So Cal Edison GO Restack
- SCE Gateway 6030 & 6050 EOC Expansion

ROBERT SCHUSTER, ARCHITECT

SENIOR PROJECT ARCHITECT



As a designer and architect, Robert has led successful projects across K-12, higher education, civic, and commercial markets. He has also served as an adjunct instructor at Penn State, guiding second- and third-year architecture studios. Known for delivering thoughtful, budget-conscious solutions, Robert values collaboration and takes pride in mentoring emerging professionals while continually learning from peers at all levels.

"If it's worth doing, it's worth doing well."

EDUCATION

Bachelor of Architecture, Pennsylvania State University

REGISTRATIONS

Licensed Architect in California and Pennsyvania

PROFESSIONAL EXPERIENCE

SCE Admin Building, Westminster, CA
Managed an 87,630 SF tenant improvement project within an existing 116,000 SF administration and meter lab building, enhancing facility functionality and space utilization.

Baron Elementary School, Manheim, PA*
New K-5 school for 650 students. The project achieved LEED Gold certification. The idea was visually interconnect space, both inside and out, to stimulate student awareness. Provide amenities and opportunities for student activity and interaction. Employ healthy, sustainable, regional materials and readily maintained, high-efficiency building systems.

Doe Run Elementary School, Manheim, PA*
A new K-5 elementary school for 1,200 students that achieved LEED Gold certification. The project scope sought to visually interconnect space, both inside and out, to stimulate student awareness. Provide a range amenities and opportunities for student activity and interaction.

Lehighton Area Elementary Center, Lehighton, PA*
This new Pre-K through 5 school is for 1,400 students and achieved LEED Gold certification. The program Utilized extensive glazing to achieve LEED daylighting goals and to promote a sense of transparency and openness. Provide ample amenities and opportunities for student activity and interaction. Employ healthy, sustainable materials and high-efficiency building systems.

New Leaf Initiative T.I., State College, PA*

The program transformed the existing Borough Building into a co-working startup space featuring an open office area, dedicated conference rooms, integrated A/V, and modern amenities. Glazed partitions ensure transparency and acoustic privacy, while tall doors add an elegant, dignified touch to the conference room entrances.

Centre County Recycling Authority Interpretive Center, Bellefonte, PA*
Exploit sloping topography for material handling and storage, roof line follows topography to minimize building envelope.

Centre County Recycling Authority Building, Bellefonte, PA*
This project sought to re-purpose a cramped, worn administration building into a pedagogical tool for introducing recycling to school-age children. The program reduces embodied energy, reused existing foundations, recycled salvaged materials, and maximized spatial experience.

Searise Office Tower Repositioning, Santa Monica CA*
Class A office tower upgrades including entrance lobby, valet lobby, typical elevator lobby and restroom renovations. Elevate existing high-rise common areas to Class A space. Provide modern spatial and material experience to align more closely with the client's commercial real estate portfolio. Redefine main lobby geometry and proportions to clarify spatial sequence. Minimal modern detailing maximizes visual perception of finish material essence.

Paramount Pictures Studio Group Administration Building Renovation, Hollywood CA*
Transform cramped entrance foyer into dramatic lobby with feature stair and bridge. Removed existing second floor above entrance to allow double-height lobby. Span lobby with bronze bridge and connect with spiral stair. Replace worn and dated finish materials with ebony, bronze, low-iron glass, leather and limestone. New display cases for Academy Awards.

* Project completed prior to joining RY+ AO

VICTOR DONOSO

SENIOR PROJECT MANAGER



Victor is experienced in a wide variety of A/E responsibilities from design development to project and construction management. His project experience includes retail, mixed-use, commercial, educational, transportations, institutional, public works projects, and telecommunications facilities. He has been responsible for preparing and coordinating construction documents, and has provided construction administration on various projects. Throughout his career, Victor has been interested in computer technology and has implemented it to full advantage in every day activity.

"If it doesn't have an answer – it's not a problem."

EDUCATION

Associate of Arts, Architecture, East Los Angeles College

IN THREE WORDS

Resourceful | Innovative | Organized

PROFESSIONAL EXPERIENCE

Saddleback Service Center Seismic Upgrades, Irvine, CA
Voluntary seismic retrofit of the Main Building Offices (Building A), Main Building Truck Parking (Building B), Prefabrication (Building C), and Warehouse (Building D), as shown in Figure 1. The intention of the strengthening is to comply with the ASCE 41 Tier 1 and Tier 2 procedure to meeting the Basic Performance Objective for Existing Buildings (BPOE). The strengthening scheme considered the buildings as Risk Category II in their determination of target seismic performance. The scope for the buildings included new buckling restrained braced frames and foundations to mitigate the existing pre-Northridge steel moment frames, as well as typical roof strengthening for exterior concrete tilt up panels at the other buildings. Also included are ADA upgrades and a temporary trailer farm to house the displaced employees.

SCG Honor Rancho Operations Building Upgrade, Santa Clarita, CA

Tenant improvement to existing structure including the addition of a second floor to the existing building. The project upgrades the entirety of the structure including the second floor addition to a Category 4 seismic classification.

Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA*
Expansion of the existing Central Operations and Maintenance Facility. The project includes an Administration and Operations Building, a Bus and Employee Parking Structure, Maintenance Building, Central Cash Counting Facility, and Chassis Wash Building.

UCLA Westwood Office Building, Los Angeles CA*
Development of a new administration facility including offices, security center, and operations facilities. Architecture with upgrading existing retail and restaurant tenant's facades.

Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA*
Designed seismic upgrades for historic building, originally built in 1905. The Bus Maintenance Facility Building construction work was phased to maintain operations throughout the work.

Gardena Municipal Bus Lines, Administration Building Maintenance Facilities, Gardena, CA*
The Design Build project consists of an Administration Building, Bus Maintenance Facility, Bus Wash, Bus Fueling Island and a Photo Voltaic panel system.

Los Angeles County Metropolitan Transportation, Hollywood and Western Station, Los Angeles, CA*
A new underground rapid transit station on the B Line of the Los Angeles Metro Rail system.

UCLA Wooden North Men's Gym Staging Building, Los Angeles, CA*
The building was an addition to the existing Wooden Center for staging the men's gym. The facility accommodates a locker room, showers, sauna, dancing areas and offices. The new addition will be used as classrooms and staff offices.

UCLA Environmental Service Facility, Los Angeles, CA*
Building designed to dispose of the universities hazardous waste material.

California State University at Los Angeles Union Center, Los Angeles, CA*
Renovation of fitness center, juice-bar, 200 seat-theatre, computer center, elevators, & systems upgrades.

Oakland International Airport Terminal 2 Concourse Extension for the Port of Oakland, Oakland, CA*
Responsible for all apron design and civil infrastructure work including grading; utilities; landside & airside pavements; aircraft parking pads; and taxiway lighting.

* Project completed prior to joining RY+ AO

NAZANIN MOJAHED
SENIOR JOB CAPTAIN



With 10 years of being in the industry, Nazanin has experience in designing and maintaining project drawings, providing production support, processing documentation during construction, and construction supervising. She has worked on a variety of project types including corporate, industrial, commercial, educational, workplaces, and residentials. The main approach of her design is creating unique and Luxury spaces, and predominate with materials, furniture, brands, fabrics, and more.

"Good design and strong management skills are the secrets to success."

EDUCATION
Bachelor of Architecture, Tehran University

IN THREE WORDS
Organized | Collaborative | Detailed

PROFESSIONAL EXPERIENCE

Google X, Mountain View, CA
Design of 7,000 SF of open bio lab space designed for creating reconfigurable space for projects requiring access to modern biology facilities, including molecular biology, microscopy, microbiology, and tissue culture.

Mobileye, Los Angeles, CA
21 story building with interior tenant improvements with a new RF chamber laboratory installed. Test space, server room, storage, compressor room, and various process and utility equipment to serve the RF chamber was designed as well. Scope includes all associated architectural, piping, mechanical HVAC, and electrical. Modifications, and upgrades required to serve the RF chamber.

O Meat, Thousand Oaks, CA
AO developed a design plan for this 50,000 SF tenant improvement project that would efficiently account for the equipment-intensive layout of the space. By basing the design off of the large-scale vertical tank bioreactors and carrying out a structural retrofit of the existing shell, the new space will better accommodate new walls, new machinery and equipment, and have improved function and flow.

EH2, San Carlos, CA
In conjunction with our client and Alfa Tech, AO constructed a prototype plant in San Carlos to test water electrolysis technology and safety methodology. The purpose of this plant is to prototype electrolysis installation for small scale testing, for the larger facility location in San Jose, CA.

Gilead, Foster City, CA
AO assisted in the design and construction of several BSL2 and BSL2+ lab spaces on the second floor of an Existing building and working within the parameters of adjacent lab spaces, such as Virology, matching furniture, fixtures and equipment.

YoShinoya, Torrance,CA
A 35973 SF food factory which renovated in two phases that include the site, warehouse, and freezers.

Nitto Denko Lab, Oceanside,CA
Over 600 SF of tenant improvement for a new lab space.

South Bay Social District Mall, Los Angeles, CA
Originally built in 1993, 29.24-acre existing mall is planned to be built into three phases. There will be three floors above ground with a basement underground and a 5th-floor parking structure. In the next phase, hotel and residential buildings will be added to the complex.

Genvivo, Los Angeles, CA
An existing building with 38,000 SF will include a new interior and open spaces such as offices, manufacturing, warehouse, R&D, clinic, etc. on two levels.

Airpark 599, Stockton, CA*
A 272-acre master-planned logistics center next to the Stockton Metro Airport and direct access to Interstate 5 and Hwy 99. Airpark 599 will add 3M SF of Class A space-suitable for e-commerce fulfillment, distribution, or advanced manufacturing.

Slingshot, Alberta, Canada*
A large-scale Commercial/industrial project with over 1M SF -ground up.

Soscol Gasser Retail, Napa, CA*
New commercial and retail project with three buildings, Kohl's, Chick-fil-A, and 74,000 SF of retail space.

Nut Tree Apartment, Vacaville, CA*
A 216 unit apartment complex on 12-acre located on Nut Tree Rd. Project consists of nine 3-story residential buildings, along with one club house building with a pool. Site also includes an open recreational space, dog park, play area, 20 storage enclosures, and 499 parking spaces.

* Project completed prior to joining RY+ AO



Tarkan Altay, PE, PMP

Principal

Principal-In-Charge

tarkan.altay@atce.com

EDUCATION

Bachelor of Science – Mechanical Engineering,
Yildiz Technical University, Istanbul, Turkey

Certification in Business Studies,
University of California, Los Angeles

REGISTRATION

Registered Professional Mechanical Engineer
California (M37304)

Project Management Professional (PMP)

Tarkan Altay is a seasoned mechanical engineer, bringing over 15 years of expertise in HVAC and plumbing project engineering and management. He possesses in-depth knowledge of California Title-24 and energy efficiency codes and standards, coupled with a strong grasp of business and regulatory decision-making processes. Tarkan excels in both independent and collaborative settings, adeptly resolving complex HVAC and plumbing design challenges while maintaining clear, professional communication across all organizational levels. As a Project Manager and Mechanical Lead, he is committed to delivering consistent professional support, ensuring the team meets budget and schedule milestones with the required resources.

PROFESSIONAL CAREER

2009 - Present

PROJECT EXPERIENCE

MAINTENANCE & OPERATIONS YARD, La Quinta, CA
Mechanical Engineer for a 12,500 SF maintenance and operations yard building on the existing 2.8-acre site. Includes facility amenities and integration with Fritz Burns Park, which features recreational spaces and community-requested pedestrian access improvements.

WESCO, Buena Park, CA
Mechanical Engineer for the tenant improvement of a 142,000 SF warehouse facility in Buena Park, CA. Includes upgrading warehouse lighting to LED with T-24 compliant controls, providing electrical and ventilation for 20 new battery chargers, and installing an eyewash station. Additional work includes powering 18 motorized loading dock doors, converting east offices into a breakroom utilizing existing plumbing, and reviewing HVAC systems in the front office, training room, and restrooms for potential upgrades. Exterior parking and EV charging are excluded from the scope.

*LACCD, PIERCE COLLEGE, CHILD DEVELOPMENT ACADEMIC CENTER, Los Angeles, CA
Mechanical engineer for the BOD and Schematic Design of the Child Development Center. This project encompasses the design and development of 11,000 SF of versatile teaching, learning, and social spaces. The development is structured into three separate building blocks, strategically arranged to create a variety of outdoor spaces.

*AMERICAN JEWISH UNIVERSITY, OSTROW ACADEMIC LIBRARY, Los Angeles, CA
Mechanical design services for the Ostrow Academic Library. The facility offers free Wi-Fi, eight public-use computers, study rooms, carrels, couches, easy chairs, and large tables, providing a comfortable and conducive environment for study. The facility features approximately 284,000 print and e-book titles and 31,000 print and e-journal titles, along with a wealth of electronic resources, DVDs, CDs, and microfilm.

James Rosewitz, PE

Associate Principal & Commercial Manager

T: 213 293 1782
523 West 6th Street Suite 1122
Los Angeles, California 90014
james.rosewitz@holmes.us



James brings over 15 years of structural engineering experience, with a focus on project and commercial management. He has successfully led structural and risk management projects across diverse building types, applying his expertise in new construction as well as existing building evaluation and rehabilitation to deliver resilient, cost-effective solutions.

As Holmes' Commercial Manager, James oversees project delivery standards and develops firm-wide protocols to ensure consistent quality and efficiency. His technical background, informed by lessons from global seismic events such as the 2011 Christchurch Earthquake, enhances his ability to guide teams through complex challenges, balancing engineering precision with practical execution.

James combines deep technical knowledge with strong leadership to deliver successful outcomes on projects of all sizes and complexities.

LICENSES

Registered Professional Engineer, California

EDUCATION

Master of Science, Structural Engineering
University of California, San Diego

Bachelor of Science, Structural Engineering
University of California, San Diego

PROFESSIONAL AFFILIATIONS

Structural Engineers Association of Southern California (SEAOSC)

PUBLICATIONS & PRESENTATIONS

"Performance of wine storage tanks: Lessons from the earthquakes near Marlborough" Authors: Rosewitz J and Kahanek C. Australasian Structural Engineering Conference (ASEC), 2014

Westminster Administration Building TI // CA
80,000 SF Renovation, Commercial
Tenant improvement of an existing administrative building. Overall design included exploration of interior and exterior stair access options, new exterior canopies, independent deck structures, in addition to core and shell modifications. Project has been implemented in phases including exterior site work and phases of interior improvements.

YouTube Campus Expansion // San Bruno, CA
564,000 SF, New Construction - Mass Timber, Commercial
YouTube expanded with two hybrid mass timber-steel-concrete offices <1 km from the San Andreas Fault. Provided structural engineering to facilitate atypical building forms, minimize embodied carbon, and uphold Cradle-to-Cradle design philosophy. Designed every structural component for future disassembly , including untopped CLT roof diaphragms and slotted connections. Facilitated compliance for non-prescriptive elements to ensure mass timber designs got built.

Southern California Edison - Saddleback Service Center // Irvine, CA
Various SF, Seismic Evaluation& Seismic Retrofit, Utility/Commercial
Seismic evaluation and retrofit of four existing buildings constructed in the 1980's for a major California utility. Project utilized ASCE 41 for Tier 1 and Tier 2 evaluations. Strategy involved addition of new buckling-restrained braced frames, foundation elements, wall-to-roof connections, and diaphragm elements.

Cambria Hotel // Los Angeles, CA (419 S. Spring Street)
120,000 SF, Historic Renovation & Seismic Retrofit, Hospitality
Full seismic retrofit of a historic 14-story tower built in 1927 for conversion into a luxury hotel. Major changes included change in occupancy, removing and replacing ramps, and a new multi-floor light-well. Retrofitted under the nonductile concrete city mandated ordinance.

101 Utah // San Francisco, CA
70,000 SF, Seismic Retrofit, Commercial
Seismic strengthening of a two-story building with multiple construction types. Determined existing capacity of the building and identified major seismic vulnerabilities. Developed a scope of strengthening measures which address or mitigate the identified vulnerabilities.

Confidential Control Center Upgrade // Southern California // 2020-2024
Structural engineering services for the addition of a floor to an existing control room building and seismic retrofit to Risk Category IV. The seismic evaluation and retrofit utilized ASCE 41 and included implementation of new concrete walls, diaphragm strengthening, and associated connections. The new floor was constructed, building on top of existing CMU walls and building a new steel supported floor.

Holmes

EXPERIENCE

30 years of landscape architectural professional practice experience

2007-Present: President - In-Site Landscape Architecture, Inc.

2000-2007: Principal/ Project Manager - Van Dyke Landscape Architects, Inc.

1994-2000: Project Manager - Parsons Transportation Group of NY

Project related experience includes site analysis, community outreach, planning group and public agency presentations/ approvals (Planning Commissions, City Councils, and California Coastal Commission), master planning, conceptual development, schematic design, construction documents, construction administration/ observation. Experience also includes landscape architectural design for tentative tract maps, specific plans, environmental impact reports, and landscape design guidelines.

Project types include parks and recreation, industrial/ corporate yard projects, master planned communities, trails, environmental restoration, streetscapes, mixed-use, urban planning, healthcare facilities, commercial, and governmental consulting throughout Southern California, coastal North Carolina, and Western New York state.

Tim's passion for design, art, and the environment fuel his goal of bringing "nature to people" in urbanized areas and "people to nature" in preserved environments. He understands the mental, emotional, and spiritual benefits of exposure to nature and excels at creating functional, aesthetically pleasing, and artistic outdoor environments that create, preserve, or enhance each project's sense of place.

Relevant Experience:

- SCE Data Center – Alhambra, CA
- SCE Alhambra Master Plan – Alhambra, CA
- SCE Warehouse Project – Alhambra, CA
- SCE Building D Project – Alhambra, CA
- SCE Administration Building - Westminster, CA
- SCE EOP Expansion – Irwindale, CA
- SCE Saddleback Service Center - Irvine, CA
- SDGE Data Center Expansion - Rancho Bernardo, CA
- SDGE Substation Conceptual Landscape Plan – San Juan Capistrano, CA
- Padre Dam Municipal Water District Yard Expansion – San Diego, CA
- Padre Dam Municipal Water District Santee Lakes Vision Plan
- Padre Dam Municipal Water District Santee Lakes Park Expansion
- Padre Dam Municipal Water District Santee Lakes General Store
- Palomar Medical Offices I, II, III - Escondido, CA
- Sommers Bend Community (over 40 projects) - Temecula CA
- Sports Ranch at Sommers Bend - Temecula, CA
- Winchester Sports Park - County of Riverside, CA
- Fritz Burns Park - La Qunita, CA
- Harvest Park - County of San Diego
- City of San Marcos - As needed consulting
- City of Carlsbad - As needed consulting



TIM JACHLEWSKI JR.

President, PLA, ASLA

Role: Principal Landscape Architect

REGISTRATION

Licensed Landscape Architect, California (#4547)

Licensed Landscape Architect, North Carolina (#2341)

Registered Landscape Architect, New York (#001646)

ASSOCIATIONS

American Society of Landscape Architects, 1994-Present

- President, SD Chapter, 2012
- President Elect, SD Chapter, 2011
- Vice President of Community Outreach, SD Chapter, 2009-2011

A.C.E. Mentor – Patrick Henry High School, 2009/2010

EDUCATION

B.L.A. (Bachelor of Landscape Architecture) State University of N.Y. College of Environmental Science and Forestry at Syracuse University, 1994
(Rank: 1/55)



DRY UTILTY EXPERTS

IAN SANCHEZ | DRY UTILITY CONSULTANTS

CONTACT

- 714-398-9162
- ian@duexperts.com
- Orange, CA 92866
- www.duexperts.com

Relevant Experience:

Culver Crossings / Apple Inc.
Dry Utility Consulting
SCE and LADWP Design Management
Overhead Relocations

Amazon QLab / Caltech
PWP Design Management
Utility Coordination for Caltech Campus

City of Laguna Beach
Undergrounding Project
Underground Conversion Management

Entrada / Culver City
Underground Conversion of SCE and Low Voltage Facilities
SCE Transformer Rooms
Inter Agency Approval from LABOE and Public Works

City Hall / City of Hawthorne
SCE Relocation
SCE Design Management

Civic Arts Plaza Redevelopment / Thousand Oaks
Identifying Existing Dry Utility Infrastructure
Coordinate Utility Relocations

RUHS
Moreno Valley, CA

Border Patrol Station
Needles, CA

City Caltrans UG
Blythe, CA

MTA Supelvada Pass
Los Angeles, CA

JOY KUEBLER
LANDSCAPE ARCHITECT, PC

PLAYCE®
Placemaking through **play**

We do **land** differently
Focusing on the human experience.

Joy Kuebler, PLA, FASLA
President & CEO

Throughout her 25+-year award-winning career, Joy has brought diverse and meaningful projects to life from half-acre community-built parks, learning gardens at our public schools, and large university campus redevelopment projects, to streetscapes and green infrastructure projects. She launched her firm in 2003 to have a positive impact on the public's quality of life through sensitive and responsible design of outdoor spaces. In 2014, Joy rolled out PLAYCE, a community engagement methodology rooted in play. With techniques based in the social sciences, PLAYCE brings people together to reach consensus and implement projects that improve their communities and the lives of their residents.

PLAYCE integrates traditional public engagement techniques with team building and organizational development principles utilizing the power of play to build trust within a group, create consensus around an idea, and develop a strategy to move that idea forward.

The PLAYCE approach to public engagement invites partners to be collaborative problem solvers from the onset of the process by becoming active participants in the project process. Stakeholders become project champions; ideas move to consensus sooner and concepts are tried on for size early, ensuring greater future success.



Education
Cornell University, B.S. in Landscape Architecture
Villa Maria College of Buffalo A.A.A. in Interior Design

Registrations/ Certificates
Registered LA – NY, MA

Professional Affiliations
Fellow American Society of Landscape Architects (FASLA)

ASLA –National, Former VP for Government Affairs

Buffalo Niagara River Land Trust (BNRLT)- Board Member

University at Buffalo Center for Entrepreneurial Leadership CORE & Advanced CORE

Buffalo Niagara Partnership Development Advisory Council

Professional Highlights & Honors
- Founder, President & CEO, PLAYCE Studios, Ltd.
- Founder, President & CEO, Joy Kuebler Landscape Architect
- Fellow, American Society of Landscape Architects, Class of 2023
- Pop Up Park Buffalo Co-Founder
- 2022 Villa Marie College Distinguished Alumni Award
- 2020 Washington State ASLA Conference Opening Keynote
- 2019 Buffalo Business First Women of Influence
- 2016 Ellen Shipman Distinguished Private Practitioner Award, NY Upstate ASLA
- 2014-2017 International Park(ing) Day Installations
- 2013 Pro Bono Publico Distinguished Service Award for Pop Up Park, AIA Buffalo/WNY
- 2007 Buffalo Business First 40 Under 40

Community Engagement Highlights
- Houghton-Stachowski Park Master Plan, Buffalo, NY – 20-year plan for ~60-acre urban park; August 2023-present
- North Tonawanda Local Waterfront Revitalization Program, North Tonawanda, NY – developing vision, goals, and strategies to support the city's waterfront revitalization; January 2024- present
- Silver Lake Local Waterfront Revitalization Program, Wyoming County, NY – LWRP plans for each municipality on the lake; May 2024 - present
- Niagara Falls City Market, Niagara Falls, NY – Outreach and engagement for downtown market reimagination plan.
- Tops Honor Plaza, Buffalo, NY – Memorial to the victims of the May 14,2022 mass shooting in Jefferson Avenue Tops Friendly Market; January 2023-present
- Cattaraugus Creek Access Projects, Gowanda, NY – Amphitheaters in two public parks for community access and recreation in rural Gowanda; 2019-2022
- Growing Gowanda Pop-Up Farmer's Market, Gowanda, NY – Tactical event to test WNY agriculture hub concept as part of Step 2 BOA; September 2021
- WATER WORX Willert Park, Buffalo, NY – Youth green infrastructure curriculum in tandem with large inner city community GI project; October 2016-July 2018



LILI WAY
VICE PRESIDENT / FOODSERVICE CONSULTANT

Lili joined Orness Design Group in 2017, bringing an innovative approach to design and problem solving. She excels at navigating the complexities of the design process, consistently delivering cost-effective, highly productive workspaces. Lili works closely with clients on project vision, feasibility studies, programming, space allocation, and workflow optimization. Her strong commitment to client success is matched by her ability to work seamlessly with M.E.P. engineers, ensuring each design phase remains aligned with the project's goals. Lili skillfully identifies and addresses her clients' unique needs and objectives, ensuring the highest level of coordination for successful project outcomes.

FOODSERVICE DESIGN EXPERIENCE:
- 12 years

YEARS WITH ORNESS DESIGN GROUP:
- 8 years

EDUCATION:
- Bachelor of Arts: Architecture, New School of Architecture and Design
- Certified Foodservice Professional

GOVERNING AGENCY EXPERIENCE:
- County Health Department
- OSHPD
- DSA
- Wastewater Management Departments

AFFILIATIONS:
- AIA
- USGBC
- NACUFS



KEN RELETHFORD, LEED®AP, DBIA®
PRESIDENT / SENIOR FOODSERVICE DESIGN CONSULTANT

Ken uses his vast industry experience to create operationally efficient, cost-effective kitchen designs, grounded in sound culinary principles. As a seasoned foodservice designer, consultant, contractor, and custom fabricator, he collaborates with clients, architects, chefs, and building teams to develop detailed plans and specifications. Ken's expertise includes code requirements, commercial kitchen equipment, green building certification, constructability, and retrofitting. He emphasizes sustainable equipment and efficient technologies in refrigeration and exhaust systems. Ken builds lasting client relationships and provides strategic guidance through every phase of a project, ensuring successful outcomes from concept to completion.

FOODSERVICE DESIGN AND FABRICATION EXPERIENCE:
- 36 years

YEARS WITH ORNESS DESIGN GROUP:
- 19 years

EDUCATION:
- LEED®AP
- DBIA – Design Build Professional 2022

LICENSES:
- CA Specialty Contractors License #864518 2005 – Present
- HI Specialty Contractors license #C-38036

GOVERNING AGENCY EXPERIENCE:
- County Health Department
- OSHPD
- DSA
- FDA

AFFILIATIONS:
- AIA
- DBIA
- USGBC
- NACUFS

CUMMING GROUP



Alan Campbell, MRICS

Managing Director - Cost Services

Alan has worked in the construction industry since 1994. He is an experienced professional who has focused his career on providing cost management consulting services. Alan also possesses experience in construction planning and has held roles in commercial and residential development and management. His accomplishments in the construction industry in the U. S. and UK contribute a unique proficiency and perspective to each of his project assignments. Alan has collaborated on a broad range of project types throughout his career, including healthcare, transportation, education, public works, and industrial remediation.

As Managing Director, Alan utilizes his vast knowledge of all aspects of the cost estimating process. He performs services which support pre-construction, construction, and post-construction phases, including but not limited to, cost planning, milestone estimating, quantity take-offs, site walks, bid reconciliation, preparation of valuations, pricing validation, and change order claim review. Alan also possesses a strong background in arbitration and dispute resolution.

EDUCATION

- Bachelor of Science, Quantity Surveying, Abertay University, Dundee, Scotland, UK

CERTIFICATIONS

- Chartered Member (MRICS), Royal Institution of Chartered Surveyors, No. 0856490, 2001
- NEBOSH General Certificate, National Examination Board in Occupational Safety and Health, 2004

REPRESENTATIVE EXPERIENCE

Government Facilities – Federal/State/Municipal

City of Costa Mesa, City Hall Restrooms Access/ADA Upgrades, Costa Mesa, CA
City of Irvine, Turtle Rock Community Center ADA Upgrades, Irvine, CA
City of Lake Forest, New Civic Center, Lake Forest, CA
City of Lakewood, Palms Park Community Accessibility Upgrades, Lakewood, CA
City of Long Beach, Bayshore Library/Blair Field/Silverado Park Facilities Condition Assessments, Long Beach, CA
City of Long Beach, Stadium Assessments, Long Beach, CA
City of Ontario, Office TIs for Public Works-Annex Central Services-Dev. Director's Office, Ontario, CA
City of Santa Ana, New Civic Center ADA Access Pedestrian Ramps, Santa Ana, CA
City of Santa Maria, Historic Enos Ranch House Refurbishment & New Gardens-Barn-Sitework to Create New Park/Museum, Santa Maria, CA
City of Santa Maria, Veterans Memorial Park, Santa Maria, CA
County of Los Angeles, Metropolitan Central Arraignment Court Renovation of Holding Cells & Clerks Office, Los Angeles, CA
OC Fair and Event Center, Campus Master Plan incl. New Admin. Bldg.-Barn Replacement-New Educ. Center-Main Entrance Reloc., Costa Mesa, CA
Orange County Public Works, Cemetery District- New Cemetery, Gypsum Canyon, CA
Orange County Public Works, HCA Campus at El Toro, Irvine, CA
Orange County Water District, Annex Building Locker Room/Restroom Area Remodel, Fountain Valley, CA
Riverside County Public Health, Laboratory Facility Renovation & Expansion, Riverside, CA
San Diego Assoc. of Governments, Toll Operations/Data Center Renovation Options, San Diego, CA
Transportation Corridor Agencies, Office Space Remodel/Improvement Options, Irvine, CA

LANDMARK
Geo-Engineers and Geologists

77-948 Wildcat Dr. Palm Desert, CA 92211
Office: (760) 360-0665 Fax: (760) 360-0521
gchandra@landmark-ca.com

GREG M. CHANDRA, P.E., M.ASCE
Principal Engineer

Education

B.S. Civil Engineering, California Polytechnic University, 1979

Registration

Registered Civil Engineer
No. 34432, California
No. 49886, Arizona

Summary of Experience

Mr. Chandra has over 40 years of experience supervising geotechnical, construction, and materials testing and inspection projects form initiation to completion. His experience consists of a wide range of projects for both private developers and government agencies, in both the United States and Asia. Such projects have included: school and university facilities, residential communities/subdivisions, commercial buildings and industrial complexes, recreation facilities, sewage treatment facilities, water facilities, airports, street and highway improvements with construction costs well over $2 billion. Mr. Chandra has also supervised public works project including assessment districts, flood control and sewage treatment plants.

Professional Experience

2002 – Present	Area Manager/Principal Engineer, Landmark Consultants, Inc.
1998 – 2002	Project Manager/Materials Engineer, Kleinfelder, Inc.
1993 – 1998	Deputy Construction Manager, PT Sentra BDNI
1978 – 1993	Materials Engineer/Operations Manager, RMA Group

Selected Project Experience

- Performed geotechnical and materials consulting services for various street and bridge Improvements for cities of Rancho Mirage, Palm Desert, Indian Wells, La Quinta, and Indio, in Coachella Valley, California.
- Performed geotechnical and materials consulting services for Coachella Canal Lining for Montgomery Watson Harza, in Coachella Valley, California.
- Performed geotechnical and materials consulting services for Coachella Valley Water District, in Coachella Valley, California
- Performed geotechnical and materials consulting services for Desert Water Agency in Palm Springs, California.
- Performed geotechnical and materials consulting services for Mission Springs Water District in Desert Hot Springs, California.
- Performed materials consulting services for East Branch Water Extension Project, for State of California Department of Water Resources, in Redlands-Yucaipa-Cherry Valley, California
- Performed geotechnical and materials consulting services for TVRI and TVWP Waterline Projects for Boyle Engineering, in the County of Riverside, California.



RY+AO

RICHARD YEN, ARCHITECT
Project Principal

JIANSHAN LIANG, ARCHITECT, LEED AP
Principal-in-Charge

ROBERT SCHUSTER, ARCHITECT
Senior Project Architect

VICTOR DONOSO
Senior Project Manager

NAZANIN MOJAHED
Senior Job Captain

CONSULTANT TEAM

MEP Eng, Fire, Lighting & Technology | **ALFATECH**
Structural Engineering | **HOLMES**
Civil Engineering | **SWS**
Landscape | **IN-SITE LANDSCAPE**
Geotechnical | **LANDMARK**
Dry Utility | **DUEX**
Community Outreach | **PLAYCE STUDIO**
Kitchen | **ORNESS**
Cost Estimator | **CUMMING GROUP**
Environmental | **PARTNER**

Our firm has no past or current business or personal relationships with any current Banning elected official, appointed official, City employee, or their family members.





CITY OF LA QUINTA MAINTENANCE AND OPERATION YARD

LA QUINTA, CA

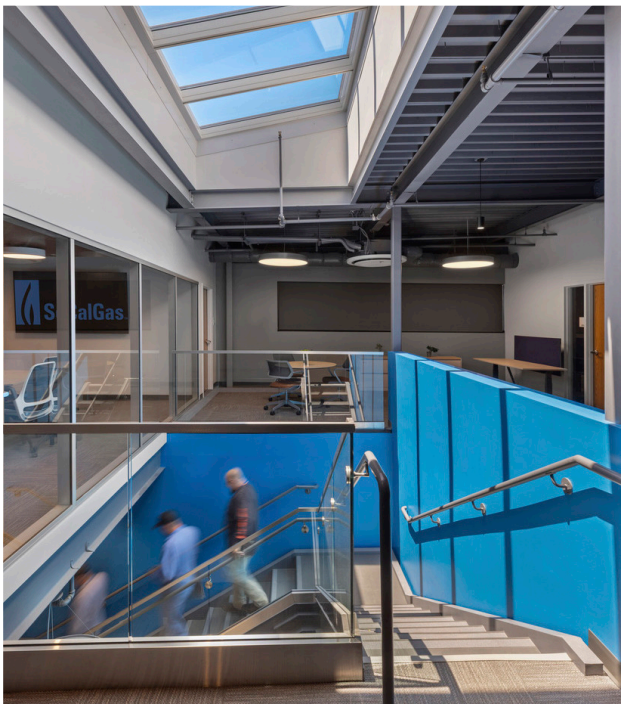
RY+AO is leading a comprehensive facilities condition assessment, needs assessment, and full design services to guide the redevelopment of the City's Maintenance and Operations Yard. The project includes master planning efforts to optimize site utilization and ensure long-term operational efficiency. As part of the improvements, a new 12,000 SF maintenance and operations building with enhanced amenities will be designed to support the City's evolving needs.

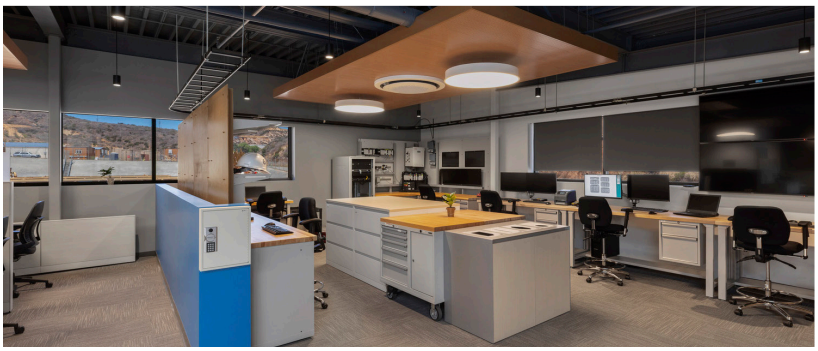
The project also involves reorganizing fleet circulation and yard layout to improve functionality while integrating sustainable design strategies. The completed project will provide a modernized, efficient, and future-ready facility that aligns with the City's operational goals.

Additionally, the design will respond to community requests for improved pedestrian access to Fritz Burns Park, fostering a cohesive connection across City amenities and enhancing public accessibility.









SOCAL GAS HONOR RANCHO CONTROL BUILDING

SANTA CLARITA, CA

RY+AO provided professional design services for the upgrade of SoCalGas' Honor Rancho Operations Building, which houses the mission-critical control room and functions as the operational hub of the site. The existing facility, found to be seismically vulnerable and undersized, was retrofitted and expanded to meet current needs. Due to challenging geological conditions, the retrofit included mini-piles, grade beams, and reinforcement of CMU and other structural and non-structural elements.

A new steel-framed second floor addition delivers much-needed space while maintaining uninterrupted operations. A central skylight introduces natural light to both floors and creates a circulation hub that organizes the building layout. Positioned near this centerpiece, the control room benefits from daylight access while remaining within the secure zone.







ESCONDIDO CITY HALL

ESCONDIDO, CA

In 1984, the City of Escondido organized a national urban design competition to select a plan for the entire Escondido Civic Center complex and a schematic design for the City Hall building. Richard Yen with his Pacific Associates Planners Architects (PAPA) firm won the design competition and immediately began providing architectural services for the City Hall building.

The Center's architecture is familiar, friendly, understandable and timeless. Harmonious forms, column rhythms, wood lattice and the play of light are architectural qualities that we all relate to. Structures are clean and simple, and buildings are soft in their sensitive, intricate texture and detail. Local and traditional building materials, light colors, arches and pilasters, indoor / outdoor relationships and other climatic design qualities define regional characteristics making the project unique, yet not relying on a particular style.

The plan for the site comprises 43 acres and houses 350,000 square feet of building and 350,000 square feet of parking or 1,400 parking spaces. In addition to the 108,000 sq. ft. City Hall, the facilities planned to be erected on the site include a 160,000 sq. ft. regional government office building; a 25,000 sq. ft. conference center; a 500 seat (25,000 sq. ft.) civic theater; a 2,500 seat (110,000 sq. ft.) regional auditorium; and a 25,000 sq. ft. fine art museum.









CONFLUENCE PARK AT FIVEPOINT VALENCIA

VALENCIA, CA

A confluence of outdoor fun, wellness, and community gathering, Confluence Park is located at the heart of the FivePoint Valencia master planned community and comprises an architecturally dynamic community building and three-pool complex that features a junior Olympic competition pool, family-friendly pool and spa, and resort-style cabanas. The architecture draws design inspirations from “Vasquez Rocks”, the adjacent natural landforms created by ancient plate tectonics. Many of the building and shade structures integrate photo voltaic panels that achieve the sustainable narrative of this Net Zero community.









SOLIS AT FIVEPOINT GREAT PARK IRVINE

IRVINE, CA

A community residential network of trails, pathways resident amenities located within a proposed residential community. The park consists of a community pool, shade structures, pool restrooms building and a community building.
The terracing topology directed the land-planning design narrative to recall the native California landscape and geology. The pool area has supporting interior spaces that mimic caves and drew inspiration from the new Lascaux IV cave art museum in Montignac, France. Cost-effective green roof conditions were developed above the Cave Pool Community space and supporting restrooms.







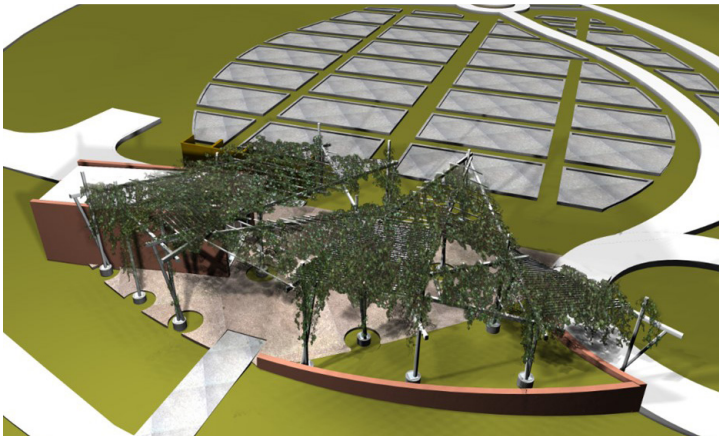
4S RANCH BOYS AND GIRLS CLUB

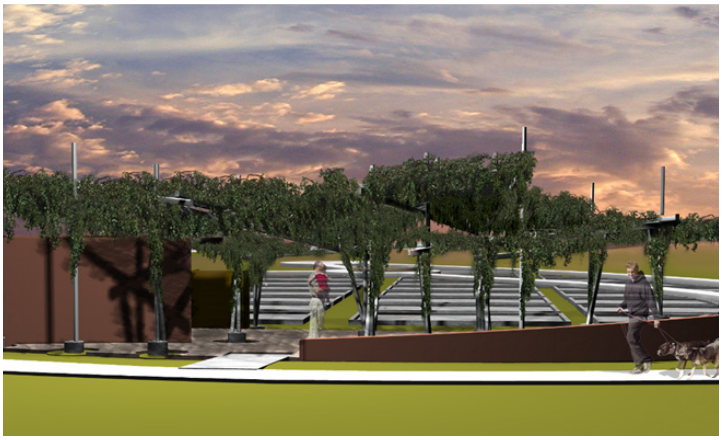
RANCHO BERNARDO, CA

Completed in October of 2004, the Boys and Girls Club has become the gateway building to the new 21-acre 4S Ranch Community Park that is located in the new community of 4S Ranch in Rancho Bernardo. The new 8,900 square foot Club houses a 3,200 square foot Activity Center as well as supporting program spaces such as a Performance Center, a Creative Center, a Nutrition Center, and a Learning Center with state of the art technology. The program was integral in defining the overall massing of the building while effectively supporting the user's needs.

Creating a Community Building that engages both its users and its surrounding environment was a primary goal. The Boys & Girls Club was designed with two main entrances that address the two separate conditions of the site and also visually connect one side with the other. The massing of the building also helps define entry spaces that engage the user and provides an exterior space for kids to sit or congregate. Playful entry canopies also contribute to define these spaces and bring shade from the intense Southern California sun. From the exterior, form follows function and invites the community, while from the interior, an energized atmosphere with beautiful views of the landscape are prominent.







4S RANCH BOYS AND GIRLS CLUB

RANCHO BERNARDO, CA

The Project was improvements to the new 21-acre 4S Ranch Community Park that is located in the community of 4S Ranch in Rancho Bernardo. The first project was for a Concession Stand and four softball fields.

The second project, the Boys and Girls Club has become the gateway building to the Community Park. The 8,900 SF Boys & Girls Club houses a 3,200 SF Activity Center as well as supporting program spaces such as a Performance Center, a Creative Center, a Nutrition Center, and a Learning Center with state-of-the-art technology.

The addition of a new 16,000 SF Gymnasium and Pool Building to the existing Boys & Girls Club was our third project located in the 4S Ranch Community Park. Although the Gymnasium stands alone as a backdrop to the Boys & Girls Club, it was designed to both operate as one with the Club and also function as a stand-alone Community Recreation Center.

The fourth project was a County of San Diego Parks Administration and Maintenance Building and the last project was a Public Garden Pavilion. Construction of all five projects occurred in phases over a period of five years.

4S RANCH BOYS AND GIRLS CLUB

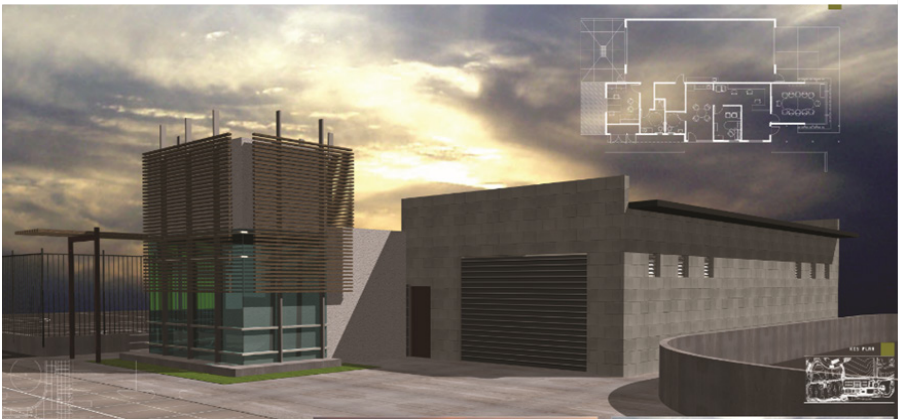
RANCHO BERNARDO, CA











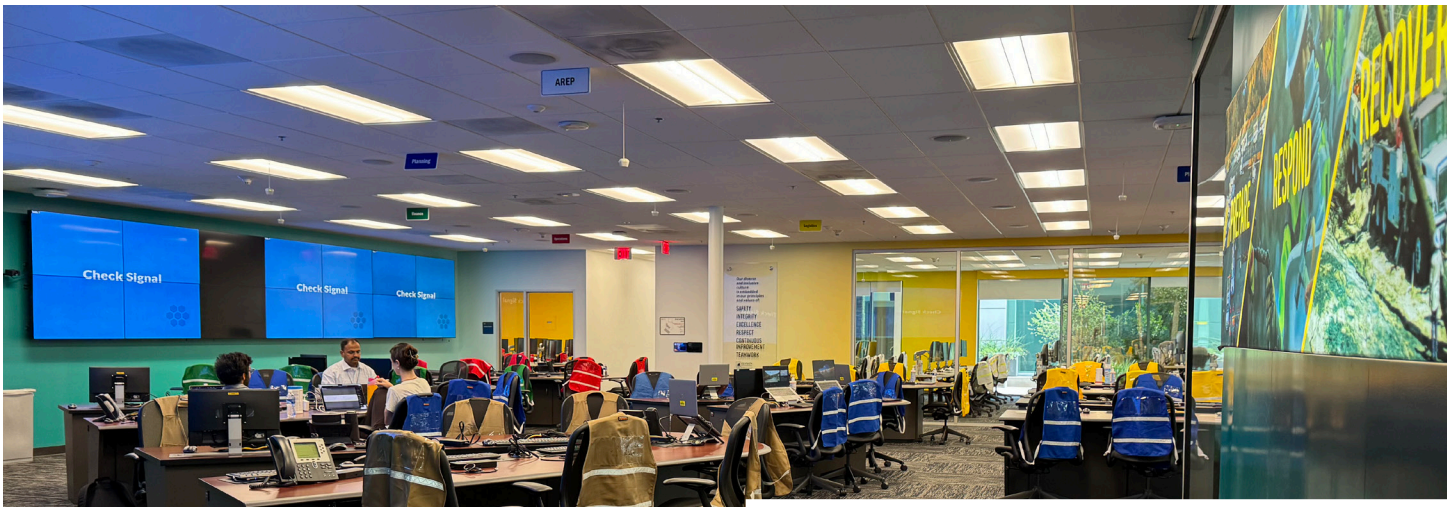


900 LAFAYETTE OFFICE BUILDING FACILITY CONDITION ASSESSMENT & ENGINEERING STUDY

SANTA CLARA, CA

The City of Santa Clara owns Commerce Plaza, a 90,000 SF office building at 900 Lafayette Street, constructed in 1975 and leased to multiple tenants.
The building requires significant capital investment due to aging systems, including plumbing, electrical, roofing, HVAC, façade, and elevators. To address these issues, the City commissioned RY+AO on March 13, 2024, to conduct a Facilities Condition Assessment to evaluate the cost and feasibility of retrofitting or replacing the building.

The assessment included visual inspections, staff interviews, and a review of existing records. Key findings revealed that major building systems, such as roofing, HVAC, exterior building finish system, windows, elevators, and electrical systems, are failing or have reached the end of their service life and require immediate replacement. Our team also provides a comparison of the cost of retrofitting the building and the cost of replacement with a new building. Our team's assessment and findings provide a detailed understanding of the current state of the property and the scope of necessary improvements required. These findings form a solid foundation for the City to make an informed decision about the building's future in alignment with the City's broader redevelopment plans.





SCE IRWINDALE EMERGENCY OPERATIONS CENTER

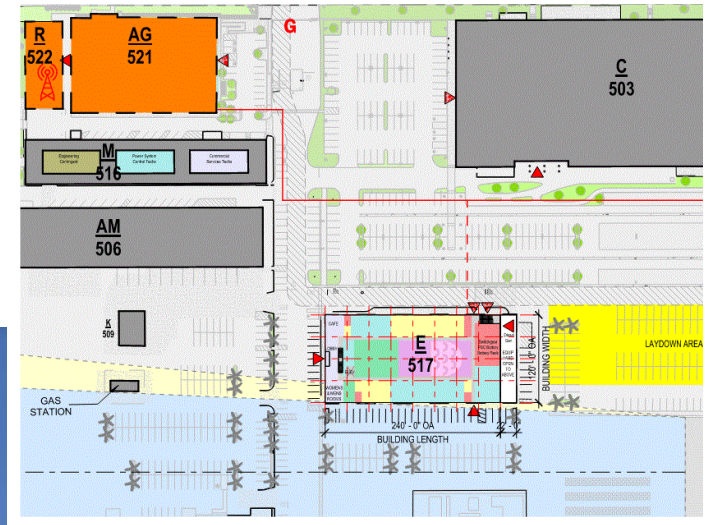
IRWINDALE, CA

RY+AO led the tenant improvement project for Southern California Edison's Emergency Operations Center (EOC), located within the Gateway Business Center in Irwindale, CA. Sharing the facility with the Edison Security Operations Center (ESOC), also designed by RY+AO, the project focused on reconfiguring and expanding critical operational spaces to enhance emergency response capabilities.

Key improvements included site and landscape enhancements, the expansion of the EOC control center, the reconfiguration of conference spaces, and the addition of a new shared cafeteria serving both the EOC and ESOC. To ensure resilience and continuous operation, RY+AO transformed an existing tilt-up structure into a Category IV | Immediate Occupancy (IO) facility, incorporating FEMA E-74 upgrades for all non-structural components. The design also featured a robust emergency power system and a new mechanical system, supporting the conversion of the business park tilt-up structure into a fully functional EOC.

SCE GRID CONTROL CENTER AND REGIONAL TELECOM NETWORK HUB RELOCATION

ALHAMBRA, CA





AG&R Relocation Feasibility Study

At SCE leadership's request, RY+AO conducted a feasibility study to relocate the aging and seismically vulnerable Grid Control Center (Building AG) and Regional Telecom Network Hub (Building R) to the existing Building E site at the Alhambra Combined Facility. The new facility aims to consolidate these critical functions, enhancing resilience and operational efficiency.

Leveraging prior assessments, including the 2018 SCE Alhambra Master Plan and ASCE 41 Reports, we engaged Operating Units (OUs) through surveys, interviews, and floor plan analyses to assess current and future space needs.

Blocking and stacking studies confirmed the site's suitability for a new Grid Control facility without disrupting key operations, including the helipad. This study provides SCE leadership with a clear path forward for replacing Building E with a modern, resilient infrastructure to host the new Grid Control Center and Regional Telecom Network Hub.



SCE WESTMINSTER MASTER PLAN & ADMIN BUILDING TI

WESTMINSTER, CA

The Southern California Edison Westminster Combined Facility is a 37-acre site in Westminster, California. RY+AO was commissioned to create a comprehensive Master Plan that addresses the evolving operational needs of multiple business units from 2020 to 2030. This plan assesses building repurposing opportunities, reorganization of the yard and circulation, and the development of phased operational real estate usage strategies to align with long-term business goals.

Master Plan Overview: The Master Plan outlined a phased approach for optimizing the use of existing assets and infrastructure over a 10-year horizon. RY+AO's analysis focused on enhancing building functionality, reorganizing site logistics, and accommodating future growth. The plan includes detailed strategies for operational efficiency, allowing Southern California Edison to make data-driven decisions about facility upgrades and land use optimization.

Phase One Implementation:

The first phase of the Master Plan began in 2019 with the renovation of the 90,000 SF, 35-year-old administration building, which houses critical operations. Key elements include:

- **Relocation of the Edison Security Operation Center (ESOC):** The critical facility ESOC, previously located at the Irvine Control Center, is being relocated to the Westminster facility, establishing it as the central hub for security operations. The new control center will accommodate 22 operations technicians and include a fusion center designed for coordinated operations with outside agencies. (Currently in design phase)
- **Renovation of the Meter Engineering Department and Standard Lab:** The renovation includes updating meter labs, testing, and training areas designed to meet both current and future operational needs. The Standard Labs will be relocated from the upper floor to the ground level to streamline logistics and improve operational efficiency. (Currently in bidding phase)
- **Site Improvements:** Significant upgrades were made to improve the site's logistics and security. This includes reorganizing the yard and parking to streamline vehicle movement and optimizing security entry points for employees, fleets, and visitors. Additionally, electric vehicle (EV) parking for fleet and employee use was added to support sustainability initiatives. (Construction completed 2025)





SDG&E DISPATCH CENTER FOR GRID OPERATIONS / DISTRIBUTION OPERATIONS BACKUP FACILITY

SAN DIEGO, CA

The project served as a backup emergency operations center for the utility company's Grid and Distribution Operations facility. It included a 6,350 SF building expansion and a 5,950 SF renovation to enhance the existing critical control infrastructure.

Renovation work focused on upgrades to the control room, open and private offices, operations and computer rooms, the MDF room (main distribution frame), and storage areas, along with comprehensive improvements to MEP, IT, and fire protection systems.

The expansion, a Type V-NR office building, was seamlessly connected to the existing structure and accommodates open office space, a conference room, war room, break room, mapping/printing area, equipment storage/computer room, restrooms, and janitorial facilities. Careful phasing ensured continuous operation of the facility throughout construction.

As part of the Grid Operations & Electrical Distribution Addition, a new interior improvement was developed within the existing space (denoted in green) to accommodate dispatch and emergency operations. The project included an FF&E package with the addition of radio, SCADA, SAT phones, and microwave system upgrades







SOCAL EDISON WILDOMAR SERVICE CENTER

WILDOMAR, CA

The project is sited on 19.3 acres of land located in Wildomar, California. This is a proto-typical service center developed for Southern California Edison. The 65,388 square foot Administration Building houses a regional administration function and operations center. A Fleet Garage and Logistics warehouse comprise the remainder of the 114,000 square feet of building. Each of the buildings is of concrete tilt-up construction with steel floor and roof framing.
This project has been certified LEED Platinum under the USGBC .

RYAO has maintained a strong financial standing and has not filed for bankruptcy under any business name in the past five (5) years.

REFERENCE & CONTACT INFORMATION

1. Bryan McKinney

City of La Quinta
Public Works Maintenance & Operations
760.777.7045 | bmckinney@laquintaca.gov

Project Summary:
RY+AO is designing a 12,000 SF Maintenance & Operations Yard on a 2.8-acre site next to Fritz Burns Park and Fire Station 32. The project includes a new facility, improved fleet circulation, and enhanced efficiency, integrating with adjacent public spaces. Phase One—Programming & Master Planning—is complete.

Project Dates: 2024–Present

2. Eloso Cabanilla, Project Manager

SoCalGas
818.307.4599 | ecabanilla@socalgas.com

Project Summary:
This project involved a seismic retrofit, expansion, and daylight integration, reinforcing the existing CMU with mini-piles and grade beams. A steel-framed second floor added space without disrupting operations, while a skylight improved circulation. The secure yet open control room provides natural light. Completed on time and within budget.

Project Date: 2024

3. Alba Swalheim, Project Manager

Southern California Edison
626.302.3687 | alba.swalheim@sce.com

Project Summary:
The Westminster Combined Facility is a 37-acre site in Westminster, CA, housing multiple Edison operating units. RY+A and FMP developed a master plan to assess site and building capacity, optimize operations, and plan for future development over 5, 10, and 15 years. Phase 1—Yard Improvements—is currently under construction.

Project Dates: 2019–Present

We propose to provide A&E services for the scope of services outlined in the Request for Proposal RFP 25-102 Banning Armory Community Resilience Center Project, Addenda 1-7, and Questions and Answers for a maximum price of Seven Hundred Fifty-Nine Thousand Eight Hundred Fifty Dollars ($759,850.00). A detailed staffing plan is also provided as requested.

Reimbursable expenses include, but are not limited to, reprographics, delivery of drawings, and mileage/travel expenses. Charges invoiced to the City of Banning for travel, lodging and subsistence shall be based on the current California Department of Human Resources (CALHR) Manual. An allowance of Twenty Thousand Dollars ($20,000) is included in the all-inclusive maximum price below.

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
Section 4.2	Community Engagement Plan	1	Lum Sum		$29,280.00
Section 4.2	Meetings	1	Lum Sum		$63,550.00
Section 4.3	Needs Assessment	1	Lum Sum		$38,695.00
Section 4.3	Existing Facility Condition Assessment	1	Lum Sum		$68,240.00
Section 4.3	Emergency Preparedness Assessment	1	Lum Sum		$6,320.00
Section 4.4	Project Scope, Design and Estimates	1	Lum Sum		$553,765.00
TOTAL	Seven Hundred Fifty-Nine Thousand Nine Hundred Sixteen Dollars				$759,850.00

Assumptions & Exclusions

The following Assumptions and Exclusions are provided to clarify and define the scope of A&E services:

A. General
   1. There will be one permit package for the project with all architectural, structural and other consultant packages submitted concurrently.
   2. Work required to address design revisions after completion of 30% Design is not included.
   3. Services necessary due to significant schedule extensions are not included.
   4. Additional work resulting from changes ordered by Building Officials, Fire Inspectors, or other authorities having jurisdiction in the field subsequent to receipt of an approved permit are subject to additional services.

5. Scope Beyond Assumptions. Any work exceeding A&E team's stated assumptions or contract scope (e.g., schedule, scope, exhaustive studies) will be considered Additional Services.
6. Value Engineering. Redesigns resulting from budget constraints of trades outside of design team's scope, and in the absence of a predesign construction budget, will be considered Additional Services.
7. Additional Meetings. Attendance at project meetings beyond the specified quantity will be treated as Additional Services.
8. All off-site improvements are not part of this scope of work
9. AQMD air quality permitting, studies, and emission modeling for the backup generator are excluded from our base scope. If required by the City, this can be provided as an additional service through an environmental consultant.
10. Construction Administration services are excluded from this scope

B. Community Engagement
   1. A maximum of four (4) Community Meetings are included as follows:
   2. We assume that table/chair rentals, snacks, beverages, etc. will be provided by the City for each meeting.
   3. Architect will attend a maximum of 24 Advisory Committee Meetings.
   4. Playce Studio will attend a maximum of 9 Advisory Committee Meetings.

C. Mechanical / Electrical / Plumbing / Fire Protection
   1. HVAC: All HVAC equipment will be new to fit the programming requirements. We will provide redundancy where necessary.
   2. Electrical: We assume that an electrical service upgrade will be necessary. This upgrade will be performed by Banning Electric, owned by the City, and is excluded from our scope of work.
   3. Plumbing: Adequate domestic water, sanitary, and vent connections exist to meet tenant needs.
   4. Fire Protection: The building's fire protection system (e.g., standpipe, loop, fire alarm) is available for tenant requirements.
   5. Modifications to the existing base building MEP, fire/life safety, or smoke control systems are not included.
   6. It is assumed that the building has sufficient utility service capacity (gas, water, sewer, sanitary). We assume that the service upgrade will not be required.
   7. Existing engineered systems and utilities have adequate capacity to accommodate the project loads, unless otherwise noted in this proposal.
   8. Electrical Studies. Preparation of short circuit, coordination, and arc fault studies is not included. If required, this service can be provided by the project's electrical contractor.

9. Sustainability Certifications (LEED/WELL)
    a. LEED or WELL design services are excluded but may be provided for an additional fee if required.
10. Energy Code Compliance:
    a. Energy code compliance or LEED energy performance-based compliance modeling is excluded.
    b. Energy modeling services can be provided as an additional service under a separate work authorization.
11. Startup, troubleshooting assistance, and commissioning are not included.
12. Solar PV and Battery Storage Design. Design of solar photovoltaic (PV) systems and battery storage is excluded but can be provided as an Additional Service.
13. The design of the fire sprinkler system will comprise performance specifications, the contractor will complete design and layout of the sprinkler system including coordinated shop drawings and hydraulic calculations and will be the engineer of record for the fire sprinkler system.
14. The design of the fire alarm system will comprise performance specifications and general location of fire alarm devices; the contractor will complete shop drawings and all calculations and will be the engineer of record for the fire alarm system.

D. Lighting Design
1. Mock-ups are excluded but may be provided as an additional service.
2. Daylight studies are excluded but may be provided as an additional service.
3. Procurement and installation of Lighting Equipment is excluded but may be provided as an additional service.
4. Life-Cycle cost analysis is excluded but may be provided as an additional service.
5. Alternative fixture options are not included in the Lighting Fixture Schedule.
6. Design of Custom Luminaires is excluded but may be provided as an additional service.
7. LEED Documentation is excluded but may be provided as an additional service.
8. WELL Documentation is excluded but may be provided as an additional service.

E. Technology Design
1. Low Voltage Cabling Infrastructure:
    a. Design a robust low voltage cabling infrastructure, including all horizontal and backbone copper/fiber connectivity to support the facility's IT and communications needs.
2. Pathway System Design:
    a. Develop a structured cabling pathway system that ensures efficient and scalable distribution throughout the facility.

3. MDF and IDF Room Design:
    a. Design the Main Distribution Frame (MDF) and Intermediate Distribution Frame (IDF) rooms to support all IT infrastructure and owner-provided equipment. This includes evaluating power and grounding requirements necessary for active equipment within these rooms.
4. Telecommunications (Telco) Coordination:
    a. Review architectural and engineering plans to ensure Minimum Point of Entry (MPOE) facilities are in place for telecommunications services. Telco services will be procured and installed by others.
5. Building System Network Coordination:
    a. Coordinate network connectivity for critical building systems, including Building Management Systems (BMS), MEP, security, and life safety systems, ensuring seamless integration with the overall infrastructure.
6. Audiovisual System Design:
    a. Develop a comprehensive audiovisual system design for key facility spaces, including (Emergency Operations Center) EOC, conference rooms, and common areas, to support effective communication and collaboration.
7. Security System Coordination:
    a. Identify and specify the locations for security devices, back boxes, and conduit infrastructure, collaborating with the Client and project architect to align security system implementation with project requirements.
8. AT will define the functional requirements for the security system. The detailed technical design of the access control and surveillance systems will be the responsibility of the selected security integrator. AT will coordinate with the integrator to ensure alignment with the design intent.
9. The owner will provide a list of all intended network, server, and storage hardware for the MDF and IDF rooms during the Schematic Design phase.
10. The owner will provide functional requirements and equipment preferences or standards for all audiovisual spaces during the Schematic Design phase.
11. Ordering, delivery coordination, and provisioning of all telecommunications-related services will be the responsibility of the owner.
12. Migration planning and implementation of the owner's active equipment, including network, telecommunications, or other IT hardware, is not included in this scope.
13. AT will provide input on cost estimates for low voltage, audiovisual, and security systems as required.
14. Startup assistance, troubleshooting, and commissioning services are not included in this scope.

F. Structural
   1. Development of separate building concepts are not included.
   2. Detailed design of secondary structural elements (i.e. window supports, curtain wall supports, exterior cladding, window washing equipment, elevator machine supports and miscellaneous metal supports) are not included
   3. Material testing and destructive investigation are not included.
   4. Special inspections during construction are not included.
   5. Design of elements for exterior building maintenance are not included.
   6. Engineering or inspection of contractor temporary works such as shoring, bracing, underpinning or propping is not included.

G. Civil
   1. Environmental studies or environmental impact reports are excluded.
   2. Grant Deeds, Title Fees, and Geotechnical, Biological, Archaeological, Traffic and Noise Studies and Consultant Fees are excluded.
   3. All agency fees and annexation processing fees and off-site letters of permission and retaining wall plans are excluded.
   4. Construction Staking is excluded.
   5. SWPPP is excluded.

H. Dry Utility
   1. Temporary Power for Construction is not included.
   2. Traffic Signal Plans or Street Lighting Plans are not included.
   3. Traffic Control Plans are not included.
   4. Meter and Service Account – Billing Set Up is not included.

I. Foodservice
   1. Building department may require structural calculations for walk in refrigerated boxes. Engineered drawings and deferred submittal are excluded from this proposal. If required, it will be billed as additional services to cover costs of structural engineering and deferred submittal expenses. Deferred submittal fees can be part of the construction design-build effort.

J. Geotechnical
   1. The City will provide clear and unobstructed access for drilling and testing equipment, including coordination of entry gates, traffic control, and site clearance at the time of field exploration
   2. DigAlert will be contacted by LandMark Consultants; however, the Client is responsible for identifying and clearing private underground utilities not covered by DigAlert.

3. Field exploration will consist of three (3) test borings at depths ranging from 20 to 50 feet (or until refusal) and two (2) infiltration tests at approximately 4 feet. Actual depths and locations may be adjusted in the field depending on conditions encountered.
4. The laboratory testing program outlined is representative; actual testing may be modified based on conditions encountered in the field.
5. Recommendations will be based on conditions observed at the test boring locations only. Subsurface conditions between borings may vary.
6. All engineering opinions and recommendations will be developed in accordance with standard geotechnical engineering practice, based on the data obtained and the intended project scope.
7. Removal, replacement, remediation, or disposal of unsuitable soils, hazardous materials, or groundwater is excluded.
8. Rock coring, geophysical surveys, or additional borings beyond those described are excluded unless specifically authorized
9. Preparation of detailed dewatering plans, shoring/bracing design, or temporary excavation support is excluded.

K. Environmental

1. Intrusive destructive testing beyond the sampling described (e.g., removal of walls, flooring, pipe insulation in concealed spaces) is excluded unless specifically authorized
2. Sampling, testing, or analysis of radon, mold, lead in drinking water, soil, groundwater, indoor air quality, vapor intrusion, or other environmental media are excluded unless explicitly included in the scope.
3. Preparation of abatement contractor bid packages, contractor procurement, or direct abatement oversight is excluded, except where specifically stated as an additional service.
4. Any additional surveys required due to suspect ACM or hazardous materials discovered during renovation/demolition activities beyond the initial scope are excluded
5. Costs associated with laboratory analysis beyond the specified methods (e.g., TEM, SEM, or point counting not authorized by the Client) are excluded
6. Regulatory agency fees, permit fees, and costs for remediation, abatement, or disposal of hazardous materials are excluded
7. Phase II Environmental Site Assessments (subsurface investigations, soil/groundwater sampling, etc.) are excluded.
8. Compliance inspections or certifications required by HUD, OSHA, or other agencies beyond informational reporting are excluded.

L. Signage Design
   1. Design and siting of a new exterior monument sign with optional digital display is provided in this proposal.
   2. The complete signage package will be a deferred submittal by the General Contractor's vendor. Fabrication and installation shall be the responsibility of the vendor. The Architect will provide design criteria for interior signage to demonstrate code compliance, and design intent drawings for the exterior monument sign for coordination with the fabricator.

Value Added Services

Line Item	Description	Unit of Measure	Unit Cost
1	Additional Community Conversation Events	EA	$4,700.00
2	Photorealistic Renderings	EA	$2,500.00

HOURLY RATE SCHEDULES

Billing Classification	Hourly Rate
RY+AO	
Principal	$250.00
Design Director	$230.00
Project Director	$230.00
Senior Associate	$210.00
Associate	$190.00
Senior Designer	$190.00
Senior Project Architect	$190.00
Senior Project Manager	$190.00
Project Manager	$180.00
Project Architect	$170.00
Designer	$165.00
Senior Job Captain	$155.00
Job Captain	$145.00
Draftsperson	$135.00
Junior Designer	$130.00
Junior Draftsperson	$130.00
Professional Staff	$105.00
Playce Studio	
Principal	$211.00
AlfaTech	
Partner	$280.00
Senior Principal	$265.00
Principal	$245.00
Associate Principal	$220.00
Associate	$200.00
Senior Engineer	$170.00
Lighting Designer	$165.00
Engineer	$155.00
Design Engineer	$135.00
Designer	$120.00
Project Manager	$175.00
Document Controller	$155.00
BIM Manager	$150.00
BIM Specialist	$125.00
BIM/CAD Operator	$95.00
Project Administrator	$90.00
Administrative Support	$85.00

Holmes US

Principal	$285 - $330
Associate Principal	$230 - $260
Senior Engineer	$195 - $210
Project Engineer	$165 - $175
Structural Designer	$155.00
Senior Revit Specialist	$185.00
Revit Specialist	$150 - $170
Administration	$90.00

SWS Engineering

Principal	$300.00
Regional Director	$280.00
Professional Land Surveyor	$275.00
Project Manager	$240.00
Assistant Project Manager	$200.00
Project Engineer	$185.00
Project Designer	$185.00
Junior Engineer	$160.00
CAD Drafter	$100.00
Clerical	$80.00
In-House Survey Office Calculations	$140.00
1-Person Survey Crew	$265.00
2-Person Survey Crew	$290.00
1-Person Survey Crew Prevailing Wage Rate	$295.00
2-Person Survey Crew Prevailing Wage Rate	$345.00
Expert Witness	$580.00

Dry Utility Experts (DUEx)

Principal	$175.00
Senior Designer	$160.00
Senior Project Manager	$150.00
Drafter	$145.00
Assistant PM / Support Staff	$100.00

In-Site Landscape Architecture

Principal Landscape Architect	$180.00
Senior Landscape Architect	$160.00
Landscape Architect / Project Manager	$130.00
Landscape Designer III	$110.00
Landscape Designer II	$80.00
Landscape Designer I	$60.00

Orness Design Group

Project Manager	$275.00
Foodservice Designer	$200.00
Foodservice Design Assistant	$160.00

Cumming

Managing Director	$255.00
Associate Director, Lead	$225.00
Senior Cost Manager	$200.00
Cost Manager	$190.00

Reimbursable Expenses

An allowance of Twenty Thousand Dollars ($20,000.00) has been included in our fees for this project to provide the City with an all-inclusive maximum price. Reimbursable expenses shall be billed separately at 1.10 times the direct costs. The City shall be notified if reimbursable expenses reach 90% of the allowance. Reimbursable expenses include, but are not limited to, the following:

- Reprographics
- Delivery of drawings.
- Mileage and travel. Charges invoiced to the City of Banning for travel, lodging and subsistence shall be based on the current California Department of Human Resources (CALHR) Manual

AGREEMENT FOR PROFESSIONAL SERVICES (C01027) FOR BANNING ARMORY COMMUNITY RESILIENCE CENTERS PROJECT BY AND BETWEEN CITY OF BANNING AND RICHARD YEN & ASSOCIATES ARCHITECTS & PLANNERS, INC.

THIS AGREEMENT FOR PROFESSIONAL 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 Richard Yen & Associates Architects & Planners, Inc., an Arizona 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 25-102) for the performance of the services for the Armory Community Resilience Centers 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 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 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 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).

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.

For work to be paid for by funds other than the SGC CRC grant, the 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 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. All changes in scope of work, an extension of time, and/or an increase in cost require an amendment to this Agreement. 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.

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
Jianshan Liang	Principal

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.

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

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.

1.15 Debarment or Suspension.

Consultant represents and warrants that, as of the Effective Date of this Agreement, Consultant is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Consultant 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. Consultant 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 Consultant or any subcontractor becomes debarred or suspended during the Term of this Agreement, Consultant shall immediately notify 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 Seven Hundred Fifty-Nine Thousand Eight Hundred Fifty Dollars ($759.850.00) (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 (unit price) 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 an executed amendment as set forth in Section 1.8 and pursuant to the time limit in Section 3.4 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 III 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.

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.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through April 30, 2027 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.

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 and will obtain Worker's Compensation Insurance prior to hiring any employees should the need arise during the term of and related to this Agreement.

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 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.

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) 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"), 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 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.

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 A.2.

3) 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 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 sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants 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 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.

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 four (4) 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, but not less than quarterly, and as requested by the City, 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 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 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 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.

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 money or other consideration whatsoever 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 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: Holly Stuart Public Works Program Manager City of Banning 99 East Ramsey Street Banning, California 92220 Email: hstuart@banningca.gov
With a courtesy copy to:	John Pinkney, City Attorney Slovak Baron Empey Murphy & Pinkney LLP 74774 CA-111 Indian Wells, CA 92210 Email: pinkney@sbemp.com
If to Consultant:	Attn: Jianshan Liang, Principal Richard Yen & Associates Architects & Planners, Inc 731 S. Highway 101, Suite 1M Solana Beach, CA 92075 Email: JLiang@ry-aoarchitects.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.

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.

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

Art Vela, Date
Interim City Manager

ATTEST:

Sandra Calderon Date
Acting Administrative City Clerk

APPROVED AS TO FORM:
Slovak Baron Empey Murphy & Pinkney LLP

John O. Pinkney 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 Design Services prepared in connection therewith:

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

Banning Armory Community Resilience Center

Statement of Understanding and Approach

Firm Experience & Expertise

RY+AO Architects brings proven expertise in critical facility planning and community design. We recently completed Southern California Edison's Irwindale EOC, Security Operations Center, AG&R Grid Control Center, and a Regional Telecom Hub Needs Assessment and Design. In partnership with Holmes, our structural engineering collaborator, we have assessed and retrofitted over 100 mission-critical facilities for seismic resilience.

Beyond critical infrastructure, we have extensive experience designing civic and community spaces, including Escondido City Hall (with an integrated community center), the 4S Ranch Boys & Girls Club, Confluence Park Community Center, and Solis Park at FivePoint Valencia. These projects demonstrate our ability to create facilities that are resilient, functional, and deeply rooted in community identity.

Project Understanding

The City of Banning, with the support of the **Community Resilience Center (CRC) Grant Agreement**, is transforming its historic 1950s Armory into a **dual-purpose Community Resilience Center (CRC) and Emergency Operations Center (EOC)**. This facility must serve two equally important roles: a **welcoming civic destination** for daily programs and services, and a **resilient, mission-critical hub** capable of safeguarding the community during emergencies.

The reimagined Armory will:

- Provide **evacuation and climate-resilient shelter** with capacity for community safety during extreme heat, wildfire smoke, and other climate-driven events.
- **Operate as a fully capable EOC**, with secure command, communications, and resilient infrastructure to support emergency response and continuity of operations.
- Deliver **year-round community programming**, including recreation, youth services, and food distribution that strengthen social resilience.
- Include **campus amenities** such as shaded outdoor gathering spaces, drought-tolerant landscapes, renewable energy systems, and flexible infrastructure adaptable for both community events and emergency staging.

Meeting this vision requires integrating **community engagement, technical rigor, and fiscal responsibility** while complying with CRC Grant requirements. RY+AO has a proven record of balancing these priorities in both **mission-critical facilities and civic projects**, giving us a strong foundation to guide Banning through this transformation.

Our Approach

1. **Inclusive Community Engagement**
   Community participation is central to the success of the Armory transformation. Our process begins with **building trust** and ensuring that all voices in Banning's diverse community are heard and reflected in the design.

   To achieve this, RY+AO has partnered with **PLAYCE Studio,** a leader in participatory design and public engagement. Their respected **PLAYCE methodology** integrates traditional engagement techniques with team-building and creative visioning exercises. By using play, storytelling, and hands-on activities, stakeholders become collaborators and champions of the project from the start.

   Together, we will deliver a **Community Engagement Plan (CEP)** that ensures transparency, inclusivity, and accessibility.

   Key strategies include:
   - **Bilingual, ADA-compliant engagement** through workshops, forums, surveys, and digital platforms.
   - **Pop-up community conversations** at existing community venues and events to "meet people where they are."
   - **Interactive site tours** to generate real-time dialogue about opportunities and challenges on the ground.
   - **Visioning workshops** using PLAYCE's creative tools, such as "blue sky" exercises, collaging, and magazine cover games, to unlock innovative ideas for the Armory's future.
   - **"Try It On" design simulations** that let participants experiment with full-scale props or temporary installations, building consensus through hands-on exploration.
   - **Community Meetings I & II**, structured to move from big-picture visioning to clear, achievable design strategies, while demonstrating how public input directly shapes outcomes.

   This two-month engagement process will culminate in a **Final Engagement Report** documenting outreach activities, feedback, and design impacts. Beyond informing design, the process will build long-term community pride, ownership, and readiness.

   As an added benefit, PLAYCE Studio will invite a City staff member to participate in their **PLAYCE Engagement Academy**, equipping the City with an in-house facilitator skilled in inclusive outreach. This ensures that the project leaves not only a resilient facility but also a legacy of collaboration and capacity-building for Banning's future.

- **Relevant Experience:** RY+AO has successfully led inclusive engagement on civic projects such as the **Solis Park Community Center** and the **4S Ranch Boys & Girls Club**, where broad participation shaped facilities that reflect community identity. Similarly, PLAYCE Studio has delivered award-winning public engagement programs across the country, demonstrating their ability to turn diverse input into actionable, inspiring design outcomes.

2. Comprehensive Needs & Facility Assessment

We will combine stakeholder interviews, surveys, and workshops with a technical facility assessment. This includes evaluating structural integrity, seismic resilience, hazardous materials, ADA compliance, fire/life safety, and MEP systems. We will also conduct an Emergency Preparedness Assessment to confirm the facility can effectively support command operations and sheltering during crises.

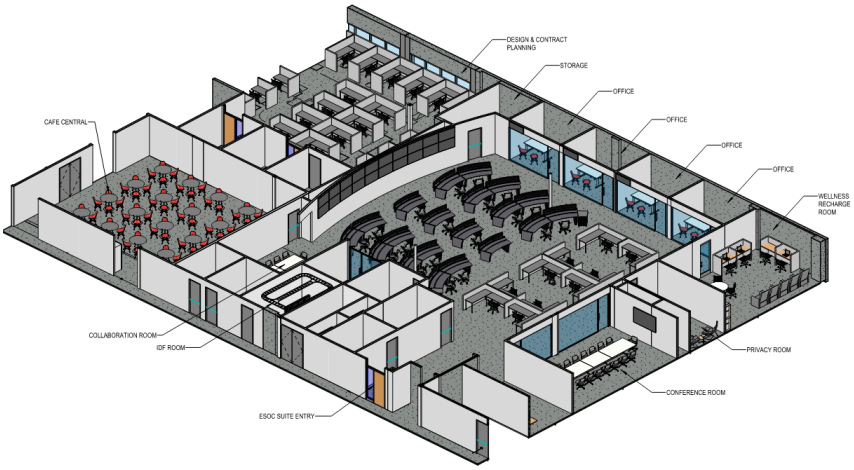
This effort is guided by our disciplined design methodology:

1. **Define objectives and budget** – We begin by understanding operational priorities and financial requirements.
2. **Translate into a program** – These are transformed into spatial requirements that become the roadmap for design.
3. **Align budget with vision** – Only once the program is established do we integrate costs with client objectives, ensuring solutions are both practical and aspirational.

- *Relevant Experience:* Our team recently completed **Southern California Edison's Regional Telecom Hub Needs Assessment** and **AG&R Grid Control Center**, both of which required detailed spatial, technical, and operational analyses to align program needs with facility capabilities.

Below example of the SCE's Edison Security Operation Center (ESOC) Need Assessment and Space Planning at Westminster Combined Facility.

Example of Space Planning 3D View:



Example of a programming assessment Data Sheet: Control Center of ESOC

Program Summary

Space	FTE CURRENT	FTE GROWTH	FTE TOTAL	Seat	SF/Unit	SF/Room	Qty	Area (SF)	Total (SF)	Comment
ESOC										
ESOC Operating Group										
SOC CONTROL CENTER	11	9	20	20	125	2500	1	2500		1. (19) sit/stand consoles 2. (1) 6x8 cubicle for specialist 3. (2) radio wheeler consoles 2. Media Wall: 40' main screen + multiple smaller screens on the sides 3. total TV counts on media wall: 20 on main screen; 2 on each side wall
PRIVATE OFFICE	1	4	5			150	5	750		visibility to the control room
STORAGE						50	1	50		
CONFERENCE ROOM							1	600		Preferred electric privacy glass wall at one side; 30'x20' standard
COLLABORATION SPACE				12				350		white bd., map table; can accommodate 12 standings people. can be shared with conference room, open pockets, etc.
TOTAL	12	13	25						4,250	

Example of an equipment list: Control Center of ESOC

EQUIPMENT LIST (FF&E)						
ASSET NAME	SIZE	QTY	MANFUFACTURER	IMAGE	LOCATION	COMMENT
Media Wall 1 - Main	55"	20	tbd		Control Center	Assume monitors will be combined in groups of (4) per 14A circuit
Media Wall 2 - Side	55"	2	tbd		Control Center	
Media Wall 3 - Side	55"	2	tbd		Control Center	
Console		20	Winsted - Impulse Amplify Dual Sit/stand Console		Control Center	sit/stand consoles, stackable cubbys, 3 monitors, prefer size is bigger than 24"
Base Console		2	Winsted		Control Center	for mobile radios, along side with console workstation

3. Integrated CRC + EOC Design

For the new City of Banning EOC, a core objective is enabling the Armory to function as a fully capable Emergency Operations Center while serving daily community needs.

Key design approaches:

a. Dual-Use Design

- Retrofit the existing Armory to **Risk Category IV** standards wherever feasible, allowing it to safely function as an Emergency Operations Center during disasters while serving daily community programming in normal conditions.

  Design spaces with **flexible partitions, durable finishes, and resilient building systems** so rooms can shift from classes, meetings, or youth programs to EOC operations during an emergency.

b. Secure and Functional Zones

- Develop a **zoned floor plan** that separates secure, mission-critical EOC areas (command room, communications hub, server room) from public-facing CRC spaces (multipurpose rooms, classrooms, kitchen).
- Incorporate **redundant building systems** (HVAC, power, IT backbone) designed by AlfaTech to support continuous EOC operations while ensuring comfort for daily community use.

c. Resilience-Ready Infrastructure

A resilient structure is the backbone of a Community Resilience Center. If a facility cannot withstand natural hazards, it cannot fulfill its most vital role—protecting the community during emergencies.

In partnership with **Holmes**, our team will implement **seismic retrofits, diaphragm strengthening, and structural upgrades** to ensure life safety and continuity of operations. We will also provide a **generator site with fuel storage, hardened utility connections, and redundant communications systems** (satellite and backup) to maintain EOC readiness.

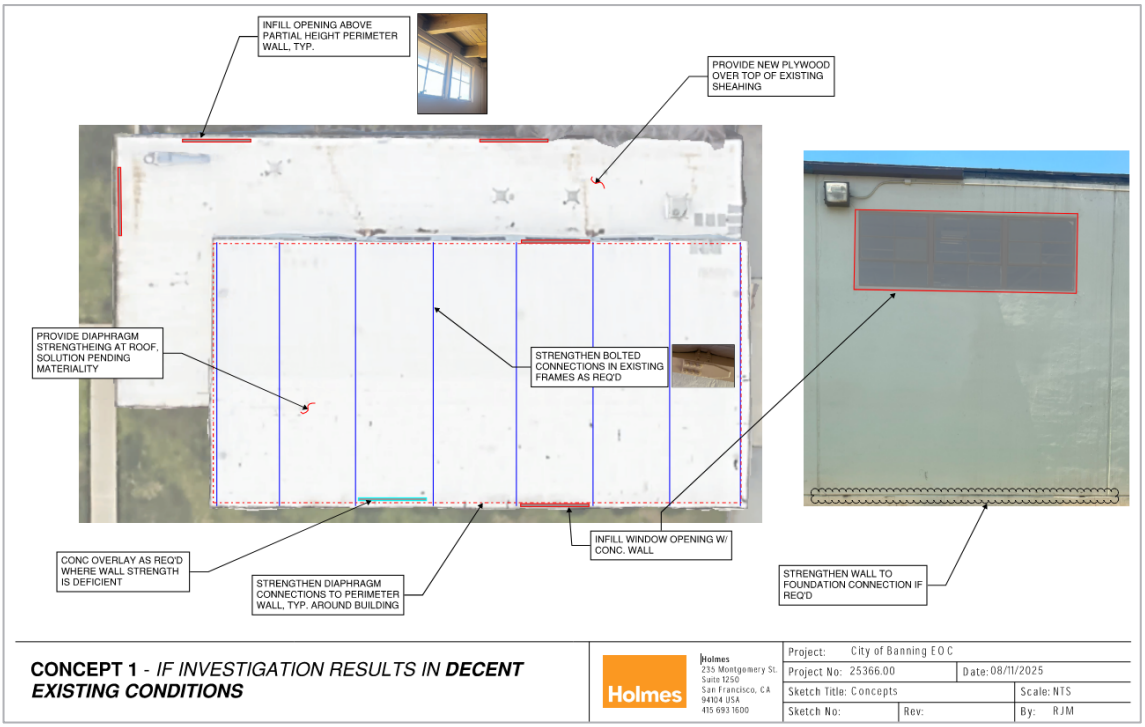
Our process begins with a review of existing documentation and on-site assessments to confirm the Armory's current condition. Where needed, we will expand evaluation using **FEMA P-58 benchmarks**—the national standard for seismic resilience—to guide **cost-effective retrofit strategies** that strengthen integrity and long-term operability. Beyond seismic performance, Holmes will also evaluate risks such as wind, fire, and climate-driven events, integrating both structural and non-structural measures into a **comprehensive hazard mitigation strategy**.

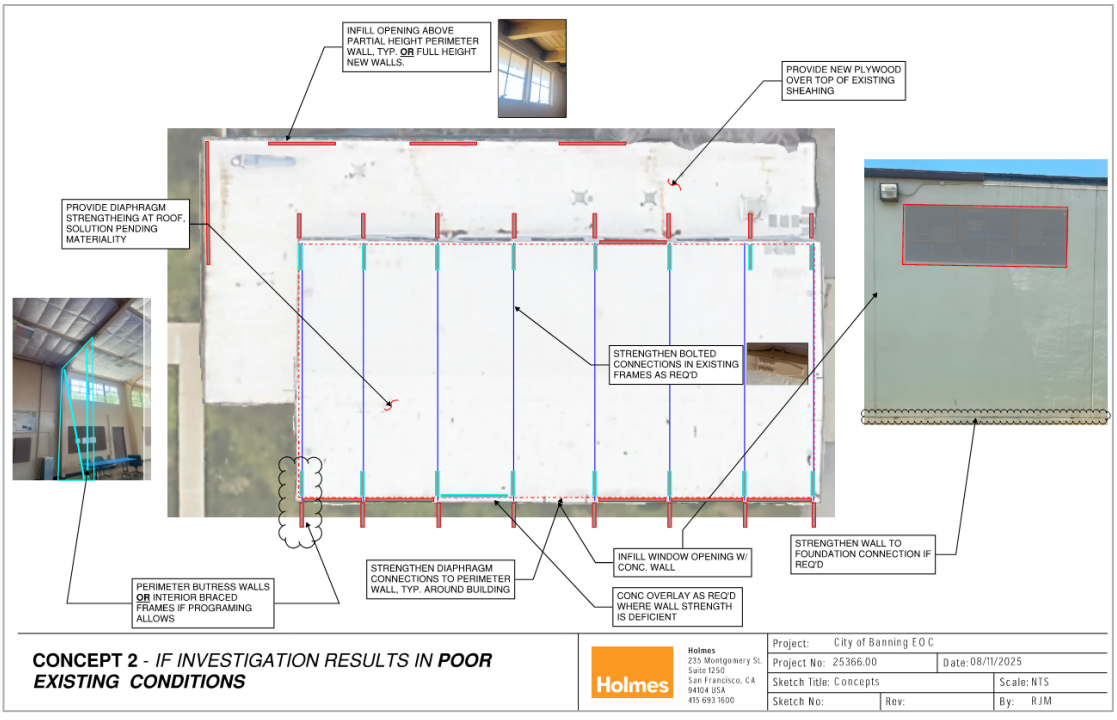
To support decision-making, we will present the City with **retrofit and EOC placement options** ranging from moderate upgrades within the Armory to a new dedicated EOC facility. We will guide the City in weighing resilience, cost, and operational disruption to identify the solution that delivers the greatest long-term value.

Potential EOC Strategies:

Scheme	Existing condition of Amory building	Retrofit to Seismic Design Risk Category	Retrofit scheme	EOC Placement	Cost
1	Decent	IV	Strengthen Roof diaphragm, infill openings, less intrusive to existing spaces	Inside Armory Bldg	Lowest
2	Poor	IV	Strengthen Roof diaphragm, infill openings, buttresses – more intrusive to existing spaces	Inside Armory Bldg	Medium - High
3	Poor	II	Strengthen Roof diaphragm, infill openings, less intrusive to existing spaces	New bldg.	High

And potential structural retrofit schemes:





4. Community Life & Outdoor Civic Identity

Equally important as the building itself is transforming the Armory site into a **welcoming civic destination**. Building on its current uses, such as classes, food distribution, and recreational programs, we will create an outdoor environment that extends community life while reinforcing resilience and identity. The site will function as a daily amenity for residents, a venue for cultural and recreational programming, and a resource adaptable to emergency staging when needed.

1. **Arrival & Identity**
    - A welcoming public plaza with shaded portals and civic-scale signage.
    - Cultural storytelling elements such as murals, public art, and interpretive displays that celebrate Banning's heritage and resilience values.
2. **Family & Youth Spaces**
    - Outdoor classrooms, play structures, and flexible gathering areas.
    - Safe open sightlines and circulation paths that balance activity, visibility, and security.
    - Game tables and casual seating to encourage intergenerational use and community interaction.
3. **Flexible Infrastructure for Daily & Civic Life**
    - Shaded, durable spaces adaptable for daily activities such as markets, fitness programs, or food distribution.
    - Infrastructure designed to host food truck events, outdoor movie nights, holiday celebrations, arts and crafts fairs, performances, and other community gatherings.
    - Multipurpose outdoor spaces that can convert to emergency functions such as staging, supply distribution, or triage during a disaster.



4. **Resilient Systems**
    - Solar canopies providing both renewable power and shaded gathering areas.
    - Drought-tolerant landscapes and stormwater management features that serve as living teaching tools while reducing long-term maintenance costs.
5. **Cohesive Civic Identity**
    - Unified materials, colors, and graphics that tie the building and site together.
    - A design language that communicates confidence and readiness in emergencies while remaining warm, inviting, and approachable in daily life.

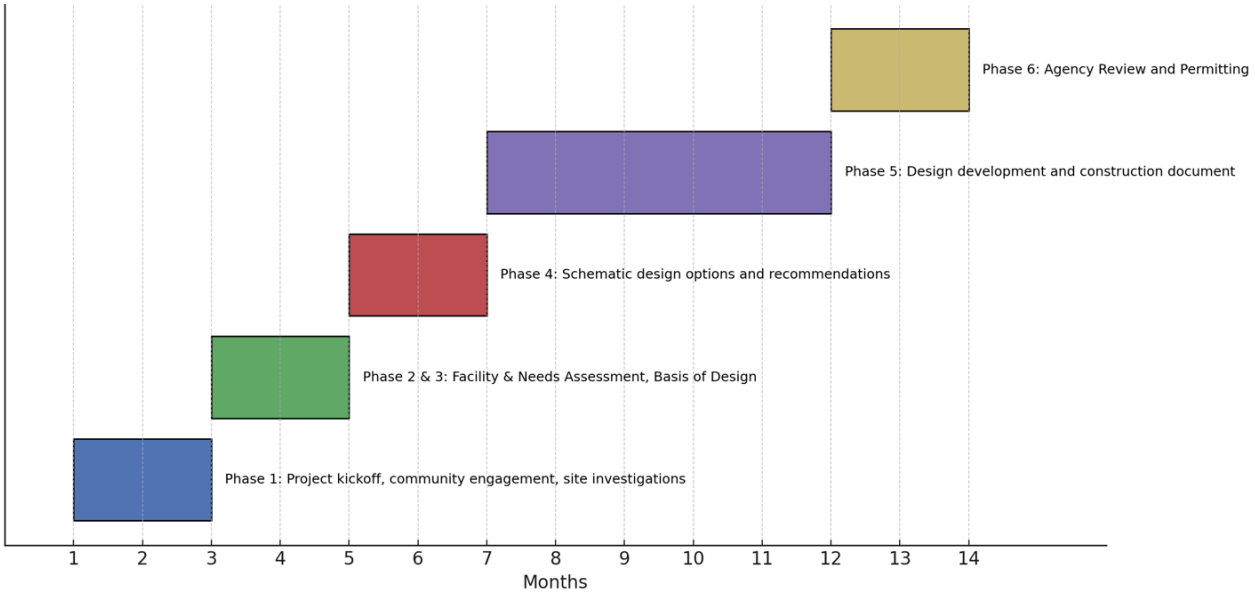


Project Schedule

We anticipate a **12–14 month effort** from initiation to construction documents:

Phase 1 (Months 1–3): Project kickoff, community engagement, site investigations.
Phase 2 & 3 (Months 3–5): Facility & Needs Assessment, Basis of Design.
Phase 4 (Months 5–7): Schematic design options and recommendations.
Phase 5 (Months 7–12): Desing development and construction document.
Phase 6 (Months 12–14): Agency Review and Permitting.

Project Schedule:



Plan to Address Fluctuations in Service Needs and Price Adjustments

We recognize that the scope of services for the Community Resilience Center may evolve as the project progresses, particularly given the dual-use nature of the facility and the reliance on grant funding. Our approach is to remain flexible while maintaining transparency and fiscal accountability.

1. Scalable Staffing and Resources
Our project team is structured with both core staff and specialized consultants who can be scaled up or down depending on the City's needs. For example, if additional community engagement sessions are requested, we can expand Place Studio's hours accordingly. Similarly, if fewer sessions are required, resources will be reduced to match.

2. Defined Unit Rates for Adjustments
To manage costs fairly, we provide a schedule of hourly rates for each discipline. Any fluctuation in service needs, whether an increase or reduction, will be adjusted based on these unit rates. This ensures the City pays only for the services actually performed while maintaining a predictable cost framework.

3. Transparent Change Authorization
Any adjustments to the scope of services will be documented through a written request and approved by the City before work proceeds. We will provide a clear breakdown of added or reduced hours, along with associated cost impacts, so that decisions can be made with full visibility.

4. Proactive Communication
We will monitor service needs closely during project execution. If fluctuations arise, our Project Manager will promptly notify the City, propose alternatives, and recommend the most cost-effective solution. This proactive coordination prevents budget surprises and schedule delays.

5. Commitment to Budget Stewardship
While we have planned our base scope to fully satisfy the RFP requirements, we understand that unforeseen needs may arise (e.g., additional analysis, extended stakeholder engagement, or revised design iterations). Our commitment is to work collaboratively with the City to identify efficiencies before increasing scope and cost, ensuring that all adjustments deliver tangible value.

Time Commitment & Delivery

RY+AO is fully committed to delivering this project on schedule and within budget. Dedicated personnel will ensure seamless coordination, with phased planning that minimizes disruption to operations while allowing continuous feedback.

Why Choose RY+AO Architects?

RY+AO delivers more than design, we create civic assets that safeguard public safety and identity. Our decades of mission-critical expertise and community design experience uniquely position us to help Banning realize a facility that is trusted, resilient, and adaptable for generations.

For this effort, RY+AO has teamed with PLAYCE Studio to craft a thoughtful, strategic community outreach program.

Together, the partnership will engage stakeholders, foster meaningful dialogue, and ensure community voices play an integral role in shaping the project's vision.



Introduction

PLAYCE is our placemaking methodology that integrates traditional public engagement techniques with team building and organizational development principles utilizing the power of play to build trust within a group, create consensus around an idea, and develop a strategy to move that idea forward.

The PLAYCE approach to public engagement invites stakeholders to be collaborative problem solvers from the onset of the process by becoming active participants in the project process. Stakeholders become project champions; ideas move to consensus sooner and concepts are tried on for size early, ensuring greater future success.

We are very excited about the potential for our award-winning engagement and visioning methodology PLAYCE to assist the City of Banning and the neighborhood surrounding the Armory as it seeks to reimagine the Armory as a multi-benefit Community Resilience Center with campus amenities that can provide an evacuation/climate resilient shelter, be an Emergency Operations Center (EOC), and offer year-around programs to build climate and community resilience.

Purpose of Community Engagement

The purpose of inviting the Banning community to participate in the Banning Armory Community Resilience Center Project is to build awareness, trust, and a sense of shared ownership between the City and its residents, businesses, and stakeholders. Engagement will ensure that the design, programs, and operations of the Armory reflect the community's priorities—serving as both a climate-resilient shelter and a year-round hub for emergency preparedness, resilience-building, and connection. Public input will guide the vision, goals, and strategies for the project, ensuring that outcomes are both innovative and achievable, with clear and measurable benefits. A successful plan is one the community can see itself in—practical in its recommendations, ambitious in its possibilities, and inspiring in its call to action. The public engagement program should be:

Transparent – to ensure that the plan process is open and accessible

Equitable and inclusive – to provide every member of the community ample opportunity to participate by providing a variety of platforms for participation and ensure special effort is made to include traditionally marginalized groups in the process

Accessible and safe – to make it easy for people to participate, make them confident that their opinions are important and to provide settings in which they feel secure in sharing their thoughts and ideas

Relevant – to clearly document engagement outcomes in the plan and ensure they are reflected in the vision, goals and strategies and in the final plan

Following are elements of the Community Engagement Plan for the City of Banning Armory Community Resilience Centers Project:

Community Engagement Plan

A Community Engagement Plan (CEP) will be prepared for the project summarizing the techniques we will use to ensure that every resident, stakeholder and interested person has ample opportunity to provide input into the plans and detail the platforms through which public input will be solicited. The CEP will also include overlaps and integration with existing planning bodies and networks, including the Project Advisory Committee and Key Stakeholder Groups.

The CEP will include a proposed engagement schedule and include techniques for publicizing engagement meetings and events. These strategies include social media, news releases, community announcements, press coverage, and media interviews. We will assemble an email database, updated throughout the plan process, to publicize engagement events and updates through e-blasts. Postal mailings of postcards and flyers can also be considered.

A draft CEP will be distributed for review by the Project Advisory Committee prior to the kickoff meeting, revised and distributed again as needed. The CEP should be amended and updated during the plan process as conditions warrant, for example, if changes are needed because one or another engagement technique turns out to be more or less effective and we want to do more or less of it as a result.

All engagement activities will be photo-documented, and their results tabulated and documented for inclusion in the Final Engagement Report. Proposed participation elements can include a variety of the following opportunities, and are anticipated to occur at various time during the project schedule.

Pop Up Community Conversation – Meeting the Public In Public

We will "meet the public where they are" by setting up pop-up style engagement tables at existing community venues and events across Banning. These approachable, in-the-moment interactions allow us to connect with a wide range of residents, businesses, and visitors—engaging them in short but meaningful conversations about the Armory's transformation into a Community Resilience Center. These events will provide opportunities to share project goals, gather input on community needs for year-round programming, emergency preparedness, and climate resilience, and invite participants to imagine how the Armory can serve them in daily life and during emergencies.

Pop-up conversations build early awareness, signal transparency and inclusivity, and encourage continued involvement throughout the project. Community maps, visuals of the Armory and potential improvements, informational handouts, engagement schedules, and short surveys will help participants share their perspectives. Visioning activities will draw from PLAYCE's proven engagement tools—creating interactive, creative moments that make it easy for people to share ideas and see themselves as co-creators of the Center's future. Visioning experiences can include a variety of the PLAYCE activities some of which are noted in Community Meeting description below.

These relaxed and fun events are particularly effective because they provide an opportunity to share the project with stakeholders and to collaborate on tactics to overcome perceived and actual barriers to redevelopment, and to demonstrate how good design and public realm activation can improve quality of life for the community. These intimate interactions help us to build foundations of trust and relationships within the community.

Survey

A neighborhood survey will be distributed via Survey Monkey or similar online platform with paper copies available for those who cannot or do not want to participate online. This survey instrument will be developed with the support of the Project Advisory Committee. Localized issues will be highlighted, and demographic information will be sought to ensure that a diversity of community members have weighed in. The survey will be held open for enough time to allow all community members to respond. Using Survey Monkey's "skip logic" function, we can direct respondents to specific categories of questions.

Community Meeting 1 and Tour

Deeper discussions around needs and desires can take place through two sets of interactive Community meetings that will articulate priorities and translate them into goals and design strategies.

Each Community Meeting includes three elements: an educational element, during which progress on the plan is reviewed and input sought on the content of the evolving document; collaboration, group games and exercises that assist in team building in which participants work together to develop an understanding of their shared priorities and preferences for the future; and individual input with exercises and games that help participants to express their own visions for a preferred future.

As part of Community Meeting 1 participants will be invited to join in "blue sky" visioning, imagining no constraints – including time and money – to develop the future of the Armory Community Resilience Center. Techniques can include icebreakers and games designed to challenge and draw participants out on their priorities and small group conversations. Techniques could include discussions revolving around four key questions: "What is holding us back," "what could be possible for the space and the community," "what will it take for success" and "what partners or resources do we need?" Others include a "roles and contribution" discussion inviting each participant to define a role they see for themselves in the plan process or the contribution they see they would like to make. Individual or small group activities can include a magazine cover game in which participants develop an imaginary national magazine cover celebrating the project's success 10 or 20 years in the future –adapted for in-person and online use; and collaging a vision of the community's perfect future using magazines, scissors, construction paper and glue sticks in the in-person iteration, and electronic collaging using free digital tools.

Looking closely at a site helps us close gaps in knowledge and reach individuals and groups with specific insights and experiences that will enrich the project.

It is often difficult to see a place you experience every day with new eyes. An interactive site tour as part of the Community Meeting 1 can help us do that. Site tours lend themselves to better understanding of specific opportunities, such as EOC needs, community recreation needs, as well as staff and operation needs. This method is particularly effective because they take place as the group is looking at physical issues, barriers or opportunities and engaging in real-time dialog about opportunities to overcome barriers and improve the quality of life in the community. In our experience, we realize better outcomes, a more engaged public and better project understanding than if these meetings take place in conference rooms and meeting halls.

We will develop specific tour topics to be considered in the CEP, establish goals and objectives for the tour, and outline tour discussion topics. Each participant will receive a tour packet with a background summary, tour route, questions for discussion and vignettes, concepts and/or precedent images so the future can be visualized by participants.

An additional option that has seen tremendous success in other projects is an opportunity to "Try a Design" on for size. We can create this at two different scales and can deploy them at various times during the process. The first scale we call "Prop Play" and this can include bringing light weight and inexpensive props such as boxes, buckets, colorful tape, pool noodles and hula hoops to the various sites, and invite the community participants to move the items around to create life scale concept plans that can be explored, tested and adjusted in real time. This can also be done at a table top scale if weather or timing does not permit being on the site. This unique opportunity allows community participants to be directly connected with design, they are part of the decision-making process in a very accessible way and can see their contributions when concepts are developed into real life installations.

The larger scale "Trying it On" is akin to a tactical urbanism approach which brings near-final design ideas to life in temporary, low cost, creative ways which are coordinated with various program elements to mimic the real life intention of the design. Here we engage with the broader community, those impacted who may not have been a part of the planning process, but who will be at the affect of the design. Physical exploration and extended conversations allow the participant to share authentic feedback that still has time to influence the final outcomes.

Community Meeting II: Sharing of Outcomes, Precedents and How we got there

The second community meeting builds on the ideas, priorities, and visions developed during the first meeting and throughout prior engagement activities. This session focuses on sharing how community input directly shaped the project's emerging goals, design concepts, and program strategies for the Armory Community Resilience Center. The purpose is to affirm the community's role in the process, demonstrate transparency, and provide opportunities for further refinement before finalizing recommendations.

The meeting will begin with a clear presentation of outcomes, showing how needs, desires, and constraints have been synthesized into preliminary design strategies, operational recommendations, and year-round programming ideas. Visuals will include concept drawings, precedent imagery from other successful resilience centers, and data summaries that trace the path from initial "blue sky" ideas to tangible, achievable solutions. This educational component will help participants understand not only *what* is being proposed, but *why*—including how input from the first meeting, site tours, pop-up events, and advisory committee feedback informed the concepts.

Following this presentation, participants will rotate through interactive stations where they can engage with various aspects of the proposed plan:

- Design Station – View and comment on conceptual layouts, circulation patterns, and spatial uses.
- Programming Station – Explore proposed year-round activities and programs, and emergency preparedness functions, adding suggestions or highlighting top priorities.

- Precedent Station – Review examples of other resilience-focused community facilities and discuss which ideas might be adapted for Banning.
- "How We Got Here" Station – An illustrated timeline and engagement map showing the journey from initial conversations to current concepts, emphasizing where community voices made key contributions.

The collaboration segment will invite small-group discussions to identify what resonates most strongly, what could be improved, and what must be protected as the project moves toward implementation. Tools could include real-time polling, dot-voting on priorities, and "if this, then what?" scenario games to help the community weigh trade-offs.

For individual input, participants can complete comment cards, annotate drawings, or record short video/audio messages sharing their thoughts. Activities like "Headline the Future" (writing the newspaper headline they'd love to see in 10 years about the Armory's success) or "Postcard to the Future" (a personal message to future users of the facility) can add a creative and personal dimension to feedback.

The session will close with a next steps and celebration moment—thanking participants for their contributions, explaining how final refinements will be made, and inviting them to remain involved through the final design and implementation stages. This approach ensures that the community leaves the meeting not only informed, but motivated, and confident that their voices are shaping the future of the Armory Community Resilience Center.

VALUE ADD

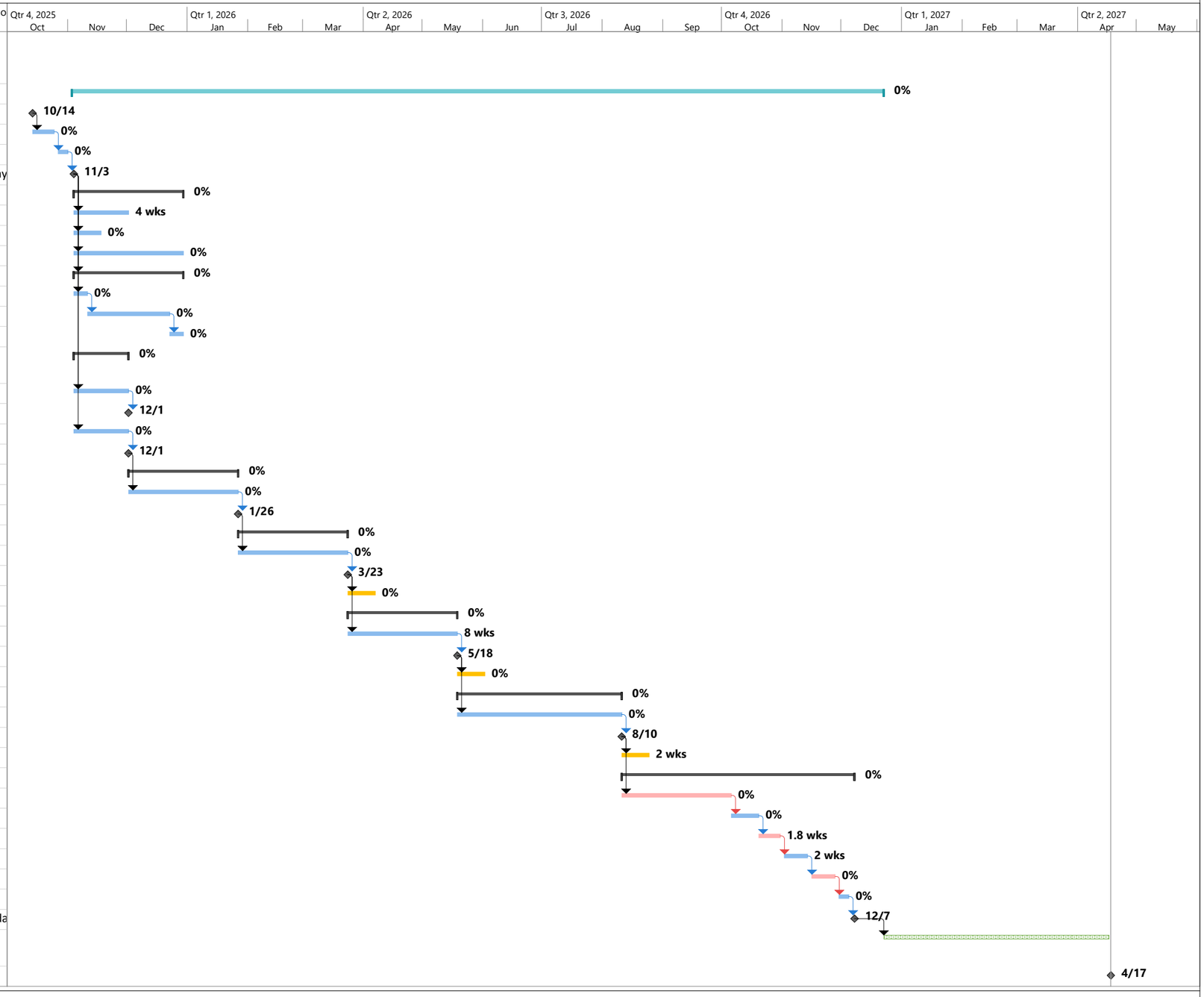
PLAYCE's engagement approach builds lasting community capacity, ensuring benefits extend well beyond the Banning Armory Community Resilience Centers Project. Our hands-on methods—visioning workshops, interactive site tours, and "Try It On" exercises—equip participants with skills in facilitation, consensus-building, and problem-solving they can apply to future challenges.

As an added benefit, we propose that an appropriate City employee—such as from Planning or Parks and Recreation—participate in our PLAYCE Engagement Academy during the project. This immersive training will provide the City with an in-house facilitator skilled in inclusive engagement and will foster a long-term relationship between that staff member and the community. This connection strengthens trust, allows for more meaningful collaboration in future projects, and keeps the City closely attuned to community needs for years to come.

By combining immediate project impact with the development of local champions—both in the community and within City staff—PLAYCE leaves a legacy of collaboration, preparedness, and self-determination that positions Banning for a resilient and thriving future.

Banning Armory Community Resilience Center - Design Schedule

ID	Task Name	Duration	Start	Finish	Predecesso
1	**Banning Armory Community Resilience Center Design Schedule**				
2	TOTAL PROJECT DESIGN DURATION	59.4 wks	Mon 11/3/25	Tue 12/22/26	
3	Vendor Selection	0 days	Tue 10/14/25	Tue 10/14/25	
4	Contract Award & Notice to Proceed	1.8 wks	Tue 10/14/25	Fri 10/24/25	3
5	AE team mobilization	1 wk	Mon 10/27/25	Fri 10/31/25	4
6	Kick Off Meeting	0 days	Mon 11/3/25	Mon 11/3/25	5FS+1 day
7	**Site Investigation & Documentation**	**8 wks**	**Tue 11/4/25**	**Mon 12/29/25**	
8	Land Survey & Base Map	4 wks	Tue 11/4/25	Mon 12/1/25	6
9	As-built Drawings	2 wks	Tue 11/4/25	Mon 11/17/25	6
10	Geotech Investigation and Report	8 wks	Tue 11/4/25	Mon 12/29/25	6
11	**Outreach/Community Engagement Plan**	**8 wks**	**Tue 11/4/25**	**Mon 12/29/25**	**6**
12	Community Engagement Plan Development	1 wk	Tue 11/4/25	Mon 11/10/25	6
13	Outreach & Community Meetings	6 wks	Tue 11/11/25	Mon 12/22/25	12
14	Community Engagement Plan Report	1 wk	Tue 12/23/25	Mon 12/29/25	13
15	**Facility Assessement & Emergency Preparedness Assessement**	**4 wks**	**Tue 11/4/25**	**Mon 12/1/25**	
16	Facility Condition Assessment	4 wks	Tue 11/4/25	Mon 12/1/25	6
17	Facility Condition Assessement Report	0 days	Mon 12/1/25	Mon 12/1/25	16
18	Emergency Preparedness Assessment	4 wks	Tue 11/4/25	Mon 12/1/25	6
19	Emergency Preparedness Assessment Report	0 days	Mon 12/1/25	Mon 12/1/25	18
20	**Need Assessement**	**8 wks**	**Tue 12/2/25**	**Mon 1/26/26**	
21	Need Assessement	8 wks	Tue 12/2/25	Mon 1/26/26	19
22	Need Assessmement Report	0 days	Mon 1/26/26	Mon 1/26/26	21
23	**Schemetic Design**	**8 wks**	**Tue 1/27/26**	**Mon 3/23/26**	
24	Schemetic Design	8 wks	Tue 1/27/26	Mon 3/23/26	22
25	100% SD Submittal	0 days	Mon 3/23/26	Mon 3/23/26	24
26	City PM & Stakeholders SD Submittal review	2 wks	Tue 3/24/26	Mon 4/6/26	25
27	**Design Development**	**8 wks**	**Tue 3/24/26**	**Mon 5/18/26**	
28	Design Development	8 wks	Tue 3/24/26	Mon 5/18/26	25
29	100% DD Submittal	0 days	Mon 5/18/26	Mon 5/18/26	28
30	City PM & Stakeholders DD Submittal review	2 wks	Tue 5/19/26	Mon 6/1/26	29
31	**Construction Document**	**12 wks**	**Tue 5/19/26**	**Mon 8/10/26**	
32	Construction Document	12 wks	Tue 5/19/26	Mon 8/10/26	29
33	90% CD Submittal	0 days	Mon 8/10/26	Mon 8/10/26	32
34	City PM & Stakeholders CD Submittal review	2 wks	Tue 8/11/26	Mon 8/24/26	33
35	**Permitting Process**	**17 wks**	**Tue 8/11/26**	**Mon 12/7/26**	
36	IFP (Issued for Plan Check) #1	8 wks	Tue 8/11/26	Mon 10/5/26	33
37	A&E Plan Check Correction	2 wks	Tue 10/6/26	Mon 10/19/26	36
38	IFP #2	1.8 wks	Tue 10/20/26	Fri 10/30/26	37
39	A&E Plan Check Correction	2 wks	Mon 11/2/26	Fri 11/13/26	38
40	IFP#3	2 wks	Mon 11/16/26	Fri 11/27/26	39
41	A&E Plan Check Correction	1 wk	Mon 11/30/26	Fri 12/4/26	40
42	Plan Check Approval & 100% CD Bid Set	0 days	Mon 12/7/26	Mon 12/7/26	41FS+1 da
43	Time Between Project Completion and Grant Expiration	16.6 wks?	Wed 12/23/26	Fri 4/16/27	42
44	Grant Funding Valid Through End Date	0 days	Sat 4/17/27	Sat 4/17/27	



Critical	Task	Manual Task	Duration-only	Baseline Milestone	Summary	External Tasks	Inactive Milestone
Critical Split	Split	Start-only	Baseline	Milestone	Manual Summary	External Milestone	Inactive Summary
Critical Progress	Task Progress	Finish-only	Baseline Split	Summary Progress	Project Summary	Inactive Task	Deadline

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month One					
Award- Contract Issuance	**Project Mobilization:** Contract Award - 1.) RY+AO Consultant Contract 2.) City schedule all Dept. Interviews with RY+AO	Mobilization 1-2 wks.			
Kick-off Mtg.	**Introductions, Strategic Overview Goals & Objectives:** Community Engagement Plan, FCA, Emergency Preparenss, Need assessment, City Business Unit, Dept Organizations, Stakeholders.	During Mobilization Period (Anticipate during Weeks 1- 2 schedule City Dept. Interviews)			
Outreach/ Community Engagement Plan	City to provide contact list of key community stakeholders, support project webpage setup, review engagement materials.	Week 1-8	Partner with **Playce Studio**, lead development of Community Engagement Plan, design engagement strategy, coordinate materials for City's project webpage, facilitate workshops/forums/meetings, document meeting and provide reports. Prepare Community Engagement Report		
Facilities Condition Assessment / Facilities Surveys/ Emergency Preparedness Assessment	**Initial Dept. Mtgs.:** Meet with Needs Assessment Mgmt.. Introduce detailed City Dept. Assessment Survey Strategy. Mtg. 1 General overall + Individual Dept. mtg. as req'd.	Week 3-4	a.) A&E team will survey exisitng building and funish as-built drawings if the City unable to obtain as-built drawings from the Nationl Guard. b.) RY+AO A&E team schedule tour of existing EOC, perform a general survey of the existing spaces and inventory of essential furniture and equipment for the EOC facility c.) Initial meeting with City of Banning Mgr./Operations Mgmt. Team to establish objectives and goal of the needs assessment. d.) Based on Initial meeting, schedule Dept. Interviews to validate current and future requirements. e.) discuss optional Business Resiliency , future operational forecasts, technological , shared work place, shared commom spaces with community center considerations.	Structural Stds. Business Resiliency Assessment. Determine what standards of assessment if any the City may consider to assure operational sustainability during a significant Seismic or catastrophic event: FEMA, ASCE, Non-Structural. Identify any Structural Business Resiliency Requirements	MEP, Assess Overall age of existing facilities. Establish MEP Operational Resiliency requirements. Review internal facility asset management Rpts. Assess if existing MEP Non-Structural Assets Assessment is required

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Two					
Faculties Assessment / Organization Programming- Benchmark Existing Conditions / Develop Future Growth & Space Recommendations	1. Conduct interviews and surveys with the City of Banning Parks & Recreation Department, Riverside County Emergency Management Department, and the Project Advisory Council to identify projected headcounts and space requirements for the EOC, climate-resilient shelter, emergency shelter, year-round programming, and campus amenities. 2. For the EOC, benchmark organizational needs in collaboration with department managers to develop a Facilities Space Occupancy Survey informed by asset inventories, structural assessments, and Risk Category IV standards. Hold departmental meetings as needed, with bi-monthly program management meetings included. City to provide Facility Condition Assessment data and asset information for existing building systems and equipment.	week 5-8	Our team will evaluate the existing conditions including the following: 1. Site – Assess the location, accessibility, zoning, adjacent properties, infrastructure, and environmental conditions. 2. Existing Conditions: a) Site and Structure – Review existing buildings, their history, past modifications, and critical infrastructure. b) Structural Assessment – Inspect structural integrity, identify visible deficiencies, and evaluate material longevity. c) MEP and HVAC Systems Evaluation – Assess system capacity, efficiency, reliability, and upgrade requirements. d) ADA Compliance Review – Evaluate accessibility per ADA Titles I, II, and III, and recommend necessary modifications. e) Space Utilization Analysis – Inventory functional spaces, dimensions, usage rates, and alignment with operational needs. f) Functional Analysis – Assess the facility's suitability for EOC operations, workflow efficiency, and spatial adequacy. g) Site Advantages and Disadvantages – Identify strengths, weaknesses, security concerns, infrastructure proximity, and resilience factors. h) Environmental and Risk Assessment – Identify environmental hazards, site vulnerabilities, and potential risks.	Structural Physical survey pre-existing City of Banning EOC Facility. If Optional FEMA P-58 Stds. are integrated, present findings & deficiencies.	Physical survey all pre-existing City of Banning Faculties utilize MEP. Identify Non-Structural and Operational Resiliency Gap Analysis.

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Two					
Programming	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs. as req'd.		Facilitate programmatic collaboration with user groups to document current and future uses, and assess projected space needs over three- and five-year periods. Evaluate how each functional component (EOC, shelters, year round programming, amenities) can optimize operations, including benchmarking of existing activities. Analyze physical proximity needs and identify opportunities for beneficial co-location with related functions. Develop benchmark spatial assessments, growth models, and optimized adjacencies to guide planning.	Develop Structural recommendations. Present all City of Banning Structural assessments	Develop MEP Assessment recommendations. Present all City of Banning MEP assessments.
			1. Meet with key user groups (EOC staff, shelter managers, program coordinators, Park & Rec operations) to identify issues, priorities, objectives, and operational requirements. 2. Develop planning scenarios to optimize space allocation, shared-use opportunities, and adjacencies among functional components. 3. Establish programming logic in coordination with the City Manager and EOC leadership to guide facility planning. 4. Engage City support services (IT, environmental, security, safety) to define infrastructure and operational requirements tied to the Needs Assessment. 5. Conduct two cross-functional workshops with all user groups and support services to identify shared goals, unmet needs, and operational overlaps. 6. Assess space requirements for each functional component by comparing existing facilities and assets against 3–5 year projections, with discussion of a 10-year growth model.		
Month Three					
Analyze Programmatic Data / Convert to Floor Plans / Bldg. Plans / Master Plan	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs. as req'd. CRC & EOC Program and Concpetual Design Review Mtgs. with City Prog. Mgr. and individual Dept. upon completion.		Develop conceptual Design. Translate Program to Space Plans. Develop preliminary Space Plans. Collaborate with A&E Team to assess consultant finding. Review findings with City Program Mgr. and ea. City Dept. head.	Integrate structural findings with RY+AO	Integrate MEP findings with RY+AO
Feasibility Studies			Define spatial requirements for each functional component of the facility, including the EOC, climate-resilient shelter, emergency shelter, year-round programming, and campus amenities. Prepare block plans showing adjacencies, growth capacity, and shared-use opportunities among user groups. Translate programming findings into conceptual layouts, and develop three plan options integrating existing and proposed spaces to support all resilience functions.	Structural recommendations integrated with RY+AO	MEP recommendations integrated with RY+AO

Banning Armory Community Resilience Center Tasking Effort

Conceptual Schedule	City of Banning	Duration	RY+AO Architects	Holmes	AlfaTech
	Client		Architect	Structural Engineer	MEP Engineers
Month Fourth					
Findings			**A summary of the Deliverables is outlined below:**	***Deliverables:***	***Deliverables:***
City Deliverables	Prog Mgr. Mtgs. / Advisory Committee mtgs. as required. Individual Dept. mtgs. to review Final Dept. - Review w/City Prog. Mgr. approval sign off. / City Council Presentation		**Existing Conditions Report** 1).Overview and visual assessment of the site and structure. 2). Evaluation of MEP, HVAC, and ADA compliance. 3). Space utilization analysis and functional assessment. 4). Site advantages, disadvantages, and environmental constraints. 5). Recommendations on city needs, technology impacts, and EOC functionality. 6). Site visits and stakeholder interviews for data gathering. **Needs Assessment Report** 1). Detailed site description and existing conditions summary. 2). Structural, MEP, HVAC, and ADA compliance assessments. 3). Functional analysis and space utilization breakdown. 4). Environmental and physical constraints. 5). Summary of Needs Assessment findings. 6). At least three options: retrofitting, expansion, or new construction. 7). Conceptual site plans, space allocation, and cost estimates. 8). Strengths, weaknesses, and comparative analysis of alternatives. 9). Final recommendation. **Emergency Preparedness Assessment Report** 1). Coordination with County Emergency Mgmt & Advisory Committee 2). Evaluation of facility readiness for EOC and shelter use 3). Identify deficiencies that may be mitigated through this project	Structural recommendations integrated with RY+AO	MEP recommendations integrated with RY+AO
Final Draft Workshop / City Council Presentation if required			A presentation of the findings and recommendations to the Banning City Mgr./Ops Mgr. / City Council meeting if required.		
Month Fifth					
Project Scope, Design and Esimates	Bi-Monthly Proj. Mgmt. Mtg. / Dept. mtgs. / Advisory Committee mtgs.		RY+AO leads the AE team to start design phase based on the Need Assessment Report, The design phase is anticipated to take approximately 6–7 months.		

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 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 Consultant 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, 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.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

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.

EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

See Exhibit "A"

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

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

MEETING DATE: **October 14, 2025**

SUBJECT: **Consideration of Resolution 2025-145, Approving the Grant Agreement Between the City of Banning and the State of California - Office of Traffic Safety (OTS) for the FY 2025-2026 Selective Traffic Enforcement Program (STEP) Grant and Acceptance of the OTS STEP Grant Award in the Amount of $90,000.**

RECOMMENDATION:

Adopt Resolution 2025-145.

BACKGROUND:

For the third year in a row, the City of Banning Police Department has applied for and been awarded funding under the State of California - Office of Traffic Safety (OTS) for the Selective Traffic Enforcement Program (STEP) Grant. This year's award is $90,000.00. The OTS STEP Grant is a competitive grant process that requires each agency to show a need for funding and provide information related to traffic safety data in the community. This grant will allow the Banning Police Department to partner with OTS and jointly bring a positive impact to the City of Banning with regards to injury and fatal traffic collisions. The grant period for this year's OTS STEP Grant will be from October 1, 2025, to September 30, 2026.

JUSTIFICATION:

The acceptance of OTS STEP Grant funds in the amount of $90,000.00, allows the Banning Police Department to conduct special enforcement activities within the City of Banning to foster safer roadways for citizens and visitors. The grant funds will also allow Banning Police Department staff members to conduct special community outreach and educational events related to traffic safety. Funds from this grant will also be utilized to send Banning Police Department members to specialized training in areas related to traffic safety and traffic enforcement.

FISCAL IMPACT:

There is no matching component associated with the acceptance of these grant funds.

ALTERNATIVES:

Do not adopt Resolution 2025-145 and provide staff alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2025-145__Acceptance_of_OTS_STEP_Grant.docx
2. Grant_Agreement_-_PT26103_encrypted_.docx

RESOLUTION 2025-145

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF BANNING AND THE STATE OF CALIFORNIA – OFFICE OF TRAFFIC SAFETY (OTS) FOR THE FY 2025-2026 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT, AND ACCEPTANCE OF THE OTS STEP GRANT AWARD IN THE AMOUNT OF $90,000

WHEREAS, the City of Banning Police Department has entered into an agreement (hereafter referred to as "Agreement") with the State of California – Office of Traffic Safety (OTS); and

WHEREAS, pursuant to the Agreement, the Banning Police Department is being awarded a Selective Traffic Enforcement Program (STEP) Grant award in the amount of $90,000.00; and

WHEREAS, Grant funds may be used for the purchase of approved traffic safety equipment and enforcement of pre-selected and agreed upon objectives related to traffic safety; and

WHEREAS, the City of Banning Police Department will conduct, track, and report all grant related activities to OTS during the Agreement period from October 1, 2025, to September 30, 2026; and

WHEREAS, any liability arising out of the performance of this Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and the OTS disclaim responsibility for any such liability.

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

SECTION 1. The City Council approves the FY 2025-2026 STEP Grant Agreement with the State of California - Office of Traffic Safety (OTS), attached hereto as Exhibit "A," and approves the acceptance of the FY 2025-2026 STEP Grant through the State of California – OTS and any subsequent amendments to extend the Grant Agreement for up to zero additional years upon satisfactory performance, with a total not-to-exceed grant funding amount of $90,000.00 over one (1) year.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to and execute the FY 2025-2026 STEP Grant Agreement with the State of California - OTS 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 Council agrees that grant funds received hereunder shall not be used to supplant expenditures controlled by the City Council.

SECTION 5. 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 October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-145, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Administrative City Clerk
City of Banning, California

EXHIBIT A
Grant Agreement

1. GRANT TITLE
Selective Traffic Enforcement Program (STEP)

2. NAME OF AGENCY
Banning

3. Grant Period
From: 10/01/2025
To: 09/30/2026

4. AGENCY UNIT TO ADMINISTER GRANT
Banning Police Departmen

5. GRANT DESCRIPTION
Best practice strategies will be conducted to reduce the number of persons killed and injured in crashes involving alcohol and other primary crash factors. The funded strategies may include impaired driving enforcement, enforcement operations focusing on primary crash factors, distracted driving, night-time seat belt enforcement, special enforcement operations encouraging motorcycle safety, enforcement and public awareness in areas with a high number of bicycle and pedestrian crashes, and educational programs. These strategies are designed to earn media attention thus enhancing the overall deterrent effect.

6. Federal Funds Allocated Under This Agreement Shall Not Exceed: $90,000.00
Allocation is contingent upon availability of federal funds.

7. TERMS AND CONDITIONS: The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement:

- Schedule A – Problem Statement, Goals and Objectives and Method of Procedure
- Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)
- Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)
- Exhibit A – Certifications and Assurances
- Exhibit B* – OTS Grant Program Manual
- Exhibit C – Grant Electronic Management System (GEMS) Access

*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto. These documents can be viewed at the OTS home web page under Grants: www.ots.ca.gov.

We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

8. Approval Signatures

A. GRANT DIRECTOR

NAME: Brandon Smith
TITLE: Lieutenant
EMAIL: bsmith@banningca.gov
PHONE: 951-830-9191
ADDRESS: 125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

B. AUTHORIZING OFFICIAL

ADDRESS: Art Vela
Interim City Manager
avela@banningca.gov
(951) 922-4860
125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

C. FISCAL OFFICIAL

ADDRESS: Cornelio Datuin Jr.
Deputy Finance Director
cdatuin@banningca.gov
(951) 922-2663
125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY

ADDRESS: Stephanie Dougherty
Director
stephanie.dougherty@ots.ca.gov
(916) 509-3030
2208 Kausen Drive, Suite 300
Elk Grove, CA 95758

(Signature) *(Date)*

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY	9. SAM INFORMATION
NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	SAM#: T9ZPMCBNFZC8 REGISTERED ADDRESS: 125 EAST RAMSEY ST. CITY: BANNING ZIP+4: 92220-4839

10. PROJECTED EXPENDITURES

FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
405e DDL-26	20.616	0521-0890-101	2025	04/25	BA/25	$7,000.00
402PT-26	20.600	0521-0890-101	2025	04/25	BA/25	$18,000.00
164AL-26	20.608	0521-0890-101	2025	04/25	BA/25	$65,000.00

	AGREEMENT TOTAL **$90,000.00**
	AMOUNT ENCUMBERED BY THIS DOCUMENT **$90,000.00**
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.	PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT **$ 0.00**
OTS ACCOUNTING OFFICER'S SIGNATURE / DATE SIGNED	TOTAL AMOUNT ENCUMBERED TO DATE **$90,000.00**

1. PROBLEM STATEMENT

Describe the city, county, or jurisdiction this grant will impact.

The City of Banning, located in Riverside County, California. Banning is a diverse city, with a population that is approximately 47% Latino, 30% White, and 15% African American. The median household income in Banning is $48,459, which is significantly lower than the California median of $80,440, highlighting the city's challenges with poverty and access to resources.

Banning is facing a complex set of traffic safety challenges, driven by several factors that impact both pedestrian and vehicular safety. One of the key contributors to these issues is the increasing transient population, which is directly influenced by the nearby Riverside County Jail (Smith Correctional Facility) and Riverside County Superior Courthouse (Banning Justice Center). These individuals often walk in the roadways, creating hazardous conditions for both pedestrians and drivers. Compounding this, Banning has also experienced a troubling rise in alcohol- and drug-related traffic offenses, including DUI crashes and arrests, further exacerbating traffic safety concerns. The Banning Police Department (BPD), with the support of the Office of Traffic Safety (OTS) through the Selective Traffic Enforcement Program (STEP), seeks to address these issues by enhancing enforcement, increasing public education, and improving infrastructure.

Banning has experienced a steady increase in traffic crashes, with more than 400 crashes reported annually from 2022 to 2023. A significant portion of these incidents are related to alcohol- and drug-impaired driving. In 2023 alone, Banning recorded over 75 DUI arrests and dozens of DUI-related crashes, with several of these resulting in serious injuries and fatalities. These DUI offenses have been a major concern, particularly during evening and weekend hours when alcohol consumption is more prevalent.

Another significant factor affecting traffic safety in Banning is the presence of the county jail facility and county courthouse, which has led to a growing transient population within the city. Many of these transients walk in the roadway, often outside of designated crosswalks or pedestrian areas, creating dangerous conditions for both pedestrians and drivers. Tragically, there have been multiple pedestrian fatalities in recent years involving transients who were struck while walking in the street. In 2022, a transient was killed while walking along the roadway near the jail facility, and similar incidents have occurred along major traffic corridors.

Additionally, Banning's traffic congestion and delays are aggravated by frequent train crossings, further disrupting traffic flow and contributing to unsafe driving behaviors. This combination of factors—including impaired driving, pedestrian safety issues, and traffic delays—has made traffic safety a growing concern in the city.

Key issues identified in Banning include:
A high rate of alcohol and drug-related traffic offenses, with over 75 DUI arrests in 2023.
Increased DUI crashes, several of which have resulted in fatalities or serious injuries.
An increase in pedestrian fatalities involving transients, particularly in high-traffic areas near the county jail facility.
Hazardous pedestrian behavior, particularly involving transients walking in the roadways without regard for traffic laws.
Traffic congestion and unsafe driving behaviors caused by frequent railroad crossings.

Describe the problem(s) to be addressed, supported by current and relevant crash data. (most recent calendar year data/stats).

The Banning Police Department is committed to enhancing public safety and addressing the city's traffic safety issues. However, limited resources have hindered the department's ability to fully address these challenges. BPD will implement targeted enforcement strategies, educational campaigns, and infrastructure improvements to reduce traffic-related fatalities and improve overall safety on Banning's streets.

Targeted DUI Enforcement: Increase DUI checkpoints and roving patrols during peak times (weekends and holidays) to identify impaired drivers and deter alcohol- and drug-related offenses. Deploy officers

specifically trained to detect and arrest impaired drivers, focusing on areas with high DUI crash rates. Use STEP funds to purchase equipment, such as breathalyzers and mobile DUI testing tools, to improve the efficiency of DUI enforcement.

Increased Pedestrian Safety Enforcement: Enhance patrols in areas with high transient pedestrian traffic, especially near the county jail facility and busy intersections, to deter jaywalking and enforce pedestrian traffic laws. Increase enforcement during high-risk times, particularly in the late evening and early morning hours when both impaired driving and pedestrian activity are most common. Provide targeted outreach and education to the transient population, emphasizing the dangers of walking in roadways and the importance of using designated crosswalks.

Public Education Campaigns: Launch campaigns aimed at educating the public on the dangers of driving under the influence of alcohol or drugs, particularly during holidays and weekends when DUI-related incidents are more prevalent. Promote pedestrian safety awareness, especially in areas near high-risk locations such as the county jail and railroad crossings. Distribute materials on safe driving practices, pedestrian safety, and the risks of DUI through social media, public events, and partnerships with local organizations.

Collaboration with Local Agencies: Partner with the Riverside County Sheriff's Department, local shelters, and social service agencies to address the broader issue of homelessness and transient safety on city streets. Coordinate with Caltrans, Union Pacific, and other transportation authorities to explore ways to mitigate traffic delays caused by frequent train crossings, improving safety for both drivers and pedestrians.

The City of Banning is experiencing a rise in traffic safety issues that require immediate attention, including a high rate of alcohol- and drug-related crashes, pedestrian fatalities involving transients, and dangerous driving behaviors exacerbated by traffic congestion. BPD will implement focused enforcement, educational initiatives, and infrastructure improvements that will reduce traffic-related fatalities and injuries. These efforts will not only enhance public safety but will also foster a safer and more livable environment for Banning's residents, commuters, and transient populations.

Define the target population the grant intends to serve and how they are affected by the problem(s).
The target population for the Selective Traffic Enforcement Program (STEP) in the City of Banning, California, includes a diverse group of individuals who are directly impacted by the city's traffic safety issues. This population is primarily comprised of the following groups:

Commuters and Drivers: This group includes residents of Banning and surrounding areas, as well as individuals passing through the city. Commuters who travel along major thoroughfares such as I-10 and those navigating congested intersections are at risk due to the prevalence of DUI-related offenses, speeding, and distracted driving. They are also impacted by unsafe driving conditions created by frequent train crossings, which cause delays and may lead to aggressive driving behaviors.
Impact: These individuals are at risk of being involved in traffic crashes, particularly DUI-related crashes, pedestrian crashes, and crashes caused by driver frustration due to traffic congestion.

Transients (Homeless Population): The transient population in Banning, many of whom are located near the county jail facility, are a significant part of the city's pedestrian safety issue. These individuals often walk in roadways, outside of designated crosswalks, creating dangerous situations for both themselves and drivers. Due to a lack of stable housing and resources, many transients are forced to walk along busy roads, increasing their vulnerability to traffic-related injuries and fatalities.
Impact: Transients are at high risk of pedestrian fatalities and injuries, particularly as they walk in traffic lanes, often under the influence of drugs or alcohol. Tragically, several transients have already lost their lives in pedestrian crashes due to their presence on roadways where they are not visible or easily avoidable.

Pedestrians, Including Vulnerable Populations: This group includes all individuals who walk in Banning, especially in high-traffic areas such as near schools, the county jail, and public transportation hubs. Vulnerable pedestrians such as the elderly, children, and those with limited mobility face particular risk in areas where there is insufficient infrastructure (such as crosswalks and pedestrian signals) and where transient populations walk in traffic lanes.

Impact: Pedestrians in Banning, especially in poorly lit areas and intersections without adequate crossing options, are at significant risk of crashes and fatalities. This group includes residents who are walking to work, school, or public services, and individuals who are walking due to the lack of transportation options.

Individuals Driving Under the Influence (DUI): This group includes drivers involved in alcohol- and drug-related traffic offenses. According to city statistics, there is a high rate of DUI-related crashes in Banning, with over 75 DUI arrests made in 2023 alone. These individuals contribute to a significant portion of traffic crashes, including fatal and injury-related incidents, especially during nighttime and weekend hours.
Impact: DUI drivers not only pose a direct threat to themselves but also to other road users, including pedestrians, cyclists, and other motorists. DUI-related crashes result in serious injuries and fatalities, affecting families and communities. The presence of impaired drivers exacerbates overall traffic safety problems in Banning.

Local Law Enforcement and Emergency Responders: While not directly impacted by traffic safety issues, local law enforcement and emergency responders in Banning play a critical role in responding to traffic-related crashes and enforcing traffic laws. Increased traffic violations, including DUI offenses and pedestrian crashes involving transients, put a strain on resources and response times.
Impact: Law enforcement officers and emergency responders are often the first to arrive at traffic crashes and must handle the consequences of the rising number of crashes. The increased demand for their services limits their ability to proactively address other safety issues within the community.

How These Populations Are Affected by the Problem
The diverse groups impacted by traffic safety issues in Banning are affected in various ways:
Commuters and Drivers are at risk of being involved in dangerous traffic crashes, including those caused by impaired drivers, speeding, and other unsafe driving behaviors. Increased traffic congestion due to railroad crossings further contributes to frustration and unsafe driving decisions, such as aggressive driving and running red lights.

Transients face an elevated risk of pedestrian crashes, especially in areas without proper pedestrian infrastructure. Many transients walk along busy roads and highways, often without visibility or consideration of traffic laws, increasing their vulnerability to being struck by vehicles. The growing transient population in Banning, many of whom have no other option but to walk in the streets, is directly contributing to this public safety hazard.

Pedestrians in general, including vulnerable populations like children and the elderly, face safety risks due to insufficient crosswalks, poorly lit streets, and a lack of enforcement of pedestrian laws. Those who share the road with distracted or impaired drivers face an increased chance of injury or death in the event of a crash.

DUI Offenders contribute to a high rate of traffic crashes, many of which are serious or fatal. Drivers under the influence of alcohol or drugs are a major threat to public safety, endangering not only themselves but also innocent bystanders, pedestrians, and other drivers. The high frequency of DUI-related arrests and crashes in Banning highlights the need for more targeted enforcement and public education about the dangers of impaired driving.

Local Law Enforcement and Emergency Responders face increased pressure, and resource demands due to the high number of traffic crashes and the need for constant enforcement of traffic laws. Addressing the rising rates of DUI offenses, pedestrian fatalities, and transient-related traffic hazards requires an increased capacity for targeted enforcement and timely response to incidents.

The target population for the STEP grant includes commuters, pedestrians, transient individuals, DUI offenders, and local law enforcement. All of these groups are significantly affected by the city's traffic safety issues, including high rates of DUI-related offenses, pedestrian fatalities, and the dangers posed by transients walking in the roadway. The STEP grant will help the Banning Police Department implement focused enforcement, educational programs, and infrastructure improvements to reduce the risk of traffic-related incidents and improve public safety for these at-risk populations.

2. PERFORMANCE MEASURES

A. Goals:

1. Reduce the number of persons killed in traffic crashes.
2. Reduce the number of persons injured in traffic crashes.
3. Reduce the number of pedestrians killed in traffic crashes.
4. Reduce the number of pedestrians injured in traffic crashes.
5. Reduce the number of bicyclists killed in traffic crashes.
6. Reduce the number of bicyclists injured in traffic crashes.
7. Reduce the number of persons killed in alcohol-involved crashes.
8. Reduce the number of persons injured in alcohol-involved crashes.
9. Reduce the number of persons killed in drug-involved crashes.
10. Reduce the number of persons injured in drug-involved crashes.
11. Reduce the number of persons killed in alcohol/drug combo-involved crashes.
12. Reduce the number of persons injured in alcohol/drug combo-involved crashes.
13. Reduce the number of motorcyclists killed in traffic crashes.
14. Reduce the number of motorcyclists injured in traffic crashes.
15. Reduce hit & run fatal crashes.
16. Reduce hit & run injury crashes.
17. Reduce nighttime (2100 - 0259 hours) fatal crashes.
18. Reduce nighttime (2100 - 0259 hours) injury crashes.

B. Objectives:	**Target Number**
1. Issue a news release announcing the kick-off of the grant by December 31st. The kick-off news releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for approval 7 days prior to the issuance date of the release.	1
2. Participate and report data (as required) in the following campaigns; Quarter 1: National Pedestrian Safety Month, National Walk to School Day, National Teen Driver Safety Week, NHTSA Winter Mobilization; Quarter 3: National Distracted Driving Awareness Month, National Motorcycle Safety Month, National Bicycle Safety Month, National Click it or Ticket Mobilization; Quarter 4: National Speed Prevention Campaigns, NHTSA Summer Mobilization, National Child Passenger Safety Week, and California's Pedestrian Safety Month.	12
3. Develop (by December 31) and/or maintain a “DUI BOLO” program to notify patrol and traffic officers to be on the lookout for identified repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. Updated DUI BOLOs should be distributed to patrol and traffic officers monthly.	12
4. Send law enforcement personnel to the NHTSA Standardized Field Sobriety Testing (SFST) (minimum 16 hours) POST-certified training.	3
5. Send law enforcement personnel to the NHTSA Advanced Roadside Impaired Driving Enforcement (ARIDE) 16 hour POST-certified training.	3
6. Send law enforcement personnel to the Drug Recognition Expert (DRE) training (classroom and field training must be completed).	1
7. Send law enforcement personnel to the DRE Recertification training.	1
8. Conduct DUI/DL Checkpoints. A minimum of 1 checkpoint should be conducted during the NHTSA Winter Mobilization and 1 during the Summer Mobilization. To enhance the overall deterrent effect and promote high visibility, it is recommended the grantee issue an advance press release and conduct social media activity for each checkpoint. For combination DUI/DL checkpoints, departments should issue press releases that mention DL's will be checked at the DUI/DL checkpoint. Signs for DUI/DL checkpoints should read "DUI/Driver's License Checkpoint Ahead." OTS does not fund or support independent DL checkpoints. Only on an exception basis and with OTS pre-approval will OTS fund checkpoints that begin prior to 1800 hours. When possible, DUI/DL Checkpoint screeners should be DRE- or ARIDE-trained.	4
9. Conduct DUI Saturation Patrol operation(s).	6
10. Conduct Traffic Enforcement operation(s), including but not limited to, primary crash factor violations.	6

11. Conduct highly publicized Distracted Driving enforcement operation(s) targeting drivers using hand held cell phones and texting.	4
12. Conduct highly publicized pedestrian and/or bicycle enforcement operation(s) in areas or during events with a high number of pedestrian and/or bicycle crashes resulting from violations made by pedestrians, bicyclists, and drivers.	2
13. Conduct Traffic Safety educational presentation(s) with an effort to reach community members. Note: Presentation(s) may include topics such as distracted driving, DUI, speed, bicycle and pedestrian safety, seat belts and child passenger safety.	2
14. Participate in highly visible collaborative DUI Enforcement operations.	1
15. Send law enforcement personnel to DUI Checkpoint Planning and Management training.	1
16. Send law enforcement personnel to a POST certified implicit bias training, such as; Implicit Bias and Community Policing, Principles Policing, or Beyond Bias.	2

3. METHOD OF PROCEDURE

A. Phase 1 – Program Preparation (1st Quarter of Grant Year)

- The department will develop operational plans to implement the "best practice" strategies outlined in the objectives section.
- Conduct all training needed to implement the program, in the first quarter.
- Purchase all grant related supplies and materials to implement the program, in the first quarter.
- Items with a unit cost of $5,000 more (including tax and shipping) must comply with Buy America.
- In order to develop/maintain the "DUI BOLOs," research will be conducted to identify the "worst of the worst" repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. The DUI BOLO may include the driver's name, last known address, DOB, description, current license status, and the number of times suspended or revoked for DUI. DUI BOLOs should be updated and distributed to traffic and patrol officers at least monthly.
- Implementation of the STEP grant activities will be accomplished by deploying personnel at high crash locations.

Media Requirements

Issue a news release approved by the OTS PIO announcing the kick-off of the grant by December 31 and after the grant is signed and executed, but no sooner than October 1, the start of the grant year. The kick-off release must be approved by the OTS PIO. If you are unable to meet the December 31 deadline to issue a kick-off press release, communicate reasons to your OTS grant coordinator and OTS PIO.

B. Phase 2 – Program Operations (Throughout Grant Year)

Media Requirements

The following requirements are for all grant-related activities:

- Send all media advisories, alerts, videos, graphics, artwork, posters, radio/PSA/video scripts, storyboards, digital and/or print educational materials for grant-related activities to the OTS PIO at pio@ots.ca.gov for approval and copy your OTS grant coordinator. Optimum lead time would be 7 days before the scheduled release but at least 3 business days prior to the scheduled release date for review and approval is appreciated.
- Send all PowerPoint presentations, online presentations and trainings for grant-related activities to the OTS PIO at pio@ots.ca.gov for approval and copy your OTS grant coordinator. Certified training courses are EXEMPT from the approval process.
- The OTS PIO is responsible for the approval of the design and content of materials. The agency understands OTS PIO approval is not authorizing approval of budget expenditure or cost. Any cost approvals must come from the OTS grant coordinator.
- Pre-approval is not required when using any OTS-supplied template for media advisories, news releases, social media graphics, videos or posts, or any other OTS-supplied educational material. However, copy the OTS PIO at pio@ots.ca.gov and your OTS grant coordinator when any material is distributed to the media and public, such as a news release, educational material, or link to social media post.

- If an OTS-supplied template, educational material, social media graphic, post or video is substantially changed, the changes shall be sent to the OTS PIO at pio@ots.ca.gov for approval and copy your OTS grant coordinator.
- News releases, social media posts and alerts on platforms such as NextDoor and Nixle reporting immediate and time-sensitive grant activities (e.g. enforcement operations, day of event highlights or announcements, event invites) are EXEMPT from the OTS PIO approval process. The OTS PIO and your OTS grant coordinator should still be notified when the grant-related activity is happening (e.g. car seat checks, bicycle rodeos, community presentations, DUI checkpoints, etc.).
- Enforcement activities such as warrant and probation sweeps, court stings, etc. that are embargoed or could impact operations by publicizing in advance are EXEMPT from the PIO approval process. However, announcements and results of activities should still be copied to the OTS PIO at pio@ots.ca.gov and your OTS grant coordinator with the embargoed date and time or with "INTERNAL ONLY: DO NOT RELEASE" message in subject line of email.
- Any earned or paid media campaigns for TV, radio, digital or social media that are part of a specific grant objective, using OTS grant funds, or designed and developed using contractual services by a subgrantee, requires prior approval.
- Social media posts highlighting state or national traffic safety campaigns (Distracted Driving Month, Motorcycle Safety Awareness Month, etc.), enforcement operations (DUI checkpoints, etc.), or any other grant-related activity such as Bicycle rodeos, presentations, or events, are highly encouraged but do not require prior approval.
- Submit a draft or rough-cut of all digital, printed, recorded or video material (brochures, posters, scripts, artwork, trailer graphics, digital graphics, social posts connected to an earned or paid media campaign grant objective) to the OTS PIO at pio@ots.ca.gov and copy your OTS grant coordinator for approval prior to the production or duplication.
- Use the following standard language in all press, media, and printed materials, space permitting: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Space permitting, include the OTS logo on all grant-funded print materials, graphics and paid or earned social media campaign grant objective; consult the OTS PIO and copy your OTS grant coordinator for specifics, format-appropriate logos, or if space does not permit the use of the OTS logo.
- Email the OTS PIO at pio@ots.ca.gov and copy your OTS grant coordinator at least 21 days in advance, or when first confirmed, a short description of any significant grant-related traffic safety event or program, particularly events that are highly publicized beforehand with anticipated media coverage so OTS has sufficient notice to arrange for attendance and/or participation in the event. If unable to attend, email the OTS PIO and coordinator brief highlights and/or results, including any media coverage (broadcast, digital, print) of event within 7 days following significant grant-related event or program. Media and program highlights are to be reflected in QPRs.
- Any news releases, work plans, scripts, storyboards, artwork, graphics, videos or any educational or informational materials that received OTS PIO approval in a prior grant year needs to be resubmitted for approval in the current grant year.
- For additional guidance, refer to the OTS Grants Materials Approval Process Guidelines and OTS Grants Media Approval Process FAQs on the OTS website.
- Contact the OTS PIO or your OTS grant coordinator for consultation when changes from any of the above requirements might be warranted.

C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)

1. Prepare and submit grant claim invoices (due January 30, April 30, July 30, and October 30)
2. Prepare and submit Quarterly Performance Reports (QPR) (due January 30, April 30, July 30, and October 30)

- Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
- Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
- Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.

- Collect, analyze and report statistical data relating to the grant goals and objectives.

4. METHOD OF EVALUATION

Using the data compiled during the grant, the Grant Director will complete the “Final Evaluation” section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant’s accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

5. ADMINISTRATIVE SUPPORT

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405e DDL-26	20.616	Distracted Driving Laws	$7,000.00
402PT-26	20.600	State and Community Highway Safety	$18,000.00
164AL-26	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated	$65,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
A. PERSONNEL COSTS				
Straight Time				$0.00
Overtime				
DUI/DL Checkpoints	164AL-26	$11,000.00	4	$44,000.00
DUI Saturation Patrols	164AL-26	$1,850.00	6	$11,100.00
Collaborative DUI Enforcement	164AL-26	$1,300.00	1	$1,300.00
Benefits- 164OT @ 8.00%	164AL-26	$56,300.00	1	$4,504.00
Traffic Enforcement	402PT-26	$1,650.00	6	$9,900.00
Pedestrian and Bicycle Enforcement	402PT-26	$1,650.00	2	$3,300.00
Traffic Safety Educational Presentations	402PT-26	$800.00	2	$1,600.00
Benefits- 402OT @ 8.00%	402PT-26	$14,800.00	1	$1,184.00
Distracted Driving Enforcement	405e DDL-26	$1,620.00	4	$6,480.00
Benefits- 405eOT @ 8.00%	405e DDL-26	$6,500.00	1	$520.00
Category Sub-Total				$83,888.00
B. TRAVEL EXPENSES				
In State Travel	402PT-26	$2,016.00	1	$2,016.00
				$0.00
Category Sub-Total				$2,016.00
C. CONTRACTUAL SERVICES				
				$0.00
Category Sub-Total				$0.00
D. EQUIPMENT				
				$0.00
Category Sub-Total				$0.00
E. OTHER DIRECT COSTS				
DUI Checkpoint Supplies	164AL-26	$2,696.00	1	$2,696.00
Phlebotomist	164AL-26	$350.00	4	$1,400.00
Category Sub-Total				$4,096.00
F. INDIRECT COSTS				
				$0.00
Category Sub-Total				$0.00
GRANT TOTAL				**$90,000.00**

BUDGET NARRATIVE
PERSONNEL COSTS
DUI/DL Checkpoints - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.
DUI Saturation Patrols - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.
Collaborative DUI Enforcement - Overtime for grant funded Collaborative DUI Enforcement operations conducted by appropriate department personnel
Benefits- 164OT @ 8.00% - Benefit breakdown: FICA 6.5% Medicare 1.5% Total Benefit 8.0% Claimed amounts must reflect actual benefit costs for overtime hours charged to the grant.
Traffic Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.
Pedestrian and Bicycle Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.
Traffic Safety Educational Presentations - Overtime for grant funded traffic safety educational presentations conducted by appropriate department personnel.
Benefits- 402OT @ 8.00% - Benefit breakdown: FICA 6.5% Medicare 1.5% Total Benefit 8.0% Claimed amounts must reflect actual benefit costs for overtime hours charged to the grant.
Distracted Driving Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.
Benefits- 405eOT @ 8.00% - Benefit breakdown: FICA 6.5% Medicare 1.5% Total Benefit 8.0% Claimed amounts must reflect actual benefit costs for overtime hours charged to the grant.
TRAVEL EXPENSES
In State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. Anticipated travel may include the OTS Traffic Safety Law Enforcement Forum. All conferences, seminars or training not specifically identified in the Budget Narrative must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.
CONTRACTUAL SERVICES
-
EQUIPMENT
-
OTHER DIRECT COSTS
DUI Checkpoint Supplies - On-scene supplies needed to conduct sobriety checkpoints. Costs may include 28" traffic cones, MUTCD compliant traffic signs, MUTCD compliant high visibility vests (maximum of 10), traffic counters (maximum of 2), generator, gas for generators, lighting, reflective banners, electronic flares, PAS Device Supplies, PAS Calibration Supplies, heater, propane for heaters, fan, anti-fatigue mats, and

canopies. Additional items may be purchased if approved by OTS. The cost of food and beverages will not be reimbursed.

Phlebotomist - To draw and collect blood samples during OTS funded grant operations from suspected DUI drivers on scene as evidence in support of DUI convictions in a court of law.

INDIRECT COSTS

-

STATEMENTS/DISCLAIMERS

There will be no program income generated from this grant.

Nothing in this “agreement” shall be interpreted as a requirement, formal or informal, that a particular law enforcement officer issue a specified or predetermined number of citations in pursuance of the goals and objectives here under.

Benefits for personnel costs can only be applied to straight time or overtime hours charged to the grant.

Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants (23 U.S.C. Chapter 4 or Section 1906, Public Law 109-59, as amended by Section 25024, Public Law 117-58)

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies, and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended;
- Sec. 1906, Public Law 109-59, as amended by Sec. 25024, Public Law 117-58;
- 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs;
- 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR part 1201—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

NONDISCRIMINATION
(applies to subrecipients as well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- *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 CFR 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 CFR 50.3* (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- *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.), and Title IX of the Education Amendments of 1972,* as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit 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 CFR part 27;
- *The Age Discrimination Act of 1975,* as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- *The Civil Rights Restoration Act of 1987*, (Pub. L. 100-209), (broadens 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, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- *Titles II and III of the Americans with Disabilities Act* (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38

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 NHTSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 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 nondiscrimination 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 Highway Safety Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in § 21.23(b) and (e) of 49 CFR part 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 all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
   “The [name of 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 in 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 (also referred to as DOT order 1050.2A) [1] in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, 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 of, 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 DOT Order 1050.2A, 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, sub- grantees, 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 State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA'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 NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, 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 State highway safety agency 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 U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The Subgrantee will provide a drug-free workplace by:
- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing a drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The grantee's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance programs;
    4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
    5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
    1. Abide by the terms of the statement;
    2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;
- e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted—
    1. Taking appropriate personnel action against such an employee, up to and including termination;
    2. Requiring such employee to participate satisfactorily in a drug abuse assistance or

rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,
   U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (*e.g.,* “grassroots”) lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

INSTRUCTIONS FOR PRIMARY TIER PARTICIPANT CERTIFICATION (STATES)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary 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 primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,** as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Participant Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, 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 prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website
(*https://www.sam.gov/*).
9. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 the transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY TIER COVERED TRANSACTIONS

1. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and

its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment 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;
c. 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 (1)(b) of this certification; and
d. 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.

2. Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

INSTRUCTIONS FOR LOWER TIER PARTICIPANT CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. 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 or debarment.
3. 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 when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,** as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. 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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Participant Certification” including the “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 and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, 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 prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website
(*https://www.sam.gov/*).
8. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

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.

BUY AMERICA
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

CERTIFICATION ON CONFLICT OF INTEREST
(applies to subrecipients as well as States)

GENERAL REQUIREMENTS

No employee, officer, or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal 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 personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
    a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
    b. The code or standards shall establish penalties, sanctions, or other disciplinary actions for violations, as permitted by State or local law or regulations.
2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

DISCLOSURE REQUIREMENTS

No State or its subrecipient, including its officers, employees, or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in
organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present, or currently planned organizational, financial, contractual, or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor, and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at *www.trafficsafety.org*. The NHTSA website (*www.nhtsa.gov*) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

INSTRUCTIONS FOR ADDING OR UPDATING GEMS USERS

1. Each agency is allowed a total of **FIVE (5) GEMS Users**.
2. GEMS Users listed on this form will be authorized to login to GEMS to complete and submit Quarterly Performance Reports (QPRs) and reimbursement claims.
3. Complete the form if adding, removing or editing a GEMS user(s).
4. The Grant Director must sign this form and return it with the Grant Agreement.

GRANT DETAILS	
Grant Number:	PT26103
Agency Name:	Banning Police Department
Grant Title:	Selective Traffic Enforcement Program (STEP)
Agreement Total:	$90,000.00
Authorizing Official:	Art Vela
Fiscal Official:	Cornelio Datuin Jr.
Grant Director:	Brandon Smith

CURRENT GEMS USER(S)

1. Eric Campa
Title: Corporal
Phone: (951) 849-1432
Email: ecampa@banningca.gov
Media Contact: Yes

2. Cornelio Datuin Jr.
Title: Deputy Finance Director
Phone: (951) 922-2663
Email: cdatuin@banningca.gov
Media Contact: No

3. Austin Flint
Title: Accountant II
Phone: (951) 922-3115
Email: aflint@banningca.gov
Media Contact: No

4. Brandon Smith
Title: Lieutenant
Phone: 951-830-9191
Email: bsmith@banningca.gov
Media Contact: No

5. Yvette Vaca
Title: Sergeant
Phone: (951) 849-1195
Email: yvaca@banningca.gov
Media Contact: No

Complete the below information if adding, removing or editing a GEMS user(s)

GEMS User 1 Add/Change ☐ Remove Access ☐	Add as a media contact? Yes ☐ No ☐
Name	Job Title
Email address	Phone number
GEMS User 2 Add/Change ☐ Remove Access ☐	Add as a media contact? Yes ☐ No ☐
Name	Job Title
Email address	Phone number
GEMS User 3 Add/Change ☐ Remove Access ☐	Add as a media contact? Yes ☐ No ☐
Name	Job Title
Email address	Phone number
GEMS User 4 Add/Change ☐ Remove Access ☐	Add as a media contact? Yes ☐ No ☐
Name	Job Title
Email address	Phone number
GEMS User 5 Add/Change ☐ Remove Access ☐	Add as a media contact? Yes ☐ No ☐
Name	Job Title
Email address	Phone number
Form completed by:	Date:
As a signatory I hereby authorize the listed individual(s) to represent and have GEMS user access.	
Signature	Name Grant Director
Date	Title

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

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

MEETING DATE: **October 14, 2025**

SUBJECT: **Consideration of Resolution 2025-146, Approving the Grant Agreement Between the City of Banning and the State of California - Office of Traffic Safety (OTS) for the FY 2025-2026 Traffic Records Improvement Project (TRIP) Grant and Acceptance of the OTS TRIP Grant Award in the Amount of $78,000.**

RECOMMENDATION:

Adopt Resolution 2025-146.

BACKGROUND:

The City of Banning Police Department has been awarded $78,000.00 in State of California – Office of Traffic Safety (OTS) funding under the Traffic Records Improvement Project (TRIP) Grant for the first time. This grant is for the express purpose of purchasing electronic citation and traffic reporting software only, and will improve the Department's ability to collect, analyze, and report traffic data, enhancing roadway safety in the City of Banning. By modernizing data systems, the city will strengthen its ability to address traffic safety challenges along Interstate 10, local streets, and key infrastructure areas. The grant period is October 1, 2025, through September 30, 2026.

JUSTIFICATION:

Acceptance of the $78,000.00 TRIP Grant will allow the Police Department to implement electronic citation and crash reporting software, providing more accurate and timely traffic data. These improvements will strengthen the City's ability to identify traffic trends, prioritize enforcement, and improve roadway safety for residents and visitors. The transition from paper-based to electronic reporting will also increase efficiency for officers and reduce administrative burdens to help the Department make better-informed decisions, allocate resources effectively, and reduce crashes and injuries in the community.

FISCAL IMPACT:

There is no matching component associated with the acceptance of these grant funds.

ALTERNATIVES:

Do not adopt Resolution 2025-146 and provide staff alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-146.docx
2. Grant Agreement - TR26018 Banning.pdf

RESOLUTION 2025-146

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF BANNING AND THE STATE OF CALIFORNIA – OFFICE OF TRAFFIC SAFETY (OTS) FOR THE FY 2025-2026 TRAFFIC RECORDS IMPROVEMENT PROJECT (TRIP) GRANT, AND ACCEPTANCE OF THE OTS TRIP GRANT AWARD IN THE AMOUNT OF $78,000

WHEREAS, the City of Banning Police Department has entered into an agreement (hereafter referred to as "Agreement") with the State of California – Office of Traffic Safety (OTS); and

WHEREAS, pursuant to the Agreement, the Banning Police Department is being awarded a Traffic Records Improvement Project (TRIP) Grant award in the amount of $78,000.00; and

WHEREAS, Grant funds may be used to improve the quality and accessibility of traffic records by supporting efforts such as the purchase of equipment or software for electronic crash and citation reporting, enhancing data collection and compatibility with state and national systems, and improving the ability to analyze traffic safety trends and outcomes; and

WHEREAS, the City of Banning Police Department will utilize grant funds to purchase, implement, and maintain equipment and software necessary to collect, record, and report traffic crash and citation data to OTS during the Agreement period from October 1, 2025, to September 30, 2026; and

WHEREAS, any liability arising out of the performance of this Agreement, including civil court actions for damages, shall be the responsibility of the grant recipient and the authorizing agency. The State of California and the OTS disclaim responsibility for any such liability.

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

SECTION 1. The City Council approves the FY 2025-2026 TRIP Grant Agreement with the State of California - Office of Traffic Safety (OTS), attached hereto as Exhibit "A," and approves the acceptance of the FY 2025-2026 TRIP Grant through the State of California – OTS and any subsequent amendments to extend the Grant Agreement for up to zero additional years upon satisfactory performance, with a total not-to-exceed grant funding amount of $78,000.00 over one (1) year.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to and execute the FY 2025-2026 TRIP Grant Agreement with the State of California - OTS 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 Council agrees that grant funds received hereunder shall not be used to supplant expenditures controlled by the City Council.

SECTION 5. 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 October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-146, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Administrative City Clerk
City of Banning, California

EXHIBIT A
Grant Agreement

1. GRANT TITLE
Traffic Records Improvement Project

2. NAME OF AGENCY
Banning

3. Grant Period
From: 10/01/2025
To: 09/30/2026

4. AGENCY UNIT TO ADMINISTER GRANT
Banning Police Department

5. GRANT DESCRIPTION
State and local agencies need timely, accurate, complete, uniform, integrated, and accessible traffic records to identify and prioritize traffic safety issues, to choose appropriate safety countermeasures and evaluate their effectiveness. Traffic records improvement grants provide traffic safety stakeholders with the ability to improve the quality of the State's crash and citation data through various efforts such as: purchasing equipment or software for electronic reporting of crash data, citation data reporting and collection, improving the compatibility of crash and/or citation data with the state and national data systems, enhancing the ability to analyze trends in crashes, crash outcomes, and contributing factors, etc.

6. Federal Funds Allocated Under This Agreement Shall Not Exceed: $78,000.00
Allocation is contingent upon availability of federal funds.

7. TERMS AND CONDITIONS: The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement:

- Schedule A – Problem Statement, Goals and Objectives and Method of Procedure
- Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)
- Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)
- Exhibit A – Certifications and Assurances
- Exhibit B* – OTS Grant Program Manual
- Exhibit C – Grant Electronic Management System (GEMS) Access

*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto. These documents can be viewed at the OTS home web page under Grants: www.ots.ca.gov.

We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

8. Approval Signatures

A. GRANT DIRECTOR
NAME: Brandon Smith
TITLE: Lieutenant
EMAIL: bsmith@banningca.gov
PHONE: 951-830-9191
ADDRESS: 125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

B. AUTHORIZING OFFICIAL
NAME: Art Vela
TITLE: Interim City Manager
EMAIL: avela@banningca.gov
PHONE: (951) 922-4860
ADDRESS: 125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

C. FISCAL OFFICIAL
NAME: Cornelio Datuin Jr.
TITLE: Deputy Finance Director
EMAIL: cdatuin@banningca.gov
PHONE: (951) 922-2663
ADDRESS: 125 East Ramsey Street
Banning, CA 92220

(Signature) *(Date)*

D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY
NAME: Stephanie Dougherty
TITLE: Director
EMAIL: stephanie.dougherty@ots.ca.gov
PHONE: (916) 509-3030
ADDRESS: 2208 Kausen Drive, Suite 300
Elk Grove, CA 95758

(Signature) *(Date)*

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY	9. SAM INFORMATION
NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	SAM #: T9ZPMCBNFZC8 REGISTERED ADDRESS: 125 EAST RAMSEY ST. CITY: BANNING ZIP+4: 92220-4839

10. PROJECTED EXPENDITURES

FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
405c TR-26	20.616	0521-0890-101	2025	04/25	BA/25	$0.00
				AGREEMENT TOTAL		**$78,000.00**
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.				AMOUNT ENCUMBERED BY THIS DOCUMENT **$78,000.00**		
				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT **$ 0.00**		
OTS ACCOUNTING OFFICER'S SIGNATURE	DATE SIGNED			TOTAL AMOUNT ENCUMBERED TO DATE **$78,000.00**		

1. PROBLEM STATEMENT

Describe the city, county, or jurisdiction this grant will impact.
The City of Banning, located in Riverside County, California, was incorporated on July 3, 1913. As a city situated along the major transportation route of Interstate 10, Banning serves as a key gateway to Southern California. The city is home to a diverse population of approximately 31,000 residents, but it also faces significant traffic management challenges due to the high volume of through traffic, particularly from out-of-state travelers who use the interstate as a direct route to other regions. Interstate 10, running directly through the heart of the city, sees a daily influx of travelers, many of whom are unfamiliar with the local roadways. When crashes occur on the freeway, it often results in massive congestion as drivers exit onto city streets to bypass traffic. This sudden surge of unfamiliar vehicles on narrow, local roads exacerbates the risk of crashes and creates additional traffic hazards for residents.

In addition to the challenges posed by Interstate 10, Banning is also impacted by the presence of key infrastructure, including the Riverside County Smith Correctional Facility, the Riverside County Superior Court (Banning Justice Center), and the Union Pacific Railroad Tracks. These facilities generate high traffic volumes, with law enforcement, court staff, inmates, and visitors contributing to congestion in and around the city. The Smith Correctional Facility creates traffic concerns, as the area surrounding the facility sees an influx of vehicles during visiting hours, and local streets are frequently used as access points for inmate transport. The Union Pacific Railroad Tracks also cross key roadways in the city, creating delays and traffic backups when trains pass through, which is a recurring issue that adds to congestion and potential crashes.

These compounded challenges create a complex traffic environment that is difficult to manage and control, with multiple factors contributing to the city's traffic safety issues. Banning's local roadways are often overwhelmed with unfamiliar drivers, high-risk areas near key infrastructure, and a lack of timely, efficient traffic data and reporting, further complicating efforts to mitigate traffic crashes and improve overall roadway safety.

To address these issues, the Banning Police Department seeks to implement the Traffic Records Improvement Project (TRIP) Grant to enhance its ability to manage traffic and improve safety on city streets. The introduction of e-ticketing software will streamline citation and crashes reporting processes, allowing for more accurate, efficient, and timely data collection. This will enable the department to better identify high-risk traffic patterns, improve enforcement efforts, and ultimately reduce crashes, fatalities, and traffic-related incidents in the city.

Describe the problem(s) to be addressed, supported by current and relevant crash data. (most recent calendar year data/stats).
The City of Banning, located in Riverside County, California, faces significant traffic safety challenges, primarily driven by its unique infrastructure and geographic position along Interstate 10. As a crucial transportation route connecting major California cities, Interstate 10 runs directly through the city, contributing to an overwhelming volume of traffic. With over 200,000 vehicles passing through the area daily, many of these travelers are out-of-state drivers unfamiliar with the local roadways. When crashes occur on the interstate, it often leads to an influx of traffic as vehicles exit onto city streets to bypass the freeway congestion. This sudden surge in unfamiliar traffic exacerbates the risk of crashes, especially on narrower, urban roads that were not designed to handle such volumes of traffic. The increased congestion causes delays, higher speeds, and driver frustration, all of which contribute to a higher number of crashes on city streets.

In 2023, the Banning Police Department responded to over 250 traffic crashes, with approximately 20% of those crashes occurring within close proximity to the I-10 freeway. These incidents often involve out-of-state travelers who are not accustomed to local road signs, road layouts, and traffic patterns. Moreover, the high-speed transitions from the interstate to city streets frequently lead to crashes, particularly at key

intersections such as Hwy 243 and San Gorgonio Avenue. The increased risk is especially evident during peak travel times when crashes on the freeway push vehicles onto surface streets, causing a spike in traffic crashes and pedestrian crashes.

Another significant factor contributing to traffic issues in Banning is the presence of major infrastructure facilities, namely the Riverside County Smith Correctional Facility, the Riverside County Superior Court (Banning Justice Center), and the Union Pacific Railroad Tracks. These facilities contribute to substantial local traffic congestion and crashes. The Smith Correctional Facility, housing a large number of inmates, results in high volumes of traffic related to inmate transport and visitation. Law enforcement, correctional officers, and families visiting inmates create bottlenecks around the facility, particularly during peak visiting hours. In 2023, the area surrounding the correctional facility saw at least 30 reported incidents related to traffic congestion, including rear-end crashes and side-swipe crashes.

Additionally, the Union Pacific Railroad Tracks that run through the heart of the city also contribute to frequent traffic delays and safety hazards. Trains regularly block intersections at Hargrave Street, San Gorgonio Avenue, and Twenty-Second Street, causing significant disruptions during peak traffic hours. According to recent data, over 15 incidents in 2023 were reported in which the blocked railroad crossings caused additional crashes, particularly when drivers attempted to bypass the trains through adjacent streets. These frequent interruptions increase driver impatience and contribute to risky driving behaviors, further exacerbating the already dangerous traffic environment.

To address these ongoing traffic safety concerns, the Banning Police Department will use TRIP funding. The primary traffic issues to be addressed include improving traffic data collection, analysis, and reporting to better understand the causes of crashes and improve enforcement. The e-ticketing software purchased with this grant will streamline the process of issuing citations and documenting crashes, making it easier for officers to track traffic incidents and identify patterns. The crash reporting interface will help streamline traffic crash reporting and will allow employees to free themselves from the burdensome task of manually reporting data, so they can direct their attention to more important tasks that will assist with roadway safety. Accurate, real-time data will enable BPD to respond more effectively to high-risk areas, such as those near I-10, the correctional facility, and the railroad crossings. This improved data collection will help the department proactively address emerging traffic issues and prioritize resources in areas with the highest incidence of crashes, ultimately enhancing safety for residents and travelers alike.

Define the target population the grant intends to serve and how they are affected by the problem(s).
The target population for the Traffic Records Improvement Project (TRIP) Grant in the City of Banning includes the city’s residents, commuters, and vulnerable road users, such as pedestrians and transients. As of the most recent census, Banning’s population is diverse, with a 47% Latino population, 30% White, and 15% African American. The demographics of the city, combined with its location along Interstate 10 and the surrounding infrastructure, significantly shape the traffic safety challenges it faces. Banning's residents, including a substantial number of families, workers, and senior citizens, are directly affected by the increasing traffic issues, particularly as outsiders unfamiliar with the area flood local streets due to congestion on the freeway.

The city's rapid growth has been accompanied by an increase in the number of transients, largely due to the proximity of the Riverside County Smith Correctional Facility and the Banning Justice Center. In recent years, the transient population in Banning has grown, with many individuals drawn to the area by the resources available around the correctional facility and the proximity to public assistance. According to recent reports, approximately 12% of Banning’s population experiences homelessness or transient living conditions, many of whom occupy areas near busy intersections and along roadsides. This transient population poses a significant risk, as these individuals frequently walk or sleep along the roadways, creating hazards for both themselves and drivers.

The growing number of pedestrians in Banning, particularly those who are transient or experiencing homelessness, is another critical factor in the city's traffic safety concerns. With high volumes of foot traffic, especially in areas near the county jail, the downtown corridor, and the Union Pacific railroad tracks, Banning has seen a concerning rise in pedestrian-related crashes. In 2023, pedestrian-involved crashes accounted for 12% of all traffic crashes in the city, with several fatal incidents directly related to transients walking along or crossing busy streets like San Gorgonio Avenue and Hargrave Street. This demographic,

often unfamiliar with the traffic patterns or pedestrian laws, contributes to a disproportionate number of crashes involving pedestrians, making them a particularly vulnerable group in the city.

Additionally, commuters traveling through Banning, especially those using Interstate 10, are heavily affected by the city's traffic issues. As over 200,000 vehicles pass through the city daily, many of which are out-of-state travelers unfamiliar with local roadways, the risk of crashes increases, particularly when they exit the freeway to bypass congestion. This volume of traffic leads to increased crashes, including rear-end crashes, side-swipes, and pedestrian-related incidents. The transient population, combined with these high volumes of unfamiliar drivers, further exacerbates the challenges faced by Banning's residents and commuters, creating an unsafe environment for all road users.

The TRIP grant will primarily serve to improve the safety of these at-risk populations by providing the Banning Police Department with the tools needed to better collect and analyze traffic data. By implementing e-ticketing software, the Banning Police Department will be able to improve its ability to track and address traffic patterns and crashes involving vulnerable populations, including pedestrians and transient individuals. Better data will allow for targeted enforcement efforts, ensuring that Banning's most vulnerable road users and residents benefit from enhanced traffic safety measures and reduced risk of injury or death.

2. PERFORMANCE MEASURES

A. Goals:

1. Reduce the number of persons killed in traffic crashes.
2. Reduce the number of persons injured in traffic crashes.
3. To improve the timeliness, accuracy, completeness, uniformity, accessibility, and integration of the California Traffic Records System.

B. Objectives:	**Target Number**
1. Purchase and implement a new electronic crash reporting solution or upgrade an existing electronic crash reporting system to allow for submission of complete crash reports to the California Highway Patrol's Statewide Integrated Traffic Records System (SWITRS), and/or to a departmental records management system (RMS) as applicable.	1
2. Purchase and implement a new complete electronic citation reporting solution or upgrade an existing electronic citation reporting system that includes the capability of exporting data to both a departmental records management system (RMS) as well as to the local court records system, if and when the local court can receive electronic citation data.	1
3. To complete security requirement with the California Highway Patrol (CHP) for access to CHP data.	1
4. Begin electronic submission of crash reports to California Highway Patrol (CHP).	1

3. METHOD OF PROCEDURE

A. <u>Phase 1 – Program Preparation</u> (1st Quarter of Grant Year)

- Determine specific system traffic records (i.e., crash or citation) data system requirements.
- Determine specific equipment requirements.
- Request vendor price quotation per host agency requirements.
- Procure an electronic crash reporting system with the following functionalities:
    - System licensing with installation and training vendor.
    - GIS based mapping.
    - Segment crash diagraming tool.
    - Ability to create or import crash reports.
    - Ability to import and export agency RMS files.
    - Ability to perform complete analysis of crash reports.
    - Secure database accessibility by appropriate agency personnel.
    - Ability to electronically transfer complete crash report to the California Highway Patrol's Statewide Integrated Traffic Records System.
- Procure an electronic citation system with the following functionalities:
    - System licensing with installation and training.
    - Ability to electronically transfer and maintain the agency's citation data.

- Ability to analyze of agency's citation reports.
- Secure database accessibility by appropriate agency personnel.
- Ability to export complete citation reports to the local county court.

B. Phase 2 – Program Operations (Throughout Grant Year)

- Select vendor for system development, implementation, and installation.
- Monitor and oversee progress of system/software development.

C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)

- Prepare and submit grant claims invoice (due January 30, April 30, July 30, and October 30).
  - Successful project completion and confirmation of successful electronic transmission of crash reports by the California Highway Patrol is required before submission of invoice claims seeking reimbursement from OTS.
- Prepare and submit quarterly performance reports (due January 30, April 30, July 30, and October 30).
  - Collect and report quarterly appropriate data that supports the progress of goals and objectives.
  - Provide a summary of quarterly accomplishments and explanations for objectives not completed.
  - Collect, analyze, and report statistical data relating to the grant goals and objectives.

4. METHOD OF EVALUATION

Using the data compiled during the grant, the Grant Director will complete the “Final Evaluation” section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant’s accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

5. ADMINISTRATIVE SUPPORT

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405c TR-26	20.616	State Traffic Safety Information System Improvements	$78,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
A. PERSONNEL COSTS				
Straight Time				$0.00
Overtime				$0.00
Category Sub-Total				$0.00
B. TRAVEL EXPENSES				
				$0.00
				$0.00
Category Sub-Total				$0.00
C. CONTRACTUAL SERVICES				
				$0.00
Category Sub-Total				$0.00
D. EQUIPMENT				
Complete Traffic Crash and Electronic Citation Data Collection System	405c TR-26	$73,920.00	1	$73,920.00
Category Sub-Total				$73,920.00
E. OTHER DIRECT COSTS				
Mobile Printer	405c TR-26	$816.00	5	$4,080.00
Category Sub-Total				$4,080.00
F. INDIRECT COSTS				
				$0.00
Category Sub-Total				$0.00
GRANT TOTAL				**$78,000.00**

BUDGET NARRATIVE
PERSONNEL COSTS -
TRAVEL EXPENSES -
CONTRACTUAL SERVICES -
EQUIPMENT Complete Traffic Crash and Electronic Citation Data Collection System - A combination traffic crash and electronic citation data collection system will handle both traffic crash and traffic citation data collection and processing. The traffic crash database system will collect, analyze, and display crash and enforcement data, including a full featured module for analysis, allowing queries for top ranking lists of locations, breakdowns by cause, type, injury, conditions, and many other attributes. Queries and Reports will be provided in a variety of formats including pie charts, bar charts, and summaries. The system provides for crash mapping on Google Earth, ESRI GIS, or similar mapping products. Costs may include laptop/desktop computers, software and licenses, printers, accessories, training, and associated shipping and taxes. The traffic citation system will collect citation data electronically in the field, print a violator copy of the citation, and transfer the information electronically to the agency RMS system and the courts for prosecution. The system will be used by traffic officers to improve the efficiency and accuracy of writing traffic citations. Costs may include the purchase of electronic citation devices, mag-strip readers, fingerprint readers, audio recorders, cameras, docking/charging stations, laptop/desktop computers, software, licenses, printers, accessories, training, and associated shipping and taxes.
OTHER DIRECT COSTS Mobile Printer - Mobile printers to be used with electronic citation devices for traffic officers to print the citation in the field. Costs include the purchase of the printer, accessories, and associated shipping and taxes.
INDIRECT COSTS -
STATEMENTS/DISCLAIMERS There will be no program income generated from this grant.

Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants (23 U.S.C. Chapter 4 or Section 1906, Public Law 109-59, as amended by Section 25024, Public Law 117-58)

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies, and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended;
- Sec. 1906, Public Law 109-59, as amended by Sec. 25024, Public Law 117-58;
- 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs;
- 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR part 1201—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

NONDISCRIMINATION
(applies to subrecipients as well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- *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 CFR 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 CFR 50.3* (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- *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.), and Title IX of the Education Amendments of 1972,* as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit 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 CFR part 27;
- *The Age Discrimination Act of 1975,* as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- *The Civil Rights Restoration Act of 1987*, (Pub. L. 100-209), (broadens 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, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- *Titles II and III of the Americans with Disabilities Act* (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38

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 NHTSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 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 nondiscrimination 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 Highway Safety Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in § 21.23(b) and (e) of 49 CFR part 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 all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
   “The [name of 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 in 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 (also referred to as DOT order 1050.2A) [1] in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, 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 of, 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 DOT Order 1050.2A, 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, sub- grantees, 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 State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA'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 NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, 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 State highway safety agency 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 U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The Subgrantee will provide a drug-free workplace by:
- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing a drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The grantee's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance programs;
    4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
    5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
    1. Abide by the terms of the statement;
    2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;
- e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted—
    1. Taking appropriate personnel action against such an employee, up to and including termination;
    2. Requiring such employee to participate satisfactorily in a drug abuse assistance or

rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,
   U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (*e.g.,* “grassroots”) lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

INSTRUCTIONS FOR PRIMARY TIER PARTICIPANT CERTIFICATION (STATES)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary 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 primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,** as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Participant Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, 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 prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website
(*https://www.sam.gov/*).
9. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 the transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY TIER COVERED TRANSACTIONS

1. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and

its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment 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;
c. 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 (1)(b) of this certification; and
d. 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.

2. Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

INSTRUCTIONS FOR LOWER TIER PARTICIPANT CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. 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 or debarment.
3. 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 when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded,** as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. 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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Participant Certification” including the “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 and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, 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 prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website
(*https://www.sam.gov/*).
8. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

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.

BUY AMERICA
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

CERTIFICATION ON CONFLICT OF INTEREST
(applies to subrecipients as well as States)

GENERAL REQUIREMENTS

No employee, officer, or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal 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 personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
    a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
    b. The code or standards shall establish penalties, sanctions, or other disciplinary actions for violations, as permitted by State or local law or regulations.
2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

DISCLOSURE REQUIREMENTS

No State or its subrecipient, including its officers, employees, or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in
organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present, or currently planned organizational, financial, contractual, or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor, and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at *www.trafficsafety.org*. The NHTSA website (*www.nhtsa.gov*) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

PREPARED BY: **David Newell, Community Development Director**
Mark Staples, Planning Manager; Ted Lopez, Senior Planner

MEETING DATE: **October 14, 2025**

SUBJECT: **PUBLIC HEARING CONTINUED FROM SEPTEMBER 23, 2025 MEETING - Consideration of Resolution 2025-135 Approving a Cannabis Conditional Use Permit (CUP) Application, Case No. PLN 24-0107, by Flower Dept, LLC to Allow for the Commercial Cultivation of Cannabis (Project) within an Existing 8,041-square-foot Industrial Building at 200 John Street, in the Industrial (I) Zoning District (APN 541-220-006)**

RECOMMENDATION:

Adopt Resolution 2025-135.

BACKGROUND:

On September 23, 2025, the City Council conducted a public hearing to consider the subject Cannabis CUP application submitted by Flower Dept, LLC. At the public hearing, City Council considered public comments on the Project and voted to continue the application to its regular meeting on October 14, 2025, with direction to staff and the Applicant to provide additional information on fire access, odor containment, water usage, and prior violations at the site. Additional information is provided below. (NOTE: The September 23, 2025 City Council Staff Report providing additional project background and discussion is attached below.)

Fire Access and Safety

There was City Council discussion regarding fire access to the Project. In particular, a Councilmember questioned if adequate turnaround space would be provided with the proposed hammerhead in the parking area to maneuver fire truck and fire apparatus to the building.

The Fire Marshal revisited the location and determined that the Project does meet the Riverside County (RivCo) Fire Guidelines for fire truck access, fire apparatus, and fire personnel. It should be noted that there are two fire hydrants near the Project location. The estimated “fire hose pull distance” from the existing John Street hydrant to the Project is 180 feet, and “fire hose pull distance” from the existing Galleher Way hydrant is 280 feet.

The Applicant has agreed to install a fire sprinkler system to the interior Project building. The Fire Marshall has also specified fire protection measures in the Project Conditions of Approval to enhance and protect the Project building and adjacent properties from fire hazards and fire emergencies.

Odor Containment

Project odor and containment was a major concern commented on by community members and Planning Commissioners. The Project Owners have provided double wall-enclosures and scrubbers and

odor control units to prevent cannabis odors from escaping the Project building. Each cannabis cultivating grow room will feature a carbon exhaust filter system, dehumidifier, in-take exhaust fan, exhaust vent and HVACs.

Water Usage
The Project Applicant has estimated approximately 700 gallons of water a day is used on a project cultivating cannabis. The estimation is based on similar size from a project cultivating cannabis.

Prior Site Violations
Prior to the submittal of this application, the property owner was cited for an illegal grow of cannabis. Community Development staff conducted additional investigation and determined no affiliation by the Project Principals are, or ever have been, involved with the building and illegal grow of cannabis at the project site. The Business Owners, Antonio Simeone and Kenneth R. Brymer, have been vetted by the Banning Police Department and found no prior or history of cannabis violations. Therefore, the Business Owners have received a "Cannabis Cultivation Regulatory Permit" to legally operate a cannabis business in the City of Banning, as required by Chapter 5.35 of the Banning Municipal Code.

Revised Conditions:
Based on the foregoing information and the discussion by the City Council at the prior public hearing on September 23, 2025, the following conditions have been included in the draft conditions of approval attached to this report (new text is underlined and removed text is ~~strikethrough~~):

Planning Division:
26. The facility shall install and maintain a ventilation and filtration system compliant with the California Building Code and approved by the City Building Official that prevents odors from exiting the building (BMC 17.53.150). The Project Principals shall install industry-standard carbon filters including double filtration measures to mitigate odor leaks and ensure odor containment. Prior to occupancy, the Applicant shall seal all gaps, holes and penetrations in the exterior walls to the satisfaction of the Building Official or designee. New interior walls and ceilings shall be constructed for each of the rooms where odor control is necessary, including but not limited to cultivation, drying and trimming rooms. The new walls and ceilings shall provide a continuous air barrier around these spaces so as to contain odors, in addition to the required filtration systems.

35. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed on the premises. All commercial cannabis activity shall be separated from the main entrance and lobby, and cannabis and cannabis products shall be secured by a lock accessible only to managers and staff of the permittee (BMC 17.53.080(H-I). The canopy area shall be a minimum of 10,000 square feet (but not more than 22,000 square feet) and may include stacked canopy systems to comply with BMC 5.35.050.

Fire Division:
55. Fire Sprinkler System ~~- All new commercial buildings and structures 3,600 square feet or larger will be required to install a fire sprinkler system.~~ The commercial building shall be required to install a fire sprinkler system prior to occupancy. Reference CFC as amended

JUSTIFICATION:
In order to approve the Cannabis – Conditional Use Permit application, Case PLN 24-0107, the City Council is required to make findings pursuant to Chapter 17.52 of the BMC Zoning Ordinance, and Chapter 17.53 of the BMC Zoning Ordinance, Section 17.53.060. Procedures and Findings for Approval of Cannabis Conditional Use Permit. The Planning Commission recommended approval of the Cannabis – Conditional Use Permit application for Case PLN 24-0107 pursuant to the findings in Planning Commission Resolution 2025-06. The findings are included in the draft resolution attached to this report.

Finding A: The proposed use is consistent with the General Plan.
Finding of Fact: The proposed Project cannabis cultivation is consistent with the General Plan's designation for industrial development in the area, which supports cannabis cultivation, warehousing and office uses. Further, Conditional Use Permit 24-0107 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 Cannabis - Conditional Use Permit Case No. 24-0107 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is conditionally permitted with the Industrial zoning district and complies with all of the provisions of BMC Chapter 17 of the BMC..
Finding of Fact: The proposed project complies with the applicable requirements of the Industrial (I) zoning district as outlined in BMC Chapters 17.12 and 17.53. The project meets or exceeds all applicable development standards, including lot size, setbacks, building height, and parking requirements, ensuring conformance with the zoning ordinance for industrial uses. Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that "Cannabis Commercial Indoor Cultivation", is a conditionally permitted use in the Industrial zoning district. The proposed Cannabis Cultivator complies with all other applicable provisions of Title 17 of the Banning Municipal Code, including the standards set forth in Section 17.12.050.V. applicable to Cannabis Cultivator (Use Specific Development Standards). Lastly, the proposed project complies with the provisions of Chapter 17.53, including standards regarding the premises, personnel, security, cannabis tracking and tracing, signage, waste management, sanitary requirements, and odor control.

Finding C: The proposed use would not impair the integrity and character of the land use district in which it is to be located.
Finding of Fact: The proposed use is located on the former right-of-way of John Street, located in the northern end of Galleher Way. Adjacent properties consist of other industrial uses, including cannabis cultivation, towing yards, plumbing supply, and energy management. Access ingress/egress to the Project is via an access easement at the north end of the Galleher Way. It is anticipated that the area would contain indoor commercial cannabis cultivation which is conditionally permitted within the City under Banning Municipal Code Chapter 17.53 Cannabis Conditional Use Permits.

Finding D: The subject site is physically suitable for the type and intensity of land use being proposed.
Finding of Fact: The subject site currently consists of an existing industrial warehouse building and the applicant is proposing interior changes to the building to create the growing room setting needed for cannabis cultivation. Furthermore, the project site will utilize existing paved areas for adequate parking, access, and lighting. The building is of adequate size and design to accommodate cannabis cultivation.

Finding E: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
Finding of Fact: The existing project site and structure are currently tied to the local water, sewer, and Banning Electric Utility public utility system.

Finding F: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
Finding of Fact: The proposed Cannabis – Conditional Use Permit is exempt from the requirements per Section 15301 of the CEQA Guidelines as the proposed project is utilizing an existing structure with no proposed expansion of the structure or use.

Finding G: The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning.

Finding of Fact: The proposed location, design, and operating characteristics of the proposed cannabis cultivation facility will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning and will complement existing cannabis and industrial businesses located on Galleher Way. Cannabis related activities are regulated by the State of California, Bureau of Cannabis Control (BCC). The applicant must maintain a valid BCC license to be compliant with the Banning Municipal Code and BCC. If determined for good cause that the continuance of such license would be contrary to the public safety and welfare, the City of Banning and the BCC are authorized to suspend or revoke any license.

ENVIRONMENTAL DETERMINATION:

Planning staff has determined that the project qualifies for a Class 1 Categorical Exemption under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies when a project involves interior or exterior tenant improvements, maintenance, permitting, or licensing of an existing structure where there is negligible or no expansion of use or capacity.

This project involves converting an existing 8,041-square foot vacant industrial building into a cannabis cultivation facility through tenant improvements only, such as partitioning, HVAC, electrical upgrades, and plumbing, with no change to the exterior footprint, height, or building coverage. The site is fully developed and served by existing utilities, and it is not located on environmentally sensitive lands or hazardous sites. There is no evidence of cumulative impacts or unusual circumstances that would affect scenic or historic resources, as similarly concluded for prior cultivation projects in the City. The proposed project and cultivation business is subject to the submission of quarterly reports that outline their operations and cataloguing nuisance odors and other community complaints.

Based on these considerations, the project meets the criteria for a Class 1 exemption. A Notice of Exemption will be filed with the Riverside County Clerk following the City Council's approval.

FISCAL IMPACT:

The Project Applicants anticipate 6-10 full-time employment positions created by the Project. The Project Applicant has committed to hiring locally, supporting community engagement, and generating local tax revenue.

Per BMC 3.17.030(B) a cannabis cultivation facility shall pay to the City an annual cannabis business tax in an amount that is equal to $15 per square foot of canopy space. Since the prior public hearing, the Applicant has indicated a double-stacked canopy area would equate to roughly 10,404 square feet of grow area. The annual cannabis business tax would equate to approximately $156,060 per year.

ALTERNATIVES:

Provide alternative responses to the required findings and direct staff to return with resolution specifying a different decision on the Conditional Use Permit application.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. CC Staff Report 9-23-25 PLN 24-0107
2. Draft CC Resolution 2025-135
3. Draft CC Conditions of Approval
4. Project Plans - dated 2025-10-06

5. Map Exhibits 09-23-2025
6. PC Minutes 08-06-2025
7. PC Minutes 07-09-2025
8. Applicant Response to Council Questions - 10-08-2025
9. Flower Dept LLC Application
10. CEQA Notice of Exemption

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Arturo Vela, Interim City Manager**

PREPARED BY: **Mark Staples, Planning Manager**
David Newell, Community Development Director

MEETING DATE: **September 23, 2025**

SUBJECT:

Consideration of Resolution 2025-135 Approving a Cannabis Conditional Use Permit (CUP) Application Case No. PLN 24-0107, by Flower Dept, LLC to Allow for the Commercial Cultivation of Cannabis (Project) within an Existing 8,041-square foot Industrial Building at 200 John Street, in the Industrial (I) Zoning District (APN 541-220-006)

RECOMMENDATION:

Adopt Resolution 2025-135.

BACKGROUND:

The project applicants are requesting a Cannabis – Conditional Use Permit to operate the commercial cultivation of cannabis within an existing 8,041 square-foot vacant industrial building located at 200 John Street (Project). The project applicants are also proposing tenant improvements to the interior building consisting of grow rooms, dry/trim/harvesting rooms, office/security room, storage room, break room, and employee restrooms.

The Project will include an access easement by a paved driveway off Galleher Way. The property owner, Flower Dept., LLC, has negotiated an access easement at the end of a cul-de-sac on Galleher Way to allow vehicle ingress/egress to the Project across the eastern portion of the property at 313 Galleher Way. Project access off John Street will be closed to all vehicles. Project-related business traffic will be conducted exclusively through the new, dedicated ingress/egress easement on Galleher Way.

One condition that the Planning Commission recommended, but staff is not pursuing, for this project before the City Council, is related to the access easement from Galleher Way to the project site. The Commission recommended that the project switch from a recorded access easement across the property at 313 Galleher Way to the project site, to a Lot Line Adjustment that alters both properties shape to provide 200 John Street its own frontage along the cul-de-sac of Galleher Way. Staff in the Planning and Public Works Departments have processed a draft access easement that is ready to record pending approval of the project. A change in process would unnecessarily result in more staff time, applicant's surveyor's time, and added expenses to the project. Access easements across properties are a common practice in commercial shopping centers and industrial properties. Both processes provide the same permanent recorded access to the project site. The property owners of 200 John Street and 313 Galleher Way have tentatively agreed to the access easement. Staff recommends continuing with the access easement and require that it is to be recorded prior to issuance of Certificate of Occupancy.

Zoning:
The Zoning District is Industrial (I). The use is permitted under Title 17 of the Banning Municipal Code (BMC) that provides Cannabis Commercial Indoor cultivation subject to approval of a Cannabis – Conditional Use Permit by the City Council, after recommendation by the Planning Commission (Chapters 17.52 and 17.53 of the Zoning Code).

Additional requirements identified in the Code state the cannabis cultivator must be at least 600-feet from any day care center, youth center, public or private school providing instruction in any public or private school setting, up to and including High School. The Project is not located within 600 feet of any public or private park. The proposed location of the Commercial Cannabis Cultivation facility is compliant with the above-mentioned requirements.

Address Update:
The project site was originally identified as 200 John Street (APN: 541-220-006). However, due to the establishment of a new vehicular access easement connecting the site to Galleher Way, the City will initiate a formal address change. The site will be recognized as 319 Galleher Way to reflect the new point of access and ensure accurate addressing for public safety, emergency response, and utility coordination.

All future references to the property for permitting, licensing, and compliance purposes will utilize the updated address: 319 Galleher Way, Banning, CA 92220.

Operating Characteristics:
The proposed cannabis cultivation facility will operate daily from 6:00 AM to 10:00 PM. Flower Dept., LLC has submitted comprehensive operations plan covering safety, security, odor control, and waste management. Security features include 24/7 video surveillance, proximity card access, alarm systems, secure storage, and on-site security personnel. Inventory control will utilize METRC, with regular audits and robust waste tracking protocols. Odor mitigation/prevention will rely on carbon filtration, and the business will employ water- and energy-efficient practices. The applicant has committed to hiring locally, supporting community engagement, and generating local tax revenue.

PLANNING COMMISSION:
Public Hearing July 9, 2025:
The Planning Commission conducted a public hearing to make a recommendation to the City Council to either approve, conditionally approve or not approve a Cannabis – Conditional Use Permit (PLN 24-0107) application (Project) submitted by the Project Applicants, Flower Dept LLC.

Commissioners noted that some conditions of approval needed revisions regarding site inspections, screening of loading areas, filtration systems to prevent odors, the business required to have a community relations representative with their contact information publicly available, recording a public access agreement prior to Certificate of Occupancy, and the business to provide quarterly operations reports on community complaints on operations and odor prevention.

Further, the Planning Commission expressed concern regarding whether the Project qualified for a CEQA Categorical Exemption.

The Planning Commission passed a motion to continue the public hearing to a Special Meeting on August 6, 2025.

Public Hearing August 6, 2025:
The Planning Commission continued their public hearing to make a recommendation to the City Council to either approve, conditionally approve or not approve a Cannabis – Conditional Use Permit for the Project.

Planning Staff worked with the project applicants to specifically address Planning Commission concerns involving project operations, focused on cannabis site inspections, odor filtration systems to prevent odors, business community relations and quarterly operation reports. Staff further explored review of CEQA Categorical Exemptions involving cannabis operations.

The project applicants agreed to adding and revising conditions of approval attached herein.

Planning Staff also reviewed CEQAnet (the online source of state CEQA determination filings by all cities, counties, and other agencies) and found that most cannabis projects have utilized the Section 15301 Categorical Exemption. Staff findings disclosed that most cannabis commercial or industrial operations that utilized existing buildings qualified under CEQA Section Categorical Exemption. Categorical Exemption projects also included odor prevention reporting.

Those cannabis projects that required further CEQA analysis through a Mitigated Negative Declaration (MND) or Environmental Impact Report (EIR) involved new larger ground up construction or large outdoor growing and cultivation facilities (i.e. 30,000 s.f. or greater properties/greenhouses). Other cannabis facilities involved indoor cultivation have discussed odor mitigation plans but have not considered those emanating from cannabis growth and harvesting as part of a greenhouse gas (GHG) emissions air quality analysis. For projects with new construction, the Air Quality analysis involved more discussion on the emissions from grading activities and construction equipment and less about odors from the cannabis activity. Most projects were conditioned to submit regular odor mitigation reporting similar to what is conditioned for this project.

At the conclusion of the August 6, 2025 meeting the Planning Commission voted 3-2 and adopted Resolution 2025-06 recommending the City Council approve the Project application and making a determination that the project qualifies as a Categorical Exemption per the CEQA Guidelines Section 15301 for Existing Facilities.

DESCRIPTION:

Existing Conditions:

The project site consists of an existing, single-story, 8,041-square-foot industrial building. The structure is currently vacant. The 0.61-acre net lot is paved and contains no outdoor storage. The site is flat, developed, and not subject to environmental constraints.

In the tables that follow are the adjacent street conditions and surrounding properties uses, general plan designations, and zoning designations.

Existing Street Improvement Conditions			
Street Name	*Travel Lanes*	*Curb & Gutter*	*Sidewalk*
Galleher Way	Y	Y	Y
Surrounding Property	*Existing Land Use Per Chapter 17*	*Existing General Plan Designation*	*Existing Zoning Designation*
Subject Property	*Industrial*	*Industrial*	*Industrial*
North	Railroad/Public Facility	Public Facilities – Railroad/Interstate (PF-RI)	PF-RI
South	Industrial Building	Industrial	Industrial
East	Power Plant	Industrial	Industrial
West	Industrial Building	Industrial	Industrial

Project Compliance with Standards:

Pursuant to BMC Section 17.12.030, the following development standards apply:

Industrial Zone Standard	*Required/ Allowed*	*Provided*	*Compliance*
Min. Lot Size	10,000 SF	25,265 SF	Y
Min. Lot Width (Feet)	70	386’ - 10 3/8” North 252’ - 2” South	Y
Min. Lot Depth (Feet)	100	110’ 1”	Y
Min. Setbacks (Feet)			
· Front (South)	10’	10’	Y
· Street Side (East)	10’	10’	Y
· Side (West)	0’	0’	Y
· Rear (North)	0’	0’	Y
Max. Bldg. Coverage	60%	32%	Y
Max. Building Height	2 Stories 50 Feet	1 Story 24’-11”	Y
Perimeter Wall Height			
· North	8 Feet	6’ fence	Y
· South	8 Feet	New 6’ block wall to screen w/sliding gate	Y
· East	8 Feet	6’ fence	Y
· West	8 Feet	6’fence	N/A
Trash Enclosure	Screened 6’ High (bin) 3’-6” High (cans)	Y 6’	Y Y
Mechanical Equipment	Screened	Screened	Y

Pursuant to BZO Section 17.28.040, the following parking standards apply:

Use	*SF or # of Units*	*Parking Ratio*	*Required*	*Provided*	*Compliance*
Indoor Cannabis Cultivation	8,041 SF	2+ 1/1,000 SF	10	N/A	
Office (two)	116	1/200	1	N/A	
TOTAL SPACES:			11	11	Y

Regular and Handicap Spaces:	2 ADA	9 Regular	

Site Plan:

The proposed project is located on a 0.61-acre parcel developed with an existing 8,041-square-foot industrial building. The building is centrally located on the site, with vehicle access exclusively via a new access easement at the northern terminus of Gallaher Way. Access from John Street will be permanently restricted. Parking and driveway areas, totaling approximately 6,436 square feet, are located on the south and east sides of the building, with two spaces on the north side of the building, and are separated from the public street, consistent with BMC 17.12.110(H) and (O).

The site layout avoids expansive parking fields and instead clusters parking to support the primary use, in line with BMC 17.12.100(J). The layout allows for efficient vehicular circulation while minimizing pedestrian conflict, as encouraged by BMC 17.12.100(C) and BMC 17.12.110(K). While this is a single-use building, it is oriented to the internal access point rather than the public right-of-way, given the nature of its industrial use and access requirements. Loading areas are confined to the south side/rear of the site, and will be screened with a 6-foot high decorative block wall, in compliance with BMC 17.12.100(H).

Mass and Scale:
The Project involves the reuse of an existing single-story industrial building totaling 8,041 square feet. No additions or exterior structural changes are proposed, and the height, bulk, and overall mass will remain consistent with the original construction. The building is typical in size and scale for the Industrial (I) zoning district and is compatible with surrounding development.

The Project site upgrades and proposes, new landscaping, secured access from Galleher Way, and screened parking, support improved site functionality. The project maintains a low profile, consistent with the surrounding built environment, and requires no transition in height or mass due to the compatible design with adjacent industrial uses.

JUSTIFICATION:

In order to approve the Cannabis – Conditional Use Permit application, Case PLN 24-0107, the City Council is required to make findings pursuant to Chapter 17.52 of the BMC Zoning Ordinance, and Chapter 17.53 of the BMC Zoning Ordinance, Section 17.53.060. Procedures and Findings for Approval of Cannabis Conditional Use Permit. The Planning Commission recommended approval of the Cannabis – Conditional Use Permit application for Case PLN 24-0107 pursuant to the findings in Planning Commission Resolution 2025-06. The findings are included in the draft resolution attached to this report.

Finding A: The proposed use is consistent with the General Plan.
Finding of Fact: The proposed Project cannabis cultivation is consistent with the General Plan's designation for industrial development in the area, which supports cannabis cultivation, warehousing and office uses. Further, Conditional Use Permit 24-0107 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 Cannabis - Conditional Use Permit Case No. 24-0107 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is conditionally permitted with the Industrial zoning district and complies with all of the provisions of BMC Chapter 17 of the BMC.
Finding of Fact: The proposed project complies with the applicable requirements of the Industrial (I) zoning district as outlined in BMC Chapters 17.12 and 17.53. The project meets or exceeds all applicable development standards, including lot size, setbacks, building height, and parking requirements, ensuring

conformance with the zoning ordinance for industrial uses. Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that "Cannabis Commercial Indoor Cultivation", is a conditionally permitted use in the Industrial zoning district. The proposed Cannabis Cultivator complies with all other applicable provisions of Title 17 of the Banning Municipal Code, including the standards set forth in Section 17.12.050.V. applicable to Cannabis Cultivator (Use Specific Development Standards). Lastly, the proposed project complies with the provisions of Chapter 17.53, including standards regarding the premises, personnel, security, cannabis tracking and tracing, signage, waste management, sanitary requirements, and odor control.

Finding C: The proposed use would not impair the integrity and character of the land use district in which it is to be located.
Finding of Fact: The proposed use is located on the former right-of-way of John Street, located in the northern end of Galleher Way. Adjacent properties consist of other industrial uses, including cannabis cultivation, towing yards, plumbing supply, and energy management. Access ingress/egress to the Project is via an access easement at the north end of the Galleher Way. It is anticipated that the area would contain indoor commercial cannabis cultivation which is conditionally permitted within the City under Banning Municipal Code Chapter 17.53 Cannabis Conditional Use Permits.

Finding D: The subject site is physically suitable for the type and intensity of land use being proposed.
Finding of Fact: The subject site currently consists of an existing industrial warehouse building and the applicant is proposing interior changes to the building to create the growing room setting needed for cannabis cultivation. Furthermore, the project site will utilize existing paved areas for adequate parking, access, and lighting. The building is of adequate size and design to accommodate cannabis cultivation.

Finding E: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
Finding of Fact: The existing project site and structure are currently tied to the local water, sewer, and Banning Electric Utility public utility system.

Finding F: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
Finding of Fact: The proposed Cannabis – Conditional Use Permit is exempt from the requirements per Section 15301 of the CEQA Guidelines as the proposed project is utilizing an existing structure with no proposed expansion of the structure or use.

Finding G: The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning.
Finding of Fact: The proposed location, design, and operating characteristics of the proposed cannabis cultivation facility will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning and will complement existing cannabis and industrial businesses located on Galleher Way. Cannabis related activities are regulated by the State of California, Bureau of Cannabis Control (BCC). The applicant must maintain a valid BCC license to be compliant with the Banning Municipal Code and BCC. If determined for good cause that the continuance of such license would be contrary to the public safety and welfare, the City of Banning and the BCC are authorized to suspend or revoke any license.

ENVIRONMENTAL DETERMINATION:
Planning staff has determined that the project qualifies for a Class 1 Categorical Exemption under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies when a project involves interior or exterior tenant improvements, maintenance, permitting, or licensing of an existing structure where there is negligible or no expansion of use or capacity.
This project involves converting an existing 8,041-square foot vacant industrial building into a cannabis

cultivation facility through tenant improvements only, such as partitioning, HVAC, electrical upgrades, and plumbing, with no change to the exterior footprint, height, or building coverage. The site is fully developed and served by existing utilities, and it is not located on environmentally sensitive lands or hazardous sites. There is no evidence of cumulative impacts or unusual circumstances that would affect scenic or historic resources, as similarly concluded for prior cultivation projects in the City. The proposed project and cultivation business is subject to the submission of quarterly reports that outline their operations and cataloguing nuisance odors and other community complaints.
Based on these considerations, the project meets the criteria for a Class 1 exemption. A Notice of Exemption will be filed with the Riverside County Clerk following the City Council's approval.

FISCAL IMPACT:

Economic Benefit:

The Project Applicants anticipate 6-10 full-time employment positions created by the Project. The Project Applicant has committed to hiring locally, supporting community engagement, and generating local tax revenue.

Per BMC 3.17.030(B) a cannabis cultivation facility shall pay to the City an annual cannabis business tax in an amount that is equal to $15 per square foot of canopy space. Should the business utilize 6,000 square feet of double stacked canopy space, the annual cannabis business tax should equate to approximately $180,000 per year.

ALTERNATIVES:

N/A

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 1. PLN 24-0107 CC RESO 09232025.docx
2. 2. PLN 24-0107 CC COA 09232025 .v1.docx
3. 3. PLN_24-0107_Map_Exhibits 09232025.pdf
4. 4. PLN 24-0107 CC Plan Sets 09232025.pdf
5. 5. APPROVED-PC_Minutes_ 08062025.pdf
6. 6. APPROVED-PC_ Minutes_07092025.pdf
7. 7. APPROVED-PC_Resolution_08062025.pdf
8. 8. PLN_24-0107 PC__COA_08062025.pdf
9. 9. PLN_24-0107_Flower_Dept_LLC_Application.pdf
10. 10. PLN 24-0107 CEQAnet DCC Filings.09232025.pdf
11. 11. CITY COUNCIL PUBLIC NOTICE_PLN 24-0107_09232025 -.pdf
12. 12. PLN 24-0107 NOE.pdf
13. 200 John St_PLN 24-0107_affidavit.pdf

RESOLUTION 2025-135

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, THAT THE CITY COUNCIL MAKE A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15301 AND APPROVE A CANNABIS – CONDITIONAL USE PERMIT (CUP) CASE NO. PLN 24-0107, BY FLOWER DEPT., LLC TO ALLOW FOR COMMERCIAL CULTIVATION OF CANNABIS WITHIN AN EXISTING 8,041 SQUARE-FOOT INDUSTRIAL BUILDING AT 200 JOHN STREET, BANNING, CA IN THE INDUSTRIAL (I) ZONING DISTRICT (APN: 541-220-006).

WHEREAS, Ricardo Alcantara and Laura Leindecker (the "Project Applicants") on behalf of Flower Dept., LLC (the "Project Owner") has applied for a Cannabis – Conditional Use Permit, Case No. PLN 24-0107, to allow for commercial cultivation of cannabis the ("Project") within an existing 8,041 square foot industrial building in the Industrial (I) Zoning District; 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, the Planning Commission made a recommendation to the City Council regarding a proposed Cannabis - Conditional Use Permit per Chapter 17.53 Cannabis Conditional Use Permits of the Banning Municipal Code (BMC); and

WHEREAS, on June 27, 2025, the City gave public notice by advertising in the *Record Gazette*, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project site for a public hearing to be held on July 9, 2025 by the Planning Commission; and

WHEREAS, on July 9, 2025, the Planning Commission held a duly noticed public hearing at which time interested persons had an opportunity to testify in-support of or in-opposition to Cannabis Conditional Use Permit, Case No. PLN 24-0107; and

WHEREAS, on July 9, 2025, the Planning Commission considered staff and public testimony on the Project and Cannabis – Conditional Use Permit, Case No. PLN 24-0107 and voted 4-0 to continue the public hearing to a special Planning Commission meeting on August 6, 2025, to consider additional information; and

WHEREAS, on August 6, 2025, the Planning Commission voted 3-2 and adopted Resolution 2024-06 recommending to the City Council approval for the Project application; and

WHEREAS, on August 6, 2025, the Planning Commission in accordance with the requirements of CEQA, staff determined that the Project and Cannabis – Conditional Use Permit, PLN 24-0107, qualifies for a Categorical Exemption pursuant to CEQA Guidelines Section 15331 (Class I – Existing Facilities) and no further environmental analysis is required; and

WHEREAS, on September 12, 2025, the City gave public notice by advertising in the *Record*

Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project site for a public hearing to be held on September 23, 2025 by the City Council; and

WHEREAS, on September 23, 2025, the City Council held a duly noticed public hearing at which time interested persons had an opportunity to testify in-support of or in-opposition to Cannabis Conditional Use Permit, Case No. PLN 24-0107; and

WHEREAS, on September 23, 2025, the City Council considered the staff report and public testimony on the Project, Case No. PLN 24-0107 and voted 4-1 to continue the public hearing to the next City Council meeting on October 14, 2025, to consider additional information; and

WHEREAS, on October 14, 2025, the City Council considered the additional information on the Project, Case No. PLN 24-0107, at a continued public hearing.

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

SECTION 1. ENVIRONMENTAL DETERMINATION

The proposed project is Categorically exempt under CEQA Guidelines Section 15301 (Class 1 – Existing Facilities). The Project is consistent with the General Plan and Zoning Ordinance, occurs within city limits on a site less than five acres in size. The Project shall consist of operation, repair, maintenance, permitting, leasing, licensing, and minor alter of an existing private struct involving negligible or no expansion of existing or former use, including interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances. The Planning Commission has reviewed staff determination of exemption, and based on its own independent judgement, recommends that the City Council concur in the staff determination of exemptions. Based on the foregoing, the City Council finds that the project proposed under Case PLN 24-0107, is exempt from CEQA pursuant to CEQA Guidelines Section 15301.

SECTION 2. REQUIRED FINDINGS FOR CANNABIS – CONDITIONAL USE PERMIT, CASE PLN 24- 0107

Chapter 17.53 of the City of Banning Zoning Ordinance requires that Cannabis Conditional Use Permit applications meet certain Findings prior to the approval recommendation by the Planning Commission. The Planning Commission does hereby find and determines that Case PLN 24-0107 should be approved because:

Finding A: The proposed use is consistent with the General Plan.
Finding of Fact: The proposed Project cannabis cultivation is consistent with the General Plan's designation for industrial development in the area, which supports cannabis cultivation, warehousing and office uses. Further, Conditional Use Permit 24-0107 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 Cannabis - Conditional Use Permit Case No. 24-0107 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is conditionally permitted with the Industrial zoning district and complies with all of the provisions of BMC Chapter 17 of the BMC.
Finding of Fact: The proposed project complies with the applicable requirements of the Industrial (I) zoning district as outlined in BMC Chapters 17.12 and 17.53. The project meets or exceeds all applicable development standards, including lot size, setbacks, building height, and parking requirements, ensuring conformance with the zoning ordinance for industrial uses. Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that "Cannabis Commercial Indoor Cultivation", is a conditionally permitted use in the Industrial zoning district. The proposed Cannabis Cultivator complies with all other applicable provisions of Title 17 of the Banning Municipal Code, including the standards set forth in Section 17.12.050.V. applicable to Cannabis Cultivator (Use Specific Development Standards). Lastly, the proposed project complies with the provisions of Chapter 17.53, including standards regarding the premises, personnel, security, cannabis tracking and tracing, signage, waste management, sanitary requirements, and odor control.

Finding C: The proposed use would not impair the integrity and character of the land use district in which it is to be located.
Finding of Fact: The proposed use is adjacent to John Street, located in the north section area of Galleher Way. Access ingress/egress to the Project is via a newly created easement at the end of the Galleher Way. It is anticipated that the area would contain commercial indoor cannibal cultivation currently permitted within the City under Banning Municipal Code Chapter 17.53 Cannabis Conditional Use Permits.

Finding D: The subject site is physically suitable for the type and intensity of land use being proposed.
Finding of Fact: The subject site currently consists of an existing industrial warehouse building and the applicant is proposing interior changes to the building to create the growing room setting needed for cannabis cultivation. Furthermore, the project site will utilize existing paved areas for

Finding E: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
Finding of Fact: The existing project site and structure are currently tied to the local water, sewer, and Banning Electric Utility public utility system.

Finding F: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
Finding of Fact: The proposed Cannabis – Conditional Use Permit is exempt from the requirements per Section 15301 of the CEQA Guidelines as the proposed project is utilizing an existing structure with no proposed expansion of the structure or use.

Finding G: The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning.
Finding of Fact: The proposed location, design, and operating characteristics of the proposed cannabis cultivation facility will not be detrimental to the public interests, health, safety, convenience, or welfare of the City of Banning and will complement existing cannabis and industrial businesses located on Galleher Way. Cannabis related activities are regulated by the State of California, Bureau of Cannabis Control (BCC). The applicant must maintain a valid BCC license to be compliant with the Banning Municipal Code and BCC. If determined for good cause that the continuance of such license would be contrary to the public safety and welfare, the City

of Banning and the BCC are authorized to suspend or revoke any license determination of exemption, and based on its own independent judgement, recommends that the City Council concur in the staff determination of exemptions.

SECTION 4. APPROVAL OF APPLICATION FOR CANNABIS – CONDITIONAL USE PERMIT CASE PLN 24-0107

Based on the foregoing, the City Council of the City of Banning hereby approves Cannabis Conditional Use Permit, Case PLN 24-0107, consistent with the approved plans on file with the Community Development Department and subject to the recommended Conditions of Approval attached hereto as **Exhibit A**.

SECTION 5. 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 14th day of October, 2025.

_____
Sheri Flynn, Mayor
City of Banning

ATTEST:

_____
Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-135 was duly adopted by the planning Commission of the City of Banning, California, at a regular meeting thereof held on October 14, 2025 by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Sandra Calderon, Acting
Administrative Clerk City of Banning,
California

EXHIBIT A
Conditions of Approval

City of Banning

Community Development Department

Conditions of Approval

PROJECT:	Cannabis - Conditional Use Permit PLN 24-0107
SUBJECT:	Conditions of Approval (City Council Resolution 2025-135)
LOCATION:	200 John Street, Banning, CA
PROPERTY OWNER:	Flower Dept., LLC
BUSINESS OWNERS:	Antonio Simeone, Kenneth R. Brymer (Flower Dept., LLC)
PROJECT APPLICANTS:	Ricardo Alcantara and Laura Leindecker
PROJECT PRINCIPALS:	Property Owner, Business Owners, and/or Project Applicants

EXHIBIT A
City Council Resolution 2025-135

***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.**

Planning Division:

1. The operation of a commercial indoor cannabis cultivation facility under Cannabis - Conditional Use Permit (CUP) PLN 24-0107 ("Project") shall be in compliance with all federal, state, County and City laws, codes, regulations, and standards.

2. The Property Owner, Business Owners, and/or Project Applicants (collectively "Project Principals") 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 Project Principals 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 Project Principals of any Actions brought and City shall cooperate with Project Principals in the defense of the Actions.

3. Approval of this entitlement 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. The Project permitted under Cannabis – CUP PLN 24-0107 shall commence operation within two (2) years from the date of this approval. The Community Development Director may, upon

a written application being filed 30 days prior to expiration and for good cause, grant a one-time extension not to exceed 12 months (BMC 17.52.090). Upon granting of an extension, the Community Development Director shall ensure that the Cannabis – CUP complies with all current provisions of BMC Title 17.

5. A copy of the signed Resolution of approval and these Conditions of Approval imposed on Cannabis - CUP PLN 24-0107 shall be reproduced in legible form on the improvement plans and construction plans submitted for review and approval as required by the reviewing department.

6. Prior to any occupancy/use of the project site, or business activity being commenced thereon, the Project Principals shall complete these Conditions of Approval to the satisfaction of the Community Development Director.

7. The Project Principals shall comply with all applicable provisions of the Banning Municipal Code (BMC), including but not limited to Chapter 17.53 (Cannabis - Conditional Use Permits), Title 17 (Zoning), and Chapter 5.35 (Cannabis Regulatory Permits), and all other applicable state and local laws.

8. The Project Principals shall obtain and maintain the following permits/licenses prior to commencement of operations and throughout the life of the cannabis business:
   a. A valid Cannabis - Conditional Use Permit approved by the City Council.
   b. A valid Cannabis Regulatory Permit issued jointly by the City Manager and Chief of Police (BMC 17.53.020(B)(3)).
   c. A valid California state cannabis cultivation license (Department of Cannabis Control).
   d. A valid City of Banning business license.

9. Any material change, alteration, or modification to the premises or operation from what is approved herein shall require an amendment to this Cannabis - CUP, consistent with BMC 17.53.080(J).

10. The Project Principals shall be subject to inspection by City staff and law enforcement with 24 hours' notice to ensure compliance with this approved CUP and applicable laws (BMC 17.53.080(L).

11. All commercial cannabis activity shall be conducted entirely within enclosed structures. No outdoor cultivation or storage of cannabis or related materials shall be permitted (BMC 17.53.080(A)).

12. The cannabis business shall not be located within 600 feet of any existing school (K–12), park, youth center, or day care center, as measured in a straight-line horizontal distance between property lines (BMC 17.53.080(B)).

13. The property shall be fully compliant with all applicable zoning and development standards, including but not limited to parking, landscaping, lighting, and screening requirements (BMC 17.53.080(E)).

14. Loading and unloading areas shall be located at the side or rear of the site and shall be screened by a solid, decorative wall (BMC 17.53.080(C). The Project Principals shall submit to City staff for approval construction drawings on the type of screening prior to installation.

15. The hours of operation (6 AM – 10 PM daily) shall be limited to those approved through this CUP and shall not be changed without prior City approval (BMC 17.53.080(D)).

16. The Project Principals shall retain or contract for 24-hour on-site security personnel, in compliance with BMC 17.53.100(D).

17. A digital video surveillance system shall be installed and maintained as specified in BMC 17.53.100(E), including:
    a. 24/7 operation at a minimum resolution of 1280 x 720 pixels and 15 frames per second.
    b. Coverage of all entrances, exits, loading areas, and areas where cannabis is processed, stored, or destroyed.
    c. Minimum 90-day storage of footage with offsite backup or cloud capability.
    d. Remote access, tamper protection, and battery backup.

18. An audible interior and exterior alarm system monitored by a licensed security company shall be installed and maintained in accordance with BMC 17.53.100(F).

19. All points of ingress/egress shall be equipped with commercial-grade locks (BMC 17.53.100(C)).

20. All cannabis and cannabis products shall be stored securely, in locked areas only accessible to authorized staff (BMC 17.53.100(G)).

21. Exterior and interior lighting shall comply with the approved Lighting Plan and BMC 17.53.100(H) and shall provide minimum illumination necessary for security while avoiding light trespass on adjacent properties.

22. Business signage shall be limited to the name of the cannabis only, and shall contain no advertising or any companies, brands, products, goods, or services, and comply with BMC 17.53.120 and shall include at a minimum:
    a. “This site is not open to the public”
    b. “Retail sales of any goods and services are prohibited”
    c. “All Activities Monitored by Video Camera”
    d. “Limited Access Area – Authorized Personnel Only”
    e. “Smoking, vaporizing, ingesting, or otherwise consuming cannabis on these premises or in the vicinity is prohibited and a violation of the Banning Municipal Code”
    f. List the contact phone number and email of the business Community Relations Representative identified in Condition #31 below.

23. All employees, agents, officers, and volunteers of the cannabis business shall be at least 21 years of age, wear visible City-compliant ID badges, and be listed on the premises worker list (BMC 17.53.090(A)–(B)).

24. The cannabis business shall not be open to the general public. Any visitors to the cannabis business facility shall:
    a. Be at least 21 years of age
    b. Present valid government-issued ID
    c. Sign the visitor log, including their name, date of entry, and purpose of entry.
    d. Be escorted at all times
    e. Shall not engage in any commercial cannabis activity (BMC 17.53.090(C))

25. The Project Principals and/or business manager shall be on site any time anyone other than security personnel is present (BMC 17.53.090(C)(4)).

26. The facility shall install and maintain a ventilation and filtration system compliant with the California Building Code and approved by the City Building Official that prevents odors from exiting the building (BMC 17.53.150). The Project Principals shall install industry-standard carbon filters including double filtration measures to mitigate odor leaks and ensure odor containment. Prior to occupancy, the Applicant shall seal all gaps, holes and penetrations in the exterior walls to the satisfaction of the Building Official or designee. New interior walls and ceilings shall be constructed for each of the rooms where odor control is necessary, including but not limited to cultivation, drying and trimming rooms. The new walls and ceilings shall provide a continuous air barrier around these spaces so as to contain odors, in addition to the required filtration systems.

27. Cannabis waste disposal shall comply with BMC 17.53.130, including:
    a. Chemical, dangerous, or hazardous wase, such as pesticides, solvents, and other chemicals, shall be disposed of consistent with federal, state, and local laws.
    b. Cannabis waste must be rendered unusable and unrecognizable.
    c. Waste must be stored in locked, secure trash receptacles and enclosures accessible only to authorized personnel or licensed haulers.

28. The premises and cannabis activities shall be maintained and conducted in a sanitary condition and shall have adequate access to bathrooms and hand-washing stations (BMC 17.53.140).

29. The business shall comply with the California Cannabis Track and Trace system required by Section 26067 of the Business and Professions Code utilizing seed-to-sale software capable of real-time inventory tracking and manifest generation (BMC 17.53.160(B)).

30. The Project Principals and/or business manager shall make all records and systems available to the City upon request, including surveillance footage, personnel records, and inventory logs. The Project Principals and/or business manager shall endeavor to recruit and hire locally, and annually report employee residency data, including number persons employed from City of Banning and San Gorgonio Region.

31. The Project Principals shall designate a Community Relations Representative, staff member, or other representative whose contact information shall be provided to the City and all adjacent properties within 150-foot radius of the site. This person shall be the primary contact for complaints or concerns and shall become the designated person to receive and respond to operational matters (BMC 17.53.040(G)).

32. Prior to receiving a City of Banning, Building Permit for the building and cannabis business, the property owner shall have an access easement approved by the City of Banning, Public Works Department and recorded onto the property. The agreement shall allow the development of a 40' wide access easement with a 24-foot-wide driveway off Galleher Way northward to the Project site compliant with the Public Works Street conditions below.

33. The Project Principals and/or business manager shall provide the City, on a quarterly basis, a written report disclosing odor control, cannabis operation and community complaints received. The Project Principals shall designate a Community Relations Representative to

address project issues described in Condition of Approval #31 above.

34. The Project Principals and/or business manager shall respond to odor or other operational complaints within 48 hours of receipt of a complaint. Documentation and details of such complaints shall be included in the required quarterly reports in Condition of Approval #33 above. Should the City receive three (3) complaints within a 90-day period, the City may initiate a compliance review, require updates to the odor abatement plan, or modification of this Cannabis - CUP at a public hearing.

35. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed on the premises. All commercial cannabis activity shall be separated from the main entrance and lobby, and cannabis and cannabis products shall be secured by a lock accessible only to managers and staff of the permittee (BMC 17.53.080(H-I). The canopy area shall be a minimum of 10,000 square feet (but not more than 22,000 square feet) and may include stacked canopy systems to comply with BMC 5.35.050.

Building Division:

36. The proposed structure shall be designed per the current adopted building codes, which is currently 2022 California Building Code.

37. Structural plans and calculations shall be provided by a California licensed engineer or California licensed architect.

38. Clearly identify the distance from all property lines to the proposed buildings.

39. 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).

40. 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).

41. 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, and where necessary to provide access. Paths of travel shall incorporate landings, sidewalks, pedestrian ramps, curb ramps, etc. The accessible route of travel shall be the most practical direct route between accessible building entrances, site facilities, accessible parking and the accessibility entrance to the site. Where more than one route is provided, all routes must be accessible. (CBC Section 11B-206.2.1).

42. Please comply with California Green Building Standards Code Section 5.106.5.3 for required and future readily available EV Charging Stations. Also note there is a % of the EV charging stations that are required to be accessible and need to be on an accessible route. (CBC Section 11B-403.5.1).

43. Footings for CMU screen walls shall not be beyond the property lines.

44. The drawing plans and conditions shall be per the 2022 CBC.

45. Clearly identify distances to property lines on the site plan.

46. Provide an accessible path of travel from the street to the primary entrance. 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 plans.

Electric Utility:

47. A new Service Questionnaire will be required to determine the electrical demand of the project and to ensure the City of Banning Electric Utility ("BEU") can provide safe and reliable service to the project. The Project Applicant shall submit a new Service Questionnaire and receive approval from the Public Works Department of required changes and upsizing of the electrical system prior to building permit issuance.

48. The Project Applicant shall be required to submit for panel upgrade/replacement a permit for proposed new 1200A service. A separate permit is required via SmartGOV.

49. BEU Plan Review Fee to be paid. The Project Applicant shall pay the BEU Plan Review Fee prior to receiving approval of a Cannabis – CUP.

Fire Division:

With respect to the conditions of approval for the referenced project, the Fire Department requires the following fire protection measures be provided in accordance with Riverside County Ordinances and/or recognized fire protection standards:

50. 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.

51. 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.

52. 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. The minimum required turning radius of a fire apparatus access road is 45 feet outside

radius and 20 feet inside radius. 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.

a. Fire Lane marking: Identification and marking of fire lanes, including curb details and signage, shall comply with RVC Guideline OFM-01A.

53. 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 24 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 124 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 OFM1A.

54. 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.

55. Fire Sprinkler System - ~~All new commercial buildings and structures 3,600 square feet or larger will be required to install a fire sprinkler system~~. <u>The commercial building shall be required to install a fire sprinkler system prior to occupancy</u>. Reference CFC as amended.

56. 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.

57. Cannabis Facilities - Deferred submittals shall be required for Carbon Dioxide Gas Enrichments Systems and Plant Processing/Extraction Systems. Reference CFC as amended per Riverside County Fire Department Policies and Standards.

58. 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.

59. 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.

60. 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.

61. 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.

Public Works Department:

The Department of Public Works provides the Conditions of Approval listed herein for the above-mentioned project. Unless otherwise stated, all conditions shall be completed by the applicant at no cost to any government agency. The Applicant may contact the Engineering Division at (951) 922-3130 for compliance with the following conditions.

General Conditions

COA #	Condition of Approval	Completion Milestone	Status
PW.General.01	The subject property shall substantially conform to the approved Conditional Use Permit. 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.	Informational	
PW.General.02	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.03	All applicable mitigation measures specified in the approved Technical Studies shall be incorporated as conditions of approval for this project and shall be addressed to the satisfaction of the Public Works Director and City Engineer.	Informational	
PW.General.04	The applicant shall comply with the approved site plan, the preliminary grading plan, and other relevant documents approved during project entitlement. 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	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.07	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.08	All future utility systems including gas, electric, telephone, water, sewer, and cable TV, shall be provided for underground, 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	

COA #	Condition of Approval	Completion Milestone	Status
PW.General.09	Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.	Informational	
PW.General.10	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.). 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.11	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	

Reports, Agreements and Certifications:

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.
All required plans and studies shall be prepared by a Registered Professional Engineer, Registered Professional Geologist. Registered Professional Landscape Architect or Registered Professional Surveyor in the State of California and submitted to the Public Works Department for review and approval.
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 beyond the project limits, 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	Precise Grading Plan	1" = 20'	
	Erosion and Sediment Control	1" = 40'	Shall be included with any grading plan
Encroachment	Street Improvements	1" = 40' Horiz/ 1" = 4' Vertical	
	Potable Water Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Sewer Plan	1" = 40' Horiz/ 1" = 4' Vertical	
Survey	Easement Dedications		
	Record of Survey		If necessary
Technical	Geotechnical Report		For pavement sections
Studies			
Permits and	Permission to Grade		
Agreements			

Mapping/Survey:

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.01	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.02	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	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.03	All public facilities including sewer, water, reclaimed water and drainage shall be located in a public right of way or public utility easement. All easements shall meet minimum width and access requirements as mandated by the City or governing agency.	Informational	
PW.Map.04	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.05	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.06	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 RCFCD or unless such easements do not conflict with the City's or RCFCD'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.07	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 Issuance of any Construction Permit	
PW.Map.08	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 Issuance of any Construction Permit	
PW.Map.09	The applicant shall dedicate right-of-way along Galleher Way to provide for a standard 10' parkway, and necessary right of way to permit for a City of Banning standard Commercial Driveway to be constructed.	Prior to Issuance of any Construction Permit	
PW.Map.10	Legal descriptions and plans of street dedication shall be provided to the Engineering Division for review and approval before acceptance by the City Council and recorded by the County of Riverside.	Prior to Issuance of any Construction Permit	

Grading:

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 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	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.05	Detailed grading plans shall be prepared and approved by the City prior to any on-site grading for the project.	Prior to Issuance of a Grading Permit	
PW.Grade.06	Prepare an erosion control plan that provides the developed phases with the required flood protection. Flood protection shall be determined by the size of the undeveloped areas and the flow patterns.	Prior to Issuance of a Grading Permit	
PW.Grade.07	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	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.08	For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board (RWQCB). The applicant shall provide proof that the SWPPP has been approved by the RWQCB prior to issuance of any permits. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through and including acceptance of all improvements by the City. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"): • Temporary Soil Stabilization (erosion control). • Temporary Sediment Control. • Wind Erosion Control. • Tracking Control. • Non-Storm Water Management. • Waste Management and Materials Pollution Control. All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.	Prior to Issuance of a Grading Permit	N/A, under one acre disturbed ?
PW.Grade.09	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	
PW.Grade.10	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 Grading Permit	
PW.Grade.11	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, draiange devices, and other items shown in conformance with the approved Precise Grading Plan.	Prior to Certificate of Occupancy	

Stormwater/Water Quality:

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	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.	Prior to the Issuance of a Grading Permit	
PW.Storm.03	The applicant shall identify and include in its improvement plans structural and non-structural Best Management Practices (BMP's) as outlined in these Conditions of Approval.	Prior to the Issuance of a Grading Permit	
PW.Storm.04	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.05	The applicant shall provide their SIC code to the Engineering Division to determine if a SWRCB issued Industrial General Permit will be required.	Prior to Occupancy	
PW.Storm.06	A NPDES/Industrial Waste Inspection performed by the Public Works Dept. will be required and the Fee paid for prior to the issuance of the Certificate of Occupancy.	Prior to Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.07	Ensure that Good Housekeeping Best Management Practices, described in the CASQA BMP Handbook (erosion, sediment, and trash controls) are used during construction and on a regular basis once operational, to prevent potential pollutants from entering the storm drain system to meet NPDES requirements. Once operational, Source Control good housekeeping BMPs include; - SC-11, Spill Prevention, Control and Cleanup (including a SPCC Plan) - SC-43 Parking Area Maintenance - SC-60, Housekeeping Practices There shall be no outdoor storage of materials, and the good housekeeping BMPs shall be met. Violation these requirements may lead to the CUP being revoked.	Prior to Occupancy	

Streets and Traffic:

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	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.03	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.04	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.05	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.06	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.07	A minimum width of 20 feet for a paved or all weather emergency access.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.08	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.09	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.10	ADA Ramps shall comply with City of Banning Standards and PROWAG guidelines, whichever is stricter.	Informational	
PW.Street.11	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.12	Commercial/Industrial driveway grades shall not exceed eight percent unless approved by the City Engineer.	Informational	
PW.Street.13	**Galleher Way**: Construct parkway improvements for LOCAL COLLECTOR roadway per City of Banning Standard ST-100 including the following: Driveways, Sidewalk, Parkway Landscaping	Informational	
PW.Street.14	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 the Issuance of an Encroachment Permit	
PW Street 15	Applicant shall prepare improvement plans for review from the Public Works Department for construction of remaining parkway improvements.	Prior to the Issuance of an Encroachment Permit	
PW.Street.16	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.17	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	
PW.Street.18	Applicant shall make pavement repairs necessary to mitigate the impacts of project construction traffic on all affected existing streets.	Prior to Release of Surety	

Solid Waste/Refuse:

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	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.03	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.04	Applicants are encouraged to review the referenced sections in the 2022 California Green Building Standard Code:https://calgreenenergyservices.com/wp/wp-content/uploads/2019_california_green_code.pdf	Informational	
PW.Refuse.05	Cannabis waste material shall be handled separate of solid waste collection services (trash, recyclable, organics) unless alternative disposal method approved by the State or Federal government.	Informational	
PW.Refuse.06	Cannabis waste material shall be housed in a locking enclosure that is not accessible to unauthorized individuals including the public.	Informational	
PW.Refuse.07	Facilities shall implement an approved plan with the Department of Cannabis or State/Federal approve department.	Informational	
PW.Refuse.08	The developer shall participate in the City's recycling and diversion programs by providing a solid waste enclosure to accommodate necessary solid waste containers. Trash enclosure must meet City of Banning Trash Enclosure guidelines.	Prior to Building Permit	
PW.Refuse.09	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.10	Properties that are being renovated and that do not have an existing solid waste enclosure must identify a suitable location and include a solid waste enclosure to house trash, recycling and organics bins and/or containers with the renovation plan submittal.	Prior to Building Permit	
PW.Refuse.11	Solid waste enclosures shall be located on the site to be serviced.	Prior to Building Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Refuse.12	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.13	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	
PW.Refuse.14	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.15	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 Environmental Program Coordinator at refuse@banningca.gov or 951.922.3193 for further details and to obtain a report form template.	Prior to Certificate of Occupancy	

Potable Water:

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 submit a utility plan, 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.05	Applicant shall install a fire service with 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.06	Applicant shall provide a detailed hydraulic analysis report to justify meter sizing and demonstrate adequate pressures throughout the project's water system during max day demand (MDD) with fire flow conditions to the satisfaction of the City Engineer.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Wat.07	Applicant shall install a backflow device 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.08	All water mains shall be looped whenever feasible, and dead-end water mains shall be provided with fire hydrants and auto-flush systems that delineates to the storm drain.	Informational	
PW.Wat.09	A water improvement plan shall be submitted showing the water lateral size and location within the public right of way.	Prior to Encroachment Permit	
PW.Wat.10	Applicant shall make pipeline repairs necessary as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Certificate of Occupancy	
PW.Wat.11	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 Certificate of Occupancy	

Sewer:

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	Applicant shall fill out and submit an Industrial User Survey form and comply with the City's FOG/Industrial Waste Program.	Prior to Encroachment Permit	
PW.Sew.04	Each property shall have its own sewer lateral and shall be PVC SDR 26.	Informational	
PW.Sew.05	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.06	A sewer improvement plan shall be submitted showing the sewer lateral size and location within the public right of way.	Prior to Encroachment Permit	
PW.Sew.07	Applicant shall make pipeline repairs necessary as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Certificate of Occupancy	
PW.Sew.08	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 Certificate of Occupancy	

Fees:

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.	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.	Prior to Building Final/C of O	
PW.Fees.09	Traffic Impact fees shall be paid in accordance with the fee schedule in effect at that time.	Prior to Building Final/C of O	

**** END****

600-FOOT OUTLINE

E LIVINGSTON ST.

INTERSTATE 10

BRYANT ST.

RAILROAD

JOHN ST.

600-FOOT OUTLINE

S SAN GORGONIO AVE.

PROJECT SITE

600-FOOT OUTLINE

J & C RECYCLING

GALLEHER WAY.

BELOVAC

GARCIA'S TIRE & TRUCK TRAILER REPAIR

SOCAL EDISON SUBSTATION

SEVEN STAR FOOD STORE

PERFORMANCE METERS

STATEWIDE TOWING & RECOVERY

E LINCOLN ST.

BANNING CITY YARD

BANNING CITY STREET DIVISION

BANNING USD, M& O

600-FOOT OUTLINE

N

600' RADIUS MAP (NEIGHBORHOOD CONTEXT MAP) 1"=50'-0" 1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

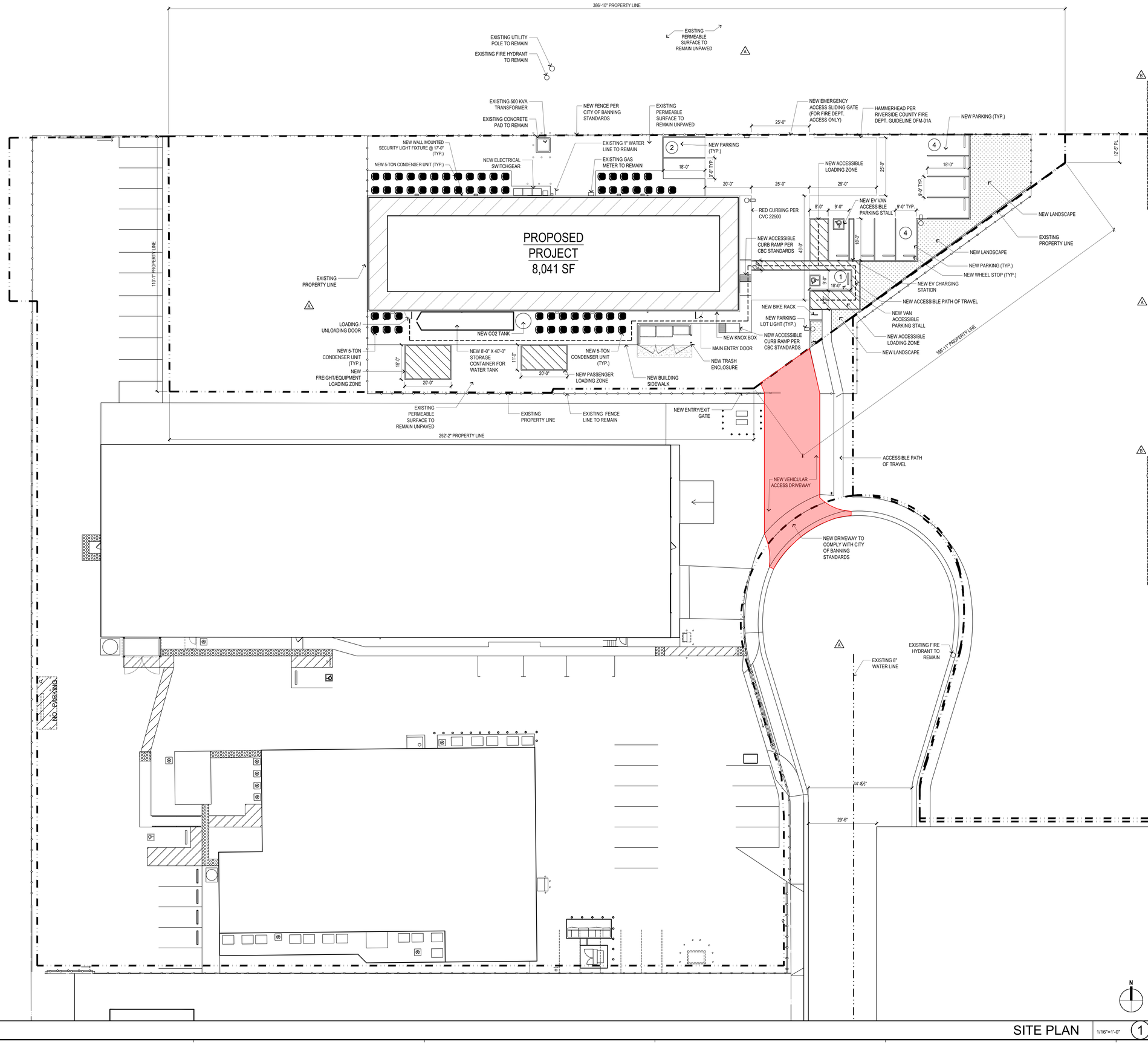
600' RADIUS MAP
(NEIGHBORHOOD CONTEXT MAP)

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
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drawing name: radius.dwg
dwg last saved: Jul/31/2025 5:53 PM by: Extra PC 2



SITE PLAN 1/16"=1'-0" (1)

PROJECT INFORMATION

ADDRESS:	200 JOHN ST. BANNING, CA 92220
APN:	541-220-006
ZONING:	INDUSTRIAL
CONSTRUCTION TYPE:	TYPE V-B
BUILDING SF:	8,041-SF
TOTAL LOT SF:	26,576 S.F.
BUILDING COVERAGE:	32% EXISTING COVERAGE
OCCUPANCY GROUP:	(F-1) INDUSTRIAL
OCCUPANCY LOAD:	27 OCCUPANTS
LOT SIZE:	26,576 SF
LOT WIDTH:	386'-10" (70'-0" MIN)
LOT DEPTH:	110'-1" (100'-0" MIN)
SETBACKS:	FRONT: 10'-0"
	SIDE: 0'-0"
	REAR: 0'-0"
	STREET SIDE: 10'-0"
BUILDING COVERAGE:	32% (60% MAX)
AREA TO BE DEVELOPED:	23,872 SF
BUILDING HEIGHT:	1 STORY, 25'-0"
PERIMETER WALL HEIGHT:	6'-0" (ALL SIDES)
TRASH ENCLOSURE:	6'-0" (SCREENED)

LEGEND

NEW LANDSCAPE

EXTENT OF THE NEW EASEMENT FOR ACCESS, UTILITIES AND DRAINAGE

NOTES

1. NO SEED PRODUCTION TO TAKE PLACE AT SITE.
2. NO WATER CROSSINGS AT SITE.
3. NO PRIVATE ROADS AT PROJECT SITE. ONLY PUBLIC ROADS SHOWN.
4. UNCOVERED STORAGE OF EQUIPMENT AND MATERIALS OUTDOORS IS PROHIBITED.
5. RESTRICTED ACCESS FROM NORTH SIDE OF PROPERTY. FOR FIRE DEPT. USE ONLY.
6. THE WATER SERVICE BEHIND THE EXISTING METER AND SEWER LATERAL ARE PRIVATE FACILITIES OWNED AND MAINTAINED BY THE PRIVATE PROPERTY OWNER.

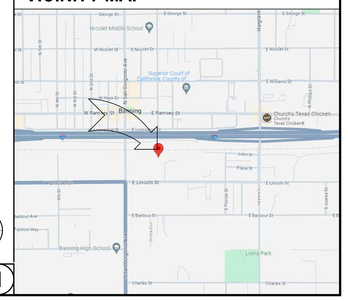
DEFERRED/SEPARATE SUBMITTALS

- SIGNAGE
- FIRE SPRINKLER
- CO2 ENRICHMENT
- ALARM/WATER FLOW MONITORING
- HAZARDOUS MATERIAL INVENTORY STATEMENT

***NOTE:**

1. ALL DEFERRED SUBMITTAL ITEMS MUST BE SUBMITTED FOR PLAN REVIEW AND APPROVAL BEFORE INSTALLATION.
2. DEFERRED SUBMITTALS SHALL BE REVIEWED BY ARCHITECT OR ENGINEER OF RECORD PRIOR TO SUBMITTAL TO THE BUILDING OFFICIAL.
3. HAZARDOUS MATERIAL DOCUMENTS FOR REFERENCE ONLY.

VICINITY MAP



HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

SITE PLAN

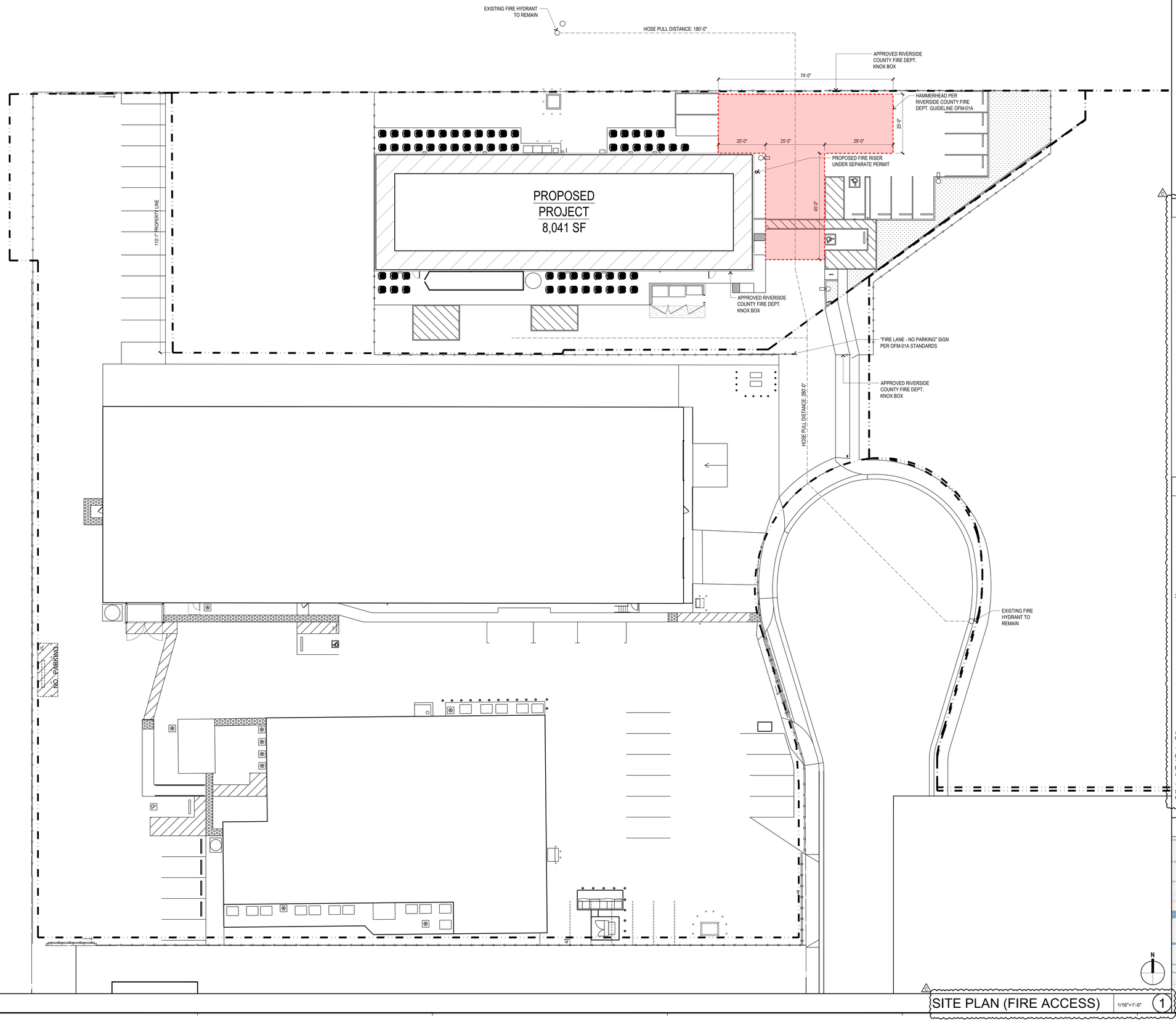
CUP Number:
Plan Check Number:

2024-07-31	1	1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	2	CUP CORRECTIONS
2025-07-30	3	CUP CORRECTIONS
2025-10-01	4	ADDITIONAL INFORMATION

SHEET

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SITE PLAN (FIRE ACCESS) 1/16"=1'-0" (1)

LEGEND

- NEW LANDSCAPE
- FIRE DEPARTMENT ACCESS (HAMMERHEAD)

EASEMENT DOCUMENT

7-23-2025

Confirmation of Agreement with 200 John St LLC

To Whom It May Concern,

This letter serves to confirm that Ross Tesser Estate LLC ("Grantor") and 200 John St LLC ("Grantee") have reached a finalized and mutually agreed-upon deal concerning the access and utility easement affecting the property located at 200 John Street, Banning, California

Both parties acknowledge that the terms and conditions of the agreement have been finalized, and it is the intention of both parties to formally record the easement with the County of Riverside immediately upon the granting of a Conditional Use Permit (CUP) to 200 John St LLC by the City of Banning.

Please acknowledge and confirm agreement by signing below.

Sincerely,
Ross Tesser Estate LLC

By: Ross Tesser
Name: Ross Tesser
Title: Manager
Date: 7/23/25

FIRE LANE ENTRANCE SIGNAGE

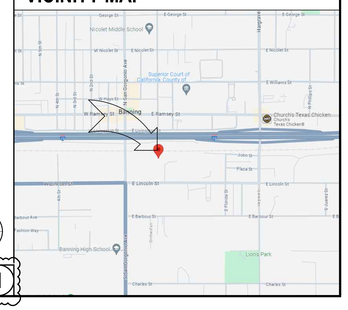


ALL SIGN AND LETTERING DIMENSIONS SHOWN ARE MINIMUMS. "ARIAL NARROW" FONT USED IS USED IN SAMPLE ABOVE THOUGH OTHER LEGIBLE SAN-SERIF FONTS MAY BE ACCEPTABLE.

THIS SIGN SHALL BE POSTED AT ALL VEHICLE ENTRANCES TO AREAS MARKED WITH EITHER RED CURB OR FIRE LAN "NO PARKING" SIGNS. SIGNS SHALL BE SECURELY MOUNTED FACING THE DIRECTION OF TRAVEL AND CLEARLY VISIBLE TO ONCOMING TRAFFIC ENTERING THE DESIGNATED AREA. SIGNS SHALL BE MADE OF DURABLE MATERIAL AND INSTALLED PER ATTACHMENTS 13 AND 14 IN GUIDELINE OFM-01A.

TOWING COMPANY CONTACT INFORMATION IS REQUIRED FOR ALL PROPERTIES WITH A STANDING WRITTEN AGREEMENT FOR SERVICES WITH A TOWING COMPANY PER THE CALIFORNIA VEHICLE CODE.

VICINITY MAP



HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

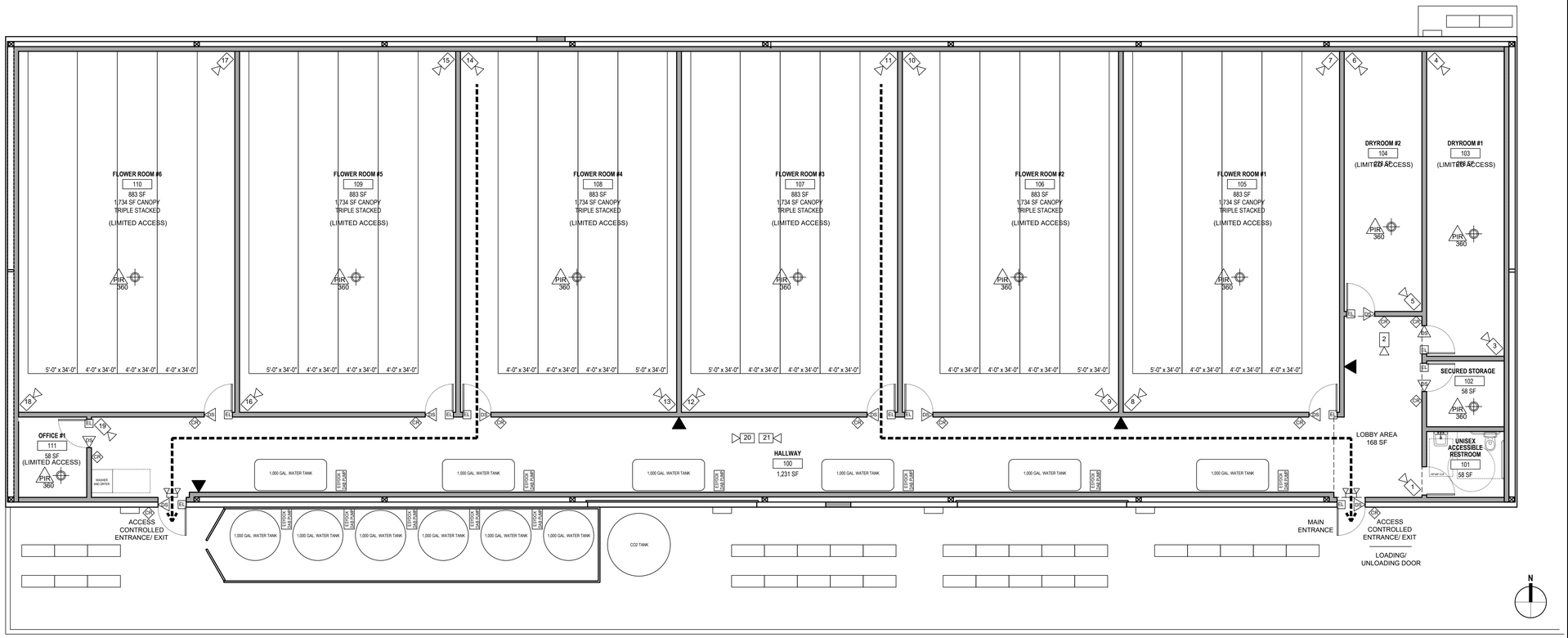
SITE PLAN (FIRE ACCESS)

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
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SECURITY, FIRE LIFE, & SAFETY PLAN 3/16"=1'-0" (2)

FLOOR PLAN 3/16"=1'-0" (1)

LEGEND

- INTERIOR NON-STRUCTURAL WALL (DPS PANEL)
- PATH OF EGRESS
- SECURITY CAMERA (21 TOTAL)
- PIR 360 — CEILING MOUNT PIR MOTION DETECTOR
- EMERGENCY LIGHT
- ILLUMINATED EXIT SIGN WITH EMERGENCY LIGHT
- FIRE EXTINGUISHER (MIN. RATING: 3A:40B:C)
- CR — PROXIMITY CARD READER
- EL — ELECTRONIC LOCKING DEVICE
- PB — PANIC/HOLD-UP BUTTON
- DS — DOOR CONTACT/SENSOR

KEYNOTES

1. EXISTING STEEL COLUMN TO REMAIN
2. NEW DOOR
3. NEW PLUMBING FIXTURE
4. NEW 1,000 GALLON WATER TANK
5. NEW ESYDOX DAB PUMP
6. NEW STACKED WASHER AND DRYER
7. NEW CANNABIS GROW TABLES
8. NEW EXTERIOR WALL INFILL TO MATCH EXISTING
9. NEW 8'-0" X 40'-0" STORAGE CONTAINER FOR WATER TANKS
10. NEW CO2 TANK
11. NEW BUILDING SIDEWALK
12. NEW STACKABLE 5-TON AIR HANDLING UNIT
13. NEW CHASE FOR CONDENSING LINES

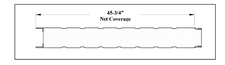
CANOPY SIZE

ROOM NAME	CANOPY
FLOWER ROOM #1	1,734 SF (TRIPLE STACK)
FLOWER ROOM #2	1,734 SF (TRIPLE STACK)
FLOWER ROOM #3	1,734 SF (TRIPLE STACK)
FLOWER ROOM #4	1,734 SF (TRIPLE STACK)
FLOWER ROOM #5	1,734 SF (TRIPLE STACK)
FLOWER ROOM #6	1,734 SF (TRIPLE STACK)
TOTAL:	10,404 SF

DPS WALL PANEL

SLIP LOCK PANEL

SL-504



DESCRIPTION
A versatile insulated building panel with a tongue and groove joining system roll-formed along the edge.

RECOMMENDED USES
Agricultural, Cold-rooms, Clean-rooms, Caravan Annexes, Roofs, Partitioning, Portable Buildings.

SPECIFICATIONS

Width: 45-3/4"

Thickness: 2" ~12"

Length: To Order.

Skin: 26 Gauge G-90 hot dipped galvanized (ASTM 446) with Epoxy Primer and acrylic polyester topcoat over a properly cleaned and pretreated substrate.
24 gauge available upon request.

Color: USDA White. Custom colors and finishes available upon request.

Core: Minimum 1.0 lb. Fire cubic foot density expanded polystyrene (ASTM C578) CFC free. Fire retardant added. Extruded polystyrene and isocyanurate available upon request.

Thermal properties: EPS at a mean temperature of 20° F, R-value 4.35 per inch. EPS at a mean temperature of 40° F, R-value 4.1 per inch.

Weight: 2": 1.95, 3": 2.05, 4": 2.15, 5": 2.24, 6": 2.37, 7": 2.40, 8": 2.48, 9": 2.57, 10": 2.65, 11": 2.73, 12": 2.81.

Adhesive: Polyurethane, CFC free.

Flammability Properties of 500 Series Panels:
ASTM E84-95 Flame Spread Index = 5.
ASTM E84-95 Smoke Development Index = 80.
Class A (ASTM E84).
ASTM tests are used widely to measure and describe properties in response to heat and flame under controlled laboratory conditions. Flame tests should not be used to describe or appraise the fire hazard or fire risk of materials under actual fire conditions. Values are reported by Omega Point Laboratories Report No. 15600-100475.

Span Chart: See other side.

Surface Finish: Plain or ribbed.

Variation: Most of the above specifications can be altered to suit particular applications. Common variations include color, core type or density and skin material.

Diversified Panel Systems uses only the highest quality materials and offers customers a variety of panel colors, skins, cores and profiles from which to choose.

DIVERSIFIED PANEL SYSTEMS, INC.
DPS
2345 Statham Blvd., Oxnard CA 93033
(805) 986-5070 Fax: (805) 986-4630
www.dpspanels.com

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

FLOOR PLAN & SECURITY, FIRE LIFE & SAFETY PLAN

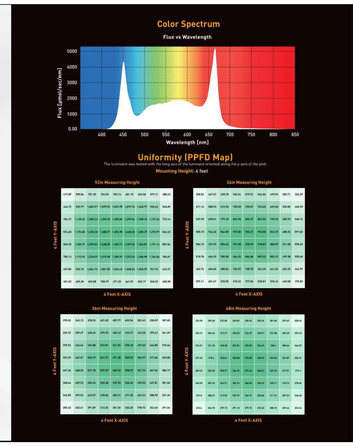
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Plan Check Number:

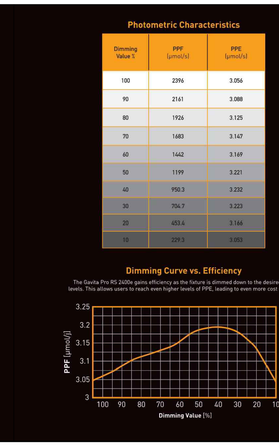
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2024-10-22		DOC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
A2.0

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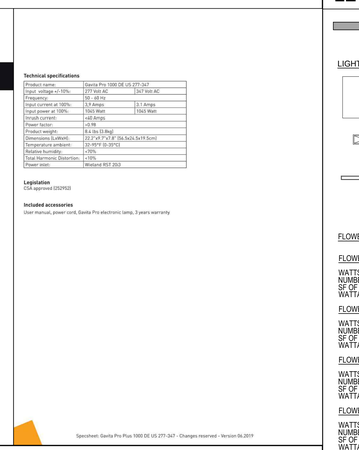






FLOWER ROOM #1 LIGHTING FIXTURE





FLOWER ROOM #2-6 LIGHTING FIXTURE

LIGHTING PLAN 3/16"=1'-0" 1

LEGEND

INTERIOR NON-STRUCTURAL WALL

LIGHTING

GAVITA PRO RS 2400e LED
MAXIMUM WATTAGE: 800 W

GAVITA PRO 1000 DE 277V
MAXIMUM WATTAGE: 1050 W

ORACLE LIGHTING 4-OC1-LED 5000 LUMEN

FLOWER ROOM WATTAGE:

FLOWER ROOM #1 (DOUBLE STACK)
WATTS PER LIGHT: 800 W
NUMBER OF LIGHTS: 84 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 800 X 84 / 1,734 = 38.75

FLOWER ROOM #2
WATTS PER LIGHT: 1050 W
NUMBER OF LIGHTS: 96 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 1,050 X 96 / 1,734 = 58.1

FLOWER ROOM #3
WATTS PER LIGHT: 1050 W
NUMBER OF LIGHTS: 96 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 1,050 X 96 / 1,734 = 58.1

FLOWER ROOM #4
WATTS PER LIGHT: 1050 W
NUMBER OF LIGHTS: 96 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 1,050 X 96 / 1,734 = 58.1

FLOWER ROOM #5
WATTS PER LIGHT: 1050 W
NUMBER OF LIGHTS: 96 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 1,050 X 96 / 1,734 = 58.1

FLOWER ROOM #6
WATTS PER LIGHT: 1050 W
NUMBER OF LIGHTS: 96 LIGHTS
SF OF PLANT AREA: 1,734 SF
WATTAGE/SF: 1,050 X 96 / 1,734 = 58.1

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Seal

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Consultant

200 JOHN ST.
BANNING, CA 92220

LIGHTING PLAN

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
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ODOR SERIES

CLEANLEAF Air Filtration System

Comply With Odor Regulations & Protect Your Plants

Controlling odor in and around your facility is a constant challenge. The CleanLeaf Odor Series was specifically engineered for cultivators to help eliminate the odor of even the most potent plants - with extra filters to help combat contaminants. Focus on your grow without worry of odor complaints or mold outbreaks.

Each unit filters approximately 15,000 cubic feet. In order to create the proper air pattern, we always recommend placing two units.



SKU: CL2500D-CCP

Unit Specifications

ACFM	2000 CFM
Airflow	Straight Through
Sound Level	65 dBA @ 5' (on high)
Cabinet Size	26"W x 28"T x 64"L
Cabinet Material	16 gauge Cold Rolled Steel
Cabinet Finish	White, Light Reflective Polyurethane
Motor	PSC Type 3/4 HP Direct Drive
Input Power	115V 60Hz 1PH
Running Amps	9.5A
Grille/Louver	4-Way Adjustable Blades/Fins
Hang Weight	522 lbs.
Warranty	2 Years
Options	- WiFi/Modbus Smart Controls

**Noise level measured at typical operating speed*

Filter Stages

- 26" x 26" x 4" - 35% Efficient Pleated Pre-Filter
- (16) 7lb. Activated Carbon Canisters, **112 lbs. Total**
- 26" x 26" x 2" - 35% Efficient Pleated After-Filter



Features & Benefits

✓ Easy Installation (Pre-Installed Eye Bolts/115V Wall Plug, 5-15p)

✓ Minimal Maintenance (Long Filter Life, Hinged Door Filter Access, Filter Change Indicator)

Contact the Cannabis Air-Filtration Expert: Dan@CleanLeaf.com | 1-866-455-2135 Ext. 307

ODOR CONTROL UNIT

LEGEND

INTERIOR NON-STRUCTURAL WALL

ABOVE CEILING

CLEANLEAF CL2500D-CCP
2000 CFM

xx — 5-TON FANCOIL UNIT

RETURN GRILL

SUPPLY GRILL

N

ABOVE CEILING PLAN 3/16"=1'-0" 1

HESTIA ATELIER

3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

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ABOVE CEILING PLAN

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
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2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

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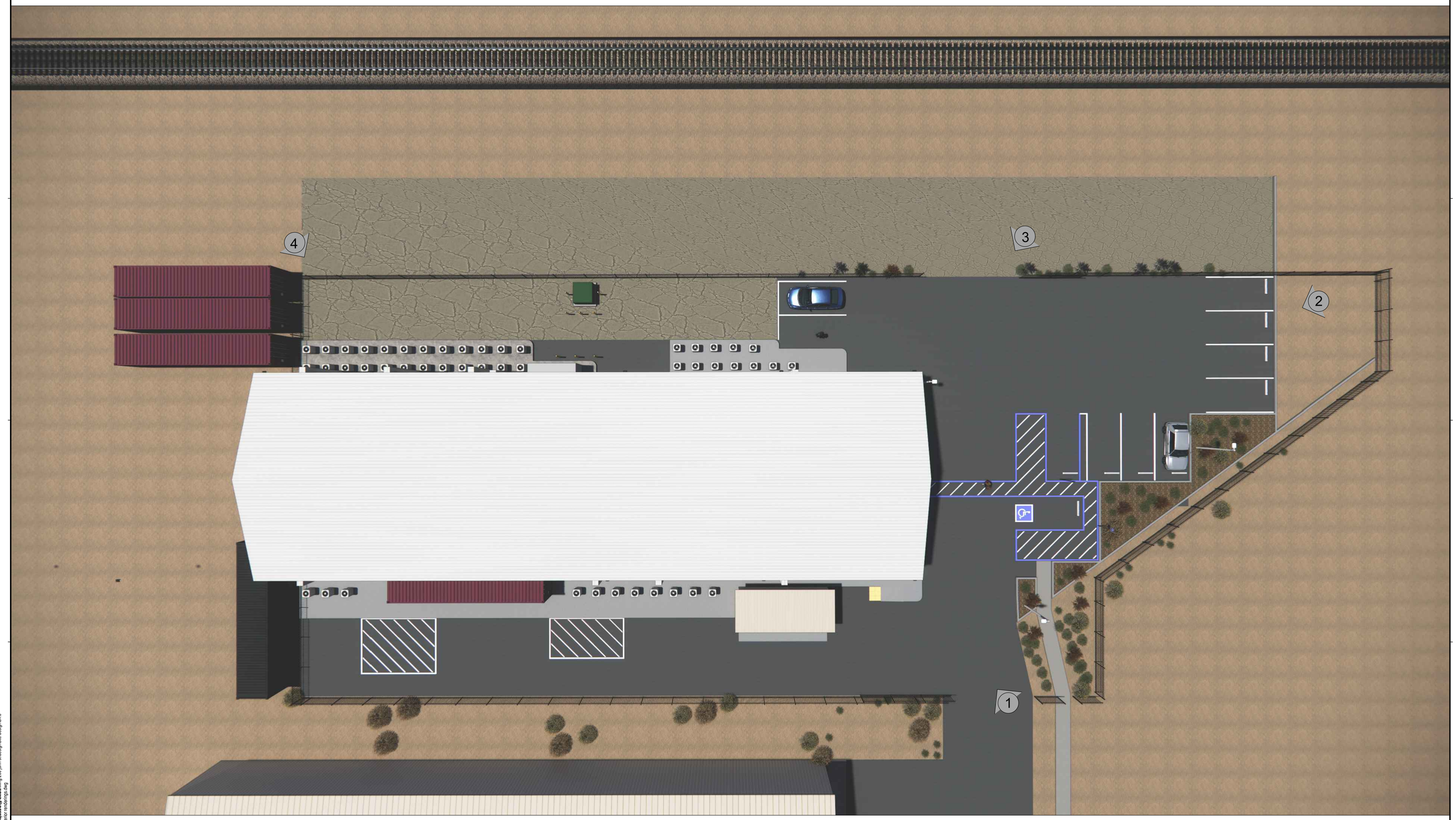
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BUILDING PAINT COLORS

SHERWIN WILLIAMS
"EXTRA WHITE"
SW7006

SHERWIN WILLIAMS
"IRISH CREAM"
SW7537



EXTERIOR RENDERING KEY PLAN NTS 1

HESTIA ATELIER

3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

EXTERIOR RENDERINGS
KEY PLAN

CUP Number:
Plan Check Number:

2024-07-31	1	1ST CUP SUBMITTAL
2024-10-22	2	DCC SUBMITTAL
2025-05-06	3	CUP CORRECTIONS
2025-07-30	4	CUP CORRECTIONS
2025-10-01	5	ADDITIONAL INFORMATION

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NORTH- WEST NTS 4



EAST NTS 2



NORTH-EAST NTS 3



SOUTH-EAST NTS 1

HESTIA ATELIER

3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

EXTERIOR RENDERINGS
(DAY)

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET

A4.1

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drawing file name: ...exterior renderings.dwg
dwg last saved: Jul/31/2025 5:53 PM by: Extra PC 2



NORTH- WEST NTS 4



EAST NTS 2



NORTH-EAST NTS 3



SOUTH-EAST NTS 1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

EXTERIOR RENDERINGS (NIGHT)

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
A4.2

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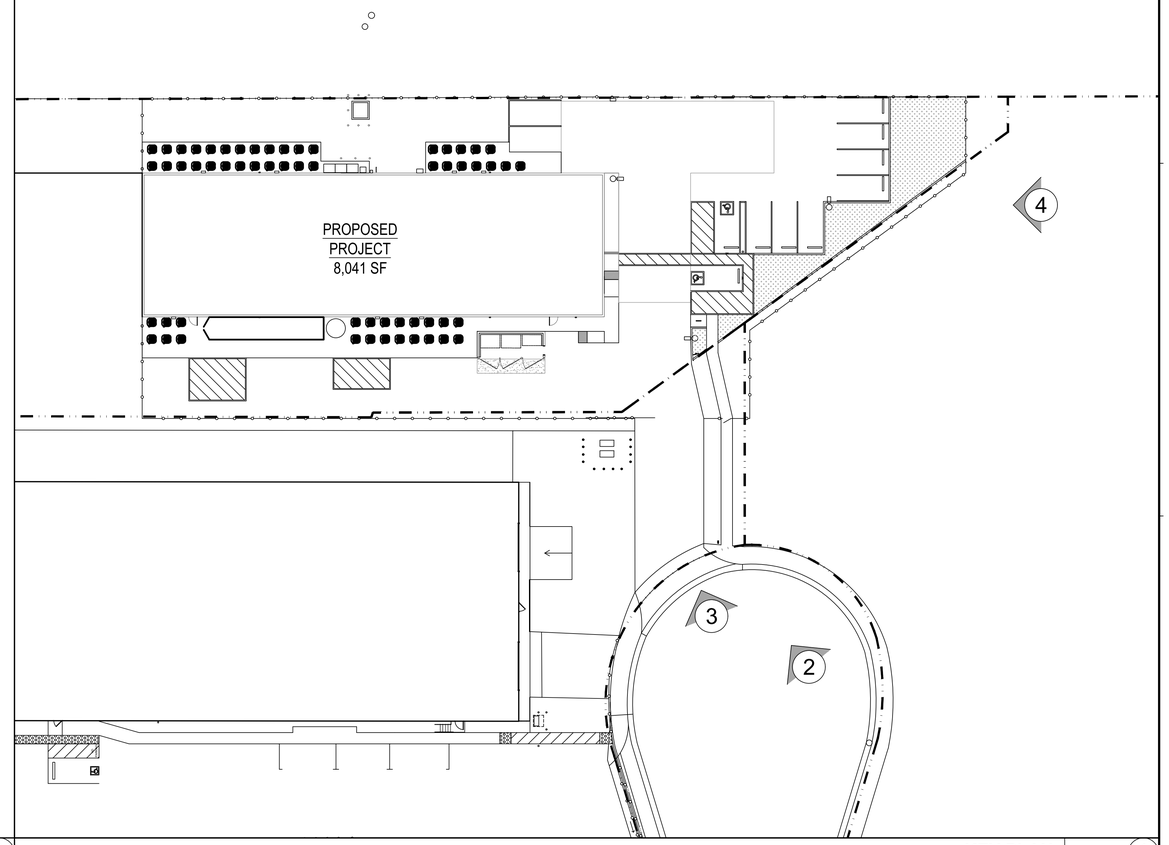
EXTERIOR RENDERING | NTS | 4



EXTERIOR RENDERING | NTS | 2



EXTERIOR RENDERING | NTS | 3



KEY PLAN | 1/32"=1'-0" | 1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

EXTERIOR RENDERINGS
(EASEMENT)

CUP Number:
Plan Check Number:

2024-07-31		1ST CUP SUBMITTAL
2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
3
A4.3

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Graphics/200 john st/design/ate design/v4.0



FLOWER ROOM | NTS | 2



FLOWER ROOM | NTS | 1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

Seal

LICENSED ARCHITECT
C-34970
REN. 09/30/27
STATE OF CALIFORNIA

Consultant

200 JOHN ST.
BANNING, CA 92220

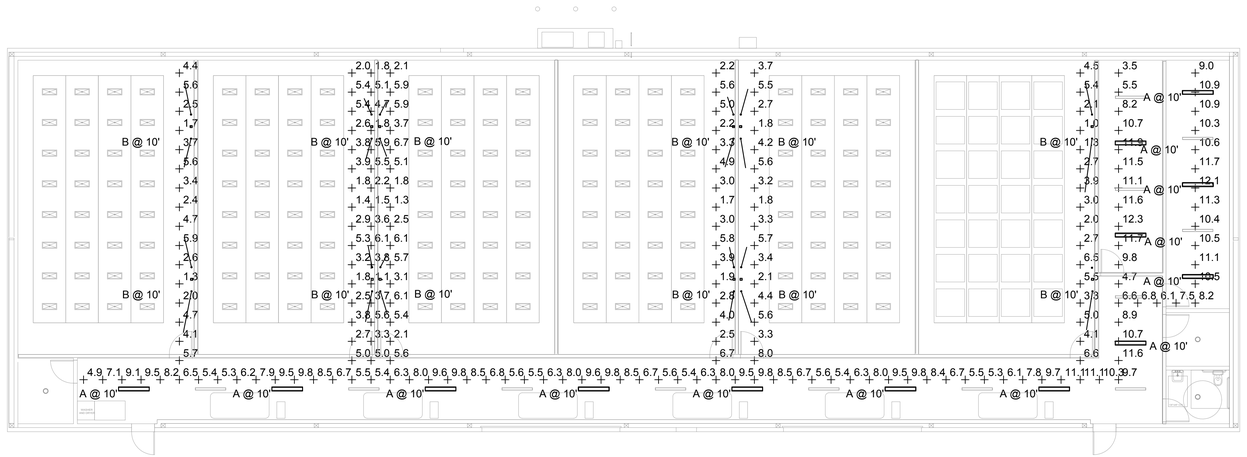
INTERIOR RENDERINGS
(FLOWER ROOM)

CUP Number:
Plan Check Number:

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2024-10-22		DCC SUBMITTAL
2025-05-06	1	CUP CORRECTIONS
2025-07-30	2	CUP CORRECTIONS
2025-10-01	3	ADDITIONAL INFORMATION

SHEET
3
A5.0

sheet plotted: Oct/6/2025 2:28 PM by Evita PC 2
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x61



ELECTRICAL PHOTOMETRIC PLAN - INDOOR

SCALE: 1/8" = 1'

Schedule						
Symbol	Label	QTY	Manufacturer	Catalog	Description	Number Lamps
	A	13	ELITE LIGHTING	4-DC1-LED-4000L-DIM10-MVOLT-40K-85		1
• • •	B	12	Lithonia Lighting	ELM4L	ELM4L SP640L	1

Statistics						
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #1	+	6.2 fc	12.1 fc	1.1 fc	11.0:1	5.6:1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

LICENSED ARCHITECT
C-34970
REN.09/30/25
STATE OF CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER
GANGYI ZHOU
No. 018959
Exp:12-31-2025
ELECTRICAL
STATE OF CALIFORNIA

GMEP ENGINEERS
26439 Rancho Pkwy. S., Ste 120
Lake Forest, CA 92630
Tel: 949-267-9095

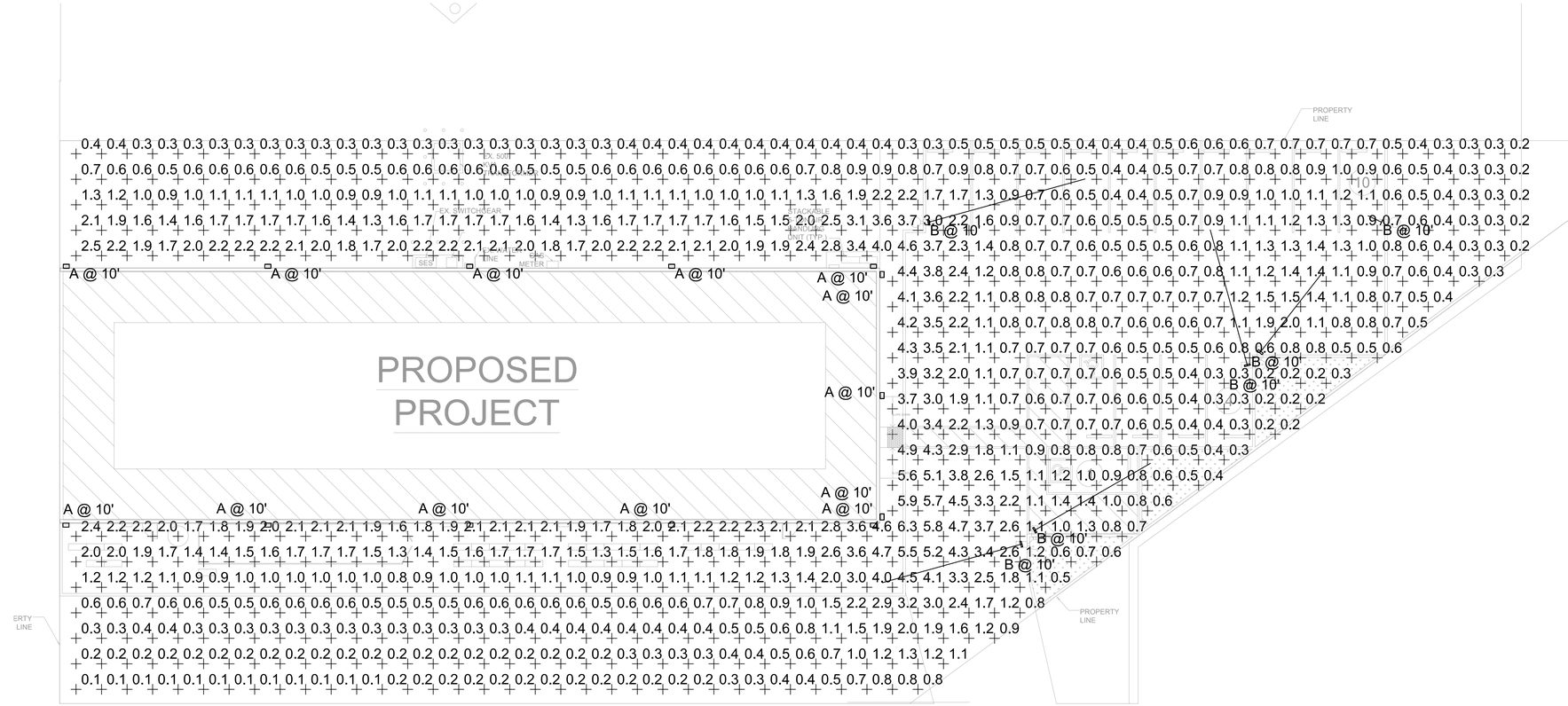
200 JOHN ST.
BANNING, CA 92220

CUP Number:
Plan Check Number:

2024-00-00	1ST CUP SUBMITTAL
2024-00-00	1

ELECTRICAL PHOTOMETRIC PLAN - INDOOR

E-1.1



ELECTRICAL PHOTOMETRIC PLAN - SITE

SCALE: 3/32" = 1'

Schedule

Symbol	Label	QTY	Manufacturer	Catalog	Description	Number Lamps
▭	A	13	TCP	WP12000150	Outdoor Non-Cutoff and Semi-Cutoff Wall-Mounted Area Luminaires	1
▭	B	6	Lithonia Lighting	DSXO LED P5 27K 80CRI T1S EGS	DSX0 Series Size 0 Area Luminaire P5 Performande Package 2700K CCT 80 CRI Type 1 Short External Glare Shield	

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #1	+	1.1 fc	6.6 fc	0.1 fc	66.0:1	11.0:1

HESTIA ATELIER
3 PETERS CANYON RD STE 110
IRVINE, CA. 92606

LICENSED ARCHITECT
C-34970
REN. 09/30/25
STATE OF CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER
GANGYI ZHOU
No. 018959
Exp. 12-31-2025
ELECTRICAL
STATE OF CALIFORNIA

GMEP ENGINEERS
26439 Rancho Pkwy. S., Ste 120
Lake Forest, CA 92630
Tel: 949-267-9095

200 JOHN ST.
BANNING, CA 92220

CUP Number:
Plan Check Number:

2024-00-00	1ST CUP SUBMITTAL
2024-00-00	-

ELECTRICAL PHOTOMETRIC PLAN - SITE

E-1.2

Ref. & Rev.

Yamabe & Horn Engineering, Inc.
CIVIL ENGINEERS • LAND SURVEYORS
2985 N. BURL AVENUE SUITE 101 FRESNO, CA 93727
TEL: (559) 244-3123 WEBSITE: YANDHENGR.COM

REGISTERED PROFESSIONAL ENGINEER
KENNY REYES
No. 93426
CIVIL
STATE OF CALIFORNIA

EXISTING BUILDING
±8,000 SF
APN: 541-220-006
FF = ±2325.70

EXISTING BUILDING
NOT IN SCOPE

KEYNOTES:

A	PROPOSED DRIVEWAY APPROACH PER CITY STD. NO. C-209	X	EXISTING FENCE TO BE REMOVED
B	PROPOSED CONCRETE SIDEWALK	Y	SAWCUT AND MATCH TO EXISTING
C	PROPOSED CONCRETE CURB	Z	EXISTING WATER UTILITY TO REMAIN
D	PROPOSED PARALLEL ACCESSIBLE CURB RAMP	AA	EXISTING FIRE HYDRANT TO REMAIN
E	PROPOSED ADA PARKING STALL	BB	EXISTING POWER POLE TO REMAIN
F	EXISTING FENCE TO BE RELOCATED	CC	PROPOSED LIGHT POLE AND FIXTURE PER ARCHITECTURAL PLANS
G	PROPOSED RETAINING WALL	DD	PROPOSED SLIDING GATE PER ARCHITECTURAL PLANS
H	PROPOSED AIR HANDLING UNIT	EE	PROPOSED PEDESTRIAN GATE
J	PROPOSED WATER TANK STORAGE CONTAINER	FF	EXISTING TELEPHONE POLE TO REMAIN
K	PROPOSED CO2 TANK	GG	EXISTING STREET LIGHT TO REMAIN
L	PROPOSED DRIVEWAY	HH	PROPOSED BIOSWALE
M	PROPOSED SECURITY LIGHT FIXTURE PER ARCHITECTURAL PLANS	JJ	PROPOSED SIGN PER ARCHITECTURAL PLANS
N	EXISTING FENCE TO REMAIN	KK	PROPOSED EV CHARGING STATION PER ELECTRICAL PLANS
P	EXISTING TRANSFORMER TO BE REMOVED	LL	PROPOSED LOADING ZONE
Q	EXISTING WATER UTILITY TO BE REMOVED. CAP AT PROPERTY LINE WHERE APPLICABLE.	MM	PROPOSED CURB CUT
R	PROPOSED SWITCHGEAR PER ELECTRICAL PLANS	NN	PROPOSED KNOX BOX PER ARCHITECTURAL PLANS
S	EXISTING CONCRETE TO REMAIN	PP	PROPOSED CURB AND GUTTER
T	EXISTING GAS UTILITY TO REMAIN	QQ	PROPOSED 4' VALLEY GUTTER
U	PROPOSED TRASH ENCLOSURE PER ARCHITECTURAL PLANS	RR	PROPOSED BUBBLE UP INLET WITH FILTER OR TRASH CAPTURE DEVICE
W	EXISTING TREE TO BE REMOVED		

PAVEMENT SECTIONS:

- PROPOSED SIDEWALK
- PROPOSED PAVEMENT SECTION CONTRACTOR TO VERIFY THE EXISTING PAVEMENT SECTION & MATCH SECTION
- PROPOSED LANDSCAPING
- EXISTING SIDEWALK

SCALE: 1" = 10'
0 5' 10' 20'

200 JOHN ST
BANNING, CA

PRELIMINARY GRADING PLAN

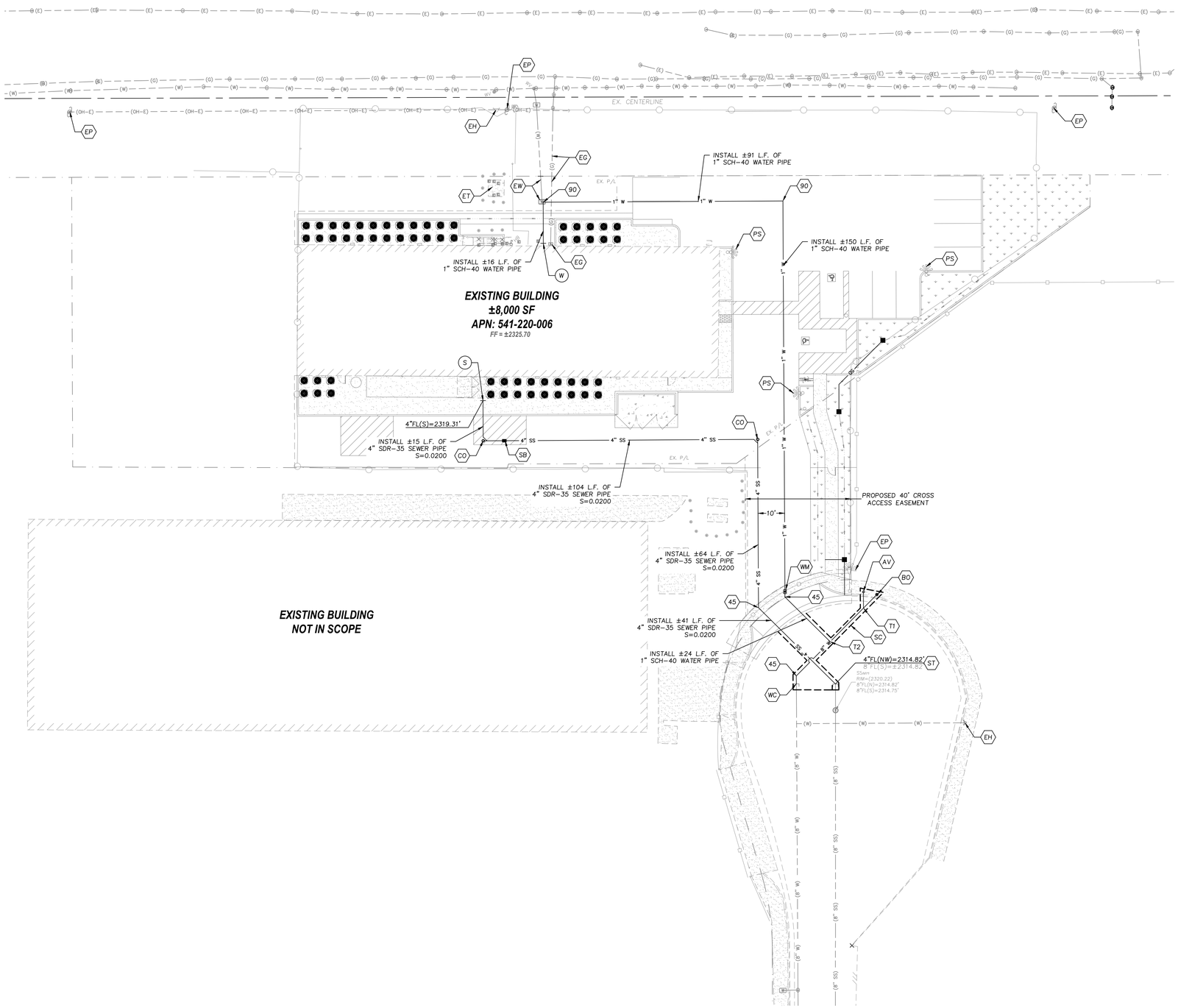
PROJECT TITLE

SHEET DESCRIPTION

Dr. By: SN
Ch. By: SR
Date: 05/06/2025
Scale: As Noted

YH Job No. 24-314
Sheet No. 1
of 1 Sheets

File Location: F:\2024\24-314\eng\Improvements\Preliminary Grading Plan\24-314_Preliminary Grading Plan.dwg
Plot Date: 5/6/2025
Plot By: Saber Rabe



KEYNOTES:

- (BO) INSTALL 4" BLOW-OFF ASSEMBLY PER CITY STD. NO. W-19
- (AV) INSTALL 1" AIR VAC ASSEMBLY PER CITY STD. NO. S-12
- (CO) INSTALL SANITARY SEWER CLEANOUT PER CITY STD. NO. S-12
- (SB) INSTALL SANITARY SEWER SAMPLING BOX PER CITY STD. NO. S-26
- (WM) INSTALL 1" WATER METER PER CITY STD. NO. W-2 & W-5. METER TO BE SUPPLIED AND INSTALLED BY THE CITY.
- (ST) CONNECT PROPOSED 4" SEWER LINE TO EXISTING SEWER MAIN. CONTRACTOR TO VERIFY SIZE AND LOCATION OF EXISTING SEWER MAIN.
- (UC) PROPOSED UTILITY PIPE CROSSING TO BE 12" MINIMUM SEPARATION
- (WC) CONNECT PROPOSED 1" WATER LINE TO EXISTING WATER MAIN PER CITY STD. NO. W-5.
- (PS) PROPOSED SITE LIGHT PER SEPARATE PLAN
- (EG) EXISTING GAS UTILITY TO REMAIN
- (EH) EXISTING FIRE HYDRANT TO REMAIN
- (EP) EXISTING POWERPOLE OR STREETLIGHT TO REMAIN
- (EW) EXISTING WATER UTILITY TO BE REMOVED. CAP AT PROPERTY LINE WHERE APPLICABLE
- (ET) EXISTING TRANSFORMER AND PAD TO BE REPLACED
- (SC) SAWCUT AND MATCH TO EXISTING
- (T1) INSTALL 1 – 8" X 4" X 1" TEE
- (T2) INSTALL 1 – 8" X 8" X 1" TEE
- (45) INSTALL 45° BEND
- (90) INSTALL 90° BEND

SPECIAL NOTES:

- (S) SANITARY SEWER POINT OF CONNECTION, SEE PLUMBING PLANS FOR CONNECTION TO BUILDING SEWER, UNDER SEPARATE PERMIT.
- (W) DOMESTIC WATER POINT OF CONNECTION, SEE PLUMBING PLANS FOR CONNECTION TO BUILDING WATER, UNDER SEPARATE PERMIT.

CONTRACTOR NOTES:

1. AS FIRST ORDER OF WORK, CONTRACTOR SHALL POTHOLE & DETERMINE ACTUAL ELEVATION AND LOCATION OF EXISTING WATER MAINS, EXISTING SEWER MAINS, AND EXISTING UTILITY STUBS. CONTRACTOR SHALL IMMEDIATELY NOTIFY ENGINEER OF ANY DISCREPANCIES FROM PLAN.
2. ANY EXISTING UTILITY BOXES, VAULTS, ETC. AFFECTED BY THIS PROJECT SHALL BE ADJUSTED TO FINISH GRADE, CONTRACTOR SHALL CONTACT AND COORDINATE WORK WITH UTILITY COMPANY.
3. THE WATER SERVICE BEHIND THE WATER METER AND SEWER LATERAL ARE PRIVATE FACILITIES OWNED AND MAINTAINED BY THE PRIVATE PROPERTY OWNER.
4. ALL EXISTING UTILITIES ARE TO REMAIN UNLESS OTHERWISE SPECIFIED ON THIS PLAN
5. CONTRACTOR TO REMOVE ANY ONSITE SEPTIC TANKS OR LEECH FIELD SYSTEMS PER CITY REQUIREMENTS.
6. ALL TRENCHES TO BE BACKFILLED PER CITY STD NO. W-30.
7. SEWER LATERAL TO BE PROTECTED FROM CANNABIS WASTES, OILS, AND RESIDUES.

SCALE: 1" = 20'
0 10' 20' 40'

Ref. & Rev.

Yamabe & Horn Engineering, Inc.
CIVIL ENGINEERS • LAND SURVEYORS
2985 N. BURL AVENUE SUITE 101 FRESNO, CA 93727
TEL: (559) 244-3123 WEBSITE: YANDHENGR.COM

REGISTERED PROFESSIONAL ENGINEER KENNETH REYES No. 93426 CIVIL

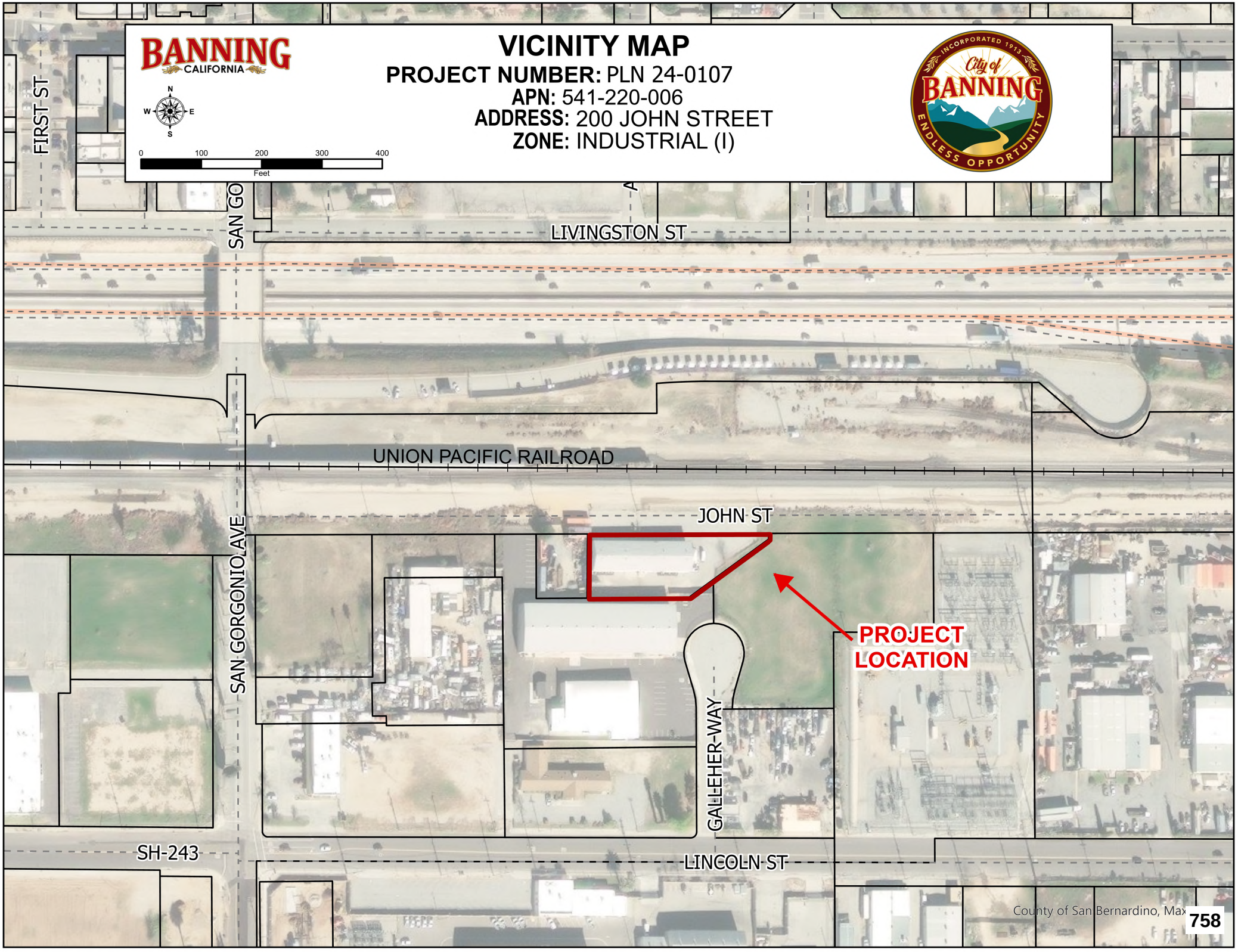
PROJECT TITLE: 200 JOHN ST BANNING, CA

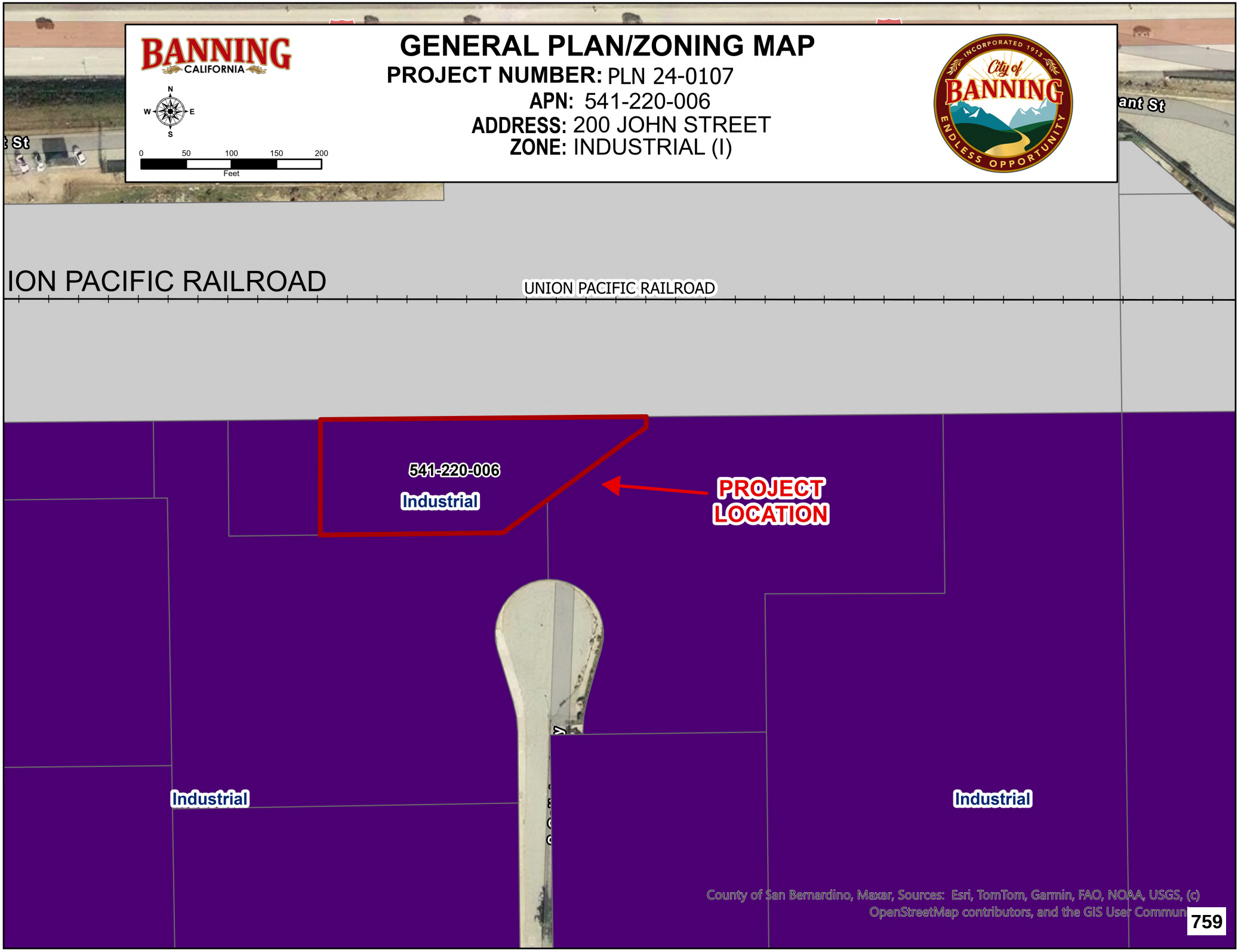
SHEET DESCRIPTION: PRELIMINARY UTILITY PLAN

Dr. By: SN
Ch. By: SR
Date: 05/06/2025
Scale: As Noted
YH Job No. 24-314
Sheet No. 2
of 2 Sheets

Plot By: Saber Rabe Plot Date: 5/6/2025 File Location: F:\2024\24-314\dwg\Improvements\Preliminary Utility Plan\24-314_Preliminary Utility Plan.dwg


BANNING
CALIFORNIA
AERIAL MAP
PROJECT NUMBER: PLN 24-0107
APN: 541-220-006
ADDRESS: 200 JOHN STREET
ZONE: INDUSTRIAL (i)
N
W
E
S
0
100
200
300
400
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
SAN GORGONIO AVE
UNION PACIFIC RAILROAD
UNION PACIFIC RAILROAD
JOHN ST
SAN GORGONIO AVE
PROJECT LOCATION
GALLEHER WAY
LINCOLN ST
SH-243
County of San Bernardino, Maxar


BANNING
CALIFORNIA
VICINITY MAP
PROJECT NUMBER: PLN 24-0107
APN: 541-220-006
ADDRESS: 200 JOHN STREET
ZONE: INDUSTRIAL (I)
N
W
E
S
0
100
200
300
400
Feet
INCORPORATED 1913
City of BANNING
ENDLESS OPPORTUNITY
FIRST ST
SAN GO
LIVINGSTON ST
UNION PACIFIC RAILROAD
JOHN ST
SAN GORGONIO AVE
GALLEHER WAY
PROJECT LOCATION
SH-243
LINCOLN ST
County of San Bernardino, Max


BANNING
CALIFORNIA
GENERAL PLAN/ZONING MAP
PROJECT NUMBER: PLN 24-0107
APN: 541-220-006
ADDRESS: 200 JOHN STREET
ZONE: INDUSTRIAL (I)
N
W
E
S
0
50
100
150
200
Feet
INCORPORATED 1913
City of
BANNING
ENDLESS OPPORTUNITY
ION PACIFIC RAILROAD
UNION PACIFIC RAILROAD
541-220-006
Industrial
PROJECT LOCATION
Industrial
Industrial
County of San Bernardino, Maxar, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c)
OpenStreetMap contributors, and the GIS User Commun


BANNING
CALIFORNIA
N
W
E
S
0 200 400 600
Feet
CANNABIS CULTIVATION &
MANUFACTURING LOCATIONS
INCORPORATED 1913
City of
BANNING
ENDLESS OPPORTUNITY
07/30/2025
200 John St
313 S Gallaher Way
195 E Lincoln St.
700 S Hathaway St.
820 S Hathaway St.
Legend
Cannabis Type
Cultivation
Manufacturing
600 FT Buffer
County of San Bernardino, Maxar
760


BANNING
CALIFORNIA
CANNABIS RETAIL, CULTIVATION & MANUFACTURING LOCATIONS
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
07/30/2025
0 200 400 600
Feet
2372 W Ramsey St.
1474 W Ramsey St.
1034 W Ramsey St.
Proposed
200 John St
313 S Gallaher Way
195 E Lincoln St.
700 S Hathaway St.
820 S Hathaway St.
Banning
Repplier Park
Lions Park
Banning High School
W Wilson St
E Wilson St
W George St
E George St
W Nicolet St
E Nicolet St
W Williams St
E Williams St
E Ramsey St
Bryant St
John St
W Lincoln St
E Lincoln St
W Barbour St
E Barbour St
W Westward Ave
Charles St
Wesley St
E Porter St
N 20th St
N 16th St
N 14th St
N 12th St
N 6th St
N 5th St
N 3rd St
N 2nd St
N Cherry St
N Allen St
N Evans St
N Hathaway St
S 8th St
S 12th St
S Florida St
S Hathaway St
Lovell St
Montgomery Creek
Water Canal
Legend
Cannabis Type
Cultivation
Manufacturing
Retail
Operational
County of San Bernardino, Maxar, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Commun
761

PLANNING COMMISSION – SPECIAL MEETING

Council Chambers, 99 E Ramsey Street, Banning, CA

Wednesday, August 6, 2025 - 5:30 PM

MINUTES

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1. CALL TO ORDER at 5:33 p.m.

1.1 **PLEDGE OF ALLEGIANCE**

1.2 **ROLL CALL**

COMMISSIONERS	PRESENT	ABSENT
Castorena, Chris	X	
Dale, Kathleen	X	
Marshall, Al	X	
Phelps, Gerry	X	
Rodriguez, Nathaniel	X	

Council Member Miller recognized former Planning Commissioner Richard Krick for his dedicated service on the Planning Commission from September 8, 2015, to March 25, 2025. A plaque was presented in appreciation of his years of contributions, collaboration, and commitment to the City of Banning's community planning and growth.

2. PUBLIC COMMENTS:

None

3. CONSENT AGENDA:

Approval of the meeting minutes for July 9, 2025, Regular Planning Commission meeting.

Chair Dale opened public comments
No public comments

Chair Dale closed public comments

ACTION: Motion/Second (Marshall/Phelps) to approve the minutes of July 9.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena			X		

Dale	X
Marshall	X
Phelps	X
Rodriguez	X

(Motion Carried 4-0-1) passed.

4. PUBLIC HEARINGS:

4.1 CONTINUED PUBLIC HEARING - Consideration of a Cannabis Conditional Use Permit (CUP) Application Case No. PLN 24-0107, by Flower Dept, LLC to allow for the commercial cultivation of cannabis (Project) within an existing 8,041 square foot industrial building at 200 John Street, in the Industrial (I) Zoning District (APN 541-220-006).

Recommendation: Staff recommends the Planning Commission adopt Resolution 2025-06, recommending the City Council make a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit PLN 24-0107 to allow for commercial cultivation of cannabis in an existing industrial building located at 200 John Street (APN: 541-220-006) in the Industrial (I) zoning district.

Ted Lopez, Senior Planner, provided the staff report.

Commissioner Castorena asked about the public accessibility of the applicant's quarterly reports and the process for documenting community complaints. Staff confirmed reports will be publicly accessible.

Commissioner Castorena also asked how this project compares to the Hathaway project. Staff responded that the current project would provide improved state-of-the-art monitoring and reporting. Quarterly reports and additional conditions will ensure oversight, with anticipated feedback from the community

Commissioner Castorena asked about similarities between the 820 South Hathaway project and the proposed John Street project. Laura Leindecker, applicant stated both projects are comparable in design, security, odor control, and monitoring.

Commissioner Marshall asked whether the agreement included a hold harmless provision, citing a class action lawsuit in Santa Barbara. The City Attorney confirmed that an indemnity and harmless clause is included under Section 2 of the conditions of approval.

Planning Manager Mark Staples answered questions from the Commission related to access and parking. He also clarified the changes in the revised staff report provided to the Commission before the hearing, including typographical corrections, an added condition regarding a lobby area, and corrections to finding C.

The project engineer answered clarifying questions of the Commission regarding the insulation panels on the exterior walls, and in the attic space and potential for odor emissions from the attic space. Odor from cannabis cultivation is filtered in the attic using a specialized CleanLeaf System, the attic remains odor free, with no leaks expected and additional carbon filters in the hallway mitigate any minor odor from doors opening.

The CleanLeaf odor filtration system will be maintained according to the manufacturer's standard operating procedures and the system installed meets or exceeds industry standards to prevent future issues.

Chair Dale opened public hearing at 6:15 p.m.

John Hagen expressed concerned about odor affecting nearby city operations, he questions if the 8,041 sq. ft. building meets the 10,000 sq. ft. requirements for indoor cannabis cultivation and notes previous similar sized buildings were denied and urges the city to review compliance before approval.

Jack Gunderson Is skeptical that odor control will fully prevent smells and concerned about 24-hour inspection notice potentially hiding non-compliance, contrary to state rules.

Max Diego Nearby residents already experience odor, questions effectiveness of filters and enforcement. He urges careful consideration of whether an older building can meet strict local, state, and federal standards.

Lynnea Hagen Upgraded insulation at Hathaway facility did not eliminate odor issues.

Frank Connelly Concern about traffic bottleneck near project site and congestion from ongoing Honeywell project and limited fire hydrants and potential safety hazards in case of a fire. He urges the Commission to address traffic flow and emergency access before approving additional projects.

Chair Dale closed public hearing at 6:26 p.m.

David Newell, Community Development Director said 700 South Hathaway has not yet been approved; any operation there should be investigated. Clarified that the 10,000 sq. ft. standard refers to canopy area, not building size. With stacking methods, more canopy can fit in a smaller building, meeting the requirements.

Planning Commission Discussion.

Commissioner Castorena requested additional input from the applicant regarding how they will handle outreach and reporting for local hiring and how they plan to be a good neighbor. Applicant aims to fill 6-10 positions. Hiring is typically posted on job sites like; Indeed, no formal community partnerships have been used previously. Being a good neighbor could include participating in community activities, donations, and events similar to previous projects like Harvest Corner. The Commissioner noted he feels the location is appropriate and that conditioning addresses required processes and compliance monitoring.

Commissioner Phelps listed project concerns:

- Applicant's address is missing from application.
- Cannabis clustering: five facilities (including this one) within 1.4 miles could create significant environmental concerns for the area.
- Concern over traffic congestion and site layout, particularly loading docks on Gallaher Street and need for clear signage and designated front entrance.
- Objects to CUP findings (Items E and F) – odor impacts have not been adequately addressed.
- No provisions for water usage reductions during drought.
- Concerns over chemical usage and possible impacts on water quality.
- Highly electricity intensive due to lighting, HVAC, ventilation and filtration system; alternatives such as solar or wind have not been addressed.
- Utility of emergency access gate on John Street

Commissioner Dale raised concerns about site suitability and required findings:

- Parking barely meets minimum standards; some spaces may be unusable; inadequate parking during peak harvest employment times.
- Limited access and manual gate could hinder emergency response for use with heightened fire risk.
- Truck congestion on Gallaher observed during site visit, raising safety concern.
- Banning Municipal Code requirements for no perceptible odors outside the building, compared to experience with existing operation on Hathaway and recommended conditions that allow multiple odor complaints before enforcement.
- Applicability of the CEQA categorical exemption related to project-level greenhouse gas emissions and cumulative impacts.

Commissioner Dale expressed doubt about having the authority to apply certain conditions and lack of adequate substantiation for Findings B, D, F, and G.

ACTION: Motion/Second (Marshall/Castorena)

Adopt Resolution 2025-06 recommending the City Council make a determination that the Project is exempt make a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit PLN 24-0107 to allow for commercial cultivation of cannabis in an existing industrial building located at 200 John Street (APN: 541-220-006) in the Industrial (I) zoning district with the revised conditions of approval as presented by staff.

Commissioner Dale asked for an amended motion to modify the conditions to correctly identify the applicant (should be Flower Dept LLC), to state the approved canopy area in Planning Condition 1 or 4, and to match Public Works compliance timing (prior to building permit) in Planning Condition 32 as to the access easement with an additional suggestion that access be established through a lot line adjustment, rather than an easement.

The amendment was agreed to by Commissioners Marshal and Castorena.

COMMISSIONERS	***YES***	***NO***	***ABSTAIN***	***RECUSE***	***ABSENT***
Castorena	*X*				
Dale		*X*			
Marshall	*X*				
Phelps		*X*			
Rodriguez	*X*				

(Amended Motion Carried 3-2-0) motion passes.

5. DISCUSSION ITEMS

5.1 Consideration of a Request by the City of Banning to Initiate a Zone Text Amendment or General Plan Amendment and Zone Change Related to Existing Residential Development Located in the Airport Industrial Zone and General Plan Land Use Designation.
Recommendation: Provide direction to staff.

Community Development Director, David Newell presented options to address residential properties within the Airport Industrial (AI) designation that became non-conforming after the 2006 General Plan update. About 24 homes built in the 1940s through 60s are affected, creating challenges for financing and rebuilding after damage.

Options discussed:

1. Amend zoning code to provide flexibility for rebuilding non-conforming residential uses (quicker fix).

2. Rezone portions of the AI area back to residential for a long-term solution (slower, more process required).

Commissioner Castorena said he's concerned about sprawl; supports future options for gentle density and workforce housing.

The General Plan update will allow these issues to be explored.

Commissioner Marshall supports option 1 to allow homeowners to repair quickly, maintain consistency, and provide flexibility for future repairs or sales without requiring new amendments.

Director Newell said change would be citywide, as the ordinance text applies broadly to residential structures, not just AI properties.

Chair Dale opened public comment.

John Hagen Opposed 2004 rezoning to Airport Industrial, citing hardships for residents. He urged the City to rezone the whole area back to residential rather than making a one-time exemption.

Stephen Beers thanked the Commission for considering the issue and preparing to take action.

Max Diego Noted issue arose from declaring a residential area as Industrial without properly informing homeowners of restrictions. He encouraged the City to review policies to prevent similar problems in the future.

The Commission provided direction to staff to proceed with Option 1 promptly and consider long-term residential adjustments as part of the General Plan update.

6. ANNOUNCEMENTS AND REPORTS

6.1 DIRECTOR'S REPORT

Director Newell said there are no Council meetings to report. Only 2 of 6 General Plan Advisory Committee seats filled; staff may reopen applications and will update at next meeting.

6.2 COMMISSIONER REPORTS
None

7. ITEMS FOR FUTURE AGENDAS

- September 3: Tentative hearing of two projects.
- September 10: Sunset Crossroads project special meeting.
- Additional projects planned for October.
- Future agenda suggestions: Review city's regulations related to microbusinesses (non-cannabis) to assess potential adjustments to facilitate establishment of local small

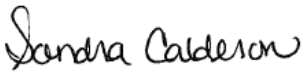
businesses.

8. ADJOURNMENT

ACTION: Motion/Second (Phelps/Castorena) to adjourn the meeting.
Motion carried 5-0.

The meeting was adjourned at 7:44 p.m.

Minutes prepared by:



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://banningca.granicus.com/player/clip/223?view_id=1&redirect=true

All documents related to this meeting are available here:
https://d3n9y02raazwpg.cloudfront.net/banningca/6d8f137e-76d8-11ef-9b71-005056a89546-38305488-93fe-4918-9dd7-c67857e7b6c7-1754009290.pdf

PLANNING COMMISSION - REGULAR MEETING

Council Chambers, 99 E Ramsey Street, Banning, CA

Wednesday, July 9, 2025 - 5:30 PM

MINUTES

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1. **CALL TO ORDER at 5:35 p.m.**

1.1 **PLEDGE OF ALLEGIANCE**

1.2 **ROLL CALL**

COMMISSIONERS	PRESENT	ABSENT
Castorena, Chris		X
Dale, Kathleen	X	
Marshall, Al	X	
Phelps, Gerry	X	
Rodriguez, Nathaniel	X	

2. **SWEARING IN OF NEWLY APPOINTED OFFICIALS:**
Gerry Phelps and Al Marshall were sworn in by the City Clerk and took the oath of office.

3. **PUBLIC COMMENTS:**
Jack Gundersen expressed concerns about the new Code Enforcement software. He noted that the program requires users to select from 19 pre-set complaint categories and includes a write-in box for other issues. However, the system requires a category box to be checked even when using the write-in-option, raising concerns about the accuracy of future reports. Additionally, he stated that the form does not display a date and previous complaint records are no longer accessible.

4. **CONSENT AGENDA:**
Approval of the meeting minutes for June 4, 2025, Regular Planning Commission meeting.

Chair Dale opened public comments
No public comments

Chair Dale closed public comments

ACTION: Motion/Second (Marshall/Phelps) to approve the minutes of June 4.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena					X
Dale	X				
Marshall	X				
Phelps	X				
Rodriguez	X				

(Motion Carried 4-0-1) passed.

5. PUBLIC HEARINGS:

5.1 Consideration of Cannabis - Conditional Use Permit (CUP) Application, Case No. PLN 24-0107, by Flower Dept, LLC to allow for the commercial cultivation of cannabis (Project) within an existing 8,041-square foot industrial building at 200 John Street, in the Industrial (I) Zoning District (APN541-220-006).

Recommendation: Adopt Resolution 2025-06, Recommending the City Council Determine the Project is Exempt from CEQA and Approve the Cannabis Conditional Use Permit, PLN 24-0107 for Cannabis Cultivation at 200 John Street.

Ted Lopez, Senior Planner, provided the staff report.

Planning Commission Questions for Staff:

Chair Dale expressed concern about the lack of access details for the proposed project. She emphasized that the Planning Commission should review the proposed easement and understand its terms before making a decision. The property is landlocked and cannot be approved without confirmed access.

David Newell, Director said that execution of the access easement is a condition prior to permit issuance. The applicant is waiting on permit approval before finalizing the agreement due to associated costs.

Nate Smith, Deputy Director of Public Works and City Engineer explained that a condition of approval requires an access easement to be granted between property owners. Staff will review the easement for technical accuracy, including survey requirements. He emphasized that the easement must be submitted, signed, and reviewed prior to issuance of any construction permits. He acknowledged concerns about easements with expiration dates, stating that businesses should not operate beyond the term of a temporary agreement. He recommended that the easement be perpetual unless both parties agree otherwise, and if the agreement expires, the matter may be returned to the Commission for a potential revocation due to lack of legal access.

Additional concerns were raised by Chair Dale about driveway placement at the end of the cul-de-sac, where a proposed driveway would be situated between existing driveways, potentially blocking loading dock access for the 313 property. She questioned whether this configuration meets city spacing standards and noted difficulty envisioning how an additional gate would function at the site. Staff responded that due to narrow lot frontages on cul-de-sacs, flexibility is granted, and shared access may be considered during formal plan review.

Questions were also raised regarding John Street, which is used as a fire access point. Staff explained that John Street is a “paper street” with no official city easement; it lies within Union Pacific Railroad property, and the City holds only a utility license agreement. The Fire Department confirmed that secondary access is only required for new buildings over 50,000

sq. ft. However, due to an active hydrant in the area, the applicant must maintain a manual fire access gate for emergency use.

Chair Dale questioned the use of CEQA exemption due to high energy use and potential greenhouse gas emissions, citing a reported $25,000 monthly electric bill at a similar facility. Concerns were also raised about the effectiveness of odor control measures. Staff responded that similar facilities have qualified for exemptions and explained best practices for odor mitigation, including sealed rooms and negative pressure systems. Concerns were also raised about potential violations of the city's cannabis CUP limit. Staff stated that ownership is verified during the permitting process, and applicants must report changes.

Chair Dale had questions/clarifications for staff regarding the following conditions of approval

a. Planning 10, 14, 26, 31, 32, and 33

b. Electric 45

c. Fire 55

d. Public Works – Map 09, Street 13 and fragment at top of page 18 (numbers are out of sequence).

Staff was asked to revise the language for accuracy and consistency. Typos and unclear language in the draft resolution, including incorrect terms like "cannibal" and confusion between "license" and "permit."

The applicant answered clarifying questions of the Commission.

The applicant confirmed that an agreement is in place for vehicle access via easement between property owners, with terms including insurance and a damage deposit. He stated the easement is intended to be ongoing and recorded.

The applicant confirmed that all terms have been agreed upon and payments made, pending the outcome of the CUP decision. In response to the questions, the applicant clarified that while a five-year term was mentioned early on, the intent is now to pursue a recorded easement without a time limit. Commissioner Phelps requested to see that confirmation in writing before proceeding further.

Commissioner Phelps raised concerns about cannabis odor, citing personal allergies and nearby residences. The applicant stated the facility design includes industry-standard carbon filters and offered to double the filtration to reduce leaks. Commissioner Phelps suggested involving an external engineer to ensure odor containment.

The applicant described the high-security design of a similar facility at 820 South Hathaway, noting features like barbed-wire fencing, full camera coverage, and controlled gate access. It was clarified that both pedestrian and vehicle access is managed through a single, sliding gate. Commissioner Phelps expressed concern that such a design may not be suitable for the current project site if the gate is located at the street. The applicant agreed to consider adding a pedestrian gate. Air handling equipment will be located in the attic, similar to 820 South Hathaway.

Chair Dale opened public hearing at 6:55 p.m.

Lynnea Hagen expressed concern over a previous marijuana raid at the proposed site and questioned whether the applicant for this proposal in the same entity. She raised issues about odor impacts from an existing facility on Hathaway, claiming the smell reaches nearby homes despite complaints. Additional concerns included the high-water usage of cannabis cultivation facilities and the overall number of such operations in the city.

John Hagen expressed concerns about the cumulative odor impacts of cannabis cultivation facilities in the southeast area of the city. He stated that existing operations, particularly at 820 Hathaway, often produce odors strong enough to prevent residents from going outdoors. He argued that converting old warehouses is ineffective for odor control without building entirely new internal structures. He also raised concerns about the number of permitted grow sites in close proximity, noting that once additional sites become operational, odors will impact the neighborhood regardless of wind direction. Mr. Hagan questioned the effectiveness of Code Enforcement responses and urged the Commission to consider the broader community impact before approving further facilities.

Jack Gundersen opposed the new facility, citing ongoing odor issues from 820 Hathaway and a lack of response from Code Enforcement. He reported to an inspector who confirmed the smell and noted other problems like hazardous materials and weak site security. He questioned the effectiveness of proposed odor controls and asked when the new facility would begin operations if approved.

Chair Dale closed public hearing at 7:06 p.m.

Planning Commission Discussion:

Commissioner Phelps expressed concerns about persistent cannabis odors affecting nearby residents and businesses, as well as the adequacy of site access in a busy cul-de-sac. Additional concerns included facility security, fire safety, and the high-water usage of cannabis cultivation during drought conditions. The commissioner stated they needed more time to consider the issues raised.

Commissioner Rodriguez acknowledged that odor is an ongoing concern with cannabis facilities, but noted it is a widespread issue, he raised access concerns related to a nearby streetlight and easement tightness but believed it to be manageable.

Commissioner Marshall praised the high level of security at the 820 Hathaway facility and felt the proposed location was appropriate, remote, and an improvement to the industrial area. He suggested any final approval be conditioned on the successful completion of access requirements before occupancy and expressed no current objection to the project.

Commissioner Dale expressed concerns about the insufficient access planning, stating the current proposal lacks detail and may impact adjacent properties. She emphasized the need to review finalized access plans before making a recommendation. She also noted that while odors cannot be fully contained, the municipal code requires it, creating a compliance challenge. Suggestions included improving attic ventilation and sealed entry designs. Lastly, she raised concerns over the CEQA exemption, questioning its adequacy due to unquantified greenhouse gas emissions and cumulative impacts from nearby facilities. She concluded that more information is needed before a decision can be made.

Commissioner Castorena provided suggested conditions for commission’s consideration as part of the project approval via email.

- Local Hire Reporting:
  Applicant shall annually report employee residency data to the City, including number of hires from Banning and the San Gorgonio Pass region.
  (Applicant states intent to create local jobs: CUP p.100)
- Signage for Complaints:
  Prior to certificate of occupancy, install a sign near project entry identifying permittee contact info for odor complaints and City Code Enforcement. Sign design and placement to be approved by Community Development and maintained for duration of operation.
  (Applicant lists 24/7 contact commitment: CUP p.64)
- Complaint Log and Reporting:
  Maintain and submit a quarterly complaint log to Community Development documenting complaints and resolutions.
  (Complaint intake process described: CUP p.191)
- Complaint Response Timelines:
  Respond to all complaints within 48 hours; mitigation for odor or nuisance issues within 72 hours.
- Compliance Trigger:
  If 3+ complaints in 90 days, City may initiate a compliance review and require updated Odor Abatement Plan or CUP modification.
  (Applicant affirms commitment to nuisance prevention: CUP p.101)

Additionally, it would be helpful if the applicant could be asked to explain how they plan to implement their local hiring commitment, including any partnerships with workforce programs.

ACTION: Motion/Second (Marshall/Rodriguez) to Adopt Resolution 2025-06, approving Conditional Use Permit (CUP) Case No. PLN 24-0107 with modifications to Conditions of Approval 31, 32, and 33:

- **Condition 31:** Enhanced signage requirement with on-site contact information for odor complaints and City Code Enforcement.

- **Condition 32:** Clarify that the easement must be recorded and resolved to staff's satisfaction prior to the Certificate of Occupancy.

- **Condition 33:** Required responses to odor complaints within 48 hours and resolution within 72 hours.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena					*X*
Dale		*X*			
Marshall	*X*				
Phelps		*X*			
Rodriguez	*X*				

Motion Failed, 2-2-1

A motion was made to continue the item to a meeting on August 6.

ACTION: Motion/Second (Dale/Phelps) to continue the public hearing to a Special Meeting on August 6th to allow the applicant to provide:
- Detailed plans for access improvements.
- Staff to return with quantified data on electrical usage.
- Additional information on odor control measures.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena					*X*
Dale	*X*				
Marshall	*X*				
Phelps	*X*				
Rodriguez	*X*				

(Motion Carried 4-0-1) motion passes.

6. DISCUSSION ITEMS

None

7. ANNOUNCEMENTS AND REPORTS

7.1 DIRECTOR'S REPORT

Director Newell informed the Commission of upcoming changes to CEQA due to new state trailer bills. These changes are expected to significantly streamline environmental review processes, especially for housing and other qualifying projects. Additional information will be provided to the Commission as it becomes available.

The Banning Commerce Center previously considered by the Planning Commission in March, was reapproved by the City Council on July 8th after a de novo public hearing. The new hearing was held due to an objection to notification for the May City Council hearings and included a second vote toward the end of the July 8th meeting due to a comment submitted via email during the meeting that we did not notice until after they had taken action. The Council's approval is now final, and all issues have been addressed.

Mark Staples was introduced as the new Planning Manager for the City of Banning.

7.2 COMMISSIONER REPORTS

None

8. ITEMS FOR FUTURE AGENDAS

- Special meeting in the next month or so to review large projects (David)
- Initiate a GPA/ZC from Industrial to Residential on Barbour Street (Dale)

Director Newell will bring the GPA/ZC to the next meeting as a discussion item for the Commission.

9. ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

Minutes prepared by:

Sandra 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://banningca.granicus.com/player/clip/220?view_id=1&redirect=true

All documents related to this meeting are available here:
https://d3n9y02raazwpg.cloudfront.net/banningca/6d8b6baa-76d8-11ef-9b71-005056a89546-38305488-93fe-4918-9dd7-c67857e7b6c7-1751602337.pdf

CITY COUNCIL RESPONSE MEMORANDUM

Project: 200 John Street, Banning, CA

Applicant: 200 John St, LLC

Prepared by: Ricardo Alcantara, Representative

Date: 10/6/2025

1. Cultivation Tables and Canopy Calculation

In response to Council's question regarding the layout and stacking of cultivation tables:
- The proposed table configuration and stacking system can be viewed in Sheet A5.0 (Renderings) and Sheet A2.0 (Floor Plan).
- Each of the six cultivation rooms (883 sq. ft. each) will contain 1,734 sq. ft. of canopy area, achieved through the use of multi-tiered tables.
- This results in a total canopy area of 10,404 sq. ft., while maintaining all required spacing and access clearances per state and local regulations.
- The table system ensures the project remains in full compliance with the Conditional Use Permit limits — maintaining no less than 10,000 sq. ft. and no more than 22,000 sq. ft. of total canopy, keeping operations squarely within city-approved parameters.

2. Fire Access and Safety Measures

Fire safety remains a top priority of this project.
- As shown on Sheet A1.1, the project includes a hammerhead turnaround designed and approved per Riverside County Fire Department Standard OFM-01A.
- We have exceeded basic city standards by including two Knox Boxes — one at the front entrance on Galleher, and an additional Knox Box located on Caltrans property in the rear, for redundancy and improved emergency access.
- In response to Councilman Miller's concern regarding the narrowness of Galleher Road:
  • We recommend that the City consider installing red curbs or "No Parking" signage along the access road to maintain clear emergency lanes.
  • To ensure this responsibility does not fall solely on us, we have already begun coordination with adjacent property owners, who have confirmed they do not plan to use all their parking spaces. Shared access solutions can be developed as needed to alleviate potential congestion.
- Finally, the entire building will be fully sprinklered, further emphasizing that safety is our top priority.

3. Ownership and Background

To clarify ownership and licensing status:
- Mr. Antonio ("Tony") Simeone, principal of 200 John St LLC, has no affiliation with any previous owners or operations in the City of Banning.
- Mr. Simeone currently holds an active State of California Cultivation License (CCL19-0003980) in the City of Los Angeles, which requires annual Department of Justice (DOJ) vetting and background clearance as part of its renewal process.
- Furthermore, Mr. Simeone has already been vetted by the Banning Police Department as part of this application process, providing the City an additional layer of verification and assurance of his compliance and credibility.

4. Water Usage

- Attached is documentation showing water consumption from Mr. Simeone's existing 10,000 sq. ft. licensed cultivation facility in Los Angeles, which demonstrates responsible and efficient water use.
- The facility uses just under 700 gallons of water per day, as verified in official City of Los Angeles documentation.

5. Odor Control

Addressing Councilman Royce's inquiry regarding odor control measures:

- While industry-standard carbon filtration systems such as Can-Filters are commonly used and effective, we have chosen to introduce a new and more advanced system to address concerns raised by the Council regarding the performance of current systems used in other facilities.
- The proposed facility will utilize the CleanLeaf CL2500D-CCP Odor Control System, a multi-stage filtration and purification system that goes beyond basic carbon filters by actively capturing and neutralizing odor-causing particles.
- These systems and their configuration can be reviewed in Sheet A3.1, which illustrates the odor control layout and air circulation path.
- This new approach ensures superior odor mitigation and directly responds to Council's skepticism that prior systems have not performed adequately in other local cultivations.

6. Economic Revenue and Utility Benefit

In response to Councilwoman Barrington's comment regarding electrical usage and billing:

- While our projected energy costs may appear high, those numbers accurately reflect our actual usage and rate structure under Banning Electric.
- It is important to clarify that a portion of these charges includes internal departmental costs and operational overhead already built into the City's billing model.
- Therefore, our consistent and predictable energy demand will generate steady revenue for the Banning Electric Department, strengthening the City's utility fund rather than burdening it.

7. Panel System and Building Efficiency

The cultivation rooms will be constructed using the Diversified Panel Systems (DPS) Modular Grow Room Panel System, a state-of-the-art interlocking modular panel solution designed specifically for agricultural grow environments.

- Smell-Proof & Airtight Design: Tight interlocking joints and seals ensure a completely airtight environment, improving odor control and climate stability.
- Reflective Interior Finish: Interior walls are UV-stable, reflective white, and easily sterilized between cultivation cycles to maintain sanitary conditions.
- EPS Insulated Core: The Expanded Polystyrene (EPS) insulation core delivers high thermal resistance (R-value), reducing heat transfer and conserving energy while maintaining optimal temperature and humidity levels.
- Energy Efficiency: The system's insulation and airtight properties result in lower energy costs and consistent environmental control, directly benefiting both plant health and operational sustainability.
- USDA Approved & Environmentally Friendly: All DPS materials meet USDA standards, offering a clean, food-grade environment ideal for cannabis cultivation.

CITY OF LOS ANGELES

Department of Public Works, Bureau of Sanitation
2714 Media Center Dr. Los Angeles, CA 90065

INVOICE

Business Location
13541 DESMOND ST.
PACOIMA, CA 91331

Invoice Number: 20251905594
Permit Number: W - 564727
District: 2
Billing Frequency: Quarterly

Invoice Date: 9/18/2025
Payment Due Date: 10/1/2025
Delinquent Date: 11/1/2025

Late Payment Warning: Mail payment before 11/1/2025 to avoid a 2.5% penalty ($10 mininum)

**********AUTO**ALL FOR AADC 913 42
ANGEL CITY FARMERS CO-OP CORPORATION 9472
TONY SIMEONE
19360 RINALDI ST PMB 388
PORTER RANCH, CA 91326-1607

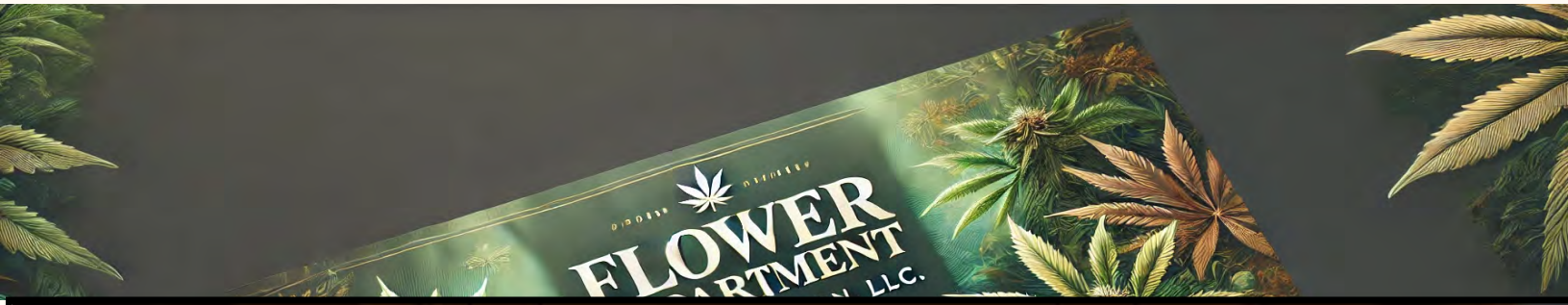
WASTEWATER FLOW: 583 GALLONS/DAY
SUSPENDED SOLIDS: 0 MG/LITER
BIOCHEMICAL OXYGEN DEMAND: 0 MG/LITER
INSP CLASS: IP01
SANITARY FLOW: 30 GALLONS/DAY

Description	Billing Period	Amount
PAST DUE BALANCE:		$0.00
CURRENT CHARGES		
CLASS 1 INSPECTION AND CONTROL FEE	07/01/2025-09/30/2025	$105.75
TOTAL AMOUNT DUE:		**$105.75**

9/30/25
Pd
CK# 1090

- **Pay Online** at https://ipn2.paymentus.com/rotp/lasn
- **Pay by Mail.** Please cut the lower portion of this invoice on the dotted line. Include this portion along with your check. **DO NOT SEND CASH.**
- Mail before the delinquent date to avoid a 2.5% penalty ($10 minimum).
- Call (323) 342-1518 before the delinquent date if you have any questions about your bill.
- Notify us in writing if ownership or billing address has changed. **[Address is for correspondence only]**
- *Attention: Surcharge and Billing*
  Industrial Waste Management Division
  2714 Media Center Drive, Los Angeles, CA 90065

FLOWER DEPT, LLC



Cannabis Conditional Use Permit Application

This document contains a comprehensive Cannabis Conditional Use Permit Application for Flower Dept, LLC. It covers all aspects required for obtaining a permit to operate a cannabis cultivation business in Banning, California, including business plans, security measures, inventory control, waste management, and compliance with local and state regulations.

Application Components and Business Information

The Cannabis Conditional Use Permit Application includes the following key components:

- Regulatory Permit Application
- Operating and Business Plan
- Corporate Entity Documents
- List of Fictitious Business Names
- Legal Name of the Applicant
- 24-Hour Contact Information
- Business Trade Name (if applicable)
- List of Licenses Held by Owners
- Disclosure of Past License Denial
- Premise Information
- Cannabis Business FEIN Number
- Complete List of Every Owner
- List of Owners Authorized to Carry Weapons

Flower Dept, LLC is the legal name of the applicant. The company does not currently operate under any fictitious business names. The 24-hour contact for the business is Owner Antonio Simeone, reachable at (213) 479-7601, 1simeonegroup@gmail.com.

Ownership

The owners of Flower Dept, LLC are:

- Antonio Simeone
- Kenneth Brymer
- Victor Quezada

Licenses

Owners Antonio Simeone and Kenneth Brymer are listed on an existing cannabis license. Victor Quezada has no other licenses.

Premise

The proposed cultivation facility is located at:

200 John St.
Banning, CA 92220
APN: 541-220-006

Facility and Operations Plans

Flower Dept, LLC has developed comprehensive plans for the design and operation of its cannabis cultivation facility:

1 Facility Design

The facility will utilize 80% of its square footage for canopy and 20% for ancillary uses such as drying, trimming, packaging, storage, employee areas, and security. The cultivation space will be divided into six individual grow rooms for environmental control and staggered harvests.

2 Cultivation Methods

The company will employ indoor cultivation techniques using LED and double-ended HID lighting technology. A perpetual harvest cycle will be used to maintain a steady supply of flowering plants and end products.

3 Environmental Controls

Advanced HVAC systems and environmental monitoring will be implemented to maintain optimal growing conditions. Energy-efficient equipment and practices will be utilized to minimize environmental impact.

4 Quality Control

Strict quality control measures will be in place throughout the cultivation process, including regular inspections, testing, and adherence to Good Agricultural Practices.

Security Plan

Flower Dept, LLC has developed a comprehensive security plan to ensure the safety of employees, products, and the surrounding community. Key components include:

1

Video Surveillance

A professional-grade video surveillance system will operate 24/7, covering all areas of the facility including entrances, exits, and limited access areas. Cameras will have a minimum resolution of 1280 x 720 pixels and record at least 15 frames per second. Recordings will be stored securely for a minimum of 90 days.

2

Access Control

The facility will use a proximity card and PIN code system to control access to different areas. Two-factor authentication will be required for highly restricted areas. All employees will wear identification badges, and visitors will be logged and escorted at all times.

3

Alarm Systems

A professionally monitored burglar and fire alarm system will be installed, with sensors at all entry points and motion detectors throughout the facility. The system will be tested monthly and have battery backup power.

4

On-Site Security Personnel

Licensed security guards will be present 24/7 to monitor the premises, conduct patrols, and respond to any security incidents. Guards will be trained in conflict resolution and emergency procedures.

5

Secure Storage

All cannabis products will be stored in a secure vault or safe when not in active use. The storage areas will have additional access controls and be monitored by dedicated cameras.

Inventory Control and Waste Management

Flower Dept, LLC will implement robust inventory control and waste management procedures to ensure compliance with state regulations and prevent diversion:

1 Track and Trace System

The company will use METRC, the state-mandated track and trace system, to monitor all cannabis from seed to sale. This will be integrated with internal inventory management software for real-time tracking and reporting.

2 Regular Audits

Physical inventory counts will be conducted weekly, with full audits performed monthly and annually. Any discrepancies will be immediately investigated and reported to the appropriate authorities if necessary.

3 Waste Management

All cannabis waste will be rendered unusable and unrecognizable before disposal. This process will be documented in the track and trace system and performed under video surveillance. Only approved waste management companies will be used for final disposal.

4 Employee Training

All employees will receive comprehensive training on inventory control procedures, waste management protocols, and the importance of preventing diversion. Regular refresher courses will be provided to ensure ongoing compliance.

Odor Control and Environmental Impact

Flower Dept, LLC is committed to minimizing its environmental impact and preventing any nuisance to the surrounding community. The company has developed the following plans:

1 Odor Control System

A state-of-the-art odor control system using activated carbon filters will be installed throughout the facility. This system will operate 24/7 to ensure no cannabis odors are detectable outside the premises.

2 Energy Efficiency

The facility will use energy-efficient LED lighting and HVAC systems. A plan to operate 50% of the facility during off-peak hours will reduce demand on the power grid and lower energy costs.

3 Water Conservation

Water-efficient irrigation systems and reclamation techniques will be employed to minimize water usage. The company will work with local water authorities to ensure responsible consumption.

4 Waste Reduction

In addition to proper cannabis waste management, the company will implement recycling programs and seek to minimize overall waste production in its operations.

Community Relations and Economic Impact

Flower Dept, LLC is committed to being a positive force in the Banning community. The company has outlined the following initiatives:

1 Local Hiring

The company will prioritize hiring local residents for all positions, providing job opportunities and economic growth for the community.

2 Tax Contributions

As a legal cannabis business, Flower Dept, LLC will contribute significant tax revenue to support local services and infrastructure.

3 Community Engagement

The company will actively participate in local events, support community organizations, and maintain open lines of communication with neighbors and city officials.

4 Responsible Operations

By implementing strict security and odor control measures, the company aims to operate without negatively impacting the surrounding area.

Antonio Simeone will serve as the on-site community relations designee, available to address any concerns or complaints from the community. He can be reached at (213) 479-7601 or 1simeonegroup@gmail.com.

Compliance and Ongoing Operations

Flower Dept, LLC is committed to maintaining full compliance with all local and state regulations governing cannabis businesses. The company has outlined the following measures to ensure ongoing compliance and successful operations:

Regulatory Compliance

The company will stay up-to-date with all changes to cannabis regulations and adjust operations as necessary. Regular internal audits will be conducted to ensure ongoing compliance.

Quality Control

Strict quality control measures will be implemented throughout the cultivation process. All products will be tested by licensed laboratories before distribution to ensure they meet all safety and potency standards.

1 2 3 4

Employee Training

All employees will receive comprehensive initial training and ongoing education on compliance, safety, and operational procedures. This includes specific training on cannabis laws, inventory control, and security protocols.

Record Keeping

Detailed records of all operations, including cultivation activities, inventory, sales, and security incidents, will be maintained for at least seven years. These records will be available for inspection by regulatory authorities as required.

By adhering to these practices and maintaining open communication with local authorities, Flower Dept, LLC aims to operate as a model cannabis business in the City of Banning.

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A. CANNABIS CONDITIONAL USE PERMIT APPLICATION

CITY OF BANNING
Community Development Department
99 East Ramsey Street
Banning, CA 92220
Tele: (951)922-3125
Fax: (951) 922-3128

UNIFORM DEVELOPMENT APPLICATION
Part 1

(Please type or print clearly using ink.)

GENERAL REQUIREMENTS

Project Location: 200 John St.	**Staff Use Only** File No:
Assessor's Parcel No(s): 541-220-006	**Related Files**
Legal Description (attach exhibits if necessary): recorded book/page: MB 9/44	
Applicant's Name: Flower Dept LLC, attention Antonio Simeone	Phone Number: 213-479-7601 FAX Number:
Address, City, Zip: 19360 Rinaldi Street Ste. 388 Porter Ranch, CA. 91326	
Legal Owner's Name (if different from above): 200 John Street, LLC	Phone Number: FAX Number: 951-897-0273
Address, City, Zip: 100 South Hathaway Street Santa Ana, CA. 92701	

Type of Review Requested (Please Check All Applicable Boxes)

- ☐ Annexation
- ☐ Appeal
- ☐ Certificate of Compliance
- ☒ Conditional Use Permit
- ☐ Conditional Use Permit Amendment
- ☐ Design Review - Commercial/Industrial
- ☐ Design Review - Residential
- ☐ Development Agreement
- ☐ Environmental Assessment
- ☐ General Plan Amendment
- ☐ Landscape/Irrigation Plan Check
- ☐ Lot Line Adjustment
- ☐ Parcel Merger
- ☐ Minor Exception
- ☐ Specific Plan
- ☐ Specific Plan Amendment
- ☐ Tentative Parcel Map ≤ 4 DU
- ☐ Tentative Tract Map >4 DU
- ☐ Tentative Map Extension
- ☐ Variance
- ☐ Zone Change
- ☐ Technical Staff Review
- ☐ Other: _____

PROJECT DESCRIPTION

Detailed Description of Proposed Project (Attach additional sheets if necessary)

New commercial cannabis cultivation facility in existing warehouse

Indicate the use or occupancy for which the proposed project is intended:
(F-1) commercial cannabis cultivation

APPLICANTS CERTIFICATION

I certify under penalty of perjury that the information submitted by the applicant is true and correct; that any false or misleading information shall be grounds for denial of the application. ***(If the undersigned is different from the legal property owner, a notarized letter of authorization from each property owner must accompany this form).***

Date: 8/6/24 Signature:

Print Name and Title: ANTONIO SIMEONE CEO

Date Received	Time Received	Fees Received	Receipt No.	Received By
		$		

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CITY OF BANNING
Community Development Department
99 East Ramsey Street
Banning, CA 92220
Tele: (951)922-3125
Fax: (951) 922-3128

NON-RESIDENTIAL PROJECT SUMMARY TABLE

Part 2

Assessor's Parcel No(s):
541-220-006

Project Location: 200 John St. Banning, CA. 92220	**Staff Use Only** File No:
General Plan Designation: Industrial	Environmental Determination: Reference:
Zoning District: Industrial	Planner Initials: / Date:

PROJECT AREA

	Acres	Sq. Ft.
Gross (Including area to centerline of abutting streets)	0.79	34,412
Net (Exclusive of dedication for major external and secondary streets)	0.61	26,572

AREA DISTRIBUTION (Based on Net Area)

	Acres/Sq. Ft.	% of Net Area
Building Coverage	8,041 SF	30%
Landscape Coverage	1,337 SF	5%
Parking Area (including driveways, loading areas, and spaces)	6,436 SF	24%

FLOOR AREA DISTRIBUTION BY PROPOSED USE (Based on Net Area)

Area of Building Pad	No. Of Stories	Gross Floor Area (sq. ft.)	Proposed Use
8,041 sf	1	7,852 sf	Commercial Cannabis Cultivation (total flower canopy sf is 10,404 sf proposed)

PARKING (Calculate Each Use Within a Building Separately)

Type of Use	Parking Ratio	# Spaces Required	# Spaces Provided
commercial cannabis cultivation	1/600-sf (manufacturing)	14 spaces	15 spaces
TOTALS			

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CITY OF BANNING
Community Development Department
99 East Ramsey Street
Banning, CA 92220
Tele: (951)922-3125
Fax: (951) 922-3128

CONTACT INFORMATION

PART 3

The following information must be completed and submitted with new applications: (Print or Type all information entered)

Project Location: 200 John St.	**Staff Use Only** File No:
Applicant: Flower Dept LLC	**Related Files**
Contact Person: Antonio Simeone	

Address, City, Zip: 19360 Rinaldi Street Ste. 388 Porter Ranch, CA. 91326

Phone:	Fax:	E-mail Address:
213-479-7601		1simeonegroup@gmail.com

Additional Contact Person: (Please Specify Name, Company, Title)

Address, City, Zip:

Phone:	Fax:	E-mail Address:

Architect: Hide Iwagami

Address, City, Zip: 3 Peters Canyon Rd. #110 Irvine, CA 92606

Phone:	Fax:	E-mail Address:
949-230-6006		hide.iwagami@hestiaatelier.com

Civil Engineer: Contact Person:

Address, City, Zip:

Phone:	Fax:	E-mail Address:

Land Surveyor: Contact Person:

Address, City, Zip:

Phone:	Fax:	E-mail Address:

Landscape Architect: Contact Person:

Address, City, Zip:

Phone:	Fax:	E-mail Address:

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CITY OF BANNING
Community Development Department
99 East Ramsey Street
Banning, CA 92220
Tele: (951)922-3125
Fax: (951) 922-3128

HAZARDOUS WASTE SITE DISCLOSURE STATEMENT

PART 4

The following information must be completed and submitted with new applications: (Print or Type all information entered)

HAZARDOUS WASTE SITE DISCLOSURE STATEMENT Government Code Section 65962.5 requires the applicant for any development project to consult specified state-prepared lists of hazardous waste sites and submit a signed statement to the local agency indicating whether the project is located on or near an identified site. Under the statute, no application shall be accepted as complete without this signed statement. Please refer to the following web site for more information:

http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm

I (we) certify that I (we) have investigated our project with respect to its location on or near an identified hazardous waste site and that my (our) answers are true and correct to the best of my (our) knowledge. My (Our) investigation has shown that:

■ The project is not located on or near an identified hazardous waste site.

☐ The project is located on or near an identified hazardous waste site. Please list the location of the hazardous waste site(s) on an attached sheet.

Date: 8/6/24	Signature:
Print Name and Title: ANTONIO SIMEONE CEO	
Date:	Signature:
Print Name and Title: ANTONIO SIMEONE CEO	

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CITY OF BANNING
Community Development Department
99 East Ramsey Street
Banning, CA 92220
Tele: (951)922-3125
Fax: (951) 922-3128

CHECKLIST PROJECT SPECIFIC WQMP

PART 5

Checklist for identifying Discretionary New Development or Redevelopment projects as Priority Development Projects requiring a Project-Specific Water Quality Management Plan (WQMP)

Project Description: Commercial Cannabis Cultivation		
Project Name: Flower Dept.	**Staff Use Only File No:**	
Project Location: 200 John St.		
Assessors Parcel Numbers: 541-220-006	Planner Initials:	Date:

PROPOSED PROJECT CONSISTS OR INCLUDES:

Single-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is 25% or greater, including single-family hillside residences that create 10,000 square feet of impervious area and where the natural slope is 10%, or greater, where erosive soil conditions are known.	☐ Yes	■ No
Commercial and industrial developments of (or disturbing) 100,000 square feet, or more including parking areas.	☐ Yes	■ No
Automotive repair shops [Standard Industrial Classification (SIC) codes[1] 5013, 7532, 7533, 7534, 7537, 7538, and 7539.	☐ Yes	■ No
Retail gasoline outlets disturbing greater than 5,000 square feet.	☐ Yes	■ No
Restaurants disturbing greater than 5,000 square feet including parking areas	☐ Yes	■ No
Home subdivisions with 10 or more housing units.	☐ Yes	■ No
Parking lots of (or disturbing) 5,000 square feet, or more, or with 25, or more, parking spaces and potentially exposed to Urban Runoff.	☐ Yes	■ No
[1] Descriptions of SIC codes can be found at: http://www.osha.gov/pls/imis/sicsearch.html.		

DETERMINATION (check appropriate determination):

Any Question answered "YES" →	☐ Priority Project. Project requires a site specific WQMP (include a preliminary WQMP with this application)
All questions answered "NO" →	■ Non –Priority Project. Project requires incorporation of Site Design BMP's and Source Control BMP's imposed through conditions of approval or permit conditions.

A WQMP is a project-specific plan of Best Management Practices (BMP's) including site design, source controls, and treatment controls to address post-construction urban runoff water quality and quantity to protect receiving waters. A preliminary WQMP shall be submitted, reviewed, and approved prior to the first discretionary project approval, and a final WQMP shall be submitted, reviewed, and approved prior to any permit approval. Contact a civil engineer or other land development professional regarding the preparation of a Water Quality Management plan for your project. See WQMP Information Handout, and Whitewater SWMP for description of BMPs and the WQMP process. Also see City of Banning Ordinance Number 1212, 1388 and 1415 and the RCFCD website for additional information on WQMPs.

Reviewed By:_____
Planning Dept. Representative

Copy: Engineering Division

Rev 12-15

1. PAYMENT OF THE CANNABIS REGULATORY FEE

Payment for this CUP has been made through the portal to the City of Banning.

2. BUSINESS PLAN

Please refer to page 101 of this document for the Business Plan.

3. CORPORATE ENTITY DOCUMENTS

202463019506

B28922-2809 07/16/2024 3:31 PM Received by California Secretary of State

STATE OF CALIFORNIA
Office of the Secretary of State
ARTICLES OF ORGANIZATION
CA LIMITED LIABILITY COMPANY
California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only
-FILED-
File No.: 202463019506
Date Filed: 7/16/2024

Limited Liability Company Name	
Limited Liability Company Name	FLOWER DEPT LLC
Initial Street Address of Principal Office of LLC	
Principal Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326
Initial Mailing Address of LLC	
Mailing Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326
Attention	TONY SIMEONE
Agent for Service of Process	
Agent Name	TONY SIMEONE
Agent Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326

Purpose Statement
The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

Management Structure	
The LLC will be managed by	All LLC Member(s)

Additional information and signatures set forth on attached pages, if any, are incorporated herein by reference and made part of this filing.

Electronic Signature

☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

ANTONIO SIMEONE	*07/16/2024*
Organizer Signature	Date

Page 1 of 1

Flower Dept LLC Operating Agreement

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

FLOWER DEPT LLC

A California Limited Liability Company

JULY 16, 2024

(Member-Managed)

THE MEMBERSHIP INTERESTS CREATED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED, EXCEPT AS PROVIDED IN THIS AGREEMENT

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FLOWER DEPT LLC

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

This LIMITED LIABILITY COMPANY OPERATING AGREEMENT (this "Agreement") is entered as of the 3rd day of JULY 16, 2024 by and between, Antonio Simeone, Victor E Quezada, and Kenneth R. Brymer individually and collectively Initial Member ("Initial Member"). In consideration of the mutual promises contained herein, the Member agrees as follows:

ARTICLE I

THE LIMITED LIABILITY COMPANY

1.1 Formation. The Initial Member hereby acknowledges that it is the Initial Member of the limited liability company organized under the laws of the State of California. The name of the limited liability company is **"FLOWER DEPT LLC"** (the "Company"). The Initial Member enters into this Agreement to provide for the governance of the Company and the conduct of its business and to specify their relative rights and obligations.

1.2 Articles of Organization. The Articles of Organization that comply with the requirements of §17702.01(b) of the Act were properly filed with the office of the Secretary of State of the State of California on JULY 16, 2024, as entity number 99-4005279. A copy of the Articles of Organization is attached is to this Agreement. In the future, the Member shall execute and file a Statement of Information and such further documents and take such further action as shall be appropriate or necessary to comply with the requirements of law for the formation and operation of a limited liability company in all states and counties where the Company elects to carry on its business.

1.3 Business; Powers. The general purpose of the Company shall be to engage in, operate, and acquire interests in, any kind of business or activity, of whatever nature, that may be permitted by law in such a manner as to maximize the value of the Company over the term of the Company's existence. Except as expressly provided herein, the Company, shall be empowered to do or cause to be done, or not to do, any and all acts deemed appropriate to be necessary or appropriate in furtherance of the purposes of the Company.

1.4 Registered Office and Agent. The Company's registered office and registered agent for service of process on the Company in the State of California shall be, Antonio

Simeone, 19360 Rinaldi St., Ste. 388, Porter Ranch, CA 91326. The Member of the Company may appoint a replacement office and/or agent for service of process.

1.5 Place of Business. The principal place of business of the Company shall be located at 19360 Rinaldi St., Ste. 388, Porter Ranch, CA 91326. The Company may also have such other places of business as the Member determines to be appropriate.

ARTICLE 2

DEFINITIONS

2.1 Defined Terms. As used herein, the following capitalized terms shall have the meaning specified in this Article unless the context otherwise specifies. Other terms are defined in the text of this Agreement; throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"*Act*" shall mean the California Revised Uniform Limited Liability Company Act ("RULLCA") as set forth in California Corporations Code Title 2.6, as amended from time to time (or any corresponding provisions of succeeding law).

"*Affiliate*" means any individual, association, partnership, corporation, trust, or other entity, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the Member. The term "control" as used in the immediately preceding sentence, means, with respect to a corporation, the right to exercise, directly or indirectly, more than 50 percent of the voting rights attributable to the controlled corporation, and, with respect to any individual, association, partnership, trust, or other entity, directly or indirectly, possess the power to direct or cause the direction of the management or policies of the controlled entity.

"*Agreement*" shall mean this Limited Liability Company Operating Agreement, between all Members of Company regulating the affairs of Company and the conduct of its business, as originally executed and as amended or restated from time to time and refers to this Agreement as a whole unless the context otherwise requires.

"*Assignee*" shall mean the owner of a Transferable Interest who has not been admitted as a Substitute Partner in accordance with Article 9.

"*Bankruptcy*" means any of the following:

(1) The entry of a decree or order for relief by a court of competent jurisdiction in any involuntary case brought against a person under any bankruptcy, insolvency, or other similar law (collectively "Debtor Relief Laws") generally affecting the rights of creditors and the relief of debtors now or hereafter in effect;

(2) The appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other similar agent under applicable Debtor Relief Laws for a person or for any substantial part of the person's assets or property;

(3) The ordering or the winding up or liquidation of a person's affairs;

(4) The filing of a petition in any involuntary bankruptcy case, which petition remains not dismissed for a period of 180 days or that is not dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law);

(5) The commencement of a voluntary case under any applicable Debtor Relief Law;

(6) The consent to the entry of an order for relief in an involuntary case under any Debtor Relief Law or to the appointment of or the taking of possession by a received, liquidator, assignee, trustee, custodian, sequestrator, or other similar agent under any applicable Debtor Relief Laws for a person or for any substantial part of the person's assets or property; or

(7) The marking by a person of any general assignment for the benefit of the person's creditors.

"Book Value" shall mean the net worth of the Company as of a determination date determined by a certified public accountant retained by the Company in accordance with generally accepted accounting principles in effect from time to time in the United States of America as applied by the Company upon its formation and consistently thereafter.

"Capital Account" shall mean the separate account established and maintained for each Member by the Company pursuant to Section 8.2 hereof.

"Capital Contributions" means the value of any money, property (including promissory notes or other binding obligation to contribute money or property), obligation to render services to Company as capital in that Member's capacity as a Member, as shown in Exhibit A attached to this Agreement and incorporated by reference, as may be amended from time to time.

"Cash Flow" shall mean the excess of all cash receipts of the Company over the sum of (i) all cash disbursements of the Company and (ii) any reserve, determined in the reasonable discretion of the Member, for anticipated cash disbursements that will have to be made before additional cash receipts from third parties will provide the funds therefor.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or any successor statute.

"Company" shall mean the California limited liability company formed on the filing of the Articles of Organization pursuant to Section 1.2 hereof and governed by this Agreement.

"Company Minimum Gain" has the meaning set forth in Treasury Regulation §1.704-2(d)(1).

"Distribution" means a transfer of money or property by Company to its Members without consideration.

"Fair Market Value" of any Membership Unit/Interest in the Company or any property owned by the Company, means that asset's fair market value as would be set between willing buyer and a willing seller neither of whom is compelled or required to purchase or sell the asset, as determined in good faith by an independent, recognized (a) investment banking firm, (b) accounting firm, or (c) appraisal firm, selected by the Member.

"Financial Units" means the Transferable Interest. Initially, the Company shall be authorized to issue Nine Thousand (9000) Financial Units.

"Fiscal Year" shall mean the calendar year or, in the case of the first and the last fiscal years, the faction thereof commencing on the date on which the Company is formed under the Act or ending on the date on which the winding up of the Company is completed as the case may be.

"Governance Units" means the Membership Interest. Initially, the Company shall be authorized to issue One Thousand (1000) Governance Units.

"Information Rights" means the right to inspect, copy or obtain information and documents concerning the affairs of the Company as provided in §17704.10 of the Act and in Sections 1.13 and 7.02 of this Agreement.

"Initial Member" shall mean those persons or entities whose names are set forth in the first sentence of this Agreement.

"Majority in Interest of the Members" shall mean, at any given time, the Member or Members with more than 50 percent (50%) of the Governance Units owned by all Members.

"Member(s)" shall mean a Person (i) who owns at least one (1) Governance Unit and/or at least one (1) or more Financial Units and whose ownership of Units is reflected in the Required Records, (ii) who has been admitted to the Company as a Member in accordance with the Article of Organization and Operating Agreement, or assignee of a Unit in the Company who has become a Substituted Member pursuant to Corporate Code §17701.01(b) (iii) has not resigned, withdrawn or been expelled as a Member or if other than an individual been dissolved and (iv) the Initial Members shall be, Antonio Simeone, Victor E Quezada, and Kenneth R. Brymer, or (v) such substituted or additional Member(s) as shall be admitted as Substituted

Members of the Company as permitted by this Agreement. The name and address of each Member is listed in the Required Records as the same may be amended from time to time. The Governance Units and Financial Units owned by the Initial and any subsequent Members are set forth on Exhibit A attached hereto.

"Membership Interest" means a Member's entire interest and rights in the Company, collectively, including the Member's Transferable Interest, any right to Vote or participate in management, and any right to information concerning the business and affairs of the Company. Membership Interests are sometimes referred to herein as Governance Units.

"Nonrecourse Liability" has the meaning set forth in Treasury Regulation §1.752-1(a) (2).

"Percentage Interest" shall mean, with respect to each Member or Transferee, the percentage of the total Financial Units and total Governance Units owned by a Member from time to time as reflected in the Required Records and as those percentage interests may be applied under this Agreement and adjusted from time to time pursuant to the terms of this Agreement.

"Person" shall mean any individual, trustee, sole proprietorship, partnership, joint venture, trust, incorporated organization, association, corporation, limited liability company, limited liability partnership and other entity or any governmental authority.

"Profit" or "Loss" shall mean the profit or loss of the Company as determined under the capital accounting rules of Treasury Regulations §1.704-1(b) (2) (iv) for purposes of adjusting the Capital Accounts of the Members including, without limitation, the provisions of paragraphs (b), (f) and (g) of those Regulations relating to the computation of items of income, gain, deduction and loss.

"Registered Office" means the office maintained at the street address of the agent for service of process of Company in California.

"Required Records" shall mean those records that the Act requires the Company to maintain.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Substitute Member" shall mean any individual or entity that is admitted into membership in accordance with the provision of Section 9.5.

"Tax Matters Member" shall mean Antonio Simeone, or the other person chosen pursuant to §623(a)(7) of the Code to deal with the Internal Revenue Service or tax matter by a Majority in Interest of the Members from time to time pursuant to Section 7.6.

"Transfer" or *"Transferred"* shall mean any sale, assignment, transfer, conveyance, pledge, hypothecation, or other disposition voluntarily or involuntarily, by operation of law, with or without consideration, or otherwise (including, without limitation, by way of intestacy, will, gift, bankruptcy, receivership, levy, execution, charging order, or other similar sale or seizure by legal process) of all or any portion of any Membership Interest or a Transferable Interest therein.

"Transferable Interest" means the right, as originally associated with a Person's capacity as a Member, to receive distributions from the Company in accordance with the terms of this Agreement, whether or not the Person remains a Member or continues to own any part of the right. Transferable Interest is sometimes referred to herein as Financial Units.

"Transferee" means a Person who has acquired a Member's Transferable Interest in the Company, by way of a Transfer, in accordance with the terms of this Agreement, but who has not become a Member.

"Transferring Member" means a Member who be means of a Transfer has transferred a Transferable Interest in the Company to a Transferee.

"Treasury Regulations" shall mean regulations issued by the Department of Treasury under the Code. Any reference to a specific Section or Sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provision of future regulations under the Code.

"Units" shall mean the Governance Units and/or Financial Units owned by a Member.

ARTICLE 3

CAPITAL STRUCTURE: MEMBERSHIP AND CONTRIBUTIONS

3.1 Membership, Governance Units and Financial Units.

(a) Ownership rights in the Company are reflected in Governance Units and Financial Units, as recorded in the Required Records. A Membership Interest will necessarily consist of at least one (1) or more Governance Units and/or one (1) or more Financial Units.

(b) On matters subject to a vote of the Members, each member holder of Governance Unit shall have one (1) vote. Financial Units shall have voting rights limited to approval rights only over the following actions: a merger, sale of major assets outside the ordinary course of business, reorganization, or dissolution. Additionally, financial unit(s) shall have the right to approve of any amendment to these Articles if such an amendment would do any of the following:

(a) Materially and adversely affect the rights, privileges, preferences, restrictions or conditions of the financial unit(s) member(s) as to voting, dissolution, redemption or transfer, or the obligations of that member(s), in a manner different than such action affects another member(s);
(b) Materially and adversely affect the financial unit(s) member(s) as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another member(s);
(c) Increase the number of memberships authorized for the financial unit(s) member(s);
(d) Increase the number of memberships authorized for another member(s).
(e) Effect an exchange, member(s)classification or cancellation of all or part of the memberships of any member(s); or,
(f) Authorize a new member(s) of memberships.

Approval right shall include the right to propose any action. On any such matter, each holder of financial units shall be entitled to one-vote-one-unit rule.

(c) Governance Units and Financial Units are transferable only as provided in Article 9.

(d) Until such time as the Company issues any certificates of Units in accordance with Section 3.8 below, at the written request of a Member, the Company will provide certified statements of Units owned, stating the number of Governance Units and Financial Units owned by the requestor as of the date the statement is provided.

3.2 Issuance of Units by the Company.

(a) Each Member shall contribute capital to the Company in the form of money, sweat equity, or property, as more particularly specified in Exhibit A, which shall thereafter be deemed the Member's initial Capital Contribution. The initial Fair Market Value of each item of contributed property (net of liabilities secured by that property), which the Company is considered to assume or to take "subject to" under Internal Revenue Code §752, is also set forth in Exhibit A, together with the description and amount of these liabilities. If a Member fails to make the initial Capital Contributions specified in this Section 3.1 within 30 days after the effective date of this Agreement, that Member's entire Membership Interest shall terminated, and that Member shall indemnify and hold the Company and the other Members harmless from any loss, cost, or expense, including reasonable attorney fees caused by the failure to make the initial Capital Contribution. For each Member, the Required Records state that value and nature of the contribution received by the Company and the number of Governance Units and Financial Units received in return by the Member.

(b) When issuing Units to any person, the Company will issue to that person the number of Governance units and Financial Units acquired by that person.

(c) No Member has the right to make additional contributions or obtain additional Units but may do so in accordance with the provisions of section 3.4 below.

(d) Each Member specifically waives any preemptive rights.

3.3 Additional Contributions. The Initial Capital of the Company shall be contributed by the Members as set forth on Exhibit A attached hereto. The Company has no right to require Members to make additional contributions, but may do so in accordance with the provisions of section 3.4 below.

3.4 Company's Right to Accept Additional Contributions Limited.

(a) The Company may not require or accept additional contributions, or create or allocate additional Units, except as from time to time determined to be necessary for the operation of the Company's business by a Majority in Interest of the Members.

(b) To be effective, the approval required by this section must specify the number and type of additional Units authorized. The approval may, but need not, specify the amount, nature, and value of the consideration to be received, the identity of the contributor or would-be contributor, a deadline by which the authorized contribution must be received, or any other condition on the approval.

3.5 Right to Enforce. No Person other than a Member shall have the right to enforce any obligation a Member to contribute capital and specifically no lender or other third party shall have such rights.

3.6 Liability of the Members. Except to the extent expressly required by this Agreement or by the Act, including without limitation §17704.06 of the Code relating to distribution to the Company, none of the Members shall have any liability, whether to the Company or to the creditors of the Company, under a judgment, decree or order of the court or in any other manner, for the debts, liabilities, contracts or any other obligations of the Company or for any losses of the Company, whether the liability arises in contract or in tort. No Member will be required to make any contribution to Company by reason of any negative balance in a Member's capital account create any liability on the part of the Member to any third party.

3.7 Capital Contributions in General. Except as otherwise expressly provided in this Agreement or as otherwise agreed to in writing by a Majority in Interest of the Members, (a) no Member shall be entitled to receive interest on such Member's Capital Contributions, (b) no Member shall be entitled to withdraw any part of the Member's Capital Contribution and (c) no

Member other than the Initial Member shall have the right to demand or receive property other than cash in return for such Member's Capital Contributions except as otherwise approved by a Majority in Interest of the Members.

3.8 Membership Certificates. The Company may, but is not required to, issue certificates evidencing Membership Interests (Membership Interest Certificates) to Members of the Company. Once Membership Interest Certificates have been issued, they shall continue to be issued as necessary to reflect current Membership interests held by Members. Membership Interest Certificates shall be in a form approved by Member, shall be manually signed by the Member, and shall bear conspicuous legends evidencing the restrictions on Transfer and the purchase rights of the Company and Members set forth in Article III. All issuances, reissuances, exchanges and other transactions in Membership Interests involving Members shall be recorded in a permanent ledger as part of the books and records of the Company.

ARTICLE 4

DISTRIBUTIONS

4.1 Distribution of Cash Flow.

(a) Subject to Section 11.2 hereof, Cash Flow from the Company shall be distributed to the Members or Transferees in proportion to their respective Percentage Interest at such times as a Majority in Interest of the Members determines that funds are available therefor, taking into account the reasonable business needs of the Company.

(b) **Distributions to Pay Taxes**. To enable the Members to pay taxes on income of the Company that is taxable to the Members, the Company must make cash distributions to the Members. During each fiscal year the Company must distribute an amount equal to the product of (a) the highest aggregate rate of federal, state, and local income and self-employment tax imposed on the Company's income for that fiscal year (taking into account the deductibility of state and local income taxes for federal income tax purposes) allocated to any Member who was a Member for the full fiscal year time (b) the amount of the taxable income of the Company allocated to all Members for that fiscal year. Distributions must be paid at least quarterly during each fiscal year at times that coincide with the Members' payment of estimated taxes, and the amount of each distribution will be based upon the anticipated tax rates of Members, as determined at the time the distribution is made. The Company's obligation to make distributions under this section is subject to the restrictions governing distributions under the Act.

4.2 Withholding. If required by the Code or by state, local or foreign law, the Company will withhold any required amount from a distribution made to a Member or Transferee pursuant to this Article 4 for payment to the appropriate taxing authority. Any amount so withheld from a Member will be treated as a distribution by the Company to such Member. Each Member agrees to timely file any document that is required by any taxing authority in order to avoid or reduce any withholding obligation that would otherwise be imposed on the Company.

4.3 Successor in Interest. For purposes of making the calculations required under this Article 4 and Section 9.7 below, a Transferee acquiring a Transferable Interest in the Company from a Member or a Person acquiring a Membership Interest from a Member shall (a) be deemed to have made the Capital Contributions and received the distributions made or received, as the case may be, by his, her or its predecessor in interest to the extent of the Transferable Interest or Membership Interest so acquired and (b) be liable to the Company under this Agreement and under law to the same extent as the Member transferring such Transferable Interest.

ARTICLE 5

ALLOCATIONS FOR CAPITAL ACCOUNT PURPOSES

5.1 Determination of Profit and Loss. Profit or Loss shall be determined on an annual basis and for such other periods as the Member shall determine, in his sole and absolute discretion, is necessary or desirable.

5.2 Profit and Loss.

(a) Subject to the provisions of Section 11.2 hereof, and after all Capital Contributions and distributions for the Fiscal Year have been registered in the Members' Capital Accounts, the Profit or Loss (plus any deemed gain or loss from the distribution of property under Section 4.4 or Section 11.3) for the Fiscal Year, except as otherwise required in accordance with the provision of §704(c) of the Code as provided in Section 5.4 below, shall be allocated to the Member's Capital Account pro rata according to the Member's Percentage Interest as reflected in the Required Records. For any Unit not owned by the same person for the entire fiscal year, the allocation will be prorated as provided in Section 9.7 below.

(b) If a Member, on formation of the Company or at any time thereafter, contributes property with an adjusted income tax basis different from the fair market value at which the property is accepted and credited to that Member's capital account, then solely for income tax purposes and the determination of each Member's distributive share of the Company's Profits or Losses, any depreciation, depletion, gain, or loss with respect to that property shall, pursuant to §704(c) of the Code and Treasury Regulations §1.704-3, be allocated according to the traditional method described therein.

(c) Subject to the provisions of subsection 5.2(b) above, an allocation of Profit or Loss shall be treated as an allocation among the Members of the same share of each item of income, gain, loss and deduction that is taken into account in computing such Profit or Loss, as the case may be, with respect to a particular distribution.

(d) Solely for the purpose of allocating Profit and Loss among the Members, distributions of proceeds made within three (3) months following the close of a Fiscal Year and

that relate to transactions occurring during such Fiscal Year shall be deemed to have been made at the end of that Fiscal Year.

5.3 Determinations by Members. All matters concerning the computation of Capital Accounts, the allocation of items of Company income, gain, loss, deduction and expense for all purposes of this Agreement and the adoption of any accounting procedures not expressly provided for by the terms of this Agreement shall be determined by a Majority in Interest of the Members, after consultation with a certified public accountant retained by the Company.

5.4 I.R.C. §704(c) – Allocations. Notwithstanding any other provision in this Article 5, in accordance with §704(c) of the Code and the regulations promulgated under that section, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company, solely for tax purposes, will be allocated among the Members so as to take account of any variation between the adjusted basis of the property to Company for federal income tax purposes and its fair market value on the date of contribution. Allocations pursuant to this Section 5.4 are solely for purposes of federal, state and local taxes. As such, they do not affect or should in any way be taken into account in computing a Member's Capital Account or share of profits, losses or other items or distributions pursuant to any provision of this Agreement.

ARTICLE 6

ALLOCATION OF TAXABLE INCOME AND LOSS

6.1 In General. Each item of income, gain, loss and deduction of the Company for federal income tax purposes shall be allocated among the Members in the same manner as such item is allocated for Capital Account purposes under Article 5.

6.2 Allocation of Net Profits and Losses and Distributions in Respect of Transferred Interests. If any Membership Interest or Transferable Interest is transferred, or is increased or decreased by reason of the admission of a new Member or otherwise, during any fiscal year of Company, Net Profits or Net Losses for that fiscal year will be assigned to the Members and other holders of Transferable Interests according to any method permitted under §706 of the Code. Notwithstanding any provision above to the contrary, gain or loss of Company realized in connection with a sale or other disposition of any of the assets of Company will be associated solely to the parties owning Membership Interests or Transferable Interests as of the date that the sale or other disposition occurs.

ARTICLE 7

ADMINISTRATION OF COMPANY BUSINESS

7.1 Management. All Members owning Governance Units have the right to participate in the management and conduct of the Company's business. Subject to the limitations

imposed by this agreement or by action of the Members. The Member(s) owning a Majority Interest of the Members, as an agent of the Company, has authority to bind the Company in the ordinary course of the Company's business.

7.2 Actions by Members. Except as otherwise provided in this Agreement, all decisions requiring action of the Members or relating to the business or affairs of the Company will be decided by the affirmative vote or consent of Members holding a Majority in Interest of the Members. Members owning Governance Units may act with or without a meeting, and any Member may participate in any meeting by written proxy or by any means of communication reasonable under the circumstances.

7.3 Approval of Other Members Required. In addition to the other actions requiring unanimous Member approval under the terms of this Agreement, no Member has authority to do any of the following without the prior written consent of all other Members owning Governance Units:

7.3.1 To sell, lease, exchange, mortgage, pledge, or otherwise transfer or dispose of all or substantially all of the property or assets of the Company;

7.3.2 To merge the Company with any other entity;

7.3.3 To amend the articles of organization of the Company or this agreement;

7.3.4 To incur indebtedness by the Company other than in the ordinary course of business;

7.3.5 To authorize a transaction involved an actual or potential conflict of interest between a Member and the Company;

7.3.6 To change the nature of the business of the Company; or

7.3.7 To commence a voluntary bankruptcy case for the Company.

7.4 Devotion of Time; Outside Activities. Each of the Members must devote so much time and attention to the business of the Company as the Members acting in good faith reasonably determines is appropriate. Members may engage in business and investment activities outside the Company, and neither the Company nor the other Members have any rights to the property, profits, or benefits of such activities. But no Member may, without the consent of other Members owning a majority of the Governance Units, enter into any business or investment activity that is competitive with the business of the Company, or use any property or assets of the Company other than for the operation of the Company's business. For this purpose, the property and assets of the Company include, without limitation, information developed for the Company, opportunities offered to the Company, and other information or opportunities entrusted to a Member as a result of being a Member of the Company.

7.5 Compensation and Reimbursement. Members who render services to the Company are entitled to such compensation as may be agreed upon by other Members holding a majority of the Governance Units from time to time unless otherwise agreed by the Member. Any compensation paid to a Member for services rendered will be treated as an expense of the Company and a guaranteed payment within the meaning of IRC §707(c), and the amount of the compensation will not be charged against the share of profits of the Company that would otherwise be allocated to the Members. Members are also entitled to reimbursement from the Company for reasonable expenses incurred on behalf of the Company, including expenses incurred in the formation, dissolution, and liquidation of the Company.

7.6 Self Interest. A Member does not violate any duty or obligation to the Company merely as a result of engaging in conduct that furthers the interest of the Member. A Member may lend money or transact other business with the Company, and, in this case, the rights and obligations of the Member will be the same as those of a person who is not a Member, so long as the loan or other transaction has been approved or ratified by the other Members owning a majority of the Governance Units. Unless otherwise provided by applicable law, a Member with a financial interest in the outcome of a particular action is nevertheless entitled to vote on such action.

7.7 Tax Matters Member. The Chairperson is hereby designated as the Tax Matters Member for the Company. The "Tax Matters Member" shall serve as the "tax matters partner" of the Company for purposes of Section 6231(a)(7) of the Code and the Treasury Regulations promulgated thereunder. A Majority in Interest of the Members shall designate a successor Tax Matters Member.

7.8 Business Opportunities. Members may engage in business and investment activities outside of the Company. Neither the Company nor any other Member shall have any rights to the property, profits or benefits of such activities. No Member however, may without the consent of all other Members owning Governance Units, enter into any business or investment activity that is competitive with the business of the Company, or use any property or assets of the Company other than for the operation of the Company's business. For this purpose, the property and assets of the Company include, without limitation, information developed for the Company, opportunities offered to the Company, and other information or opportunities entrusted to a Member as a result of being a Member of the Company ("Proprietary Information"). Notwithstanding the above the Chairperson shall have the right at any time to, (i) acquire an ownership interest in (ii) provide financing to or (iii) enter into any business transaction with, or (iv) use the Company to the benefit of any business or activity including, any business or activity that is or may be competitive with the business of the Company, without first having provided such opportunity to the Company or its Members or obtaining consent there from.

7.9 **Power of Member to Do Business with LLC**. Any Member, acting in that Member's, individual capacity, shall have the power to do business with the Company at any time, provided that the transaction is disclosed to the Members and approved by a Majority in Interest of the Members. This power includes, but is not limited to, the power to purchase property from or sell property to the Company at fair market value; exchange property for the Company's property of equal value; lease property and equipment to the Company at fair rental value; borrow funds from or lend or advance funds to the Company, with interest at then-prevailing rates, and give or receive security for any such loans in any commercially reasonable form.

7.10 **Accounting Decisions and Reliance on Others**. The Tax Matter Member will make all decisions as to accounting matters, except as otherwise specifically set forth in this Agreement. The Tax Matters Member may rely on the advice of the independent accounts of Company as to whether those decisions are in accordance with accounting methods followed for federal income tax purposes.

7.11 **Maintenance of Books and Records and Accounting**. Company will keep proper and complete books of account of Company's business records, including all of Company's transactions. The records will be kept at Company's principal place of business and remain open to inspection by any of the Members or their authorized representative at any reasonable time during business hours. The accounting records will be maintained in accordance with generally accepted bookkeeping practices for Company's type of business and those methods followed for federal and state income tax purposes.

7.12 **Officers of the Company**. Antonio Simeone shall be the President/Chairperson, and chief executive officer of the Company and as such officer shall have general supervision of the business and affairs of the Company, shall preside at all meetings of the Members, and shall have all other powers and duties usually vested in a chief executive officer. Dan Nguyen shall be the Secretary of the Company and as secretary shall give notice of and keep the minutes of all Members, meetings, and shall have all other powers and duties usually invested in a secretary office. A Majority in Interest of the Members may provide for additional officers of the Company, may alter the powers and duties of the President/Chairperson and/or Secretary, and shall establish the powers and duties of all other officers and the compensation of all Company officers.

ARTICLE 8

ACCOUNTING AND REPORTING

8.1 Books; Banking.

(a) The Company shall maintain complete and accurate books of account at the Company's principal place of business, in Compliance with Corporation Code Section 17058:

(i) A current list setting forth, in alphabetical order, the full name and last known business or residence address of each Member and of each holder of an economic interest in the Company, together with the contribution and the share in profits and losses of each Member and holder of an economic interest.

(ii) A copy of the Company's articles of organization and all amendments thereto, together with any powers of attorney pursuant to which the articles of organization or any amendments thereto were executed.

(iii) Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six most recent taxable years.

(iv) A copy of this Agreement, and any amendments thereto, together with any powers of attorney pursuant to which any written operating agreement or any amendments thereto were executed.

(v) Copies of the Company's financial statements, if any, for the six most recent fiscal years.

(vi) Accurate books and records of the Company's internal affairs for at least the current and past four fiscal years.

(vii) A current list of the full name and business or residence address of each Member.

The Company shall provide any Member any information requested relating to the business of the Company. During ordinary business hours, any Member or such Member's authorized representative shall have access to all books, records and materials regarding the Company and its activities.

(b) All funds of the Company may be deposited in such bank, brokerage or money market accounts or with any other entity as shall from time to time be established by the

Member. Withdrawals from and checks drawn on any such account shall be made upon such signature or signatures as the Member may designate.

8.2 Capital Accounts. The Company shall maintain a separate Capital Account for each Member in accordance with the Treasury Regulations under Section 704(b) of the Code and in accordance with the following provisions:

(a) A Member's Capital Account shall be credited with the Member's Capital Contributions, the amount of any Company liabilities assumed by the Member (or which are secured by Company property distributed to the Member), the Members distributive share of Profit and any item in the nature of income or gain specially allocated to the Member pursuant to the provisions of Article 5 or 6; and

(b) A Member's Capital Account shall be debited with the amount of money and the Fair Market Value of any Company property distributed to the Member, the amount of any liabilities of the Member assumed by the Company (or which are secured by property contributed by the Member to the Company), the Member's distributive share of Loss and any item in the nature of expenses or losses specially allocated to the Member pursuant to the provisions of Article 5 or 6.

(c) It is intended that the Capital Accounts of all Members shall be maintained in compliance with the provisions of Treasury Regulations Section 1.704-1(b) and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

8.3 Transfers During Year. The share of Profits and Losses under Article 5 of a Member who transfers part or all of his Interest in the Company during the Company's Fiscal Year shall be allocated between the transferor and transferee as provided in Section 9.7 below.

8.4 Reports. The books of account shall be closed promptly after the end of each Fiscal Year. As soon as practicable thereafter, but by not later than 120 days after the close of the Company's fiscal year, the Company shall deliver a written report to each Member that shall include a statement of receipts, expenditures, profits and losses for the year, a statement of each Member's Capital Account and such additional statements with respect to the status of the Company's assets and the distribution of Company funds as are necessary to advise the Members properly about their investment in the Company. Prior to April 15th of each year, the Members shall also be provided with a copy of the Company's federal income tax return (Form 1020C) to be filed for the preceding year.

8.5 Tax Elections. The Tax Matters Member shall have the authority to make any Company elections permitted under the Code, including, without limitation, election of methods of depreciation.

8.6 Annual Accounting Period. The accounting period and taxable year of the Company shall be the Fiscal Year.

ARTICLE 9

TRANSFERS

9.1 Limitations on Transfer; No Withdrawal. Except as expressly provided in this Agreement, no Member shall Transfer all or any portion of such Member's Units in the Company Membership Interest or Transferable Interest or retire or withdraw from the Company. Any Transfer or withdrawal by any Member in violation of the restrictions set forth in this Article 9 shall be deemed null and void *ab initio* and of no force or effect.

9.2 Permitted Transfers.

(a) Units Owned by Members. Notwithstanding Section 9.1 hereof, but subject to the provisions of Section 9.9 and 9.10 hereof, any Member including a Transferee of Transferable Interest from an Initial or Substituted Member, may transfer all or any portion of such Member's Membership Interest or Transferable Interest in the Company to any of the following (collectively, "Permitted Transferees") without regard to Sections 9.1 and 9.3 hereof:

(i) Any other Member, partner or shareholder of a beneficiary Member;

(ii) Any Person if the Transfer is by intestate succession or testamentary disposition upon the Member's death;

(iii) Any Person that is a spouse or lineal descendant of any Member or partner or shareholder of a Member (including any legally adopted children); or

(iv) Any trust established for the sole and exclusive benefit of any of the Persons set forth in (i), (ii) or (iii) above.

Any such Permitted Transferees shall receive and hold such Interest, or portion thereof, subject the terms of this Agreement and to the obligations hereunder of the transferor and there shall be no further transfer of such Interest or portion thereof except to a Person to whom such Permitted Transferee could have transferred such Interest in accordance with this Section 9.2 had such Permitted Transferee originally been a Member of the Company as of the date hereof or otherwise in accordance with the terms of this Agreement.

(b) Any person holding Transferable Interests owed by Transferees, the provisions of Section 9.1 above, this Section 9.2, and Section 9.3 below, shall apply to transfers of Transferable Interests by Initial Members and by persons who are Transferees of Transferable Interests.

9.3 Right of First Refusal.

(a) Except with regard to any Transfer pursuant to Section 9.2(a) or 9.2(b), any Member (or, in the case of death or incapacity, such Member's legal representative, estate, heirs or other successors-interest) desiring to make a Transfer (a "Selling Member") of all or any part of such Member's Interest in the Company to another Person shall be required to give advance written notice thereof (the "Transfer Notice") to the other Member's (the "Non-Selling Member") and the Company specifying (i) the Selling Member's bona fide intention to sell such Interest; (ii) the name(s) and address(es) of the proposed transferee(s); (iii) the quantity and nature of the Interest proposed to be Transferred (the "Offered Interest"); (iv) the price for which the Selling Member proposes to Transfer the Offered Interest (the "Proposed Purchase Price"); (v) such evidence as the Non-Selling Members and/or the Company may reasonably request to demonstrate the ability of the proposed transferee(s) to pay the Proposed Purchase Price which shall not be greater than Fair Market Value determined in accordance with the provision of Section 9.13 below; and (vi) all other material terms and conditions upon which the Selling Member is willing to make the proposed Transfer.

(b) Initial Member (including for the purposes of this Article any person or entity designated by it), and each other Non-Selling Member, in that order, shall have the right, but not the obligation (the "Member Right") to purchase at the Proposed Purchase Price, and on the terms and subject to the conditions specified in the Transfer Notice and elsewhere in this Section 9.3, all or any part of such Non-Selling Member's pro rata share (based on Percentage Interests) of the Offered Interest by notifying the Selling Member) the other Non-Selling Members and the Company in writing (the "Member Notice") within twenty (20) business days after the date of receipt of the Transfer Notice (the "First Refusal Exercise Period") whether and to what extent Initial Member and/or any other Non-Selling Member intends to exercise its Member Right. If the above named persons or any Non-Selling Member fails to exercise its Member Right as to all of its proportionate share of the Offered Interest, then any of the other Non-Selling Members shall have the right to purchase all or part of the Offered Interest that such Non-Selling Member has elected not to purchase by amending its respective Member Notice within ten (10) business days after the date that it receives notice that any other Non-Selling Member has so declined to exercise its Member Right in full. Failure to deliver the Member Notice within the applicable period shall constitute a waiver of the applicable Non-Selling Member's purchase right as to the Offered Interest.

(c) If none of Initial Member (or its designee) and/or any other Non-Selling Members fail to exercise their Member Rights as to all of the Offered Interest, then the Company shall have the right, but not the obligation, to purchase all the Offered Interest that the Non-Selling Members elected not to purchase by notifying the Selling Member and the Non-Selling Members in writing (the "Company Notice") within twenty (20) business days after the expiration of the ten (10) day period set forth in subsection (b) above. The Company's right to purchase shall be at the Proposed Purchase Price and upon the terms and subject to the conditions specified in the Transfer Notice and elsewhere in this Section 9.3. Failure to deliver the Company Notice within the applicable period shall constitute a waiver of the Company's purchase right as to the Offered Interest.

(d) If Initial Member (or its designee), the Non-Selling Members and/or the Company elect to purchase all of the Offered Interest in accordance with Sections 9.3(b) and (c), the Selling Member shall have the obligation to sell the Offered Interest to them in accordance therewith. Otherwise, the Selling Member may sell all of the Offered Interest to the transferee(s) named in the Transfer Notice at the Proposed Purchase Price, or at a higher price, and on the terms and conditions set forth in the Transfer Notice; provided, however, that such Transfer must be consummated within 120 days after the expiration of the First Refusal Exercise Period. If such Transfer is not consummated within the time period specified herein, the Offered Interest shall again be subject to the restrictions contained in this Agreement.

(e) The closing for any purchase, pursuant to Sections 9.3(b) and (c) of the Offered Interest by Initial Member (or its designee) and any other Non-Selling Members and/or the Company shall be held at 10:00 a.m. (local time) at the offices of the Company on the 90th day after the date of the Member Notice or the Company Notice, as the case may be, or at such other time and place as the parties shall agree. At the closing, each of Initial Member, its designee, the applicable other Non-Selling Members and the Company shall pay the purchase price for its applicable amount of the Offered Interest in accordance with the terms of the Member Notice or the Company Notice, as the case may be. If the Transfer Notice contains no terms of payment, the Non-Selling Members and the Company may pay for their portion of the Offered Interest by each giving the Selling Member an unsecured negotiable promissory note in an amount equal to the purchase price of their respective portion of the Offered Interest, bearing interest, payable in arrears, at the applicable federal rate established under §1274(d) of the Code. The promissory note described in the preceding sentence shall provide for eight (8) equal quarterly payments of principal and interest beginning on the last day of the first quarter following the closing date.

9.4 Additional Restrictions on Assignment. Notwithstanding any other provision of this Agreement, no Member may assign such Member's Interest and no person may transfer a Transferable Interest prior to furnishing the Company, if required by the counsel to the Company, with an opinion of counsel, which counsel and opinion are reasonably satisfactory to the counsel to the Company, that an exemption from registration and/or qualification under the Securities Act, and under all applicable statutes, rules or laws of any state which may be applicable thereto, is available with respect to such transfer or assignment.

9.5 Admission of Substituted Member. In the event any Member sells, assigns, transfers or conveys all or some of such Member's Membership Interest to a Transferee in accordance with this Article 9, then such Transferee shall be entitled to be admitted to the Company as a substituted Member and this Agreement shall be amended in accordance with the Act to reflect such admission; provided, however, that all of the following conditions are complied with:

(a) The Company shall approve of the form and content of the instrument of transfer;

(b) The Transferor and Transferee named therein execute and acknowledge such other instrument or instruments as the counsel to the Company, may deem necessary or desirable as a precondition to the Transferee's admission including, without limitation, a personal guaranty as described in Section 7.11 above and/or to effectuate such admission;

(c) The Transferee in writing accepts and adopts all of the terms and conditions of this Agreement, as the same may have been amended;

(d) The Transferor pays, all reasonable expenses incurred in connection with such admission, including, without limitation, legal fees and costs; and

(e) If required by the Company, an opinion of counsel to the Company, which counsel and opinion are satisfactory to the counsel of the Company, that an exemption from registration or qualification under the Securities Act, and under all applicable statutes, rules or laws of any state, which may be applicable thereto, is available. The admission is approved by a Majority in Interest of the Members.

9.6 Restrictions on Assignees. An assignee of a Transferable Interest in the Company who does not become a Substituted Member shall have no right to require any information or account of the Company's transactions, to inspect the Company's books, or to vote on any of the matters as to which a Member would be entitled to vote under this Agreement. An assignee shall only be entitled to receive the share of the profits or other compensation by way of income, or the return of its contributions, to which its assignor would otherwise be entitled.

9.7 Allocations Between Transferor and Transferee. Upon the Transfer of all or any part of the Membership Interest of a Member as herein above provided, Profit and Loss shall be allocated between the Transferor and Transferee on the basis of the computation method which in the sole discretion of the Member is in the best interests of the Company; provided, however, such method is in conformity with the methods prescribed by §706 of the Code and Treasury Regulation §1.706-1(c)(2)(ii). Distributions shall be made to the holder of record of the Percentage Interest on the date of distribution. Any Transferee of a Transferring Interest shall succeed to the Capital Account of the Transferor Member to the extent such account relates to the Transferred Interest; provided, however, that if such Transfer causes a termination of the Company pursuant to §708(b)(1)(B) of the Code, the Capital Accounts of all Members, including the Transferee, shall be redetermined as of the date of such termination in accordance with Treasury Regulations §1.704-1(b).

9.8 No Partition. No Member shall have the right to partition any assets of the Company, nor shall a Member make application or proceeding for a partition thereto and, upon any breach of the provisions of this Section 9.8 by any Member, the other Members (in addition to any rights and remedies afforded by law or equity) shall be entitled to a decree or order restraining or enjoining such application, action or proceeding.

9.9 Option to Purchase Interests Owned by Substituted Member. As a condition to being admitted as a Substituted Member, each Substituted Member and the spouse of the Substituted Member agree to the provisions in Article 9, including without limitation to the provisions of Section 9.9.

(a) Option to Purchase. Notwithstanding the provisions of Section 9.2 and 9.3 above, an Initial Member or its designee shall have the right and option to Purchase and the Substituted Member, or his duly appointed representative, shall sell to Initial Member (or its designee), all of the Units owed by such person. The Option may be exercised at any time by written notice to Substituted Member. The purchase price for the Units being acquired from the Member shall be the Purchase Price of the Units being acquired, determined in accordance with Section 9.9(b) below.

(b) Determination of Purchase Price. For purposes of this Agreement, the Purchase Price for the Units (both Governance Units and Financial Units) being acquired from the Member shall be the Fair Market Value thereof determined as of the last day in the calendar month prior to the month during which the Option is exercised in accordance with the provisions of Sections 9.13 below ("Purchase Price").

(c) Closing. The closing for the purchase and sales of the Units to be acquired from the Member (or his representative) shall take place at the offices of the Company within thirty (30) days after the Purchase Price for the Interests to be transferred shall have been determined on ninety (90) days after the date upon which the Option is exercised, whichever is later ("Closing").

(d) Payment. At the Closing, the Purchase Price for Units purchased shall be paid to the Member or his appointed representative at the Closing, in accordance with the provisions of Section 9.14 below.

(e) Indebtedness. The full amounts owed by the Company to the Member whose Units are being transferred shall be paid to the holder of the debt in accordance with the provisions of Section 9.14.1 and 9.14.2 above. The full amount of any indebtedness owed by the Member whose Units are being transferred shall be offset against the payments of the Purchase Price, so that all such indebtedness shall be paid to the Company in full before payment of the Purchase Price in accordance with the provisions of Section 9.14.

9.10 Interest of a Spouse of Transferee. In the event an Initial or Substituted Member or Transferee of a Transferable Interest is married, his/her spouse must execute the Spousal Consent attached to this Agreement. If the Member or Transferee of a Transferable Interest is not married as of the date of this Agreement and subsequently marries or remarries after the dissolution of the marriage, the spouse must execute a Spousal Consent in the same form as the Spousal Consent attached to this Agreement. If said spouse refuses or fails to execute the Spousal Consent within thirty (30) days of a written request to the Member by the Member, the Company as its designee may repurchase the Member's Interest as if the Member had been terminated in accordance with Section 9.12 below.

9.11 Withdrawal or Expulsion. Notwithstanding any other provision of this Agreement to the contrary

(a) A Member may withdraw from the Company only after giving notice of withdrawal to the other Members at least 90 days prior to the effective date of the withdrawal.

(b) A Member may be expelled from the Company by an affirmative vote of the Members holding a majority of the Governance Units held by Members other than the expelled Member, if the expelled Members has been guilty of wrongful conduct that adversely and materially affects the business or affairs of the Company, or the expelled Members has willfully or persistently committed a material breach of the articles of organization of the Company or this agreement or has otherwise breached a duty owed to the Company or to the other Members to the extent that it is not reasonably practicable to carry on the business or affairs of the Company with that Member. The right to expel a Member under the provisions of this section does not limit or adversely affect any right or power of the Company or the other Members to recover any damages from the expelled Member or to pursue other remedies permitted under applicable law or in equity. In addition to any other remedies, the Company or the other Members may offset any such damages against any amounts otherwise distributable or payable to the expelled Member.

9.12 Effect of Member's Dissociation. Within 120 days following the death, withdrawal, expulsion, bankruptcy, or dissolution of a Member, the other Members (whether one or more) may elect to continue the Company by themselves or with others, and to cause the Company to purchase the Units owned by the dissociating Member pursuant to the provisions of the sections of this agreement relating to Purchase Price and payment for Member's Units. Making the election is in the sole discretion of the other Members and requires the consent of other Members holding a majority of the Units held by the other Members. Notice of the election must be given in writing to the dissociating Member or the dissociating Member's successor in interest promptly after the election is made. If the other Members do not so elect, the Company will be dissolved.

9.13 Purchase Price. If the other Members elect to cause the Company to purchase the Units of a dissociating Member under the section of this agreement relating to effect of a Member's dissociation, the purchase price of the Member's Units in the Company will be determined by agreement between the other Members (acting by vote) and the dissociating Member. If an agreement on the Purchase Price is not reached within 30 days following the election to purchase the Units of the Member, the Units must be valued by a third party appraiser selected by the Member who is reasonably acceptable to the Member, and the Purchase Price will be the value determined in that appraisal. In appraising the Units to be purchased, the appraiser must determine the fair market value of the Units as of the date of the event of dissociation. In determining the value, the appraiser must consider the greater of the liquidation value of the Company or the value of the Company based upon a sale of the Company as a going concern. The appraiser must also consider appropriate minority Units, lack of marketability, and

other discounts only if the transfer of the Units is as or result of the expulsion or withdrawal of the Member. If the appraisal is not completed within 120 days following the election to purchase the Units of the Member, either of the Members or the Member may apply to a court of competent jurisdiction for the appointment of another appraiser, in which case the court-appointed appraiser must appraise the Units of the Member in accordance with the standards set forth in this section, and the Purchase Price will be the value determined in that appraisal.

9.14 Payment for Member's Interest. The Purchase Price for the interest of a Member purchased under the section of this agreement relating to effect of member's dissociation will be paid as follows:

9.14.1 The Purchasing Price will bear interest from the date of the election of the other Members to purchase the dissociating Member's interest at the prime rate of interest in effect on the date of the election as quoted in The Wall Street Journal or, if that publication is not available, another reputable national publication selected by the other Members that is reasonably acceptable to the dissociating Member.

9.14.2 The Purchase Price will be payable in accordance with the terms of a promissory note of the Company providing for the payment of the principal amount in 60 equal monthly installments, including interest on the unpaid balance, with the first installment to be due one month after the date of closing and an additional installment to be due on the same day of each month thereafter until the promissory note is paid in full. The promissory note will bear interest from the date of the closing at the rate specified above. The promissory note must provide that is any installment is not paid when due, the holder may declare the entire remaining balance, together with all accrued interest, immediately due and payable. Partial or complete prepayment of the remaining balance due under the promissory note will be permitted at any time without penalty, provided that any partial prepayment will not affect the amount or regularity of payments coming due thereafter.

9.14.3 The purchase must be closed within 30 days following the determination of the purchase price. At the closing, the dissociating Member must sign and deliver to the Company a written assignment transferring the entire interest of the dissociating Member in the Company to the Company free and clear of all encumbrances. Such assignment must contain warranties of title and good right to transfer. At the closing, the Member, and the Company must also deliver its promissory note to the dissociating Member. Each of the other Members must sign and deliver to the dissociating Member a security agreement granting a security interest to the dissociating Member in that percentage of the interest of the dissociating Member being purchased by the Company. The security agreement must be in a form reasonably acceptable to the attorney for the dissociating Member and will secure payment of the promissory note by the Company. The security agreement must provide that if there is a default in the payment of the promissory note by the Company and the security interest is foreclosed or the interest in the Company is retained by the secured party in satisfaction of the indebtedness, the interest may be transferred without the necessity of tendering the interest to the Company under the section of this agreement relating to tender of interest and the person acquiring the interest in the Company

will be admitted as a member of the Company without further consent of the Members being required.

9.15 Effect of Purchase of Member's Units. A dissociating Member will cease to be a Member upon the election of the other Members to cause the Company to purchase the dissociating Member's Units pursuant to the section of this agreement relating to effect of member's dissociation. Thereafter, the dissociating Member will have no rights as a Member in the Company, except the right to have the dissociating Member's Units purchased in accordance with the terms of this agreement.

9.16 Successor in Interest. For purposes of this section relating to dissociation and dissolution, the term "dissociating Member" includes the dissociating Member's successor in interest.

ARTICLE 10

TERM OF COMPANY; DISSOLUTION

10.1 Term. The Company shall commence as of the later of the date this Agreement is executed or the date the Articles of Organization are filed in the Office of the California Secretary of State and shall continue until terminated by law unless sooner dissolved as provided under Section 10.2 hereof.

10.2 Events Causing Dissolution of the Company. The Company shall be dissolved upon the first to occur of the following events:

(a) The expiration of the term of the Company, unless such term has been extended by the written agreement of the Majority in Interest of the Members;

(b) The written affirmative election of a Majority in Interest of the Members;

(c) The death, insanity, retirement, withdrawal, bankruptcy, resignation, expulsion of a Member unless the Majority in Interest of the Members agree in writing to continue the business of the Company within sixty (60) days thereafter;

(d) The entry of a judicial decree of dissolution;

(e) The sale or termination of all or substantially all of the business owned by the Company; or

(f) The happening of any event that makes it unlawful or impossible to carry on the business of the Company.

ARTICLE 11

TERMINATION

11.1 Final Accounting. In case of the dissolution of the Company, a proper accounting shall be made from the date of the last previous accounting to the date of dissolution.

11.2 Liquidation. Upon the dissolution of the Company, some Person selected by a Majority in Interest of the Members, shall act as liquidator to wind up the Company ("Liquidation"). The liquidator shall have full power and authority to sell, assign and encumber any or all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and businesslike manner. The Liquidation shall give Notice of the commencement of winding up by mail to all known creditors and claimants against the Company whose addresses appear in the records of the Company. After paying or adequately providing for the payment of all known debts of the Company, but excluding all other debts owing to Members, the remaining assets of the Company shall be disturbed or applied in the following order of priority: (i) to pay the expenses of liquidation; (ii) to the establishment of reasonable reserves for contingent liabilities or obligations of the Company, upon the Liquidation's determination that such reserves are no longer necessary, said reserves shall be distributed as provided in Section 11.2; (iii) to repay outstanding loans to Members, if there are insufficient funds to pay such loans in full, each Member shall be repaid in the ration that the Member's loan, together with interest accrued and unpaid thereon, bears to the total of all such loans from Members, including all interest accrued and unpaid thereon, such repayment shall first be credited to unpaid principal and the remainder shall be credited to accrued and unpaid interest; and (iv) to the Members in proportion to positive balance in each Member's Capital Account (after taking into account all Capital Account adjustments for the taxable year of liquidation).

11.3 Distribution in Kind. If the Liquidator shall determine that a Company asset should be distributed in kind, the Liquidator shall determine the Fair Market Value of the asset as of a date reasonably close to the date of liquidation. Any unrealized appreciation or depreciation with respect to such asset shall be allocated among the Members (in accordance with the provisions of Article 5 assuming that the asset was sold for its Fair Market Value) and taken into consideration in determining the balance in the Members' Capital Accounts as of the date of liquidation. Distribution of any such asset in kind to a Member shall be considered a distribution of an amount equal to the asset's Fair Market Value for purposes of Section 11.2. The liquidator, in its sole discretion, may distribute any percentage of any asset in kind to a Member even if such percentage exceeds the percentage in which the Member shares in distributions as long as the sum of the cash and Fair Market Value of all the assets distributed to each Member equals the amount of the distribution to which each Member is entitled.

11.4 Waiver of Right to Court Decree of Dissolution. The Members agree that irreparable damage would be done to the Company if any Member brought an action in court to dissolve the Company. Accordingly, each of the Members accepts the provisions of this Agreement as his sole entitlement on termination of his membership in the Company. Each

Member hereby waives and renounces his right to seek a court decree of dissolution or to seek the appointment by a court of a liquidator for the Company.

11.5 Certificate of Dissolution. Upon the completion of the distribution of Company's assets as provided in this Article 11, the Company shall be terminated and the Person acting as liquidator shall file the certificate of dissolution and shall take such other actions as may be necessary to terminate the Company.

11.6 No Negative Capital Account Restoration. No Member shall have any obligation whatsoever upon the liquidation of such Member's Interest, the liquidation of the Company or in any other event, to contribute all or any portion of any negative balance standing in such Member's Capital Account to the Company; to any other Member or to any other Person or entity.

ARTICLE 12

NOTICES

12.1 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be delivered or sent, as the case may be, by any of the following methods: (i) personal delivery, (ii) overnight commercial carrier, (iii) registered or certified mail, postage prepaid return receipt requested, or (iv) facsimile or e-mail. Any such notice or other communication shall be deemed received and effective upon the earlier of (a) if personally delivered, the date of delivery to the address of the Person to receive such notice; (b) if delivered by overnight commercial carrier, one (1) day following the receipt of such communication by such carrier for the sender, as shown on the sender's delivery invoice from such carrier; (c) if mailed, on the date of delivery as shown by the sender's registry or certification receipt; (d) if given by telephone or cable, when delivered to the telegraph company with charges prepaid; or (e) if given by facsimile or e-mail, when sent provided that it is confirmed within forty-eight (48) hours of being sent by the recipient of its receipt thereof. Any reference herein to the date of receipt, delivery, giving or effective date, as the case may be, of any notice or communication shall refer to the date such communication becomes effective under the terms of this Section 12.1, by such notice or other communication so delivered shall be addressed to the party to be served at the address set forth in Section 1.5 in the case of the Company and at the addresses set forth in the Required Records of the Company in the case of any of the Members. Such addresses may be changed by giving written notice to the other parties in the manner set forth in this Section 12. Rejection or other refusal to accept or the inability to deliver because of a changed address of which no notice was given shall be deemed to constitute receipt of notice or other communication sent.

12.2 Computation of Time. In computing any period of time under this agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday.

ARTICLE 13

INVESTMENT REPRESENTATIONS

13.1 Investment Purpose. In acquiring an Interest in the Company, each Member represents and warrants that he is acquiring such Interest for his own account for investment and not with a view of its sale or distribution. Each Member recognizes that investments such as those contemplated by the Company are speculative and involve substantial risk.

13.2 Investment Restriction. Each Member recognizes that: (a) the Interests in the Company have not been registered under the Securities Act, in reliance upon an exemption from such registration; (b) a Member may not sell, offer for sale, transfer, pledge or hypothecate all or any part of his Interest in the Company in the absence of an effective registration statement covering such interest under the Securities Act unless such sale, offer of sale, transfer, pledge or hypothecation is exempt from registration under the Securities Act, (c) neither the Company nor the Members have an obligation to register any other Member's interest for sale, or to assist in establishing an exemption from registration for any proposed sale, and (d) the restrictions on transfer may severely affect the liquidity of a Member's investment.

ARTICLE 14

INDEMNIFICATION

14.1 Indemnification of Members. To the greatest extent not inconsistent with the Act and the other laws and public policies of the State of California, Company will indemnify against expenses and liabilities any Member made a party or who was threatened to be made a party to any proceeding by Company or another because that parity is or was a Member against all liability incurred by that person in connection with any action, suit, or proceeding, or any threatened, pending, or complete action of suit of proceeding; whether civil, criminal, administrative or investigative pursuant to the procedures set forth in Section 14.6 below, it is determined that indemnification of that person is permissible under the circumstances because the person has met the standards of conduct for indemnification set forth in Section 14.5 below.

14.2 Advance Undertakings for Indemnification. To the greatest extent not inconsistent with the Act and other laws and public policies of the State of California, Company will pay for or reimburse the reasonable expenses incurred by a Member in connection with any proceeding as incurred in advance of final disposition of the action, suit, or proceedings if (i) the person furnishes Company a written affirmation of the person's good faith belief that the Member has met the standards of conduct for indemnification described in Section 14.5 below; (ii) the Member furnishes Company a written undertaking to repay the advance if it is ultimately determined by a court of competent jurisdiction that the Member did not meet the applicable standard of conduct and that the Member is not entitled to be indemnified; and (iii) a determination is made in accordance with the procedures set forth in Section 14.6 below, that

based on facts then known to those making the determination, indemnification would not be precluded under this Article 14.

The undertaking described above must be a general obligation of the Member, subject to any reasonable limitations as Company may permit, but need not be secured and may be accepted without reference to financial ability to make repayment. Company will indemnify a Member who is wholly successful, on the merits or otherwise, in the defense of any such proceeding, as a matter of right, against reasonable expenses incurred by the Member in connection with the proceeding without the requirement of a determination described in Section 14.6 below.

14.3 Advance of Expenses. On demand by a Member for indemnification or advancement of expenses incurred in defending a civil or criminal lawsuit or proceeding, Company will expeditiously determine whether the Member is entitled to indemnification or advancement of expenses in accordance with this Article 14. The indemnification and advancement of expenses provided for under this Article 14 will be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Agreement.

14.4 Indemnification of Others. Company may, but is not required, to indemnify any person who is or was an employee or agent of Company to same extent as if that person was a Member.

14.5 Standards of Conduct Required for Indemnification. Indemnification of a Member is permissible under this Article only if (i) the person acted in good faith, and (ii) the person reasonably believed that the conduct was in Company's best interest, and (iii) in the case of any criminal proceeding, the person had no reasonable cause to believe that the person's conduct was unlawful. The termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent is not, I n itself, determinative that the person did not meet the standard of conduct described in Section 14.5.

14.6 Procedures to Approve Indemnification. A determination as to whether indemnification of or advancement of expenses is permissible will be made by any one of the following procedures:

(a) By the Members not at the time parties to the proceedings holding a Majority-in-Interest; or

(b) By the Members not parties to the proceedings in the manner prescribed in Section 14.7 below.

14.7 Court Order of Indemnification. A Member who is a party to a proceeding may apply for indemnification from Company to the court, if any, conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving notice the court considers necessary, may order indemnification if the court determines either of the following:

(a) In a proceeding in which the Member is wholly successful, on the merits or otherwise, that the Member is entitled to indemnification under this Section 14.7, in which case the court will order Company to pay the Member the reasonable expenses incurred to obtain that court ordered indemnification; or

(b) The Member is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, regardless of whether the Member met the standards of conduct set forth in Section 14.6 above.

14.8 Described Indemnification Rights are Non-Exhaustive. Nothing contained in this Article 14 limits or precludes the exercise, or may be deemed exclusive, of any right under the law, by contract or otherwise, relating to indemnification of or advance of expenses to any person who is or was a Member, or is or was serving at Company's request as a director, officer, partner, Member, trustee, employee or agent of another foreign or domestic company, partnership, association, limited liability company, corporation, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not.

14.9 Construction of Indemnification Rights. Nothing contained in this Article 14 limits the ability of Company to otherwise indemnify or advance expenses to any person. It is the intent of this Article 14 to provide indemnification to Members to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article 14. Indemnification will be provided in accordance with this Article 14 irrespective of the nature of the legal or equitable theory on which a claim is made including, without limitation, negligence, breach of duty, mismanagement, waste, breach of contract, breach of warranty, strict liability, violation of federal or state securities law, violation of the Employee Retirement Income Security Act of 1974, as amended, or violation of any other state or federal law.

14.10 Definitions for Indemnification Provisions.

(a) "Expenses" means all direct and indirect costs (including, without limitation, attorney fees, retainers, court costs, transcripts, expert fees, witness fees, travel expenses, duplicating costs, printing and binding costs, facsimile costs, telephone charges, postage, messenger and delivery fees, and all other out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement, or appeal of a proceeding or establishing or enforcing a right to indemnification under this Section 14.10, applicable law, or otherwise.

(b) "Liabilities" mean obligations (including those incurred by way of settlement) to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(c) "Party" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

14.11 Insurance Funding of Indemnification. To the greatest extent not inconsistent with the Act and other laws and public policies of the State of California, Company may purchase and maintain insurance or other financial arrangement for the benefit of any person who is or was a Member, employee, or agent, against any liability asserted against or expenses incurred by that person arising out of that person's service with the Company, whether or not Company would have the power to indemnify that person against liability. These other financial arrangement made by Company may include:

(a) Insurance.
(b) The creation of a trust fund.
(c) The establishment of a program of self-insurance.
(d) The granting of a security interest or other lien on any assets of the Company.
(e) The establishment of a letter of credit, guaranty, or surety.

None of the above may, however, provide protection for a person adjudged by a court of competent jurisdiction, after exhaustion of all appeals, to be liable for intentional misconduct, fraud, or a knowing violation of law, except with respect to the advance of expenses or indemnification ordered by a court. Any insurance or other financial arrangement made on behalf of a person pursuant to this Section 14.11 may be provided by Company or other person approved by the Members.

ARTICLE 15

MEETING PROVISIONS

15.1 Meetings: Call, Notice and Quorum. Meetings of the Members may be called at any time by Members representing five percent (5%) or more of the Interests of the Members, for the purpose of addressing any matters on which the Members may Vote. With respect to meetings and voting, only Members holding Governance Units can Vote. If a meeting of the Members is called by the Members, Notice of the call shall be delivered to the Chairperson/President for the Company. Meetings may be held at the principal executive office of the Company or at any other location designed by the counsel for the Company. Following the call of a meeting, the Chairperson/President for the Company shall give Notice of the meeting not less than 10, nor more than 20, calendar days before the meeting date to all Members entitled to Vote at the meeting The Notice shall state the place, date and hour of the

meeting, the means of electronic transmission by and to the Company or electronic video communication, if any, and the general nature of business to be transacted. No other business may be transacted at the meeting. A quorum at any meeting of Members shall consist of only a majority of Members with Governance Units, represented in person or by Proxy. The Members present as a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of a sufficient number of Members to leave less than a quorum, if the action taken, other than adjournment, is approved by the requisite Percentage of Members as specified in this Agreement or the Act.

15.2 Adjournment of Meetings. A meeting of Members at which a quorum is present may be adjourned to another time or place and any business that might have been transacted at the original meeting may be transacted at the adjourned meeting. If a quorum is not present as an original meeting, that meeting may be adjourned by the Vote of a majority of holders of Governance Units represented either in person or by Proxy. Notice of the adjourned meeting need not be given to Members entitled to Notice if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken, unless (a) the adjournment is for more than 45 days, or (b) after the adjournment, a new record date is fixed for the adjourned meeting. In the situations described in clauses (a) and (b), Notice of the adjourned meeting shall be given to each Member of record entitled to Vote at the adjourned meeting.

15.3 Waiver of Notice. The transactions of any meeting of Members, however called and noticed, and wherever held, shall be as valid as though consummated at a meeting duly held after regular call and notice, if (a) a quorum is present at that meeting, either in person or Proxy, and (b) either before or after the meeting, each of the persons entitled to Vote, not present in person or by Proxy, signs either a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. Attendance of a Member at a meeting shall constitute waiver of notice, unless that Member objects, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be described in the notice of the meeting and not so included, if the objection is expressly made at the meeting.

15.4 Proxies. At all meetings of Members, a Member may Vote in person or by Proxy. The Proxy shall be filed with Chairperson/President for the Company before or at the time of the meeting, and may be filed by facsimile transmission to Chairperson/President for the Company at the principal executive office of the Company or any other address given by Chairperson/President for the Company to the Members for those purposes.

15.5 Participation in Meetings by Electronic Means. A meeting of the Members may be conducted, in whole or in part, by electronic transmission by and to the Company or by electronic video communication if (1) the Company implements reasonable measures to provide Members (in person or by Proxy) a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings, and if (2) any Member Votes or takes other action at the meeting by means of electronic transmission to the

Company or electronic video communication, a record of that vote or action is maintained by the Company.

15.6 Action by Members Without a Meeting. Any action that may be taken at any meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Members having not less than the minimum numbers of Votes that would be necessary to authorize or take that action at a meeting at which all Members entitled to Vote were present and voted. If the Members are requested to consent to a matter without a meeting, each Member shall be given notice of the matter to be voted on in the manner described in Section 15.1. Any action taken without a meeting shall be effective when the required minimum number of Votes have been received. Prompt Notice of the action taken shall be given to all Members who have not consented to the action.

15.7 No Agency; Indemnification. No Member acting solely in the capacity of a Member is an agent of the Company, nor can any Member acting solely in the capacity of a Member bind the Company or execute any instrument on behalf of the Company. Accordingly, each Member shall indemnify, defend and hold harmless each other Member and the Company from and against any and all loss, cost, expense, liability, or damage arising from or out of any claim based on any action by the Member in contravention of the first sentence of this Section 15.7.

ARTICLE 16

GENERAL PROVISIONS

16.1 Construction of Agreement. The Article and Section headings of this Agreement are used herein or reference purposes only and should not govern, limit, or be used in construing this Agreement or any provision hereof. Each of the Exhibits attached hereto is incorporated herein by reference and expressly made a part of this Agreement for all purposes. References to any Exhibit made in this Agreement shall be deemed to include this reference and incorporation. Where the context so requires, the use of the neuter gender shall include the masculine and feminine gender, the masculine gender shall include the feminine and neuter genders, and the singular number shall include the plural and vice versa. Time is of the essence of this Agreement.

16.2 Successors and Assigns. Subject to the restrictions set forth in Article 9, this Agreement shall inure to the benefit of and shall bind the parties hereto and their respective heirs, executors, personal representatives, successors, and assigns.

16.3 Entire Agreement. This Agreement constitutes the entire understanding and agreement among the parties hereto with respect to the subject matter hereof and there are no agreements, understandings, restrictions, representations or warranties among the parties other than those set forth herein.

16.4 Amendment; Waiver.

(a) This Agreement may be modified or amended only upon written consent of all of the Members. Notwithstanding the foregoing, this Agreement may be amended (i) by a Majority In Interest of the Members to the extent that such amendments do not, in the sole and absolute discretion of the Member, impair the contractual and/or economic rights provided by this Agreement of any non-consenting Member and/or (ii) to reflect the action taken by the Members in accordance with Section 7.3 hereof.

(b) The Articles of Organization may be modified or amended only upon written consent of all of the Members.

(c) No rights hereunder may be waived except by an instrument in writing sought to be charged with such waiver.

16.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but all of which taken together shall constitute one agreement.

16.6 Governing Law. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, but not the law of conflicts, of the State of California applicable to transactions to be entirely performed therein.

16.7 Legal Fees. If any dispute between Company and the Members or among the Members results in litigation or arbitration, the prevailing party in the dispute will be entitled to recover from the other party all reasonable attorneys' fees, costs, and expenses of enforcing any right of the prevailing party.

16.8 No Third Party Rights. None of the provisions contained in this Agreement shall be for the benefit of or enforceable by any third parties; including creditors of the Company or the Members.

16.9 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, that provision will be fully severable. This Agreement will be construed and enforced as if the illegal, invalid, or unenforceable provision had not comprised a part of this Agreement; the remaining provisions of the Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provisions or by tis severance from this Agreement. Furthermore, the parties agree to replace any illegal, invalid, or unenforceable provision of this Agreement with a similar valid and enforceable provision that will achieve, to the fullest extent possible, the economic business, and other purposes of the void or unenforceable provision.

16.10 Advice of Consultant. Each person signing this Agreement:

(a) Maven Innovative Consultancy, LLC is acting solely as consultant for FLOWER DEPT LLC and with the consent of. Kenneth R. Brymer, Antonio Simeone, and Victor E Quezada also as consultant for the Company Dr.Tyrone Freeman, DBA, MBA, agent of Maven Innovative Consultancy, LLC had advised ALL *initial members* to consult with her own attorney/consultant in connection with this Agreement and the transactions to be consummated with FLOWER DEPT LLC ownership interest.

(b) understands that this Agreement contains legally binding provisions;

(c) has the opportunity to consult with a lawyer, and;

(d) has either consulted with a lawyer, consultant or consciously decided not to consult a lawyer or consultant. The same consultant is representing the Company and, Initial Members, in this matter. Before representing those parties, the consultant consulted with each party concerning the implications of the common representation, including the advantages and the risks involved, and each party consented to the common representation.

16.11 Additional Documents and Acts. Each Member agrees to execute and deliver additional documents and instruments and to perform all additional acts necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement and the transaction contemplated by it.

16.12 No Third Party Beneficiary. This Agreement is made solely and specifically among and for the benefit of the parties to it, and their respective successors and assigns, subject to the express provisions of the agreement relating to successors and assigns, and no other person has or will have any rights, interest, or claims under this Agreement as a third party beneficiary or otherwise.

16.13 Tax Consequences. Members acknowledge that the tax consequence of each Member's investment in the Company is dependent on each Member's particular financial circumstances. Each Member will rely solely on the Member's financial advisors and not the Company. The Company makes no warranties as to the tax benefits that the Members receive or will receive as a result of the Member's investment in the Company.

16.14 Title to Company Property. Legal title to all property of the Company must be held and conveyed in the name of the Company.

16.15 Reliance on Authority of Person Signing Agreement. In the event that a Member is not a natural person, neither the Company nor any Member will (1) be required to determine the authority of the individual signing this Agreement to may any commitment or undertaking on behalf of the entity or to determine any fact or circumstance bearing on the existence of the authority of the individual, or (2) be required to see to the application or

distribution of proceeds paid or credited to individuals signing this Agreement on behalf of the entity.

16.16 Warranty of Each Member. Each Member agrees, represents, and warrants that at the time he or she executes this Agreement, either:

(a) He or she is under no legal obligation, by way of judgment, agreement, contract, or otherwise, specifically including but not limited to any employment agreement, marital settlement agreement, prenuptial or postnuptial agreement, nonmarital property agreement, or creditor's agreement, that conflicts with the terms of this Agreement or might impede that Member's ability to comply with the terms of this agreement, including but not limited to those provision of this Agreement respecting the operation and management of the Company or dealing with the transfer or interests in the Company; or

(b) that if he or she is under any legal obligation referred to in subparagraph (a) above, he or she shall supply, at the time her or she executes this Agreement, a signed consent by each person legally to entitled to enforce that obligation, in substantially the form of the spousal consent form attached to this Agreement, modified as appropriate to the circumstances and approved by all the other members of the Company, by which that person legally entitled to enforce the obligation agrees to be bound by all provision of this Agreement.

16.17 Specific Performance. The Members agree that they will not have an adequate remedy at law if this Agreement is not performed in accordance with its terms, and that any damages available at law for breach of this Agreement would not be an adequate remedy. Therefore, the provisions and the obligations of the Members under this Agreement are enforceable by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith. These remedies and all other remedies provided for in this Agreement are cumulative and not exclusive and are in addition to any other remedies that a Member may have under this Agreement.

16.18 Interpretation. Each party to this Agreement acknowledges that it has participated in the drafting of this Agreement, and any applicable rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in connection with the construction or interpretation of this Agreement.

"We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the "Arbitration of Disputes" provision to neutral Arbitration."

IN WITNESS WHEREOF the Members have executed this Agreement effective as of the date first above written

MEMBERS

Antonio Simeone, with 498 Governance Units and 3,000 Financial Units

Victor E Quezada, with 4 Governance Units and 3,000 Financial Units

Kenneth R. Brymer with 498 Governance Units, and 3000 Financial Units

---------- End-------

ADDITIONAL SIGNATURE PAGE
TO LIMITED LIABILITY COMPANY OPERATING
AGREEMENT OF FLOWER DEPT LLC

THE UNDERSIGNED hereby agrees to be bound by the terms and provisions of that certain LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF FLOWER DEPT LLC, a California limited liability company, to which this signature page is appended.

IN WITNESS WHEREOF, the undersigned has executed this Agreement effective as of this ____ day of _____, 2020.

SUBSTITUTED MEMBER

_____

CERTIFICATION

THE UNDERSIGNED hereby certifies that _____ is hereby admitted as a Substituted Member of FLOWER DEPT LLC, a California limited liability company owning _____ Governance Unit(s) and ____ Financial Unit(s) as of the date hereof.

IN WITNESS WHEREOF, the undersigned has executed this Agreement effective as of this ___ day of ____ 20__.

FLOWER DEPT LLC
A California limited liability company

By: _____
_____, Member

By: _____
_____, Member

EXHIBIT "A" TO
LIMITED LIABILITY COMPANY AGREEMENT OF
FLOWER DEPT LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

UNITS INITIALLY ACQUIRED BY INITIAL MEMBERS

MEMBER	Governance Units	Financial Units	Total Units	Consideration
Antonio Simeone	498	3,000	3,498	**Sweat Equity- Expertise, buildout. Etc.**
Victor E Quezada	4	3,000	3,004	**Monetary investment, payment of ongoing operation/setup expenses for life of operations**
Kenneth R. Brymer	498	3,000	3,498	**Sweat Equity,- Expertise, buildout. Etc.**
TOTAL	**1000**	**9,000**	**10,000**	**$**

4. List Of Fictitious Business Names We Are Operating Under

Flower Department, LLC has not filed any fictitious names at the time of the filing of this application. If at a future date, we decide to operate under a FBN we will inform the city according to the determined procedure set forth by this city.

5. The Legal Name of The Applicant

The Applicant ***Flower Dept LLC.***, referred to as "***Flower Dept"*** throughout this entire application, is a California registered general stock corporation, in good standing with the Secretary of State. The Corporation is formed solely for the purposes of this commercial cannabis business license in the City of Banning. It does not hold any other assets, liabilities, or owners, other than those listed on this application form. The Applicant's cannabis business experience comes through its Owners, described in this section.

6. Current Name And Information Of 24 - Hour Contact

Flower Dept's Emergency 24-Hour Contact will be Owner Antonio Simeone.

He will be readily available to assist in any issues related to any problems complaints or concerns associated with the cannabis business throughout the entire development process. He will be reachable at (213) 479-7601, 1simeonegroup@gmail.com.

7. Business Trade Name (If Applicable)

Flower Dept, LLC has not filed any fictitious names at the time of the filing of this application. If at a future date, we decide to operate under a FBN we will inform the city according to the determined procedure set forth by this city.

8. List Of Licenses Held By Owners

Owners Antonio Simeone and Kenneth Brymer are on the below license. Mr. Victor Quezada has no other licenses.



Department of Cannabis Control
CALIFORNIA

Department of Cannabis Control
licensing@cannabis.ca.gov, www.cannabis.ca.gov

Cannabis Cultivation License
Adult-Use

Business Name:
ANGEL CITY FARMERS COOPERATIVE CORPORATION

Doing Business As DBA:

License Number: CCL19-0003980
License Type: Provisional Adult-Use-Specialty Indoor

Main Premises:
13541 DESMOND ST
Los Angeles, CA 91331

Main APN: 2523004043

Valid: 01/22/2024
Expires: 01/22/2025

The licenses authorizes ANGEL CITY FARMERS COOPERATIVE CORPORATION to engage in commercial cannabis cultivation at the premises address listed above until the expiration date of this license. This license issued is pursuant to Division 10 of the California Business and Professions Code and is not transferable to any other person or premises location. This license shall always be displayed in a prominent place at the licensed premises. This license shall be subject to suspension or revocation if the licensee is determined to be in violation of Division 10 of the Business and Professions Code or regulations adopted thereunder.

Additional Premises APN(s) and Addresses:

Los Angeles County - 2523004043 — 13541 DESMOND ST - Los Angeles

Non-Transferable — **Post in Public View**

9. Disclosure Of Past License Denial

The applicant Flower Dept, LLC and its individual owners, Antonio Simeone and Kenneth Brymer, have not been denied licenses issued by any state licensing authority, nor had any penalizations, revocations, or other sanctions imposed.

10. PREMISE INFORMATION

Premise Information for Flower Dept, LLC is as follows:

Assessor's Parcel Number: 541-220-006
Physical Address 200 John St. Banning, CA 92220
Telephone Number: 213-479-7601
Website Address: NA
Email Address: 1simeonegroup@gmail.com

11. CANNABIS BUSINESS FEIN NUMBER

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 07-16-2024

Employer Identification Number:
99-4005279

Form: SS-4

Number of this notice: CP 575 B

FLOWER DEPT LLC
ANTONIO SIMEONE MBR
19360 RINALDI ST STE 388
PORTER RANCH, CA 91326

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 99-4005279. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

Taxpayers request an EIN for their business. Some taxpayers receive CP575 notices when another person has stolen their identity and are opening a business using their information. If you did **not** apply for this EIN, please contact us at the phone number or address listed on the top of this notice.

When filing tax documents, making payments, or replying to any related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following forms by the dates shown.

Form 1065 03/15/2025

If you have questions about the forms or the due dates shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification (corporation, partnership, estate, trust, EPMF, etc.) based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2020-1, 2020-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

14. A Copy of Deed or Title

Not applicable as the applicant is not the landowner.

15. UNQUALIFIED CONSENT TO USE OF LAND

Letter of Authorization

APPLICATIONS FOR ZONING/LAND USE ENTITLEMENTS

TO: *Community Development Department*
City of Banning
P.O. Box 998
Banning, CA 92220

RE:

Property Address: 200 John St.
Assessor's Parcel Number(s): 541-220-006

I/We, the owner(s) of the above described real property, authorize Hide Iwagami , located at 3 Peters Canyon Rd. #110 Irvine, CA 92606 , to act as an agent on my/our behalf for the purpose of creating, filing, and/or managing any land use and building permit applications, or any other entitlements necessary to construct, operate, or otherwise gain approval for a project. I/We acknowledge that any application may be denied, modified, or approved with conditions, and that such conditions or modifications shall be complied with by the owner prior to issuance of any permits or project approval. Further, the owner agrees to notice the City of Banning immediately should this authorization be revoked for any reason.

The undersigned hereby certifies to being the fee owner(s) of the property described herein; that to the best of my/our knowledge the information contained within this authorization is true and correct.

Date 8-1-2024

(Signature)

Benjamin Melendez
(Print name)

State of California)
ss.
County of Orange)

On 08/01/2024 before me, J. Piazza Notary Public personally appeared
(Name and title of officer)
Benjamin Melendez 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 this 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

(Notary seal)

J. PIAZZA
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2415083
ORANGE COUNTY
My Comm. Exp. September 6, 2026

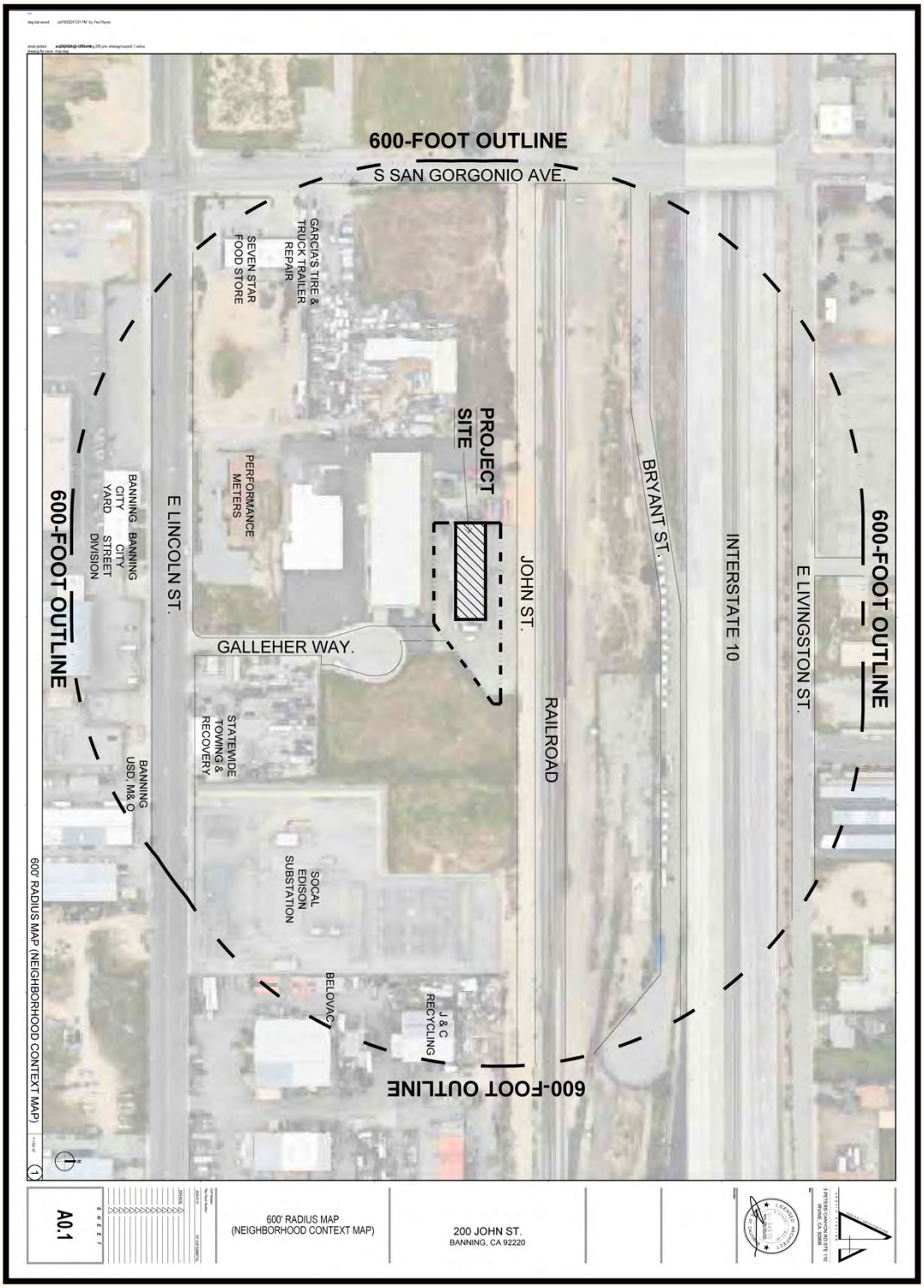
Rev 12-15

16. Food And Agriculture Application

Flower Dept was advised by the DCC that CDFA is to be done after local permitting has been approved.

17. Compliance With Local Restrictions

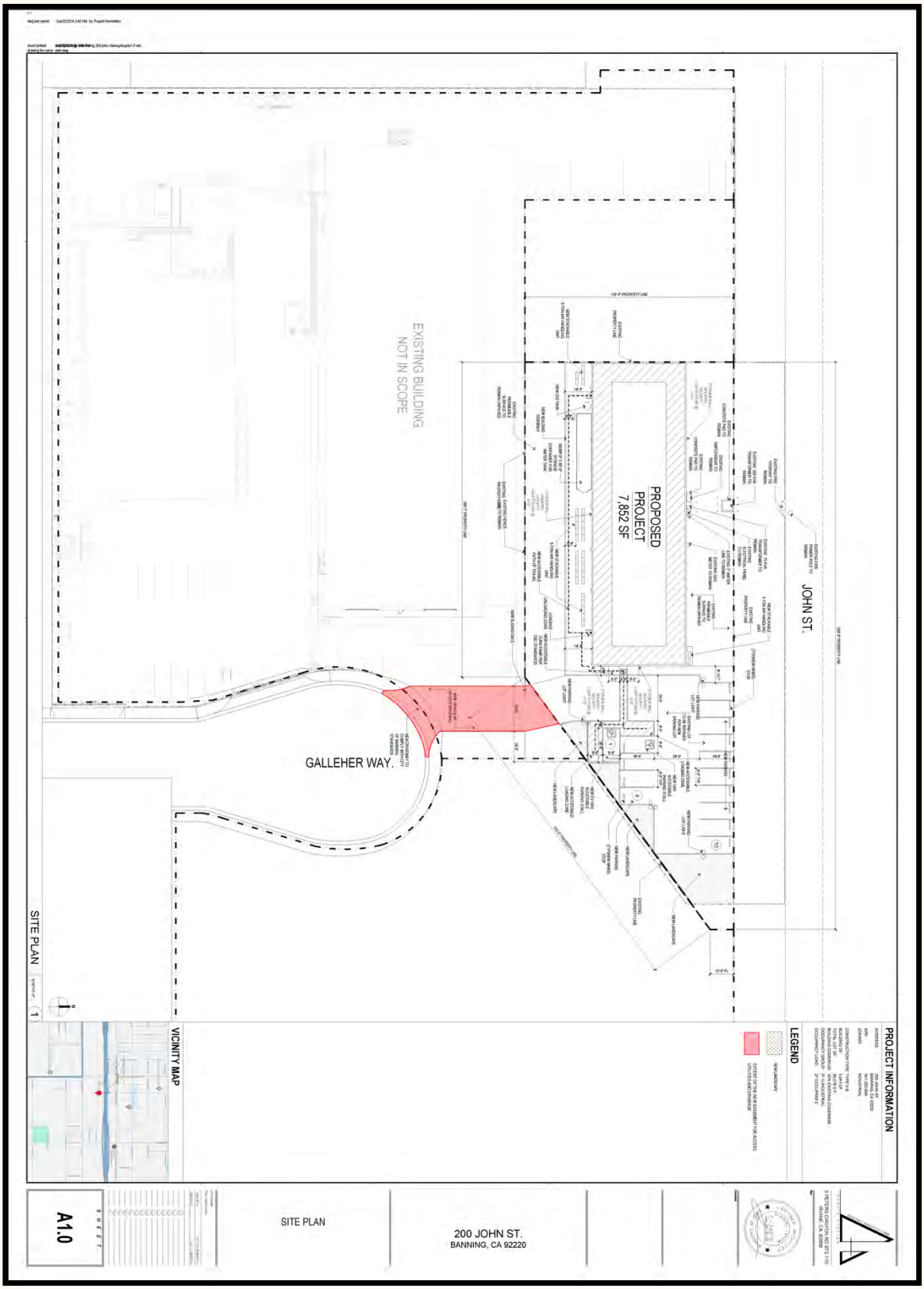
Neighborhood Context Map



18. Physical Address Of Any Other Premise Owned Or Operated By Applicant

Flower Dept LLC does not have any premises to disclose as it does not own any.

19. PREMISE DIAGRAM



20. HOURS OF OPERATION

Unless otherwise directed by the City, our proposed hours of operation will be from 6 am-10 pm daily, when employees will be on-site. Security guards will be on-site 24 hours, 7 days a week.

21. SIGNED AUTHORIZATION AND CONSENT FORM

Authorization and Consent Form

APPLICATION FOR CANNABIS REGULATORY PERMIT

TO: *Community Development Department*
City of Banning
P.O. Box 998
Banning, CA 92220

RE:

Applicant:	Flower Dept LLC
Property Address:	200 John St.
Assessor's Parcel Number(s):	541-220-006

I/We, the applicant(s)/owner(s) of the attached Cannabis Regulatory Permit Application, authorize City of Banning Staff and Police Department to seek verification of the information contained within the application for a Cannabis Regulatory Permit.

Date 9/4/24

(Signature)

ANTONIO SIMEONE
(Print name)

State of California)
ss.
County of Orange)

On Sept. 4, 2024 before me, Mark W. Masters, Notary Public personally appeared
(Name and title of officer)
Antonio Simeone 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 this 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

MARK W. MASTERS
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2444505
ORANGE COUNTY
My Comm. Exp. April 26, 2027

(Notary seal)

8

Authorization and Consent Form

APPLICATION FOR CANNABIS REGULATORY PERMIT

TO: *Community Development Department*
City of Banning
P.O. Box 998
Banning, CA 92220

RE:

Applicant: Flower Dept LLC	
Property Address: 200 John St.	
Assessor's Parcel Number(s): 541-220-006	

I/We, the applicant(s)/owner(s) of the attached Cannabis Regulatory Permit Application, authorize City of Banning Staff and Police Department to seek verification of the information contained within the application for a Cannabis Regulatory Permit.

Date 10/28/24

K Brymer
(Signature)

KENNETH BRYMER
(Print name)

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 Los Angeles)

On 10/28/2024 before me, Emily Simonian, Notary public (Name and title of officer) personally appeared Kenneth Ray Brymer 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 this 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 Emily Simonian

(Notary seal)

EMILY SIMONIAN
Commission # 2455861
Notary Public - California
Los Angeles County
My Comm. Expires Jul. 30, 2027

8

VICTOR QUEZADA'S FORM IS TO FOLLOW SEPARATELY

22. SIGNED HOLD HARMLESS AGREEMENT

VICTOR QUEZADA'S FORM IS TO FOLLOW SEPARATELY

Hold Harmless Agreement

APPLICATION FOR CANNABIS REGULATORY PERMIT

TO: *Community Development Department*
City of Banning
P.O. Box 998
Banning, CA 92220

RE:

Applicant: Flower Dept LLC
Property Address: 200 John St.
Assessor's Parcel Number(s): 541-220-006

I hereby release the City of Banning, its agents, officers, elected officials, employees and attorneys, from any and all claims, injuries, damages or liabilities of any kind arising from any repeal or amendment of Chapter 5.33 or Chapter 5.35 of the Banning Municipal Code or any other provision of the Banning Municipal Code, and any arrest or prosecution of the applicant or its managers, agents, employees, members or volunteers for violation of state or federal laws. I hereby agree to defend, indemnify and hold harmless the City of Banning, and its agents' officers, elected officials, employees, and attorneys from and against any and all claims or actions brought by adjacent or nearby property owners or any other parties for any damages, injuries or other liability of any kind arising from operations at the cannabis business.

Date 9/4/24

(Signature)

ANTONIO SIMEONE
(Print name)

State of California)
ss.
County of Orange)

On Sept. 4, 2024 before me, Mark W. Masters, Notary Public personally appeared
(Name and title of officer)

Antonio Simeone
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 this 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

MARK W. MASTERS
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2444505
ORANGE COUNTY
My Comm. Exp. April 26, 2027

(Notary seal)

Hold Harmless Agreement

APPLICATION FOR CANNABIS REGULATORY PERMIT

TO: *Community Development Department*
City of Banning
P.O. Box 998
Banning, CA 92220

RE:

Applicant: Flower Dept LLC
Property Address: 200 John St.
Assessor's Parcel Number(s): 541-220-006

I hereby release the City of Banning, its agents, officers, elected officials, employees and attorneys, from any and all claims, injuries, damages or liabilities of any kind arising from any repeal or amendment of Chapter 5.33 or Chapter 5.35 of the Banning Municipal Code or any other provision of the Banning Municipal Code, and any arrest or prosecution of the applicant or its managers, agents, employees, members or volunteers for violation of state or federal laws. I hereby agree to defend, indemnify and hold harmless the City of Banning, and its agents' officers, elected officials, employees, and attorneys from and against any and all claims or actions brought by adjacent or nearby property owners or any other parties for any damages, injuries or other liability of any kind arising from operations at the cannabis business.

Date 10/28/24

K 13 —
(Signature)

KENNETH RAY BRYMEIR
(Print name)

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 Los Angeles)

On 10/28/2024 before me, Emily Simonian, Notary public personally appeared
(Name and title of officer)
Kenneth Ray Brymer 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 this 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 Emily Dimonian

(Notary seal)

EMILY SIMONIAN
Commission # 2455861
Notary Public - California
Los Angeles County
My Comm. Expires Jul. 30, 2027

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23. SIGNED APPLICANT CERTIFICATION

PROPOSED BUSINESS DESCRIPTION (Provide the following information regarding the proposed cannabis business and the proposed location for the cannabis business)

Proposed Street Address: 200 John St.		
City, State, Zip: Banning, CA 92220		
Proposed Location Assessor's Parcel Number: 541-220-006		*Building Size (Square Feet of Floor Area):* 7,852 sf
Telephone Number (if any): 213-479-7601		
Description of Cannabis Activity to be conducted on the premises: (may be attached)		
Commercial Cannabis Cultivation		
Number of Parking Spaces Required	*Number of Parking Spaces Provided* 15	*Number of Accessible Spaces:* 1
Number of Employees: 5-10		*Hours of Operation:* 6 AM - 10 PM
Name of, 24 Hour On-Call Manager: Antonio Simeone		*On-Call Manager Work Phone Number:* 213-479-7601
On-Call Manager Email Address: 1simeonegroup@gmail.com		*On-Call Manager Cell Phone Number:* 213-479-7601

APPLICANT'S CERTIFICATION

I hereby certify, under penalty of perjury, that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact, whether intentional or not, is cause for rejection of this application, denial of the permit, or revocation of a permit issued.

Date: 10-22-2024	*Signature:* Antonio Simeone			
Print Name and Title: Antonio Simeone Owner and CEO				
Date Received	***Time Received***	***Fees Received*** $	***Receipt No.***	***Received By***

24. COPY OF DOJ AND NCIC FINGERPRINT BACKGROUND CHECK

OWNER LIVESCANS WILL BE SUBMITTED SEPARATELY

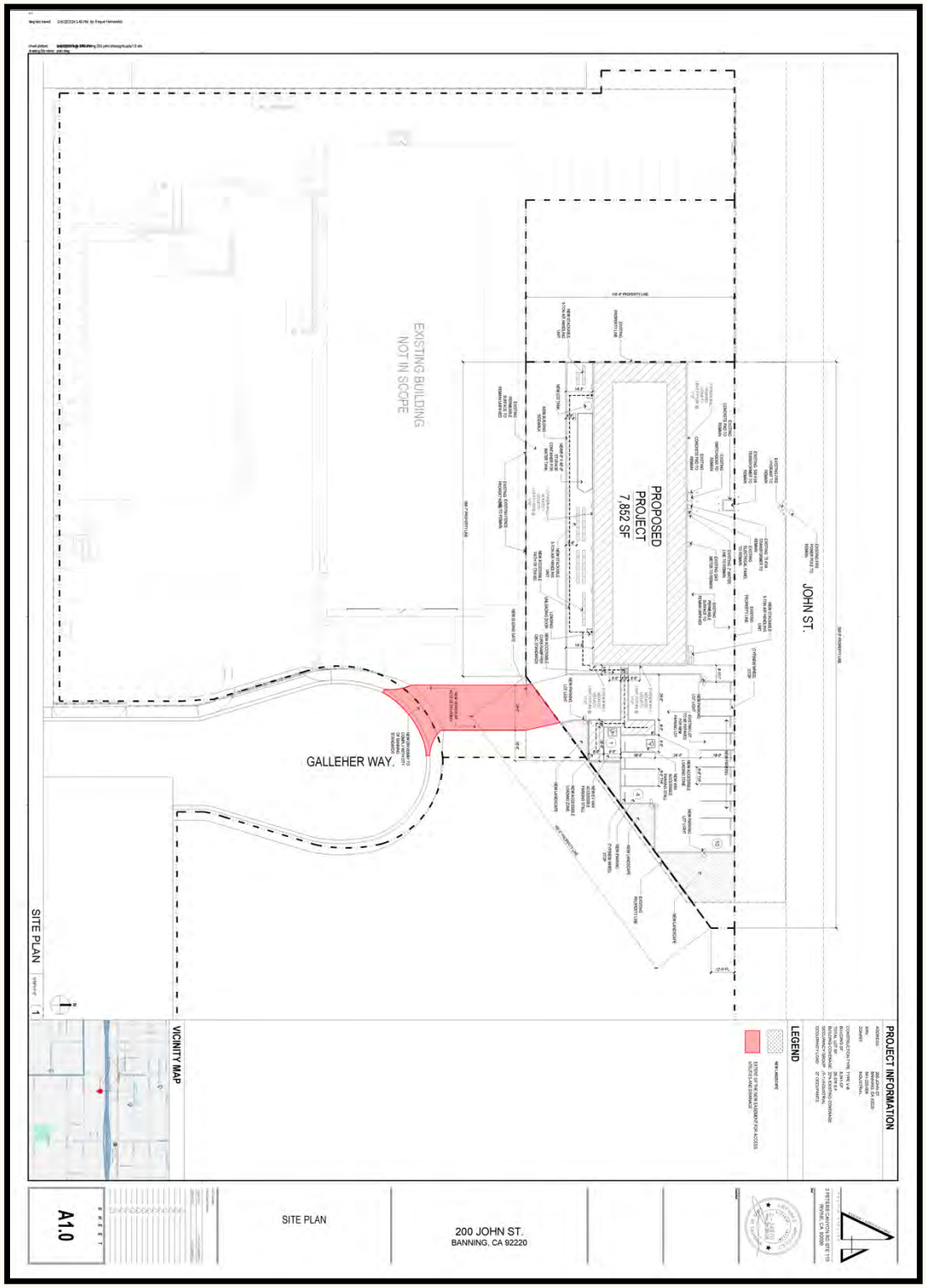
25. SECURITY PLAN

Please refer to Section E page 148 of this document for Security Plan

26. ODOR ABATEMENT PLAN

Please refer to page 191 of this document for Odor Plan

27. SITE AND FLOOR PLAN



FLOOR PLAN
SECURITY, FIRE LIFE, & SAFETY PLAN
CANOPY SIZE
KEYNOTES
LEGEND
FLOOR PLAN & SECURITY,
FIRE LIFE & SAFETY PLAN
200 JOHN ST.
BANNING, CA 92220
A2.0

B. PROOF OF A CANNABIS REGULATORY PERMIT

A Cannabis Regulatory Permit Application has been submitted for this project and is currently in review with the City.

C. OPERATING PLAN

DESCRIPTION OF THE CANNABIS BUSINESS

The Applicant, **Flower Dept, LLC.**, herein after referred to as "Flower Dept," seeks to obtain an Adult Use Cultivation License. The corporate entity is a single purpose corporation that holds no other licenses or assets and will only hold a license in the City of Banning, if awarded.

Flower Dept, LLC does not have any parent company or affiliate companies. Flower Dept, LLC was formed in July 2024, for the sole purpose of pursuing a cannabis business permit in the City of Banning, and entering into a property lease at the proposed facility location, **200 John St**. The Applicant entity does not have any filings, claims, bankruptcies, judgements, or liens, and since there are no parent or affiliate entities, Flower Dept, LLC does not have any code enforcement actions against the business, nor has it filed any claims against any local agency or been the recipient of any claims.

Flower Dept shall be an **indoor only** cultivation facility designed and operated to produce high quality cannabis flower. **The project will total 10,404 square feet** of triple stacked canopy utilizing LED and double-ended HID lighting technology. The cultivation space will be divided into six individual grow rooms allowing for complete environmental control, and staggered harvests across the facility.

The purpose of this Cultivation Operations Plan is to establish comprehensive procedures and protocols for the effective and compliant cultivation of cannabis. This plan is designed to ensure that all cultivation activities are conducted in accordance with applicable regulations, maintaining the highest standards of quality, safety, and sustainability. By implementing these detailed procedures, we aim to produce cannabis that meets the needs of patients while adhering to stringent regulatory requirements. This plan covers all aspects of cultivation, from environmental controls and equipment maintenance to inventory management and sanitation, ensuring a systematic and efficient approach to cannabis cultivation.

Flower Dept incorporates advanced cultivation techniques coupled with cutting edge technology to produce high quality cannabis flower for the adult use market. Flower Dept is certain that its operation offers an ideal example of effective legal cannabis cultivation while being an asset to the community. After completion of testing sample batches with a licensed testing facility, Flower Dept's flower will be sold to partner manufacturers and distributors for post-production as pre-rolls, oils, resins, edibles, topical solutions, or packaged for raw flower sale.

Flower Dept will be an indoor cultivation facility designed and operated to produce high quality marijuana flower. The project will use 60% of its square footage for canopy and the remaining 40% for ancillary uses such as for drying, trimming, packaging, storage, hallways, bathrooms, employee clean rooms, security and management offices, etc.

High THC will be cultivated to produce dried cannabis flowers intended for sale into the California Adult-Use market. Upon completion of build-out and in receipt of all necessary regulatory permits from the City and State, all starting plants will be procured from a licensed cannabis nursery.

Advanced cultivation techniques are implemented to improve plant health leading to a decreased need for spray applications. The techniques focus on selective thinning and pruning from the bottom of the cannabis plants. These techniques promote more vigorous growth while reducing the plant's susceptibility to pests and pathogens by limiting the conditions in which those pests and pathogens thrive. Additionally, Flower Dept utilizes predatory pests to further ensure it can control harmful pests and allow the mature plants to thrive.

PLANS OF OPERATION

Before commencing cultivation activities, Flower Dept will establish and update its standard operating procedures (SOPs) to reflect industry best practices and BMC 17.53 covering the following areas:

Security:

1. Implement staff identification measures using employee badges.
2. Monitor attendance of staff and visitors rigorously.
3. Install alarm systems and video surveillance.
4. Track inventory using the State's electronic monitoring system and seed-to-sale tracking system METRC.
5. Secure transportation of cannabis, with measures in place for traffic collisions or vehicle malfunctions.
6. Establish cash management and anti-fraud procedures.
7. Prevent loitering through signage.
8. Ensure secure storage for seeds, seedlings, tissue cultures, clones, cannabis plants, and products.

Cultivation Processes: Flower Dept will detail the processes for receiving, growing, cultivating, harvesting, handling, packaging, labeling, storing, transporting, and disposing of all cannabis materials. This includes procedures for handling and disposing of cannabis waste.

Workplace Safety: Flower Dept will conduct regular safety checks and implement measures to prevent contamination, maintain and sanitize equipment and facilities, and apply pesticides, fertilizers, and herbicides safely and in accordance with regulations.

Quality Control: Flower Dept's quality control will involve regulating the THC content, proper labeling, and minimizing contamination. We will maintain logs of all pesticide and chemical applications.

Recordkeeping and Inventory Control: Flower Dept will keep comprehensive records and maintain strict inventory control.

Complaint and Adverse Event Investigation: Flower Dept will investigate complaints and potential adverse events reported by other cannabis businesses, and or the DCC.

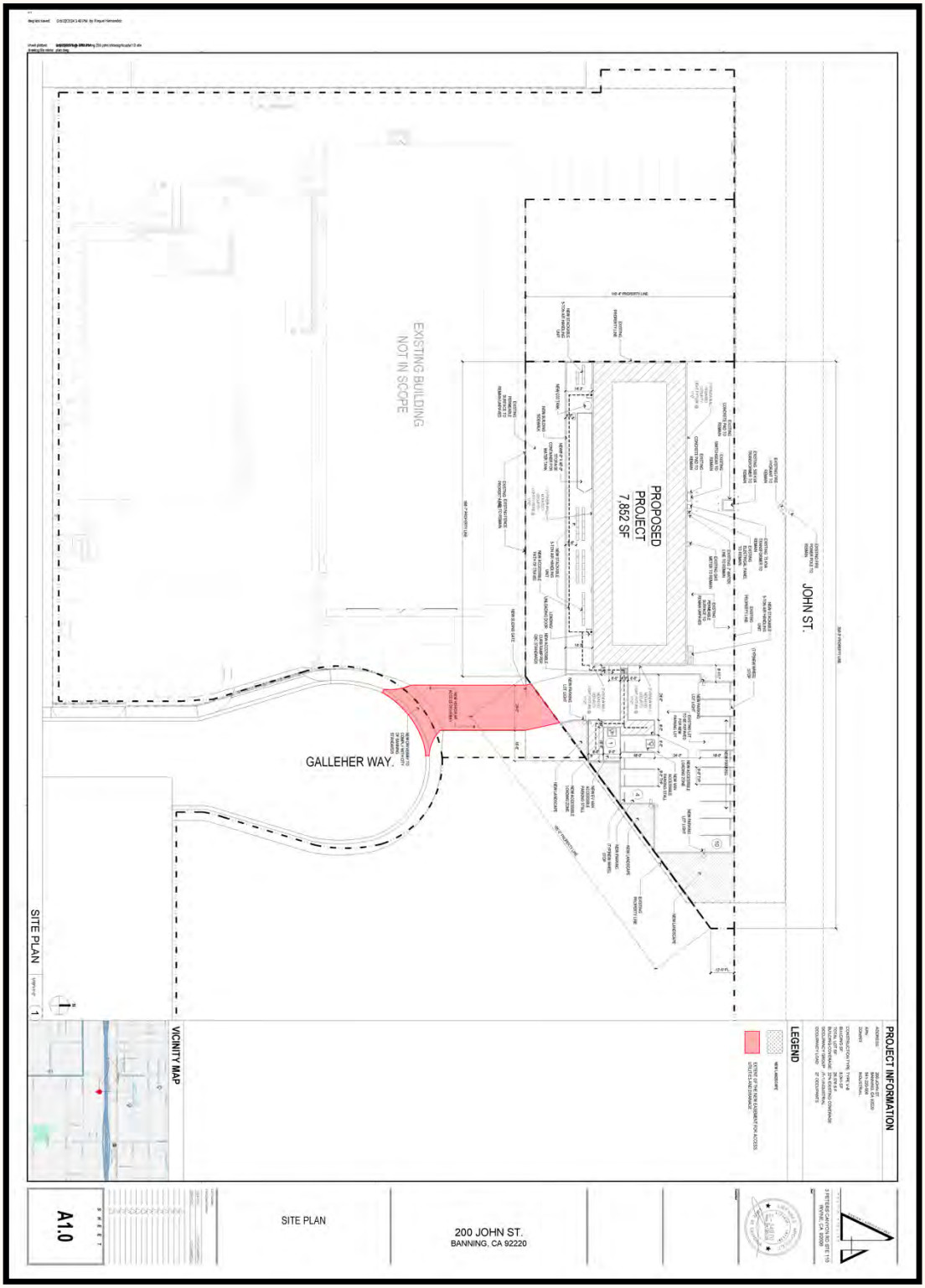
Unlawful Diversion Prevention: Flower Dept will implement measures to prevent the unlawful diversion of cannabis.

Recall Plan: Flower Dept will establish a robust recall plan.

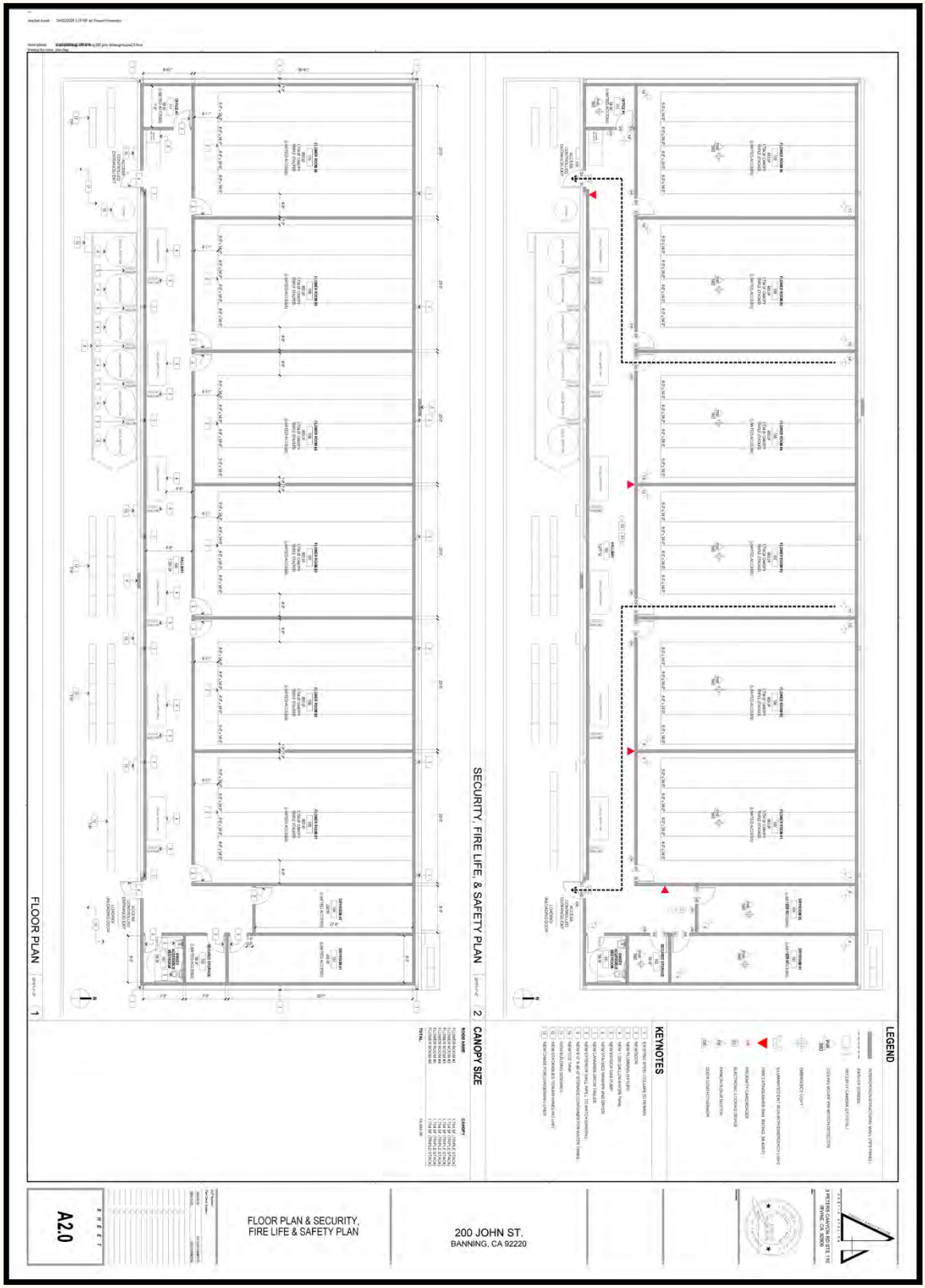
Employment Policies and Procedures: We will develop clear employment policies and procedures to guide our workforce.

Flower Dept's SOPs will be available to the DCC upon request and during inspections.

SITE PLAN

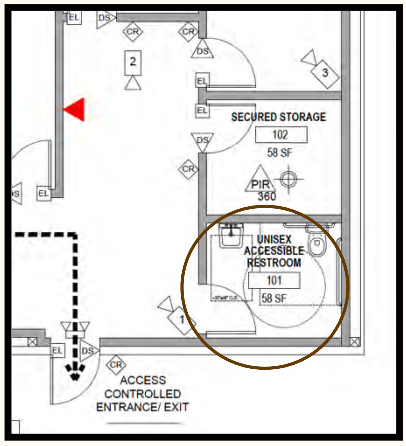

EXISTING BUILDING
NOT IN SCOPE
PROPOSED
PROJECT
7,852 SF
JOHN ST.
GALLEHER WAY.
SITE PLAN
VICINITY MAP
PROJECT INFORMATION
LEGEND
A1.0
SITE PLAN
200 JOHN ST.
BANNING, CA 92220

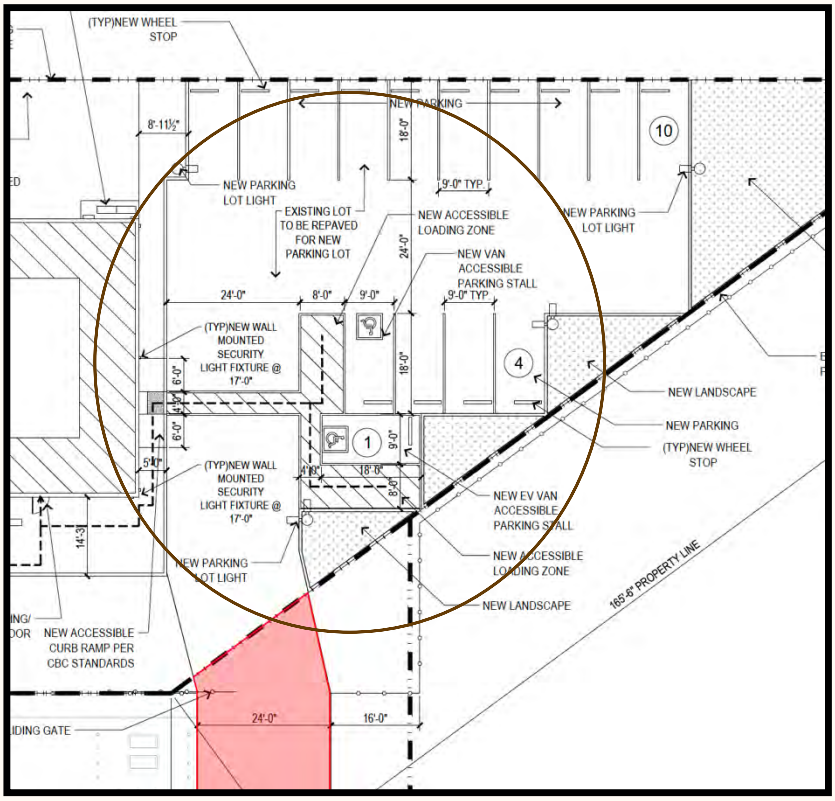
FLOOR PLAN


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EVALUATION OF ACCESSIBILITY BY THE PHYSICALLY DISABLED

Accessible parking and restroom provided to comply with all State and Federal Disability Access Laws.





ADA parking and accessible path of travel with striping are included in the site plan.

BUSINESS PLAN

BUSINESS OVERVIEW

Flower Dept is a California-based indoor cannabis cultivation business situated in Banning, California. Our focus is on cultivating premium-grade cannabis flower with an unwavering commitment to quality and consistency. Our clientele comprises licensed distributors who seek only the highest-quality cannabis products to meet the growing demand in California's regulated cannabis market.

Flower Dept will operate under the guidance of a seasoned team of industry professionals. The company is led by Tony Simeone, Kenneth Brymer, and Victor Quezada, each bringing substantial experience in cannabis cultivation, distribution, and business management. Together, this management team brings decades of hands-on industry experience and a proven track record of success within California's cannabis market, giving Flower Dept a unique advantage in a competitive landscape.

MARKET OPPORTUNITY

The cannabis industry in California is thriving, driven by both an increasing consumer base and evolving regulatory framework. With the adult-use market continuing to grow, there is a notable demand for premium-quality cannabis products. Our focus on producing top-tier cannabis flower aligns with these market demands, ensuring that Flower Dept is well-positioned to serve discerning consumers seeking a high-quality experience.

Our target customers, licensed distributors, are actively looking for reliable suppliers who can consistently meet their high standards. Flower Dept's commitment to indoor cultivation methods allows us to control all aspects of the growing environment, resulting in premium products with superior potency, consistency, and appeal. By building strong relationships with these distributors, we aim to establish Flower Dept as a trusted and reliable source of premium cannabis flower in California.

OBJECTIVES AND GOALS

Revenue Generation

Achieve $6 million in sales during our first operational year, driven by strategic partnerships with key distributors across California.

Market Positioning

Establish Flower Dept as a premier provider of high-quality cannabis flower to meet the rising demand for superior products in the California market.

Community Impact

Contribute to the economic growth of Banning, California, through job creation and tax contributions, establishing Flower Dept as a valued corporate citizen.

OPERATIONS AND CULTIVATION PROCESS

Our facility in Banning will employ advanced indoor cultivation practices to ensure that each crop is meticulously managed from seed to harvest. By maintaining full control over the grow environment, we can produce cannabis with optimal potency, flavor, and appearance, qualities that appeal to both distributors and end consumers. Our cultivation processes incorporate the latest advancements in lighting, irrigation, and climate control, along with rigorous quality control checks throughout the growth cycle.

We are committed to environmentally sustainable practices, including the implementation of water-efficient systems, renewable energy sources, and waste reduction protocols. These practices not only help reduce operational costs over time but also align with industry-wide moves toward more sustainable cannabis production.

FINANCIAL PROJECTIONS

Our first-year sales are projected at $3.6 million, based on anticipated agreements with licensed distributors throughout California. These revenue targets reflect both the high demand for premium cannabis flower and our team's experience in securing and managing distribution channels.

In addition to revenues, Flower Dept expects to be a significant contributor to local tax revenues in Banning. This economic impact will support municipal programs and community development initiatives, creating a positive relationship between our company and the city.

COMMUNITY ENGAGEMENT AND ECONOMIC IMPACT

Flower Dept recognizes the importance of community involvement and economic contribution. We aim to support Banning through:

Job Creation: Flower Dept will create a variety of employment opportunities within the local community, including positions in cultivation, operations, quality control, and administration.

Tax Contributions: With projected revenues and planned growth, Flower Dept will contribute significantly to local tax revenues, supporting public services and city development.

Sustainable Practices: By prioritizing environmentally friendly practices, we align our business operations with community and environmental standards, reinforcing our commitment to corporate responsibility.

OPERATIONS IN ACCORDANCE WITH BANNING MUNICIPAL CODE

Flower Dept will comply with all regulations set for in the City of Banning Municipal Code Chapter 17.53 and the State of California official regulations, and as they may be amended from time to time, Flower Dept will ensure to address, in its best efforts, in a timely manner, to adapt its operating procedures to comply with any changes or requirements imposed by the City of Banning and the State of California. Flower Dept's Business Operations Plan may change as deemed necessary and appropriate to comply with those regulations that pertain to its operations as a commercial cannabis cultivation.

NEIGHBORHOOD RESPONSIBILITY

Flower Dept is committed to ensuring its operations do not cause a nuisance to the neighborhood. Accordingly, Flower Dept will implement comprehensive policies with the objective of reducing the risk of creating any nuisance and improving the surrounding community.

Good Neighbor Policy. Not only will Flower Dept address potential nuisance considerations, Flower Dept will also implement a "good neighbor policy" to ensure that it contributes to the overall wellbeing of the neighborhood. This policy will include the following:

- Providing adequate security in and around the facility;
- Maintaining a clean facility in good repair;
- Ensuring customers, vendors, and employees behave appropriately when at the facility;
- Excluding customers who break the rules or divert or attempt to divert cannabis products; and
- Providing a timely response to community concerns.

Concerns Addressed. Flower Dept is cognizant of the potential problems and nuisances that can arise from operating a cannabis company, including but not limited to, the following concerns:

- Undesirable odor/smell;
- Increase in noise;
- Increased foot and vehicle traffic;
- Increase in waste and waste water;
- Impact on safety related concerns; and
- Impacts to right of way/access points

General Policies. General policies which Flower Dept shall strictly enforce, and which each employee shall be tasked with assisting in enforcing, include:

- No loitering;

- No sale, dispensing, or consumption of alcoholic beverages on or around the facility including the parking lot;
- No cannabis or cannabis products shall be left unattended or in an area that is not locked and secured, and no cannabis or cannabis product shall be inhaled, smoked, eaten, ingested, or otherwise consumed on the property, in the facility, or in the parking areas of the property; and
- Employees and security shall ensure that individuals do not enter or remain in the Facility if those individuals are not engaging in activity expressly related to the operations of the business (i.e., if they are not employees or visitors with a bona fide business purpose).

Protocols for Mitigating Noise. If excessive or above normal onsite noise is detected by management, Flower Dept will implement certain protocols as discussed below.

- Flower Dept will take the following steps any time it receives a noise compliant:
    - Investigate and determine the likely source of the noise;
    - Access the effectiveness of available on-site management practices to resolve the noise event and immediately take steps to reduce the noise;
    - Determine if the noise traveled off-site by surveying the site perimeter and noting noise from the building; follow-up with neighbors as necessary; and
    - Record the event for further investigation and operational review.
- No Heavy Machinery – Flower Dept will not be operating any heavy commercial or industrial machinery, and any equipment used will not generate noise detectable outside the concrete block walls of the building.
- No Loitering Policy – Flower Dept also has a strict "no loitering" policy, which shall be enforced by employees and the security guard, helping to mitigate noise from being generated in the parking lot. This policy shall include a maximum of ninety (90) minutes of parking for each parking space and no overnight parking.
- Concrete Construction – The building is built with concrete block walls, which naturally reduce and mitigate any noise creation occurring inside the building.
- Record keeping – Any time Flower Dept receives a noise complaint, a management-level employee must record the information relative to the event in Flower Dept's records.
- Noise Caused by Visitor – If problematic noise is caused by persons on-site, the security guard shall approach the person(s) and request for the noise to be abated, if the person(s) refuse, the security guard shall request for the person(s) to be remove themselves from the Facility. If the person remains noisy and disruptive, and refuses to vacate the Facility, then the security guard shall follow protocols for mitigation of unruly persons (including alerting the Chula Vista Police Department if necessary).

Safety Related Concerns. To ensure that Flower Dept does not cause trepidation in the community about risk of safety to neighbors and to mitigate unsafe or potential criminal activity, Flower Dept has adopted a robust safety program. Flower Dept will ensure the following:

- No cannabis or cannabis products shall be visible from any point or vantage point of the exterior of the building, to reduce the risk of burglary or vandalism.
- No cannabis or alcohol shall be allowed to be consumed, ingested, smoked, or otherwise used on the property, including the parking lot.
- Flower Dept shall install and maintain a fully operational digital video surveillance and camera recording system. All cameras installed on the exterior of the building shall be continuously recording twenty-four (24) hours a day to capture all activities occurring on the Facility.
- Flower Dept shall also conspicuously post signs stating, "All Activities Monitored By Video Camera" or otherwise advising all persons entering the Facility that a video surveillance and camera recording system is in operation at the facility and recording all activity on the Facility to further prevent burglary, vandalism, or other unsafe activities from occurring on-site.
- Flower Dept will hire a professional, reputable alarm company to install and monitor burglar alarms on each point of egress/ingress to the building, including all doors and windows.
- Flower Dept will hire a locally based private security company to provide regular patrol service and on-site security guards. The on-site security guards shall be present during all hours of operation and shall do regular rounds of the exterior of the Facility to deter, prevent, and if necessary, stop unsafe and criminal activity.
- Flower Dept has implemented robust emergency response protocols in the event there is an emergency.

Graffiti Removal. Flower Dept will ensure that its employees immediately report the discovery of any graffiti on or around the Facility. The Managers will ensure that any graffiti is removed/painted over within forty-eight (48) hours.

Specific Waste Procedures. Flower Dept shall ensure that any cannabis product or cannabis-derived product that is intended for disposal, shall be made unusable and unrecognizable prior to removal from the property, in compliance with any applicable laws. Additionally, cannabis waste shall be disposed of in a manner that protects any portion of the cannabis from being possessed or ingested by any person or animal.

Parking Policies. To prevent congestion in the area and ensure parking is as accessible as possible, Flower Dept will have a strict "No Loitering" policy. This policy shall include a maximum of ninety (90) minutes of parking for each parking space in Flower Dept's front lot and no overnight parking. No cannabis or cannabis products shall be visible from any point or vantage point of the exterior of the building, to reduce the risk of burglary or vandalism. No cannabis or alcohol shall be allowed to be consumed, ingested, smoked, or otherwise used on the property, including the parking lot.

PROCDURES FOR SECURE TRANSPORTATION

Flower Dept intends to hire a licensed cannabis distributor to securely transport cannabis items to other cannabis businesses.

Flower Dept recognizes the risk involved in the transportation of cannabis and plans to put in place procedures to minimize any risks during transportation. Third party distributor vehicles will be equipped with tools and safeguards to bolster security while cannabis is in the vehicle. The licensed cannabis distributor in charge of transport will provide delivery personnel that are highly trusted, trained, and have full knowledge of applicable laws concerning the delivery and transport of cannabis.

Only distributor delivery vehicles complaint with state laws will be used, and all deliveries will be between multiple cannabis business premises or to another cannabis business in California. Flower Dept intends to use professional cash-in-transit services for any cash that needs to be deposited into its financial institution.

Flower Dept will verify that its chosen licensed cannabis distributor maintains current hired and non-owned automobile liability insurance, insuring all distributor delivery vehicles with a minimum $1,000,000 per occurrence or accident. Flower Dept will provide any information concerning distributor delivery vehicles, including the make, model, color, Vehicle Identification Number, license plate number, and vehicle registration, to the DCC upon request.

Flower Dept will ensure that any distributor delivery vehicle used bears no markings indicating that cannabis is on board, or that the distributor delivery vehicle is used for transporting cannabis. Flower Dept will mandate that the distributor delivery vehicle is kept clean and presentable, and that maintenance and other service tasks are never performed while cannabis is in the distributor delivery vehicle.

SECURE TRANSPORT OPERATIONS

Flower Dept will require that the distributor staff each vehicle with at least one cannabis business staff member and ensure they adhere to the following:

- The distributor delivery vehicle will never be left unattended unless the vehicle is locked and has an active vehicle alarm system. Cannabis will never be left in distributor delivery vehicles overnight or outside of the operating hours of the cannabis distributor conducting the transport.
- Cannabis distributor staff members will have access to a secure form of communication with Flower Dept and the licensed cannabis distributor management, such as cellular telephone, at all times while cannabis is in the vehicle.
- The cannabis distributor employee conducting the transport will keep their cannabis business identification card on their person at all times and will present their card to DCC staff and law enforcement on demand.

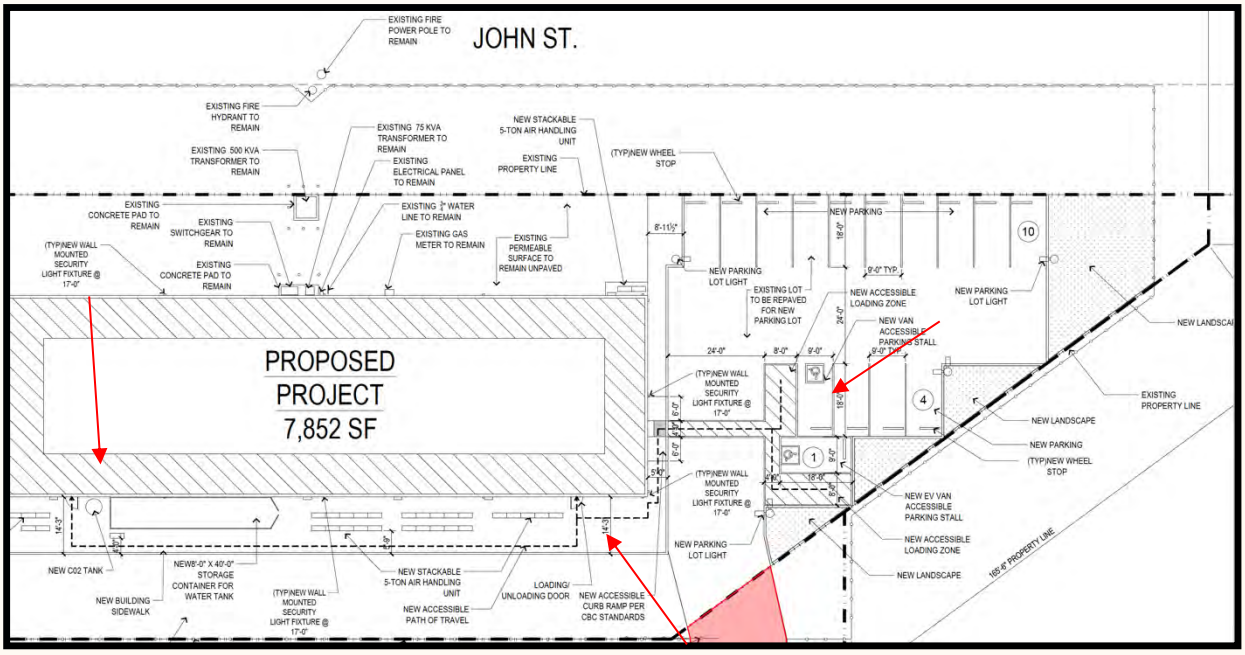
- Before conducting transport, the cannabis distributor employee responsible for transport will create a physical or electronic copy of the transport request, which will be maintained throughout the transport to be available to State and local law enforcement, and State and local regulatory authorities.
- Only cannabis business identification card holders are permitted access to affiliated distributor delivery vehicles.

Deliveries will not be done in a routine way that follows a consistent schedule, route, or pattern, but rather will use varied times and routes as well as different vehicles and drivers in order to counter any criminal surveillance and attempted criminal casing of the business and its operations.

COMPANY FACILITY LOCATION AND DESIGN ADVANTAGES FOR SECURE TRANSPORT OF CANNABIS

Flower Dept's facility will be in a commercial part of the City and will have a designated area of the facility for use in the secure transport of cannabis.

Distributor delivery vehicles will be parked within Flower Dept's interior shipping/receiving area, and the garage door will be locked and secured prior to loading/unloading cannabis. The floor plan design clearly separates the areas of the facility intended for use in the secure transport of cannabis from other areas of the facility intended for cultivation operations. Additionally, the shipping/receiving area is separated from the Vault by multiple access control points to prevent theft or diversion during the loading/unloading process.



LOADING PROCESS

Prior to delivery, cannabis will be packaged in tamper-evident containers. Cannabis will be appropriately tracked in the inventory control system which will communicate updates to the tracking system. Flower Dept will request at least one (1) cannabis distributor employee and one (1) Flower Dept employee to be present whenever cannabis or valuable items are being loaded into or unloaded from a distribution vehicle. All deliveries will be conducted by a person and no unmanned forms of deliveries will be made.

Within an hour before the transportation process is to begin, the cannabis distributor employee who will be transporting the cannabis will confirm verbally by phone with the business receiving the shipment. The cannabis distributor employee will then use the state's tracking system to verify the registration number of the business receiving the shipment.

Destination Unloading Process

Upon arriving at the destination, the cannabis distributor employee will request that the person who is accepting delivery provide their valid staff member registration card. After the completion of delivery, the cannabis distributor employee will enter the time and date that delivery was accomplished into the physical and electronic copies of the transportation manifest.

Receiving at Flower Dept Premises

When Flower Dept receives plants or seeds or cannabis in any form, the distributor delivery vehicle will arrive under direct video surveillance that covers all approach routes to the entrance. A security guard will monitor the vehicle and perimeter as the vehicle arrives. At this time, receiving will commence in an area not visible from outside, where inventory management personnel will count the inventory, verify it against the shipping manifest, and inspect it to ensure all packaging and labeling comply with state regulations. The inventory management personnel will enter the time and date that delivery was completed onto each physical copy of the manifest. This information will be added to and verified in the inventory tracking system.

SOP FOR MANDATING COMPLIANCE BY THIRD-PARTY DISTRIBUTORS

To ensure the safe and compliant transportation of our cannabis products, we will only partner with third-party distributors who adhere to the following standards:

Transportation of Medicinal Cannabis Between Cannabis Businesses

1. **Use of GPS:**
    - We mandate that all third-party distributors use a global positioning system (GPS) to ensure the safe and efficient delivery of cannabis to other cannabis businesses.
2. **Vehicle Requirements:**

- Vehicles used for transport must:
    - Be equipped with a locked storage compartment or a locked storage container with a separate key or combination pad.
    - Have no markings that identify the vehicle as transporting cannabis.
    - Maintain current state vehicle registration.
    - Be equipped with an alarm system and a minimum of two video cameras: one with a clear view of the driver and one with a clear view of the cannabis location.
    - Be insured as required by California law.

3. **Delivery Driver Requirements:**
    - Each transport vehicle must be staffed with a delivery driver who:
        - Possesses a copy of the cannabis business license for the business transporting the cannabis.
        - Has access to a secure form of communication (e.g., cellular telephone) to contact cannabis businesses and law enforcement through the 911 emergency system.
        - Conspicuously wears an employee identification badge at all times and produces it upon request to authorized officials.
        - Holds a valid driver's license.
        - Does not wear any clothing or symbols indicating ownership or possession of cannabis.
    - The delivery driver must proceed directly from the loading cannabis business facility to the receiving cannabis business without unnecessary stops, although deliveries to multiple businesses during one transport are permitted.
4. **Reporting and Inspections:**
    - Any vehicle accidents, diversions, losses, or other reportable events during transport must be immediately reported to the DCC.
    - Transport vehicles are subject to inspection by the DCC or authorized agents, law enforcement, or other government officials during inspections or investigations.
5. **Transport Manifest:**
    - A printed or electronic transport manifest must accompany every transport vehicle and include:
        - Creation date, names, addresses, telephone numbers, and license numbers of the cannabis businesses involved.
        - Contact information for representatives with direct knowledge of the transport.
        - Details of the quantity and type of cannabis being transported.
        - Transport vehicle details, including make, model, and license plate number.
        - Names and driver's license numbers of delivery drivers.

        - Departure and arrival dates and times.
        - Signatures of the delivery driver and a representative of the receiving business confirming receipt.
    - Separate manifests must be prepared for multiple deliveries if necessary to maintain confidentiality.
6. **Security Measures:**
    - All cannabis in transport must be shielded from public view and placed in a locked storage compartment or container.
7. **Adverse Loss During Transport:**
    - Discrepancies in the transport manifest must be investigated, documented, and reported to the DCC within specified timeframes.
    - Evidence of theft or diversion must be reported within 4 hours of discovery to the DCC
8. **Compliance of Third-Party Contractors:**
    - Third-party contractors must comply with all transportation requirements.
    - We will conduct criminal background checks on third-party employees transporting cannabis, ensuring no individuals with disqualifying felony offenses or under 21 years of age are involved.
    - Contractors will receive a copy of our license and employee identification badges for their employees.
    - We will notify the DCC of all third-party contractors used for transportation and provide any additional requested information.

Distributor Delivery Vehicle Camera System

Each secure distributor delivery vehicle will be equipped with a camera system that will transmit live streaming footage to their command center, recording all aspects of every transaction from pickup to drop-off. The video cameras will be equipped with wide-angle lenses and will be angled to capture faces and activity. The cameras will be turned on whenever the distributor delivery vehicle is transporting cannabis and will create a video recording that will be locked in a storage device that will be inaccessible to the driver.

EMERGENCY TRAINING FOR DISTRIBUTOR DELIVERY DRIVERS

Flower Dept will ensure that its licensed distributor reports any vehicle accidents, diversions, losses, or other events that occur during transport to the DCC. Any discrepancy discovered during or after transportation will be immediately investigated, and necessary follow-up action will be promptly taken.

Flower Dept will ensure that distributor delivery drivers are well equipped and trained to handle any emergency that may present itself. Strict protocol and procedures will be put in place by the

licensed cannabis distributor, including instruction to update Flower Dept of any issues that could delay or prevent transport, or if any product is damaged or at risk of diversion or theft.

Training will emphasize safety and the protection of life over things that can be replaced, such as money and cannabis. Distributor delivery drivers will be trained for all feasible situations, including emergency communication, vehicle accidents and breakdowns, law enforcement encounters, theft and attempted theft, and identifying alternative routes. Any motor vehicle used by the cannabis distributor will be subject to inspection at all times. Flower Dept will have a zero-tolerance policy regarding consumption and drivers will be dismissed if they are found to be consuming cannabis or alcohol while driving for deliveries.

Training for Armed Robbery Response

While the threat of armed robbery is minimized due to covert, unmarked vehicles being used in the transportation of cannabis, incidents may still occur. Flower Dept will ensure that the chosen licensed cannabis distributor provides training to its employees on how to deal with an armed robbery on the road. If such an event does occur, the drivers will immediately, once safe, contact law enforcement, the cannabis distribution company, and Flower Dept.

Training for Inclement Weather Response

Should there be unexpected, potentially hazardous weather, the distributor delivery driver will take all necessary precautions to keep themselves, the product, and the distributor delivery vehicle safe. If the vehicle is stranded, trapped, or inoperable due to weather conditions, the driver will immediately contact emergency services. Drivers will then notify Flower Dept and the distribution company of the situation and communicate any details and pertinent information.

Training for Road Hazard Response

If road hazards make the intended route of delivery inaccessible, the distributor delivery driver will be instructed to identify an alternative route. Drivers will be trained to never leave the vehicle to clear debris from the road, as this could leave them susceptible to possible ambush and seizure of the product being delivered.

ADDITIONAL COMPLIANCE

Flower Dept will ensure that all transports will be conducted in a safe, timely and efficient manner. The cannabis distributor employee driving the delivery vehicle will only travel between the premises of Flower Dept and receiving cannabis business premises and will not deviate from the delivery path, except in the event of emergency or as necessary for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable. Flower Dept understands that the process of transport begins when cannabis distributor staff leave the originating cannabis business premises with the purchase

order of cannabis items and ends when the cannabis distributor staff furnishes the cannabis items to the receiving cannabis business.

Flower Dept will collect all transportation manifests and route plans in conjunction with the inventory control system and tracking system. Management will ensure the accuracy of the manifests before the vehicles leave the premises. Records will be kept for at least seven (7) years.

Where a transport is attempted and not completed and the cannabis item remains in the possession of the cannabis distributor employee conducting the transport, the employee will return the cannabis item to Flower Dept premises. Flower Dept may repackage and restock the product and will log the product's amended status in the business's internal inventory. Flower Dept will ensure such items will be in new, unopened condition prior to restocking.

EMPLOYEE QUALIFICATIONS SUPERVISION AND TRAINING

ORGANIZATIONAL STRUCTURE AND QUALIFICATIONS REQUIRED FOR EMPLOYEE ROLES

Employee Qualifications

At Flower Dept we are committed to serving the needs of our community by providing high-quality cannabis products in a safe, knowledgeable, and compassionate environment. As we strive to become a trusted leader in California's cannabis market, we recognize that our employees are the backbone of our success. Therefore, we are dedicated to hiring individuals who not only meet the highest standards of professionalism and expertise but also share our passion for quality and compliance.

We will seek team members who possess a deep understanding of cannabis and its therapeutic benefits. Our ideal candidates are those who demonstrate empathy, integrity, and a commitment to continuous learning in this rapidly evolving field.

All of Flower Dept staff will be qualified in specific requirements tailored to the DCC's regulations and the nature of the products being sold.

Our Qualified Cultivation Team

At our company, we are proud to have a highly skilled and qualified team ready to run our cannabis cultivation operations in Banning City. Our employees will bring a wealth of knowledge, experience, and dedication to ensuring the highest quality and compliance standards in our cultivation practices.

Cultivation Manager

Our Cultivation Manager will have over 5 years of experience in commercial cultivation. He is an expert in plant genetics, pest management, and nutrient requirements, and has strong leadership and management skills.

Master Grower

Our Master Grower will have more than 5 years of cannabis cultivation experience with a deep understanding of plant care, cloning, and propagation, along with proficiency in using advanced cultivation equipment and environmental control systems.

Cultivation Technicians

Our Cultivation Technicians will come with a diverse background in plant care and agriculture. They have a strong foundation in cultivation techniques and pest management.

Integrated Pest Management (IPM) Specialist

The IPM Specialist will have more than 3 years of experience in pest management within commercial cultivation settings. Their expertise in identifying and managing pests and diseases will ensure plants remain healthy and productive.

Post-Harvest Supervisor

The Post-Harvest Supervisor will bring 3 years of experience in post-harvest processing of cannabis with deep knowledge of drying, curing, and trimming processes, coupled with strong organizational skills.

Trimmers

Flower Dept Trimmers will be highly skilled with hands-on experience in trimming and processing cannabis plants.

Quality Assurance Specialist

The Quality Assurance Specialist will have a minimum of 2 years of experience in the cannabis industry with strong analytical skills and attention to detail to ensure that our cultivation processes meet all regulatory requirements and quality standards.

Environmental Control Technician

Flower Dept's Environmental Control Technician will have experience in greenhouse operations and will expertly manage our environmental control systems. Their knowledge of HVAC, lighting, and irrigation systems will help us optimize conditions for plant growth and health.

TRAINING PROGRAMS FOR EMPLOYEES

Flower Dept prioritizes detailed, pre-training and on the job training of each employee. Flower Dept employees benefit from a warm, welcoming Flower Dept Ethos before even beginning work at the facility. This is achieved by providing inbound (and existing) staff with the overwhelming support and resources they need to be successful Flower Dept employees.

Pre-Training

Flower Dept employees will be provided with educational resources more than one month before beginning work.

- Educational material on Cannabis
- Educational material on cannabinoids such as THC, CBD and CBN
- Information on proper dosing/serving sizes for various cannabis products
- Information on the potential health risks/negative effects of cannabis use
- A Flower Dept Strain Description sheet

All new hires are tested by the Cultivation Manager (CM) on the information provided two weeks prior to starting their position. New employees who do not pass the CMs cannabis information test will be instructed to review the information more diligently and their originally scheduled Start Date will be rescheduled one week later. This process continues until the employee has passed the CMs cannabis information test with the maximum failures possible before termination being three (3).

EMPLOYEE TRAINING POLICIES FOR CULTIVATION EMPLOYEES

The Flower Dept's Cultivation Employee Training Program is designed to ensure that all personnel involved in the cultivation of cannabis are well-equipped with the necessary knowledge, skills, and competencies to perform their duties effectively and in compliance with regulatory standards. Our training policies encompass a comprehensive range of topics, including but not limited to, cultivation techniques, safety protocols, regulatory compliance, and quality assurance.

Flower Dept's training plan exists in addition to the mandatory minimum requirements of the DCC. All training is done on the clock and employees are paid at their regular salary for training hours. This includes being paid for initial training before being put on the schedule, as well as any ongoing training that occurs. If employees are enrolled in mandatory training courses or vendor training outside their scheduled work hours, they are paid for their time in full. To ensure all employees enter the training on the same page,

Orientation and Onboarding:
New employees will undergo an initial orientation session that introduces them to the company's mission, values, and operational procedures. Onboarding includes a detailed overview of the cultivation process, company policies, and job-specific responsibilities.

Regulatory Compliance:

Employees will receive training on local, state, and federal regulations governing cannabis cultivation. Regular updates and refresher courses will be provided to ensure ongoing compliance with regulatory changes.

Cultivation Techniques:
Training on best practices for planting, nurturing, and harvesting cannabis plants. Instruction on the use of cultivation equipment and technology, including monitoring and controlling environmental conditions such as temperature, humidity, and lighting.

Safety Protocols:
Comprehensive training on workplace safety, including the proper use of personal protective equipment (PPE). Emergency response procedures and first aid training.

Quality Assurance:
Procedures for maintaining high standards of quality throughout the cultivation process. Training on identifying and mitigating contamination risks, pest control, and proper sanitation practices.

Inventory Management:
Training on the use of electronic monitoring and seed-to-sale tracking systems. Procedures for accurate record-keeping and inventory audits.

Sanitation and Maintenance:
Guidelines for cleaning and sanitizing equipment and work areas to prevent contamination. Training on routine maintenance and calibration of cultivation equipment.

Ongoing Education and Development:
Opportunities for continuous learning through workshops, seminars, and certification programs. Encouragement for employees to stay updated with the latest advancements in cannabis cultivation technology and practices.

COMPANY-WIDE TRAINING REQUIREMENTS

ALL staff, regardless of their position with Flower Dept, are trained on the following:

- Review of Flower Dept Standard Operating Procedures
- Review of the Employee Handbook
- Review of the Flower Dept Security Plan
- Review of hazardous materials and safety (MSDS)

ON THE JOB TRAINING

It is natural that cultivation facility employees receive extensive on the job training for their position. As it takes much skill, knowledge, and experience to develop cultivation practices in a consistent and effective manner, new Flower Dept cultivation employees are closely shadowed by a tenured employee. This ensures consistency amount procedures, applications, and techniques, elevating the quality of the plants and growth of the employee.

STAFF TRAINING PROCEDURES DOCUMENTATION

Flower Dept keeps training records including, but not limited to, the content of the training provided and the names of the employees who received the training, for at least five years. Training records will also contain dates of completion, employee signatures, and the signature and description of the credentials of any subject matter expert who provided the training.

IMPAIRED CUSTOMERS/SERVING LIMITS

Flower Dept will not have customers on-site. Flower Dept will ensure no employee or approved visitor to the facility is suspected of being under the influence of any substance. Anyone suspected of being under the influence will not be permitted to enter by Security personnel.

PROCEDURES FOR STORAGE OF CANNABIS

Flower Dept's storage policies are designed to ensure that storage areas of all cannabis are kept in a secured manner during business and non-business hours. Any inventory held for quarantine or recall will be stored separately from other cannabis. Usable cannabis and cannabis products will be stored with consideration of:

- The quantity of cannabis items kept on hand.
- Flower Dept's inventory system for tracking and distributing cannabis.
- The number of owners, principals, employees, volunteers, management services contractor staff, or vendor-contractors who have or could have access to the cannabis items.
- The geographic location of the cannabis business and its associated environmental characteristics, such as the relative level of crime associated with the area.
- The scope and sustainability of the security alarm system.
- The findings of root cause analyses of any breaches of security and/or inventory discrepancies for cannabis items at that location.

STORAGE AREAS:

- **Locked Areas**: Flower Dept will have locked, limited access areas for storing:
  - Seeds

        - Seedlings
        - Tissue cultures
        - Clones
        - Cannabis plants
        - Expired, damaged, deteriorated, mislabeled, contaminated, recalled cannabis, or those with opened or breached packaging.
    - **Maintenance**: Storage areas must be kept clean, orderly, and free from infestation by insects, rodents, birds, and pests.

Flower Dept will establish SOPs for the quarantine of any cannabis seed, cutting, clone, immature cannabis plant, batch of cannabis, or cultivation material or component whose suitability for use or distribution is in question, to prevent its use and distribution pending disposition by quality control personnel. There will also be segregated storage areas for the following items:

- Newly received cultivation materials or components and newly received cannabis seeds, cuttings, clones, immature cannabis plants, or usable cannabis.
- Batches of usable cannabis awaiting release for distribution for personal use pending written reports confirming they meet specifications.
- Any usable cannabis suspected but not yet confirmed to be contaminated, including usable cannabis returned as part of a complaint or recall process.
- Usable cannabis, components, or materials that have been confirmed to be contaminated, including, but not limited to usable cannabis that fails testing or is returned as part of a recall, and will be stored with cannabis waste in a waste disposal room until destroyed and rendered unusable.

The Vault has been designated to be the only area to store all ready-for-sale, quarantine, and pending-disposal cannabis and cannabis products outside business hours. The drywall of the walls and ceiling of the Vault will be reinforced with maximum-security ASM .50-13 mesh which is used to secure government, commercial, and retail buildings all over the world. Security mesh will be fastened to metal studs to inhibit bending or the ability to cut. The attached Secura Clips recessed center holes provide over 68% more holding strength than standard screws. Finally, the maximum-security mesh is finished with fire-resistant gypsum.

The Vault door will also be installed with a commercial grade combination lock and proximity access reader. Authorized individuals will have to use their personal security proximity access card and enter the combination to open the Vault door. This two-factor authentication will prevent access to individuals using only the proximity access card of an authorized individual. A log of all entries and code changes into the Vault will be maintained with the security records. The walls and perimeter of the Vault will be equipped with an alarm system which will notify personnel in the security office, a third-party security monitoring company, and the appropriate police agency.

Following harvest, all cannabis will be stored in a secured and locked safe room, safe, or vault, and in a manner to prevent diversion, theft, and loss, except for limited amounts of cannabis used for testing samples. At this time, Flower Dept intends that all cannabis products including quarantine and pending disposable cannabis will be secured and stored in a 30-minute or more UL TL-rated safe with an Underwriters Laboratory 5-minute time delay Group 1 outside lock. All the storage safes for cannabis will also use UL Group 1 outside combination and PIN code locks to secure the safe door. A Group 1 combination lock is resistant to skilled manipulation attacks for up to 20 hours. Tool and Lock-rated (TL) safes are the standard safes used in most high-risk industries such as the jewelry, firearms, and the pawn industries. TL safes offer much more security and protection than a standard gun safe model or non-rated safe due to superior design and construction.

PACKAGING AND LABELING STANDARDS

Ensuring the safety, quality, and compliance of our cannabis products is of utmost importance. Our packaging and labeling procedures are designed to maintain product integrity and meet all regulatory requirements in the State of California.

PACKAGING PROCEDURES

1. Harvest and Post-Harvest Handling:
    - After harvest, our products undergo a meticulous drying and curing process to preserve potency and quality. Once cured, the cannabis is carefully trimmed and prepared for packaging.
2. Sanitation and Sterilization:
    - All packaging materials and equipment are sanitized and sterilized before use to prevent contamination.
3. Weighing and Portioning:
    - Cannabis is weighed and portioned accurately using calibrated scales to ensure consistency and compliance with state regulations regarding package sizes.
4. Sealing:
    - Products are placed in child-resistant, tamper-evident packaging to ensure safety. This packaging also protects the product from light, air, and moisture to maintain its quality.
5. Batch and Lot Identification:
    - Each package is assigned a unique batch and lot number for tracking and traceability purposes. This ensures that each product can be traced back to its source for quality control and regulatory compliance.

LABELING PROCEDURES

In compliance with Chapter 11 Labeling and Packaging procedures of the DCC regulations, Flower Dept will ensure that all bulk cannabis, cannabis products, immature plants, and seeds are properly packaged and labeled according to the specific requirements. This includes clear identification, ingredient listings, allergen information, and required statements to guarantee product safety and transparency during the transportation and sale processes.

§17398. Bulk Cannabis or Cannabis Products

- Bulk cannabis or cannabis products are transferred between licensees for further processing or packaging.
- Packaging used for transporting bulk cannabis or cannabis products must:
    - Protect the products from contamination.
    - Ensure no exposure to toxic or harmful substances.
- Each package must be labeled with:
    1. Type or common name of the cannabis or cannabis products.
    2. UID (Unique Identifier) assigned to the cannabis or cannabis products.
    3. Ingredients of the cannabis products, including any allergens (see §17406(a)(6)).
    4. Net weight or count of the cannabis or cannabis products.

§17399. Immature Plants

- Immature plants sold at retail are not required to be in child-resistant or tamper-evident packaging.
- Each immature plant must be labeled with:
    1. Legal business name (or a name listed on the license certificate) of the licensed nursery that cultivated it, including contact number or website.
    2. The strain name.
    3. The statement: “This plant has not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

§17400. Seeds

- Seeds sold at retail do not need to be in child-resistant packaging.
- Each package of seeds must be labeled with:
    1. Legal business name (or a name listed on the license certificate) of the licensed nursery that cultivated the seeds, including contact number or website.
    2. Strain name(s).
    3. Weight or count of seeds in the package.
    4. The universal symbol (see §17410).
    5. The statement: “These seeds have not been tested in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.”

GENERAL TESTING REQUIREMENTS

1. **Suitability and Safety Testing**

- Flower Dept will ensure that all cannabis and cannabis products are tested according to the guidelines established in California Code of regulations Chapter 4 (CCR 4) to ensure suitability and safety for human consumption.
- Only licensed safety compliance facilities are authorized to perform testing on cannabis.

2. **Batch Size Management**
   - Flower Dept will divide all harvested cannabis into harvest batches and will record the net weight of each batch
3. **Sample Collection and Documentation**
   - Staff at Flower Dept will follow the standard operating procedures (SOPs) of the contracted testing laboratory for sampling and documenting the chain of custody.
   - Samples will be collected and tested post-harvest and pre-sale to ensure compliance with regulatory standards.
4. **Prohibition of Sale Prior to Testing**
   - Flower Dept will not sell, transfer, or deliver any cannabis products from a harvest or production batch until the batch has passed all required tests.

TESTING PROCEDURES

1. **Testing Frequency and Process**
   - Harvest batch samples will be tested post-harvest and pre-sale, transfer, or delivery.
   - Production batch samples will be tested in their final form pre-packaging and pre-sale, transfer, or delivery.
2. **Testing Parameters**
   - Flower Dept will ensure that all samples are tested for the following parameters:
     - **THC and Cannabinoid Concentration:** Total THC, CBD, and other cannabinoids.
     - **Terpenoid Concentration:** Total and most prevalent terpenes.
     - **Residual Solvents:** For production batches.
     - **Residual Pesticides, Heavy Metals, and Microbial Impurities**
     - **Mycotoxins, Water Activity, Yeast, and Mold**
     - **Vitamin E Acetate**
   - Flower Dept will track and document the terpene content of major terpenoids within each strain cultivated.

HANDLING OF FAILED TESTS

1. **Failed Test Management**
   - If a harvest or production batch sample fails any initial test, Flower Dept may request remediation.

- Flower Dept will not sell or combine failed batches with others and will deem such products as cannabis waste.

2. **Remediation Procedures**
   - Flower Dept may remediate or sterilize failed batches as per the regulations if allowable, and these will be retested before any sale or transfer.
   - Detailed records of remediation, retesting, and disposal will be maintained.

4. Certificate of Analysis (COA)

1. **COA Generation**
   - Flower Dept will ensure that a COA is generated by the safety compliance facility for each harvest and production batch sample tested.
   - The COA will include the results of all analyses, and the safety compliance facility will provide necessary information such as batch numbers, sample identifiers, testing dates, and analytical methods.

INVENTORY MANAGEMENT

PROCEDURES FOR MAINTAINING INVENTORY DATA IN THE STATE'S ELECTRONIC MONITORING SYSTEM

In Flower Dept's cultivation operations, inventory data is meticulously maintained in the state's electronic monitoring system, METRC through API integrated software such as Dutchie. All cannabis plants, from seed to sale, are tracked using unique identification tags assigned to each batch or plant. Data such as plant growth stages, harvest yields, and waste disposal are regularly updated in METRC to ensure full traceability and compliance with state regulations. This process is managed by a designated track-and-trace system account manager who oversees the accurate and timely input of inventory data, ensuring that all transactions and movements within the facility are recorded and compliant with state requirements.

INVENTORY CONTROLS AND PROCEDURES TO CONDUCT INVENTORY REVIEWS AND COMPREHENSIVE INVENTORIES

Before commencing business, Flower Dept will conduct a comprehensive inventory of all cannabis available for cultivation, finished cannabis ready for sale, unusable cannabis, cannabis plants, including the seeds, parts of plants, and all cannabis products at the facility. Inventory will take place on the date Flower Dept first engages in cultivation and will include damaged, defective, expired, or adulterated cannabis awaiting disposal, including the name, the quantity, and the reasons for which the cannabis business is maintaining the cannabis. The initial inventory will be reported to the DCC utilizing the inventory tracking system METRC.

Flower Dept will establish inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of cultivating, stored, usable and unusable cannabis. All inventory

records will include, at a minimum: the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the employee who conducted the inventory. Inventories will also include the name, quantity, and reason Flower Dept is maintaining any unusable cannabis. If Flower Dept commences business with no cannabis on hand, the employee will record this fact as the initial inventory.

Product inventory will be updated daily. Flower Dept will also conduct a monthly inventory audit of cultivated, stored, usable and unusable cannabis. Flower Dept will conduct a comprehensive annual inventory audit at least once every year from the date of the previous comprehensive inventory. Reports will cover a complete and accurate record of all cannabis, including the seeds, parts of plants, and all products. Inventories will be promptly transcribed in the inventory control system. The employee performing the inventory will input findings into a device that interfaces with the inventory control system.

Upon commencing business, Flower Dept will begin conducting a weekly inventory in an electronic format of all cannabis plants, including, the seeds, parts of plants, and all cannabis products, which will, include, at a minimum:

- The date of the inventory and a summary of the inventory findings
- The name, signature, and title of the employee who conducted the inventory
- The date of sale or disposal date of all cannabis and cannabis products
- The name of the recipient to whom the cannabis or cannabis product was distributed, the address of such person, and the kind of cannabis or cannabis product
- The quantity of cannabis or cannabis products.

If Flower Dept finds an irreconcilable discrepancy between its physical inventory and the inventory tracking and monitoring system database, Flower Dept will conduct an audit, and notify the DCC of any reportable activity.

Flower Dept will acquire a reasonable initial and ongoing inventory of cannabis seeds, cuttings, clones, and immature plants and paraphernalia. Flower Dept will limit its inventory of cannabis seeds, cuttings, clones, immature cannabis plants, and usable cannabis to reflect the current market needs of consumers.

Flower Dept will use the inventory tracking system and any plant tags, product identification tags or stamps designated by the DCC, as well as be responsible for any fees from aforementioned items. Each plant, and all Work in Process (WIP) inventory will receive a tag that will remain with the plant, material, or product. Tags will be incorporated with Radio Frequency Identification (RFID) technology to interact with RFID readers and simplify accountability, to ensure the chain of custody, and efficiently display the tracking of plants and product inventory. WIP material will receive an RFID tag that accounts for these items with digital readers for the weight and source of all harvest and production batches every time a new batch is produced. RFID data includes strain

or product type, originating batch information, the physical location of the plant/material, and other unique identifiers matching the inventory control system data. Tags act as unique identifiers specific to batches of seeds on origination, each plant in each phase of cultivation, subsequent harvest batch weights, and final packages.

Flower Dept has identified the following areas as Critical Control Points for cultivation operations:

- Physical Inventory Control, including security, storage, tagging and tracking, and recordation
- Electronic Inventory Control, including the inventory control system the inventory tracking system of the DCC; and Inventory Accuracy, including lost, stolen, or destroyed products, reconciliation of inventory, and discrepancies and recalls.

To integrate these Critical Control Points, Flower Dept's SOP's reference materials include Document Management SOPs, Facility SOPs, Quality Assurance SOPs, and Inventory Control User Manuals and Documents.

WASTE MANAGEMENT

OVERVIEW

In compliance with CCR 4 regulations, Flower Dept places utmost importance on the proper management and disposal of cannabis waste. In the following paragraphs, we will discuss these procedures in detail, underscoring our commitment to adhering to regulatory requirements and maintaining the highest standards in our operations.

By implementing these comprehensive waste management procedures, our company demonstrates its dedication to fulfilling the requirements set forth by the State and maintaining the integrity and safety of our operations.

While it is the intent of Flower Dept to achieve a zero-waste operation, Flower Dept wants to ensure that it is in compliance with all local, county, state, and federal requirements for waste disposal. Flower Dept has crafted a Waste Management Plan that ensures compliance with all regulations stated by the DCC while driving the company toward its zero-waste goal.

For the purposes of Flower Dept's Waste Management Plan, waste is divided into the following categories:

- Solid Waste
- Recycling
- Organic Waste
- Electronic Waste

- Compostable Cannabis Waste
- Non-Compostable Cannabis Waste

Flower Dept does not anticipate producing any hazardous waste. In the event waste may be hazardous, Flower Dept will engage its cannabis waste hauler to complete a waste profile and determine whether hazardous waste disposal services are required.

It is Flower Dept's goal to not only understand the importance of the various types of waste, but to properly implement sorting procedures to ensure that each type of waste is properly disposed of. Each type of waste will have a designated bin that is properly labeled to ensure employee compliance. Flower Dept will also utilize educational signs and periodic training to ensure all waste is responsibly managed.

CANNABIS WASTE STORAGE RECEPTACLES

Flower Dept will bag cannabis waste and place it into two locked 65-gallon waste storage receptacles, one for compostable cannabis waste and the other for non-compostable cannabis waste. **These will be locked inside the facility secure storage room,** in a clearly labeled area segregated from cannabis goods for sale/transport. Ashes resulting from incineration can be placed in unlocked dumpsters or composted in a secure area, provided they are no longer hazardous.

Waste equipment will be managed in a way that will prevent the unintentional conveyance of cannabis waste outside the secure waste storage area. The waste storage receptacles will have the following features:

- Constructed to be easily handled for collection
- Constructed of rust-resistant and corrosion-resistant materials
- Equipped with a locking tight-fit lid or cover

SECURITY MEASURES

Cannabis Waste Storage Area

Flower Dept will go above and beyond to implement security measures that will prevent the theft or diversion of cannabis waste. Flower Dept will establish a secure waste storage area where physical access is restricted to select employees. This area, which will be within the secure storage area, is designed in a manner to prevent cross-contamination and minimize safety hazards, odors, dust, unsightliness, and other nuisances. Outside the facility, Flower Dept will utilize the existing tenant trash enclosures to store non-cannabis waste. If possible, Flower Dept will lock or add locks to the trash enclosure gates and add landscaping that obscures visual identification of the dumpsters from adjacent public spaces. This will help prevent attempts to break into the dumpsters.

Flower Dept will store waste in a way that does not create a risk of fire, explosion, or the accumulation of poisonous or otherwise harmful vapors or gases. Flower Dept will not generate hazardous waste or mix cannabis waste with hazardous material.

All waste storage areas will be subject to daily routine inspection. Flower Dept will routinely clean the areas and inspect for insects, rodents, birds, contaminants, and adulterants. The discovery of any insects, rodents, or other pests will warrant immediate action and extermination using a local exterminator. Regardless of inspection results, Flower Dept will clean and sanitize all areas and receptacles where cannabis waste is stored on a weekly basis.

Video Surveillance

To maintain accountability and security, all disposal activities must be monitored by video from start to finish. This measure helps in verifying that disposal procedures are followed correctly and provides a record of compliance.

Employee Oversight

The disposal of cannabis waste must be overseen by a minimum of two employees. This dual oversight ensures that there is a witness to all actions taken, thereby reducing the risk of mishandling or unauthorized diversion. Detailed records of each disposal event must be maintained, including the date, time, manner of disposal, unique identification codes of the waste, the reason for disposal, employee details, and, if applicable, details of cannabis prepared for sale.

Clear Bags

Flower Dept utilizes clear garbage bags for all waste throughout the facilities. Clear bags will allow all waste to be inspected. Clear bags prevent attempted diversion of product from the sales floor via garbage bins by allowing for visual inspection of all sales floor waste. Further, if someone does succeed in breaking into the dumpster holding non-cannabis waste, they may cease their criminal attempt once they see through the clear bags that they do not contain cannabis.

METHODS OF RENDERING WASTE UNUSABLE AND UNRECOGNIZABLE

Cannabis Destruction Policies

If any of Flower Dept's cannabis items become contaminated, recalled, expired, or otherwise rendered unusable, Flower Dept will dispose of them in accordance with the policies, procedures, and regulations described in this section. Flower Dept's inventory manager will always be present and oversee any destruction of product and ensure that it is properly recorded in METRC via Flower Dept's track-and-trace software, Trellis. All records related to cannabis waste destruction and removal will be saved for no less than seven years. Additionally, Flower Dept asserts that cannabis waste will never be sold for any reason.

Disposal Methods

Undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated cannabis must be rendered unusable. This can be achieved through two primary methods:

1. **Controlled Incineration**: Medicinal cannabis waste can be incinerated under controlled conditions to ensure it is completely destroyed and unusable.
2. **Grinding and Mixing**: Alternatively, the cannabis can be ground and mixed with non-consumable solid wastes such as paper, cardboard, food waste, yard waste, grease, or soil. This method ensures that the cannabis is thoroughly integrated with other wastes and rendered unusable.

All waste disposal activities will be meticulously recorded in the state's designated electronic monitoring and seed-to-sale tracking system. This ensures transparency and traceability of waste management practices.

Composting Grinder

Flower Dept will use a composting grinder, also known as a compost shredder or food cycler, to render cannabis unusable and unrecognizable. This product is a small appliance that chops up compostable items into an odor-free container. It is capable of shredding plant-based items, including cannabis. The shredding speeds up the decomposition of cannabis waste while mixing it with compostable non-cannabis materials added by the machine’s operator to dilute the final cannabis waste mixture.

The Flower Dept team has prepared the following processes to render waste unusable. This will occur weekly and be conducted by the inventory manager while under video surveillance. Depending on whether the cannabis goods and added non-cannabis component are compostable, either of the following processes will be followed. The inventory manager will sanitize all equipment used once the process is complete.

Process To Render Waste Unusable – Compostable

- Identify product in the quarantine area ready for disposal.
- Sort compostable and non-compostable waste.
- Remove compostable waste from packaging
- The manager must weigh the product and make any necessary adjustments to inventory records in Trellis (and METRC).
- Empty the cannabis into the composting grinder.
- Add non-cannabis compostable material in an equal amount to the cannabis material by volume.
- Flower Dept utilizes kitty litter or vegetable-based greases or oils.

- For example, if one ounce of cannabis is being rendered unusable, the inventory manager could add one ounce of vegetable oil to the composting grinder.
- Following the manufacturer's instructions, run the composting grinder until the cannabis waste is rendered unusable.
- The manager will repeat this process until all quarantined items are rendered unusable.
- Upon completion, the manager will empty the composting grinder container into a biodegradable bag labeled "Rendered Compostable Waste."
- This bag will be placed inside the waste receptacle labeled "COMPOSTABLE CANNABIS WASTE."
- A permitted waste company will be contacted to pick-up the waste for transport to a compost or anaerobic digester facility.

Process To Render Waste Unusable – Non-Compostable

- Identify products in the quarantine area ready for disposal.
- Sort compostable and non-compostable waste.
- Remove non-compostable waste from packaging.
- The manager must weigh the product and make any necessary adjustments to inventory records in Trellis (and METRC).
- Empty the cannabis into the composting grinder.
- Following the manufacturer's instructions, run the composting grinder until the cannabis waste is rendered unusable.
- The manager will repeat this process until all quarantined items are rendered unusable.
- The manager will dump the shredded cannabis waste into a biodegradable bag labeled "Rendered Non-
- Compostable Waste."
- They will then take shredded paper from the office and mix that with the non-compostable cannabis waste in the bag until the mixture is completely mixed and at least 50 percent paper by volume.
- Upon completion, the bag will be tied.
- This bag will be placed inside the waste receptacle labeled "NON-COMPOSTABLE CANNABIS WASTE"
- A permitted waste company will be contacted to pick up the waste for transport to a landfill or incinerator.

Other Waste

The disposal of other types of waste, including hazardous and liquid waste, must comply with all federal, state, and local regulations. This ensures that all waste management practices are not only

compliant with cannabis-specific regulations but also with broader environmental and public safety standards.

TRACK AND TRACE DESTRUCTION PROCEDURE

Terms such as “damage” and “destroy” are used in the cannabis industry to designate changes to inventory status changes. "Damaged” inventory may be product that is not fit for retail sale or product used for display purposes, while “destroyed” products are rendered “unrecognizable and unusable” by one or more standard industry practices. When cannabis must be disposed of or destroyed, Flower Dept will record the required adjustments in Flower Dept’s track-and-trace software that connects directly to METRC via application programming interface (API). Flower Dept will ensure that all waste and unusable products are weighed, recorded, and adjusted in Trellis before rendering and disposal, and that the system is constantly synced with METRC.

The inventory manager is responsible for creating and adjusting records in the system to record the destruction activity. Verification of this event will be performed by a second team member and conducted in an area with video surveillance.

For each destruction or disposal of cannabis or cannabis products, Flower Dept will record the following information in METRC, via its API integration with the inhouse system:

- The type of cannabis or cannabis products.
- The weight, volume, or count of the cannabis or cannabis products.
- The date of activity.
- ▪ The METRC UID(s) assigned to the cannabis or cannabis products.
- The name and identification number of the employee performing the destruction or disposal.
- The reason for destruction or disposal.
- The method of disposal.
- The name of the entity being used to haul the cannabis waste.
- A description of the reason for any adjustments made in METRC.
- Any other information required by the DCC.

EMPLOYEE EDUCATION

All employees will be trained by management on handling and managing cannabis waste. Employees who will operate the composting grinder will receive training on safely operating the equipment and must pass a knowledge assessment before operating the equipment independently. Flower Dept will also post educational posters in the company break room that use images and simple language to explain guidelines for disposing of different types of waste in different receptacles.

RECALLS

Flower Depts execute Recall Procedures within 24 hours of receiving a Recall Notice. Employees review all product recall notices and specific instructions that have been identified in the notices.

All recall notices are communicated to owners, operators, employees and customers. The Manager ensures recalled products are physically segregated (including any products that contain the recalled product) in the Quarantine Zone. If an item is suspected to contain the recalled product, but label information is not available, staff will follow cannabis waste procedures for disposal. The product is marked "Do Not Use' and "Do Not Discard," and all staff is informed not to use or move the product. The Manager identifies with the help of METRC to locate the batch items and verify that the items bear the product or batch code(s) and production date(s) listed in the recall notice. Accurate inventory counts of the recalled products are obtained, including the amount in inventory and amount used.

Flower Dept implements a corrective action plan to retrieve as many hazardous products from the distribution chain and from consumers as possible in the most efficient manner. A correction action plan outlines the procedures and steps needed to be taken by Flower Dept once a product recall is required, including industry notification, public notification, documentation and record retention, and disposal.

FLOWER DEPT SOPS TO HANDLE COMPLAINTS AND RECALL OF MEDICINAL CANNABIS PRODUCTS

1. Immediate Notification:
    - **To the DCC**: Notify the Department immediately upon discovering defects or receiving complaints about cannabis.
    - **Investigation**: Flower Dept must investigate complaints to determine if a recall is necessary.
2. Recall Decisions:
    - **No Action Required**: Notify the Department with a rationale if no further action is needed. The Department will review and consult if necessary.
    - **Action Required**: Initiate a recall if needed.
3. **Voluntary Recalls**: Notify the DCC via email when starting a voluntary recall for issues not posing a public health risk.
4. Mandatory Recalls:
    - **Immediate Notification**: Inform the DCC via phone and email.
    - **Secure and Isolate**: Prevent the distribution of affected products and coordinate disposal with the cabinet.
5. **Non-cooperation Penalties**: Failure to cooperate with recalls may result in cease-and-desist orders and other penalties.

6. Recall Plan:
    - **Recall Coordinator**: Designate employees responsible for managing recalls.
    - **Procedures**: Implement procedures to identify, isolate, retrieve, and dispose of affected products.
    - **Communications**: Notify affected parties, including other businesses and cardholders.
    - **Coordination with DCC**: Follow DCC-approved procedures for recalls and disposal.
7. Tracking and Recording:
    - **Electronic System**: Record recall details in the state's electronic monitoring system.
    - **Details**: Include amounts, types, coordinators, transport means, reasons, test results, and disposal methods in records.

STATE TESTING REQUIREMENTS

Flower Dept products are only sold to licensed distributors and manufacturers once the product has been tested by a licensed 3rd party Testing Laboratory with ISO/IEC 17025 accreditation. Flower Dept notifies its Distribution partners when it has a sample batch to be tested and arranges for pick up and transport by the Distributor to the Testing Laboratory. Flower Dept receives all Research and Development testing results as well as all Certificates of Analysis prior to selling any products.

- A local Testing Laboratory collects samples at the various phases to perform Research and Development testing.
- The Testing Lab ensures that the batch size from which the sample is taken meets the requirements of CDFA regulations.
- The Manager is physically present to observe the laboratory employee collecting the sample, and both parties ensure that the increments are taken from throughout the batch.
- The sampling is video recorded with the batch number stated verbally or in writing on the video at the beginning of the video, with a visible time and date indication on the video recording footage. The video recordings are maintained for 90 calendar days by the licensed distributor.
- After the sample has been selected, both the Manager and the laboratory employee sign and date the Chain of Custody Form attesting to the sample selection having occurred.

Flower Dept never assists the laboratory employee nor touches the cannabis goods or the sampling equipment while the laboratory employee is obtaining the sample.

PROCEDURES FOR MAINTAINING INVENTORY DATA IN THE STATES ELECTRONIC MONITORING SYSTEM

Flower Dept is committed to maintaining meticulous records through the use industry-leading software that integrates with the state-mandated METRC system. This ensures accurate tracking and compliance from seedling to sale. All records are securely stored in both a temperature-controlled vault and in the cloud, fortified by robust cybersecurity protocols. These comprehensive records are preserved for a minimum of seven years, underscoring our dedication to regulatory adherence and operational excellence.

In the event of a loss of access to the track-and-trace system, comprehensive records will be maintained and promptly updated once access is restored. Our sophisticated software platform also offers modules for cultivation, harvest, CRM, and analytics, providing real-time dashboards and reports to optimize our operations and ensure compliance.

TRACK AND TRACE

Flower Dept will use industry-leading tracking software such as BioTrack or the like, to track all cultivation and processing activities throughout the plant life cycle. Flower Dept accounts for all plants as a batch with a unique Tag that shall remain with the plant through final packaging.

Flower Dept will assign a tag at the time of planting for each plant. As actions are performed on plants during harvest, each plant's barcode will be scanned, and the action information will be entered into the software for recordkeeping. All plant movements, actions on plants including application of any material (water, nutrients, pesticides), or changes to the nature of the plant (trimming, removing dead material, changing elements such as growth medium) will be documented.

Flower Dept will take inventory of all plants on a weekly basis, maintain these records for at least seven years and make the records available to the DCC upon request. Any removal of plants from the batch will be recorded on a permanent record and maintained on-site.

Flower Dept designates an owner to be the track-and-trace system account manager. Flower Dept reports to the DCC's track and trace system the disposition of immature and mature plants, any transfers, and any waste. Flower Dept's platform will control all plants from seedling to sale and will have the following capabilities:

Cultivation Module

- Includes the Cultivation & Harvest modules. Generate unique IDs for plants, batches, harvests, and finished inventory.

- Cultivation Module: Track plants by batch, stage, room, or strain
- View mortality rate and the average age of plants
- Dispose of plants
- Track Mother plants and clones

Harvest Module

- Record wet, dry, trim, & cure yields
- Track yield per plant or batch
- Calculate moisture loss
- Run Trimmer Reports

CRM Module

- Enables you to manage your wholesale customers' accounts and create orders from a live inventory feed.
- Create customer profiles, log interactions, and view previous orders.
- Attach licenses and documentation to customers' profiles.
- Create orders pulling from a live inventory feed.
- Track order stages including approval, fulfillment, and delivery Generate order manifests and invoices.

Analytics Module

Includes real-time dashboards and custom query reports to give you an executive overview of your business.

Dashboards

- Cost per gram
- Composition and age of inventory
- Plants by stage and mortality rates
- Sales by customer and SKU

Reports

- Batch reports
- Active/Closed inventory reports
- Order reports
- Trimmer Efficiency

LOSS OF ACCESS

If Flower Dept loses access to the track-and-trace system for any reason, Flower Dept prepares and maintains comprehensive records detailing all tracking inventory activities that were conducted during the loss of access. Once access to the track-and-trace system is restored, all inventory tracking activities that occurred during the loss of access are entered into the track-and-trace system within 48 hours. Flower Dept documents when access to the track-and-trace system was lost and when it was restored. Flower Dept does not transport any cannabis or non-manufactured cannabis products to other licensed premises until such time as access is restored, and all information is recorded into the track-and-trace system.

PROCEDURES FOR MAINTAINING EMPLOYEE RECORDS

Secure Storage and Record Keeping

Flower Dept is committed to maintaining the highest standards of security and confidentiality for employee records. Physical records, such as contracts, identification copies, and performance evaluations, are securely stored in a temperature-controlled vault, accessible only to authorized personnel. Digital records are maintained in a secure cloud-based system, which employs strong cybersecurity protocols, including encrypted access, multi-factor authentication, and regular security audits. This dual approach ensures the integrity and protection of sensitive employee information. Employee records are retained for a minimum of seven (7) years after termination, with procedures in place for secure archiving or disposal in compliance with legal requirements.

Regular Updates and Compliance

To ensure that all employee records remain accurate and up-to-date, Flower Dept requires employees to update their personal information, such as address or emergency contacts, with HR. Any changes in an employee's role, department, or employment status are promptly reflected in their records, including adjustments to access rights and identification details. All record-keeping practices comply with federal, state, and local regulations regarding privacy and data protection, such as HIPAA and other relevant employment laws.

PREVENTING UNLAWFUL DIVERSION

MEASURES IN PLACE TO PREVENT UNLAWFUL DIVERSION

Diversion Prevention

Management will be attentive of potential diversion and will follow, encourage, and enforce strict procedures and policies to detect diversion. Signs of internal theft or diversion include: an employee's purchasing abilities increase at a rate inconsistent with their income; an employee accessing an area not assigned to them; and an employee removing anything from a limited area without supervisor approval.

Flower Dept understands that it will not transport, transfer, distribute, supply, or sell cannabis, usable cannabis, cannabis products, paraphernalia, or related supplies to consumers.

Background Checks

Criminal history background checks will be done for all employees and management prior to hiring to ensure that no one with a history of theft, product diversion, or other criminal activity that would deem the individual a hazard or potential threat. Security guards will also be trained to be alert and aware to potential cannabis and cannabis product diversion.

Flower Dept will utilize tools to prevent hiring employees who will encourage theft and diversion. Flower Dept will contract with a third-party background services firm which merges advanced search methodologies from multiple investigative databases and public record sources with interpretation by investigative specialists. This process ensures that Flower Dept will have complete and accurate information before deciding to employ an individual. Flower Dept will utilize behavioral assessments which offer insight into individual behaviors that not only may steal or divert cannabis, but also may perform poorly or fail to uphold security standards.

Access Regulation

Flower Dept will limit access to storage areas containing cannabis items. When it is necessary for visitors to be present in or passthrough cannabis item storage areas, Flower Dept will provide for adequate observation by cannabis business personnel whom Flower Dept specifically authorized by policy or job description to supervise the activity. In SOPs, Flower Dept will identify the personnel with authorization to access storage areas.

Employee identification cards will be worn at all times while on the licensed premises and cards will be color-coded to identify levels of access to portions of operations. The color-coded card will indicate access to specific areas the employee is authorized to enter when performing scheduled job functions. A person that is not a holder of a valid employee identification card is prohibited from accessing the premises unless they receive authorization and obtain a visitor identification badge. All photo identification badges will be worn at chest height on breakaway style lanyards. All photo identification badges will be placed inside a plastic transparent identification holder. Employees will not be permitted to place any item in or cover any part of their identification badge holder. Employees will be expected to follow Flower Dept's Code of Conduct.

Flower Dept, as well as any employed persons, will not impede, obstruct, interfere with, or otherwise not allow the DCC or law enforcement to conduct an inspection or to review or copy records or recordings or other documents. Flower Dept or employees will not conceal, destroy,

deface, damage, falsify, or otherwise alter any records, surveillance recordings, or other documents.
Prohibitions

Smoking, ingestion, or consumption of cannabis will be prohibited on the licensed premises at all times. This policy will be implemented and will be made available to the DCC. Flower Dept will not include a business that sells alcoholic beverages. Flower Dept will not sell any food, beverages, alcohol, tobacco, or nicotine products on or at the premises.

No person will be allowed to possess an illegal drug of any kind while on the licensed premises. No employee or volunteer will be under the influence of a controlled substance. Flower Dept will not allow entry onto the premises by a person who is under the age of 21. Flower Dept and its personnel and agents will not sell or give for consumption any cannabis items to a person under 21 years of age.

Reporting

When there is evidence of diversion, employees are trained to follow strict procedures that will result in an investigation and written report submitted to the DCC. Flower Dept, upon becoming aware of a reportable loss, discrepancies identified during inventory, diversion or theft, whether or not the cannabis, funds, or other lost or stolen property is subsequently recovered and/or the responsible parties are identified, and action taken against them, will immediately notify appropriate law enforcement authorities by telephone and notify the DCC no later than three hours after discovery of the event.

Flower Dept will notify the DCC within 24 hours by telephone, followed by email notification of any of the following: (1) An alarm activation or other event that requires response by public safety personnel; (2) A breach of security; (3) The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and (4) Corrective measures taken, if any.

Waste destruction will follow CCR 4 to prevent diversion of cannabis not intended for sale. Similarly, Flower Dept will ensure that recalled cannabis products cannot be diverted and misused.

Creating a Company of Honesty

Flower Dept will strive to create a “Company of Honesty” and will have an open communication policy. It will be the responsibility of all employees to report theft or dishonest behavior to management. Flower Dept understands the need to cultivate a safe work environment and will not tolerate behavior that affects the safety of employees or other individuals.

Flower Dept will create an open and honest environment for its employees by creating a set of strict policies and procedures that clearly state the appropriate actions that employees should take in specific situations. Failure to follow these policies will not be tolerated as it would compromise the safety of the employees and the security of the premises.

Packaging and Advertising

All advertising done by Flower Dept will full comply with advertising standards outlined in CCR 4. Specifically, Flower Dept will not promote diversion by appealing to anyone under 21 years of age. Flower Dept will place a legible, permanently affixed label containing the information on each package of finished usable cannabis that is ready for sale. Flower Dept will only release for distribution and transfer to another cannabis business cannabis that has been properly processed, tested, packaged, sealed and labeled in accordance with the provisions CCR 4.

WORKFORCE DEVELOPMENT AND JOB CREATION

PROGRAMS FOR EMPLOYEE DEVELOPMENT

At Flower Dept, we recognize that our success hinges not only on the quality of our cannabis products but also on the strength and capabilities of our workforce. Flower Dept will implement a comprehensive, inclusive labor plan to involve people of all walks of life in the ownership, management, and staffing of the Flower Dept. Flower Dept actively seeks individuals from various social groups such as socio-economically disadvantaged communities, individuals with prior involvement in the criminal justice or juvenile justice systems, and persons with disabilities.

Flower Dept is devoted to equity, diversity, and inclusion. We have developed Flower Dept-wide, targeted programs to positively impact our communities by promoting and encouraging participation from disproportionately affected communities in this newly legalized industry.

As we expand our cultivation operations, we are committed to creating a robust workforce development and job creation plan that supports our business goals, contributes to the local economy, and fosters a positive work environment.

This plan outlines our strategies for recruiting, training, and retaining top talent while ensuring that our employees have opportunities for professional growth and advancement.

Workforce Recruitment

Job Creation:

- **Expansion:** As we grow, we will create a variety of roles, including cultivation specialists, quality control analysts, harvest technicians, inventory managers, and administrative support staff.

- **Local Hiring:** We will prioritize hiring from the local community to support regional economic development and reduce turnover rates.

Recruitment Strategies:

- **Job Fairs and Community Events:** Participate in local job fairs and community events to connect with potential candidates and promote our employment opportunities.
- **Partnerships with Educational Institutions:** Collaborate with local colleges, universities, and vocational schools to create internship and apprenticeship programs.
- **Online Job Portals and Social Media:** Leverage online platforms and social media to advertise job openings and attract qualified candidates.

Employee Training and Development

Onboarding Program:

- **Orientation:** New hires will undergo a comprehensive orientation to familiarize themselves with our company culture, operational procedures, and compliance requirements.
- **Mentorship:** Assign mentors to new employees to provide guidance, answer questions, and facilitate a smooth transition into their roles.

Ongoing Training:

- **Skill Development:** Offer regular training sessions on technical skills, industry best practices, and safety protocols.
- **Certifications:** Support employees in obtaining relevant certifications, such as those related to cannabis cultivation and compliance.
- **Leadership Development:** Implement leadership and management training programs to prepare employees for advanced roles within the company.

Performance Evaluation:

- **Regular Reviews:** Conduct performance evaluations to assess employee progress, provide feedback, and identify areas for improvement.
- **Career Pathways:** Develop clear career pathways and professional development plans to help employees advance within the company.

Employee Retention

Competitive Compensation and Benefits:

- **Salary and Benefits:** Offer competitive salaries and comprehensive benefits packages, including health insurance, retirement plans, and paid time off.
- **Incentives:** Provide performance-based incentives and recognition programs to reward exceptional work and encourage employee engagement.

Work Environment:

- **Positive Culture:** Foster a supportive and inclusive work environment that values diversity and encourages collaboration.
- **Work-Life Balance:** Promote work-life balance by offering flexible scheduling options and support for personal needs.

Employee Feedback:

- **Surveys and Forums:** Regularly conduct employee surveys and feedback forums to gauge satisfaction and identify areas for improvement.
- **Open Communication:** Maintain open lines of communication between management and staff to address concerns and implement suggestions.

Community Engagement and Partnerships:

Local Partnerships:

- **Support Local Organizations:** Partner with local non-profits and community organizations to support workforce development initiatives and provide resources for job seekers.
- **Volunteer Opportunities:** Encourage employees to participate in community service and volunteer opportunities.

Economic Development:

- **Collaborate with Local Governments:** Work with local government agencies to support economic development and job creation efforts in the region.

Flower Dept will lean on its local partners to source qualified applicants from City and County. Flower Dept will also identify a local staffing agency to source qualified individuals with relevant background and experience to fill positions. Flower Dept also uses outlets such as Indeed, Craigslist, and Zip Recruiter to post ads for open positions. Incentives for locals to join our team will be the robust employee benefit program, high wages, and ample opportunities for continuing education. Flower Dept employees have the benefit of advancing their careers into all facets of the business, setting them up for success in the future regardless of what industry they may move into.

Flower Dept does not discriminate in hiring or operating decisions. All managers and supervisors must comply with all EEOC guidelines when managing staffing issues. No policy or procedure implemented by Flower Dept may lead to discrimination based on or conflict with laws regarding:

- Race
- Age
- Height or Weight
- Credit Rating or Economic Status
- Religious Affiliation or Beliefs
- Citizenship
- Marital Status

- Number of Children
- Gender or Gender Presentation
- LGBTQIA Status
- Arrest or Conviction unless in a sensitive position
- Security/Background Checks for Certain Religious or Ethnic Groups
- Disability

PROCESSES, METHODS, AND TECHNIQUES FOR CULTIVATING

If awarded a license to cultivate in the City, Flower Dept enlists the help of a Master Grower to run the day to day of facility oversight. Daily procedures for a Flower Dept facility are composed of instructions for each stage of the grow cycle, monitoring of all grow rooms, dry rooms, trim rooms, and post packaging rooms. Management has general oversight of the facility, working with each employee to ensure his/her task is handled according to Standard Operating Procedures. To assist with compliance, Flower Dept utilizes a system of checks and balances to monitor all operations, which include entering all plant and growth cycle information into the track and trace system, recording all treatments for pests, watering, soil levels, nutrient mixtures, and more.

Other procedures include safety and security measures, waste management, maintaining the odor control and HVAC systems, water system maintenance, and pest management. These processes are imperative to keeping operations running smoothly and the facility clean, safe, without odor, and free of pests.

Flower Dept intends on cultivating marijuana using a Perpetual Harvest Cycle. A Perpetual Harvest Cycle uses symbiotic rotation to maintain plants in all stages of the cannabis life cycle. This process uses procedures to move plants regularly to different areas of the cultivation facility, based on their age, to maintain a steady supply of flowering plants. By having a steady supply of flowering plants, there will ultimately be a steady supply of end products available for patient use. Flower Dept plans to cultivate marijuana within indoor facilities. The techniques employed to cultivate cannabis and cannabis are identical with the exception of nutrient application, which is tailored to all variants of the cannabis genus.

After initial seed germination, Flower Dept will propagate plants using cuttings from Mother Plants, called clones. Once clones have rooted, each plant will be moved into 2-gallon pots using coco planting media where the nutrient feed will be adjusted to support a 5.8-6.0 PH level. This is called the Vegetative Stage and Flower Dept will begin the process of incremental increases to the vegetative nutrient mix. The vegetative nutrient formula is set at 400 PPM in early vegetative state, then increased to a mix vegetative nutrient formula at 600 PPM in the middle vegetative state, and late-stage vegetative state plants and at 1000-1200 PPM for plants in their first 2 weeks in the flower photoperiod.

As vegetative plants mature, the cultivation staff will prepare plants for flowering by tapering off the nitrogen introduced to the grow medium transitioning to less nitrogen and greater levels of phosphorus and potassium. These plants are then transferred into one of the flower rooms where they will move from an 18-hour photoperiod to a 12-hour photoperiod in the flowering room begins the flowering process. Depending on a strain's particular flower time, cannabis plants will be harvested.

ADDITIVES, PESTICIDES, FUNGICIDES, AND HERBICIDES

Using Integrated Pest Management ("IPM") methods as defined by 7 U.S.C. § 136r, Flower Dept will manage pests with a variety of biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. IPM materials will be selected and applied in a manner that minimizes risk to human health, beneficial and non-target organisms, and the environment. Specifically, Flower Dept will only use products that are compliant with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 25(b) and do not require regulation by the U.S. Environmental Protection Agency (EPA) and the Department of Pesticide Regulation requirements. The Applicant's current list of pest management products include Azaguard, Zerotal, Trifecta, Procidic, Athena IPM, Castile Soap, H2O2 (for mildew and root flush), Sierra Natural Sciences Products, diatomaceous earth and Terra Verra. Flower Dept will apply pest preventative products twice a week (Tuesdays and Fridays) and will alternate the IPM products between 4 products over a 2-week period. Flower Dept will not use foliar spray pest preventative products in the final weeks before harvest. In addition to these preventative measures, Flower Dept will strive to use plant tissue to achieve clean genetics, plant tissue allows Flower Dept to clone from genetics that have been stripped of virus or disease and taken back to the plants pure genetic form. Flower Dept will grow multiple plant strains to determine which strains grow best in the State climate while resisting pests, mold, mildew and other pathogens.

SOP FOR INSPECTING SEEDS AND GROWING PLANTS FOR PLANT PESTS

Flower Dept is committed to ensuring that preventative measures are taken against insects, diseases, mollusks, and nematodes that may endanger the horticulture or agriculture of the state. All cultivation staff will be trained with visual aids to identify pests. Staff will conduct daily spot checking and overall visual inspection of plants including tops of the plant, mid canopy, fan leaves, and root areas will be inspected and recorded daily. Staff will note any indication of pests and pathogens such as powdery mildew, aphids, thrips, and mites in the Pest Inspection Log. This will also be located in each grow room to record any signs of pets, mold, or pathogens. The growing medium also undergoes daily review by a member of the cultivation staff for any indication of fungus gnats, root aphids, or any fungal or bacterial infections. Upon discovery of pests or pathogens present, staff will immediately alert the Cultivation Manager. Should dangerous pests be identified, the seeds and growing plants be quarantined and placed under stop sale using a Stop Sale Notice and Hold Order. Cultivation staff will quarantine nursery stock found infested or

infected with a plant pest and the management team will create a custom plan of action to remedy this issue, including the destruction of infected plants, if necessary.

PLAN FOR THE FUMIGATION OR TREATMENT OF PLANTS AND THE REMOVAL AND DESTRUCTION OF INFESTED OR INFECTED PLANTS

The Cultivation Manager will immediately be notified if there are plants that are suspected so infected plants can be promptly tagged for easy identification. Staff will also advise cultivation personnel and log information/data into the track and trace platform. Flower Dept will remove non-conforming plants by placing a black plastic bag over the top of the plant. Cultivation employees will fumigate the area around the non-compliant plant. Those plants will go to a quarantine area where they will be studied and disposed of to avoid further contamination. Flower Dept will ensure employees are trained and properly outfitted to perform the task of IPM product formulation and application. Flower Dept does not intend on using pest management formulations which require an REI (re-entry interval), the time after application before re-entry into the area, however, will allow a minimum of 15 minutes after application before allowing re-entry into that grow area. Flower Dept will fully implement and train to ensure compliance with Workers Protection Standards (WPS) as well as all local, state and federal worker safety regulations. Flower Dept also employs a defoliation technique at 2 times in the plant's life cycle. Removing all unnecessary leaves allows airflow through the plants and reduces or eliminates pathogen formation.

SANITATION

Flower Dept will adopt all protocols required under Good Agricultural Practices and Good Handling Practices as part of USDA certification. The Cultivation Manager will maintain certifications in Hazard Analysis and Critical Control Point (HACCP) standard operating procedures. All rooms and greenhouse bays will be maintained daily, which will include deep cleaning once a week. A food safe sanitizing solution registered by the EPA will be used by employees in accordance with the instructions printed on the label in all cultivation areas. Prior to planting the first crop and after each turnover of a greenhouse bay or the propagation room, all floors, walls, benches, and all other surfaces will be pressure cleaned and sanitized using a food-safe sanitation solution.

WATER SOURCE INFORMATION

Flower Department, LLC.

200 John St.

Banning, CA 92220

To Whom It May Concern,

With this letter we inform the city of Banning, CA that the property in question situated at 200 John Street, Banning, CA 92220 is served by the Banning Water Utility.

Flower Department, LLC. attests that as soon as we have a water bill, we will provide a copy to the City of Banning to fulfill the Water Source requisite in the CUP application.

Kindest Regards,

Antonio Simeone

Antonio Simeone

10/10/2024

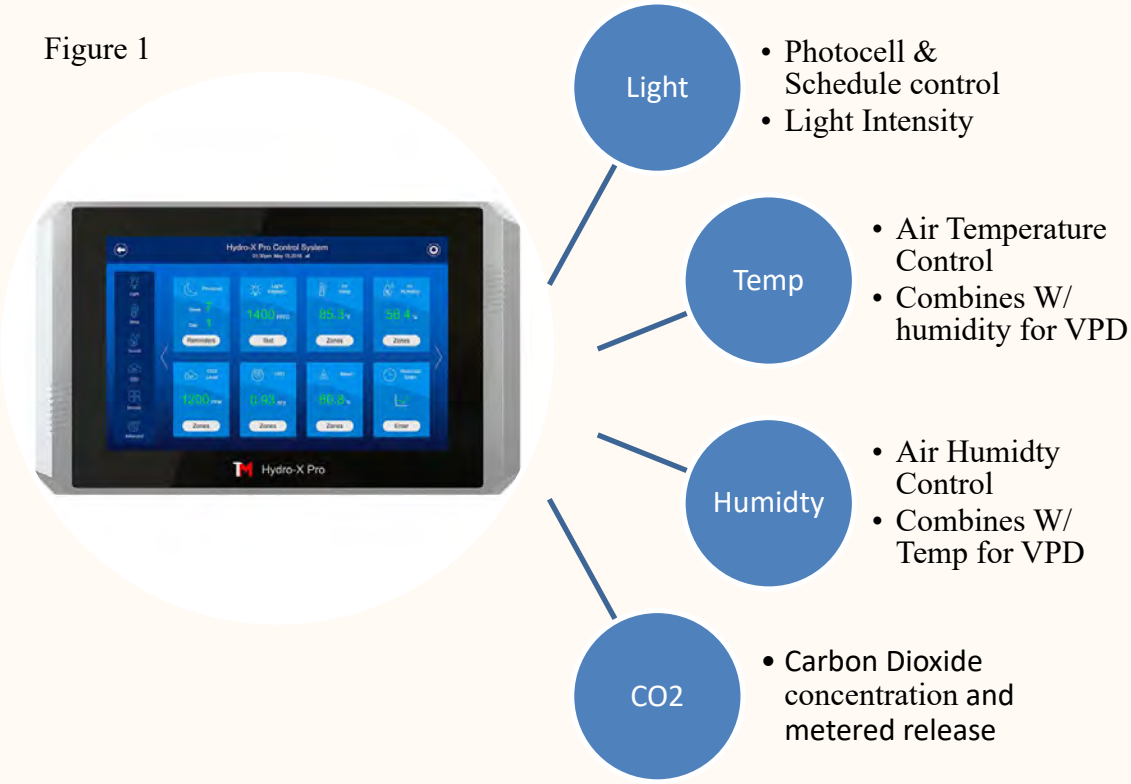
ENERGY EFFICIENCY PLAN

To maintain the highest possible facility energy efficiency, 50% of the facility shall operate in off peak hours to reduce the demand on the grid. In addition, operating half of the facility during the evening hours will reduce the costs associated with cooling the cultivation spaces as the thermal load is lower during the night.

The key approach driving efficiency is the incorporation of automated control of all environmental systems (*see figure 1*). The intelligent control system allows for exact control of lighting by measuring the actual quantity of photons produced by the lighting. The same system integrates the other environmental systems, providing consolidated control over cooling, humidity, and Carbon Dioxide levels. This systematized approach to cultivation control allows for reductions in waste by implementing similar "smart" systems that are being integrated into modern homes.

Proper Cultivation requires the optimal coordination of several growth factors. By incorporating an integrated "smart" system the facility is ensured to keep all growth factors at optimal levels without waste.

Figure 1



LETTER FROM THE BANNING MUNICIPAL ELECTRIC COMPANY

Flower Department, LLC

200 John St.

Banning, CA 92220

To Whom It May Concern,

With this letter we inform the city of Banning, CA regarding the property situated at 200 John Street, Banning, CA 92220.

Flower Department, LLC attests that as soon as we have a letter from the power provider, we will provide a copy to the City of Banning to fulfill this requirement.

Furthermore per Mr. Coffey at the City we were advised that the Electric Department would provide input on the CUP.



From: Ben Coffey <bcoffey@banningca.gov>
Sent: Monday, October 28, 2024 11:04:17 AM
To: Ricardo <ricardo@sconservationconstruction.com>
Cc: Beu-Review <Beu-Review@banningca.gov>
Subject: RE: 200 John St.

Ricardo,

When you submit for the Conditional Use Permit to the City, each department will provide their input and conditions for the conditional use. At that time, BEU will be able to provide input on providing service to the proposed project.

If you have an associated CUP number or any other reference number related to the CUP provided by the city, please provide so BEU can review.

Thanks

Benjamin Coffey
Electric Planning Supervisor
Banning Electric Utility
City of Banning
Direct Line: 951-922-3267
Office: 951-922-3260
bcoffey@banningca.gov

Kindest Regards,

Antonio Simeone

Antonio Simeone

10/10/2024

LIST OF ALL OWNERS, EMPLOYEES, INDEPENDENT CONTRACTORS, AND VOLUNTEERS

The Owners of Flower Department are:

- Antonio Simeone
- Kenneth Brymer
- Victor Quezada

Currently Flower Department in not working with any independent contractors or volunteers.

D. NEIGHBORHOOD CONTEXT MAP

600-FOOT OUTLINE
S SAN GORGONIO AVE.
E LIVINGSTON ST.
INTERSTATE 10
BRYANT ST.
RAILROAD
JOHN ST.
E LINCOLN ST.
GALLEHER WAY.
PROJECT SITE
GARCIA'S TIRE & TRUCK TRAILER REPAIR
SEVEN STAR FOOD STORE
PERFORMANCE METERS
BANNING CITY YARD
BANNING CITY STREET DIVISION
STATEWIDE TOWING & RECOVERY
BANNING USD, M& O
SOCAL EDISON SUBSTATION
BELOVAC
J & C RECYCLING
600-FOOT OUTLINE
600-FOOT OUTLINE
600' RADIUS MAP (NEIGHBORHOOD CONTEXT MAP)
600' RADIUS MAP
(NEIGHBORHOOD CONTEXT MAP)
200 JOHN ST.
BANNING, CA 92220
3 PETERS CANYON RD STE 110
IRVINE, CA 92606
A0.1
SHEET

E. SECURITY PLAN

To whom it may concern.

As the CEO of Golden Gate Security, I bring approximately 20 years of experience as a California State-bonded private Officer. I am a fully trained private Officer and industry expert in Executive Protection, Personal Security detail, Visual surveillance systems, access control, with specialized training in Digital Watchdog technology. Over the course of my career, I have provided security services for a range of commercial facilities.

I have assessed the existing and proposed site plans for 200 John St., Banning, to be renovated for use as a cannabis cultivation operation ("Proposed Structure"), as well as advised the applicant on best practices and adequate safety and security operating procedures ("Operating Procedures"). My assessment of the Proposed Structure and the Operating Procedures is tailored to meet best industry practices for securing commercial cannabis businesses, complying with the City Municipal Code and current and proposed State electronic security regulations.

I have set forth a detailed plan for a security surveillance system, including the quality and type of equipment to be used. The surveillance system and equipment shall meet and exceed the City's standard for security. The Manager and Police will have the capability to access all recorded footage, and can remotely gain access via internet for a live-feed. Cameras surveilling the Proposed Structure will be set to cover all areas demonstrated on provided plans in 4K quality, 24 hours a day, with a backup capable of storing footage for at least ninety (90) days, with additional expansion capability as required to accommodate future camera additions as needed. Coverage includes, but is not limited to, ingress and egress points, perimeter security and product security at all hours, and internal security measures for access. Panic button access and beam sensors at ingress and egress points will assure Applicant controls all personnel, visitors, deliveries and/or third party contractors at Proposed Structure. Proposed Structure will be completely secure to ensure Applicant controls all limited access areas, entrance onto site, ingress to buildings, safe access areas, and cannabis product storage areas.

Proposed Structure will have a back-up generator to ensure security during a power outage, and shall ensure all access doors are not solely controlled by an electronic access panel. All ingress and egress points will have the capability to remain locked during a power outage with a backup, manual locking system.

I suggest additional security measures are taken with a recommended on-site security guard for external and internal perimeter security. Golden State Security Services Corp., will provide security coverage to monitor, secure and patrol the site and monitor access, in accordance with the City requirements.

Proposed Structure will be adequately equipped with a burglar alarm system. The Burglar alarm system will be capable of alerting Applicant and local authorities of any breach of security after hours of operation, and includes a two-tone low current siren, and proper signage to warn intruders that Proposed Structure is equipped with a Burglar Alarm system. All ingress and egress points, windows, and any delivery bay areas will be monitored by motion sensors to immediately alert authorities of a breach in security. The alarm system will be monitored 24/7 at a UL listed central monitoring station and supervised for connectivity at a 300" interval.

It is my assessment that Proposed Structure and the applicants written Operating Procedures will meet and exceed the security and alarm system requirements set forth by the City and the State, and will ensure Applicant is adequately prepared with proper protocols to prevent diversion and theft of cannabis product, monies, and limit access to unauthorized individuals.

Sincerely,

Ruben Ramos

Ruben Ramos, CEO
Direct Line (714) 388-9074
WWW.GOLDENSTATESECURITY.COM

INTRODUCTION

SECURITY MISSION

Flower Dept seeks to cultivate cannabis and cannabis products with the highest standards for quality of product, service, and public safety. Every aspect of the operation will have a strong emphasis on security and preventing the theft or diversion of cannabis products with emphasis on compliance with the security requirements described in BMC 17.53. As an organization staffed by honest and compassionate professionals, Flower Dept is committed to its mission of working collaboratively with fellow cannabis business owners and local officials in creating and improving cannabis security programs. Flower Dept will position itself as an industry security leader by working with the cannabis community to further improve security policies and procedures and will serve as a model for cannabis businesses.

Flower Dept will provide law enforcement and neighbors of the cannabis business with the name and phone number of a staff member to notify during and after operating hours to whom they can report problems with the establishment. The facility is located near public buildings, who will benefit from the increased focus on security in the community. Loitering and trespassing are not expected due to the surrounding business types, as well as the inclusion of a fence encircling the facility.

Flower Dept will comply with all provisions of State and local laws, including other City laws governing the regulation of Cannabis Businesses. Flower Dept will attend regular meetings with representatives of the local Police Department (PD), Fire Department (FD), the County Fire Department (CFD), the City Manager, the City Attorney, Building and Safety Department, Planning Department, and the Code Enforcement Division to review public safety issues. Agents or employees of the City ("Inspecting Authorities") and the DCC requesting admission will be given unrestricted access to Flower Dept during all business hours including all records, reports, documents, point of sales ("POS"), products, surveillance footage, and any other requested access.

VIDEO SURVEILLANCE SYSTEM

EQUIPMENT

The professionally monitored video surveillance system will operate 24/7, recording all activity with images capable of revealing facial details. Fixed cameras will provide clear images of individuals and activities in all limited access areas, rooms containing security equipment, facility entrances and exits (recorded from both indoor and outdoor vantage points), rooms with exterior access points, storage rooms containing cannabis, safes, and the facility perimeter. The system will have auxiliary power for at least 24 hours, operate under normal lighting conditions, produce clear, color, digital still photographs, display synchronized date and time without obscuring the picture, and record images for at least 90 days. Recordings will be stored securely and easily accessible,

with the ability to export video recordings and photographs as requested by the DCC, law enforcement, or other government officials.

Per BMC §17.53.10(E)(1), the digital video surveillance system will have a minimum 100' of night vision capability, resolution of 1280 × 720 pixels, record at a minimum of 20 frames per second, and display the date-time group. Additionally, the system will be equipped with a failure notification system that provides notification of any interruption or failure of the system and storage devices.

Security cameras will be installed on the property, maintained in good condition. In compliance with BMC §17.53.10(E)(3) the video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and shall capture audio such that all sounds are intelligible. They will provide a clear, unobstructed view of the parking area, all entrances, loading areas, bays, windows, and any other areas as determined by the city. Per BMC §17.53.10(E)(4), cameras will be placed in fixed positions that allow clear recording from 20 feet of all points of entry and exit on the premises.

The entire interior and exterior of the facility will be protected and monitored by 24-hour video surveillance in the Central Security Control Room as per BMC §17.53.10(E)(2). Any irregular surveillance video footage would be investigated by the Cultivation Manager with the appropriate steps then taken to resolve any issues. Security personnel will have direct contact lines to local law enforcement authorities to report any suspicious activities and emergencies. Daily surveillance reports are created and stored by the security personnel, which are then shared with the Head of Security at Flower Dept & the Cultivation Manager for review.

All regular surveillance will be stored on hard disc for a minimum of 90 days. The storage device on which surveillance recordings are saved will be secured in a manner to protect the record from tampering or theft. The surveillance-system storage device and cameras will be remote accessible through transmission control protocol (TCP). The system will be capable of recording video in standard MPEG formats for transfer to another form, such as a DVD or USB.

CAMERA PLACEMENT

Flower Dept will install cameras inside and outside the facility to comprehensively cover all areas, which will be Digital Watchdog 1080p IP Dome Cameras, and there will be a License Plate Reader Camera facing the parking lot of the facility. Outdoor cameras will be rated for outdoor use and weather-resistant and waterproof. The camera types shall be:

(i) 2MP Dome with Infrared; (ii) C1D1 explosion-proof camera, (iii) 5MP 360° with Infrared.

In compliance with BMC §17.53.10(E)(5), Camera coverage includes locations where cannabis goods are weighed, packed, stored, loaded, and unloaded for transportation, as well as any areas where they are prepared or moved within the premises. The system must also cover limited-access

areas, security rooms, and areas where a surveillance-system storage device is kept, ensuring at least one camera records access points to the secured surveillance recording area. Additionally, all entrances and exits to the premises, as well as waste containers, must be under video surveillance.

MAINTENANCE OF VIDEO FUNCTION

Per BMC §17.53.10(E)(9), Flower Dept shall contract with a professional, reputable company to install and maintain a fully operational digital video surveillance and camera recording system.

Inspection, Servicing, and Records Retention

The security alarm and surveillance systems will be inspected and tested annually by qualified vendors, with monthly maintenance inspections to ensure proper operation and timely repairs, alterations, or upgrades. Records of all inspections, servicing, alterations, and upgrades will be retained for at least seven (7) years and made available to the DCC upon request. In the event of a mechanical malfunction expected to exceed eight hours, the DCC will be notified immediately, and alternative security measures may include facility closure.

Flower Dept will maintain a secure electronic back-up system for all electronic records and provide screen captures of video surveillance recordings within 24 hours upon request. If notified of a pending investigation, an unaltered copy of relevant recordings will be retained for seven (7) years or until the investigation is closed. Commercial-grade doors and locks will be installed on all external doors, with keys or key codes held by authorized individuals. During non-working hours, all entrances and exits will be securely locked.

Access and Security Maintenance

Access to rooms containing security alarm and surveillance monitoring equipment will be limited to essential personnel, law enforcement, service employees, and authorized agents of the DCC. A current list of authorized employees and service employees or contractors with access to these areas will be maintained and available upon request. Rooms housing security equipment will be locked at all times and not used for any other purpose. Point of sale systems will be routinely inspected to confirm the absence of malicious software, with each inspection documented and retained for a minimum of seven years.

Per BMC §17.53.10(E)(6), all cameras installed inside and outside the facility shall be continuously recording twenty-four (24) hours a day.

- The digital video surveillance shall have a minimum camera resolution of 1280 x 720 pixels and shall record at a minimum of 15 frames per second.
- Per BMC §17.53.10(E)(7-8), all video recordings shall be maintained securely and confidentially by Flower Dept for no less than ninety (90) calendar days.
- The surveillance system storage device or the cameras shall be transmission control protocol (TCP) capable of being accessed through the internet and remotely.

- Each camera shall be permanently mounted and in a fixed location.
- Each camera shall be placed in a location that allows the camera to record activity occurring within 20 feet of all points of entry and exit and allows for the precise and specific identification of any person and activity in all areas under video surveillance.
- The storage device which holds the surveillance recordings shall be stored securely to protect the recordings from tampering, damage, or theft.
- The recorded images shall clearly and accurately display the time and date, measured under the United States National Institute Standards and Technology standards as per BMC §17.53.10(E)(11).
- The video surveillance system shall be equipped with a failure notification system that provides notification to the Cultivation Manager of any interruption or failure of the video surveillance system or storage device as per BMC §17.53.10(E)(12).
- In compliance with as per BMC §17.53.10(E)(13), all video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage. An electronic access panel will not solely control access doors on the premises to ensure that locks are not released during a power outage.
- The permitted premises shall have a sign posted in a conspicuous place near each monitored area on the interior and exterior of the premises. They shall not be less than twelve inches (12") wide and twelve inches (12") long, composed of letters not less than one inch (1") in height, stating 1) "All Activities Monitored by Video Camera" or "This Premises is Digitally Recorded," or otherwise advising all persons entering the premises that video surveillance and camera recording system is in operation at the premises and recording all activity, and 2) "Limited Access Area- Authorized Personnel Only."

DIGITAL STORAGE

The video surveillance shall be digitally stored on hard drives located in the Management Office within the building on storage systems specifically designed for digital surveillance systems. Surveillance video recordings shall be maintained for a minimum of ninety (90) days. On an E-Rack Network, Video Recorder capable of 110 Management will keep a map of the camera locations, the direction of camera coverage, and the assigned camera numbers. Management will keep surveillance equipment, maintenance activity logs, and operating instructions for the surveillance equipment. Management will hold a user authorization list of individuals who have access to the surveillance system, including, but not limited to, the secured area for recording and monitoring equipment and physical media and surveillance recording storage devices. All surveillance information will be made available upon request of city officials without a search warrant, court order, or subpoena.

As per BMC §17.53.10(E)(10), surveillance recordings are subject to inspection by the City, and shall be kept in a manner that allows the City to view and obtain copies of the recordings at the

licensed premises upon not less than 24 hours advance notice. Flower Dept shall also send or otherwise provide copies of the recordings to the City upon reasonable notice by the City.

The video surveillance system shall have software to allow immediate playback and indexing to whatever time is requested. Such files shall be easily downloadable into a USB drive or similar electronic media storage for Department inspection.

The video surveillance system shall employ an IP addressable DVR that will allow certain authorized licensees to access video surveillance feeds via a password login.

VIDEO MONITORING

All video surveillance will be monitored by security personnel from the Central Security Control Room. Security personnel will have direct contact lines to local law enforcement authorities to report any suspicious activities or emergencies. All Video Monitoring will always have a direct live feed to the Banning City Police Department.

There will be at least one Panic Button at the front Reception Desk. When evaluating the final built-out cultivation space, we may determine if additional Panic Buttons will be included. All staff will be trained on the proper use of panic buttons and the processes that follow if a panic button is activated. A silent panic alarm shall immediately send a signal to a central monitoring and then upon protocol, to law enforcement.

Daily surveillance reports are created and stored by the security personnel, which are then shared with the Cultivation Manager for review. All reports will be available to the Banning City Police Department upon request.

In addition to constant monitoring during business hours, a video feed failure message will be sent to designated managers and security personnel whenever a failure of the video system occurs. This is similar to the alarm system, which triggers an alert whenever a power failure or signal failure is detected.

ALARM SYSTEM

The facility will be monitored by a burglar and fire alarm monitoring company 24/7, that is experienced and licensed by the Department of Consumer Affairs, BSIS as per as per BMC §17.53.10(F)(1). Sensors will be installed at all entry points, and motion detectors will be installed to cover all areas of the facility. The licensed alarm monitoring company will monitor and perform monthly service on the system. The system will be put into test mode and tested at least once a month for any failures. An alert will automatically be sent to designated company personnel by the alarm company when communications or power is lost. On-site, an audible signal shall be emitted in the event of power loss and communications breakdown with central monitoring. Real-time monitoring is part of the alarm company contract.

MONITORING AND TRACKING INVENTORY

INVENTORY CONTROL

Receiving And Tracking Cannabis Inventory

Flower Dept will maintain an active account with the METRC system to track and trace all cannabis sales and will document the location, amounts, and descriptions of all cannabis inventory and sales historical transactional data. Flower Dept will arrange all cannabis purchases using the track and trace system for inventory management and compliance and will perform Flower Dept-wide product inventory reconciliations at least once every 30 days. Two employees will independently perform inventory reconciliations, and problems will be reported to the Security Manager. Results will be stored and provided to the City or the DCC upon request. If a significant inventory discrepancy is discovered, Flower Dept will notify the DCC and local law enforcement within 24 hours.

Cannabis Secure Storage Policies

The Vault has been designated to store all usable, quarantined, and pending-disposal cannabis in the facility after business hours. Flower Dept will not store cannabis or cannabis products outdoors; all operations will be performed within an enclosed building. No cannabis will be visible from the exterior of the premises. Safes and vaults will comply with UL burglary-resistant and fire-resistant standards. Drywall in the walls and ceiling of the Vault will be reinforced with maximum-security ASM .75-9F fire-resistant mesh. All cannabis waste will be tracked in the inventory control system. Flower Dept will ensure that all cannabis waste is rendered unrecognizable and unusable.

NOTIFICATION PROTOCOLS

Flower Dept notifies the local licensing authority and the appropriate law enforcement authorities within twenty-four hours:

- After discovering if there are any significant discrepancies identified during inventory.
- Of any diversion, theft, loss, or any criminal activity involving the facility or any employee or agent of the cultivator.
- Lastly, but not limited to the loss or unauthorized alteration of records related to cannabis, employees or agents.
- or any other breach of security.

If a significant discrepancy is discovered (meaning a difference in actual inventory compared to inventory records of at least 3% of the average monthly sales), Flower Dept shall notify the Department and law enforcement consistent with applicable regulations. The Cultivation Manager shall be responsible for making any necessary changes to inventory procedures and direct the

retraining of personnel immediately upon discovering a problem in the inventory procedures. Any subsequent changes to inventory procedures shall be documented and logged.

PERSONNEL SECURITY

The perimeter of the premises will be designed and maintained to safeguard staff and visitors and to secure the facility from theft and diversion of cannabis goods. Flower Dept will have a responsible person on the premises to act as manager and supervise the employees at all times during hours of operation. At least two employees will be on-site during regular business hours to ensure accountability and safety. All areas of the premises will be maintained free of trash, litter, and debris and kept clean, orderly, and attractive, and all facility floors, walls, and ceilings will always be in good repair. All graffiti on the premises will be removed within 48 hours.

COMMERCIAL GRADE LOCKS

Flower Dept will proactively limit concealment outside the premises. No door or access point within the premises will be blocked or obstructed by interior or exterior security gates, grilles, or shutters during hours of operation. Exterior windows will be burglar-resistant and secured with glass break sensors. Shutters may be installed in the interior and will not be vulnerable to tampering outside the building. Steel bollards or similar physical barriers will be installed to prevent vehicles from driving through doors. Flower Dept will install commercial-grade, non-residential metal doors, hinges, and Grade 1 ANSI-rated door locks on all exterior doors unused for public entry and every door leading to a limited-access area. These 16-gauge steel security doors will be on a metal frame with hinges on the door's interior to prevent forced entry. Exterior locks will be shielded with metal plates to prevent manipulation from the outside. All exit doors will be manually operable during power outages.

Additionally, exterior doors shall be adequately equipped with panic hardware as required by all applicable state codes. Entrances into our facility shall always be locked with entry strictly controlled. A “buzz-in” electronic/mechanical entry system shall be utilized to limit access to the facility.

All internal doors will be sealed and heavy-duty interior doors. All doors will remain locked from the outside to prevent unauthorized ingress. Ingress shall be allowed by means of a remote release operated from within the location.

In all cases, doors shall remain openable from the inside to allow egress without the use of a key or special knowledge. If installed, access-controlled egress doors shall comply with Section 1008.1.3.4 of the California Building Code. Windows and roof hatches will be secured from the inside with bars to prevent unauthorized entry and shall be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency in compliance with all applicable building codes.

All points of entry are secured with bars, retractable, folding, or sliding metal gates, or metal rollup or accordion doors, none of which will be visible from the exterior.

SIGNAGE REQUIREMENT

As stated above, the premises shall have signs posted in a conspicuous place near each monitored area on the interior and exterior of the premises. They shall not be less than twelve inches (12") wide, and twelve inches (12") long, composed of letters not less than one inch (1") in height, stating "All Activities Monitored by Video Camera" or "This Premises is Being Digitally Recorded," or otherwise advising all persons entering the premises that a video surveillance and camera recording system is in operation at the premises and recording all activity.

Flower Dept will designate certain areas of the facility as limited access areas with visible signage posted. Restricted access areas shall be clearly identified by the posting of a sign which shall be not less than twelve inches wide and twelve inches long, composed of letters not less than one-half inch in height, which shall state, "Limited Access Area—Authorized Personnel Only."

LIGHTING

In compliance with BMC §17.53.10(H), Flower Dept's ingress and egress points, Flower Dept will comply with the city's lighting standards regarding fixture type, wattage, illumination levels, and shielding, regarding "Light Pollution."

Flower Dept will use motion-activated lighting to increase camera clarity and to ensure proper surveillance during hours of darkness. The lighting system will be directed downward with an average horizontal illumination of at least one foot-candle of light illuminated at night to a minimum of 500 lux. Lighting will cover all entrances and exits, possible intrusion points, sidewalks and adjoining sidewalks, facades, parking lots, immediate surrounding areas, and exterior walls. The lighting system will have a dependable auxiliary power source independent of the power system.

The facility will be lit by exterior lighting between the hours of dusk and dawn, 365 days a year. There may be occasions (e.g., inclement weather) when the lights are required to be used during the day, which will be at the judgment of the Cultivation Manager.

We will be using LED 4000K Flood Lights supplied by GE. These lights offer 11 years of light life (50,000 hours) and are widely used to illuminate similar buildings in the industry. The LED lighting solution selected considers security and safety requirements, design, energy efficiency (reduced carbon footprint), and uniform distribution of light (to aid security cameras and minimize 'dark areas' which become potential security breaches).

The lights have a die-cast aluminum housing and a slim architectural design that incorporates an integral heat sink and light engine, ensuring maximum heat transfer, long LED life, and a reduced Effective Projected Area (EPA). Lights meet 2g Vibration level per ANSI (C136.31 – 2010). The

lights are rated at -40 degrees to 50 degrees Celsius and are fully compliant with all industry standards. The lights will be mounted on the building's exterior and wired with a cable to the building's power.

FACILITY ACCESS PROTOCOLS AND STAFF IDENTIFICATION MEASURES

ACCESS CONTROL AND INTERIOR ENTRY KEYCARDS

Flower Dept will implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis. Flower Dept will implement employee, visitor, and facility security policies by installing an access control system regulated by proximity-access keycards, such that entry into each room will be logged and authenticated for each employee. Incorrect credentials will be logged as well, and access will be scheduled to shift hours only. Stolen or lost keycards or other access credentials will be terminated by the Security Manager or other authorized administrators.

Flower Dept will limit entry into areas where cannabis is held to authorized personnel. All areas within the licensed premises where cannabis is cultivated, stored, or worked with will be considered an age restricted limited access area. Flower Dept will not permit an individual less than 21 years of age to enter, or be within, a limited access area. Highly restricted rooms will use two-factor authentication, such that each employee will be given an access proximity security card that will grant access to specific areas the employee is authorized to enter when used with a security PIN code specific to the employee.

EMPLOYEE BADGES

All employees shall wear and display a laminated or plastic-coated identification badge issued by Flower Dept, always while at the facility, and during transportation or delivery of cannabis goods. The identification badge shall, at a minimum, include Flower Dept's name (and "doing business as" name), city license number, state license number, employee's first name, unique employee number, and a color photograph that clearly shows the full front of the employee's face that is at least one inch (1") in width and one and a half inches (1.5") in height.

The Head of Security shall be designated to manage the badge system. Only the Head of Security (HOS) may make changes and issue employee badges according to changing responsibilities and/or leaves employment. HOS shall make changes to the approved roster of authorized personnel in accordance with those changes.

PERIMETER ENTRY AND ACCESS

Flower Dept will keep access from outside the premises to a minimum and ensure that access is well controlled. During non-working hours, entrances to and exits from the site will be securely locked. This will ensure the premises and all access doors remain secure in the event of an

interrupted power supply. All exterior doors and windows will be alarmed and secured against entrance or breakage. Keys and key codes for all doors will remain in the possession of the designated authorized individual.

All entrances will have controlled access via proximity and PIN code lock technology. Exterior doors will be protected by 16-gauge steel security doors that are rated for 60-minutes forced entry resistance. Locks will be shielded and hinges will be placed inside the facility.

VISITOR MANAGEMENT

A person that is not a holder of a valid employee identification card of the Flower Dept is prohibited from accessing the premises unless they receive authorization and obtain a visitor identification badge from the premises. All visitors will be required to sign a visitor log upon entering and leaving the premises. Flower Dept's visitor/vendor log will contain the following information: Badge Number, first and last name, company or agency, purpose of visit, areas of the site visited, escort name, time of arrival and of departure, and signature. Visitors will wear disposable pocket-less coveralls with shoe covers to limit contamination. Visitors will be escorted by a guard or employee at all times.

The visitor log will be available for inspection at all times. The visitor log will be maintained for five (5) years and made available to the DCC, law enforcement, and other state or local government All restrooms at Flower Dept will remain locked and under management's control. Employees will use key cards for access and will escort any visitors in restricted areas.

LIMITED ACCESS AREAS POLICIES

Flower Dept will designate certain areas of the facility as limited access areas and will have in place the following policies:

- Flower Dept will only permit authorized individuals to enter the facility's restricted access areas.
- Authorized individuals include employees as well as any outside vendors, contractors, or other individuals who have a bona fide business reason for entering the limited access area and are always accompanied by an employee.
- No unauthorized individual shall be allowed access to or enter the facility's limited access areas.
- An authorized visitor shall always be escorted by a company employee(s) the individual is in a limited access area.
- All individual that enter the limited access areas shall be at least 21 years of age.
- Flower Dept shall maintain a log of all authorized visitors that enter the facility limited-access area (and the employee that accompanied the visitor). These logs shall be made available to the Department upon request.

- Flower Dept shall not receive consideration or compensation for permitting an individual to enter the facility's limited-access area.

BACKGROUND CHECKS & LIVE SCANS

Every person listed as an owner, manager, or supervisor of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the City of Banning Police Department pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal-level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be sent to the Federal Department of Investigation.

According to California Penal Sections 11105(b)(11) and Page 32 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the Chief of Police or their designee(s).

A fee for the cost of the background investigation, which shall be the actual cost to the City of Banning to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.

A log of all background check documents shall be held by both the Head of Security and the Cultivation Manager at Flower Dept

EMERGENCY CONTACTS

A list of emergency contacts will be listed at the facility to include local Police and Fire Departments, Utility Providers, Health Care and Hospitals, and the Cultivation Manager.

STORAGE

STORAGE OF CANNABIS AND CANNABIS ITEMS

Flower Dept's storage policies are designed to ensure that storage areas of all cannabis are kept in a secured manner during business and non-business hours. Flower Dept will establish a standard operating procedure for the quarantine of any cannabis seed, cutting, clone, immature cannabis plant, batch of cannabis, or manufacturing material. Flower Dept will also provide segregated storage rooms for all items such as the ones listed below:

- Newly received manufacturing materials or components and newly received cannabis seeds, cuttings, clones, immature cannabis plants, or usable cannabis.
- Batches of usable cannabis awaiting release for distribution pending written reports confirming they meet specifications.
- Any usable cannabis suspected but not yet confirmed to be contaminated, including usable cannabis returned as part of a complaint or recall process.
- Usable cannabis, components, or materials that have been confirmed to be contaminated, including, but not limited to usable cannabis that fails testing or is returned as part of a recall, and will be stored with cannabis waste in a waste area until destroyed and rendered unusable.

Safe Storage

Following cultivation, all cannabis will be stored in a secured and locked safe room, safe, or vault, and in a manner to prevent diversion, theft, and loss. Flower Dept intends that all cannabis products outside the Vault, including quarantine and pending disposable cannabis, will be secured and stored in a UL TL-rated (TL-30) safe with an Underwriters Laboratory 5-minute time delay Group 1 outside lock.

All of the storage safes for cannabis will use UL Group 1 outside combination and PIN code locks to secure the safe door. A Group 1 combination lock is resistant to skilled manipulation attacks for up to 20 hours. All safe locks will also be installed with a 5-minute time delay before unlocking the safe to increase the length of time needed to open the safe.

Climate Control

UL-rated HVAC vents will be installed in the Vault to ensure that cannabis does not degrade. All cannabis and cannabis products that require refrigeration will be kept in a refrigerator unit that is secured to the ground. The door of the refrigeration unit will be secured and protected from being compromised by a pry device. The temperature will be set to maintain the highest integrity of the cannabis at all times.

CYBERSECURITY

Flower Dept will take all necessary steps to protect the information of its visitors, vendors, employees, owners, board members, and other individuals who have shared sensitive information. Flower Dept will limit the use of passwords to registered, authorized employees. Access to the security equipment and computer will be password protected. Management will be required to safeguard this password by keeping it confidential and not writing it down in an area that could be accessed by others. Files for inventory and finances will be backed up to a secure cloud server.

Internet use on any device will be restricted to business related tasks and will not be used for personal use. The video surveillance system will use a hidden network separate from other systems

requiring IP bandwidth. Flower Dept will also use anti-virus, anti-malware, online security software to scan for potential cyber threats to ensure premium cybersecurity.

PERIMETER SECURITY

EXTERIOR OF BUILDING

To provide for the safety of the public, employees, and product inside the facility, Flower Dept understands that this requires the exterior building to be safe and secure. Employees must feel safe when accessing and exiting the building, community members must feel safe when driving and walking by the facility.

MOTION DETECTION

We will install Motion Detection sensors around the building and on the roof of the building, which shall activate an alarm if triggered. These will be appropriately installed by a State-Licensed Security firm and tested every 3-months.

LOITERING

Our company shall prohibit loitering by persons outside the facility both on the premises and within fifty feet of the premises. Security guards patrolling the exterior of the premises periodically will ensure that people do not congregate around the building entrance, or in the vicinity. Security will also ensure that parking lots do not become areas of the unnecessary congregation and that no cannabis is consumed in the parking lots, or anywhere around the exterior of the premises, including nearby neighboring structures.

VISIBILITY OF PUBLIC ENTRYWAY

Flower Dept will ensure its premise public access entryway is safe, easily accessible, handicap accessible, and does not cause excessive levels of attention or attraction.

LOADING & UNLOADING

The facility will utilize the main front entrance for loading and unloading of product deliveries and distributor pickups. The area will be secured at the time loading/unloading occurs by security guard supervision.

EMPLOYEE THEFT REDUCTION MEASURES

The third-party security company contracted by Flower Dept has created policies and standard operating procedures on behalf of Flower Dept that all employees shall review, acknowledge, and enforce. The operating procedures include guidelines regarding the following: (1) Employee Theft and Fraud Policy; (2) Security Awareness; (3) Internal Larceny; (4) Outside Authorities Access;

(5) Secured Areas Access Control; (6) Delivery Monitoring; (7) Video Surveillance; (8) Cash Handling Procedures; (9) Securing Product Deliveries; and (10) Securing Armored Cash Pickup.

Flower Dept's Cash Handling, Inventory Audit, and Product Access restriction policies and procedures will significantly reduce the opportunities in which employees will have access to restricted products.

Flower Dept utilizes the approved METRC system to tag and track all plants at the facility. Flower Dept's use of this system will provide accurate inventory accounting, making it less likely employees will engage in theft.

While cannabis security and inventory shall be every employee's responsibility, Flower Dept shall designate one Inventory Manager specifically tasked with overseeing weekly, monthly, and annual.

Physical inventory checks will be conducted at least every two weeks and will be properly documented. A full inventory will be taken annually, overseen by the Product Inventory Manager, and tracked by inventory software.

ONSITE SECURITY GUARDS

SECURITY GUARDS

Flower Dept will contract licensed security guards to guard the premises during all hours of operation. Security guards will maintain an overt, professional appearance, establishing a peaceful, safe, and reassuring presence. This presence will discourage loitering, suspicious activity, criminal behavior, theft, and diversion of cannabis products.

Security guards will be of the highest caliber in their selection and training in both conflict resolution and safety — acting as a deterrent yet able to render aid and protect when necessary. During business hours, security guards will be responsible for:

- Monitoring activity within the premises
- Monitoring the perimeter for suspicious persons or activity
- Remotely opening the gates when needed
- Ensuring the security systems operation
- Conducting alternating internal and external patrols at least every two hours
- Confirming individuals are authorized to access areas they are in
- Requesting identification from unfamiliar individuals
- Confirming procedures are being followed
- Checking for damage to infrastructure
- Reporting any intruders or emergencies immediately
- Keeping security logs including name, date and time, and all areas patrolled/monitored.

Flower Dept currently plans to contract with a local licensed security agency with knowledge of the cannabis industry.

A Security Manager will be designated to provide leadership and training to employees, to ensure a secure environment, and to prevent product diversion, theft, and loss. The Security Manager will always have a direct line to guard company management in the event of an incident or missing shift. The Security Manager will lead efforts to implement security measures that protect the premises, consumers, and cannabis business personnel.

Flower Dept will hire or contract for at least one Security Guard during operating hours. Guards will be at least 21 years old, licensed by the Department of Security and Investigative Services (BSIS), and will not possess firearms or tasers. Guard shifts are eight hours but may be extended in case of emergency or need.

NUMBER OF GUARDS

Flower Dept anticipates between 1-4 security guards on site 24 hours a day, 7 days a week with at least 1 security guard with a patrol car if available.

GUARD SHIFTS

Guards will work on two, eight-hour shifts, morning shift from 6am-3pm, and evening shift from 2pm-11pm (including 1-hour break). One guard will remain at the facility during all non-operational hours.

RESPONSIBILITIES

Security Guards will be responsible for overall site and perimeter security.

All security guards employed at Flower Dept will be licensed by the Department of Security and Investigative Services (BSIS) with a valid Department of Consumer Affairs Security Guard License ('Security Guard Card'). Flower Dept Security Guards will also undergo additional training by BSIS certified trainers and other specialist providers. Such training shall include, but not be limited to: threat assessment, risk mitigation, visitor management, systems, hardware and critical incident management.

All security guards must be at least 21 years of age, have undergone a criminal history background check through the California Department of Justice (DOJ) and the Federal Department of Investigation (FBI), and complete the Power to Arrest Training, which includes:

- Thirty-two hours of training in security officer skills; and
- Eight hours of continual training which must be completed annually

Guards provide onsite and neighborhood security within a two-block radius of the business during hours of operation. Security guards will maintain an overt, professional appearance and establish a peaceful, safe, and reassuring presence. This presence will discourage loitering, suspicious activity, criminal behavior, theft, and cannabis diversion. Security guards will also assist management with the execution of emergency procedures during events such as severe weather, evacuations, medical emergencies, robberies, active shooter situations, and power outages. Flower Dept's guards will prevent nuisance from occurring on the premises. Additionally, security guards will: ensure that no person consumes cannabis or cannabis products on the premises, stores or possesses alcohol, or the sale, dispensing, or consumption of alcoholic beverages or tobacco products on the premises; prevent individuals from delaying or lingering on the premises without a lawful purpose; and ensure that nonauthorized individuals enter the premises. Flower Dept will immediately notify the PD of any suspected illegal activity or threat of criminal activity.

EMPLOYEE TRAINING AND POLICIES

Flower Dept will create a staff training program tailored to its SOPs and risk assessments. Flower Dept's management and Security Manager will assist with required trainings, including:

- Product Handling – Flower Dept will train employees about the various strains, including potency, absorption time, and responsible and safe use.
- Burglary Protocols – Employees will be trained to act based on the alarm location, establishment design, and potential threat of violence and to send police to the scene.
- Robbery Protocols – Employees will take online training outlining steps to get the robber(s) out of the store as quickly as possible.
- Active Shooter – Flower Dept will employ tactics focused on protecting the safety of personnel and visitors onsite. Employees will be trained in the "Run–Hide-Fight protocol.
- Preventing Inebriation – Employees will be trained to recognize and respond to the signs of intoxication from alcohol, drugs, or cannabis.
- Diversion Prevention – Employees will be trained to identify and report signs of theft and diversion, including employees: alone in unauthorized areas; using equipment not required for their role; and spending more than their salary would accommodate.

CASH HANDLING

Cash management at the cultivation site is handled with strict protocols to ensure security and compliance. Since cultivators typically do not handle large amounts of cash regularly and only acquire cash after the harvest, the presence of cash on-site is minimal and infrequent. When cash is on-site following a harvest, it is immediately secured in a designated vault that meets industry standards for safety and security. The vault is monitored 24/7 through a comprehensive surveillance system, and access is restricted to authorized personnel only.

Cash is promptly transported off-site by a licensed and insured cash transport service to a secure financial institution. During the transfer, rigorous security measures are employed, including armed escorts and the use of armored vehicles. Detailed records of all cash transactions are maintained, including amounts received, dates, and transportation details. These records are audited regularly to ensure accuracy and compliance with both internal policies and external regulations. The cultivation site's cash management procedures are designed to minimize risk and maintain the highest standards of financial integrity.

SECURITY AND SAFETY TRAINING

The Security Manager will train employees to prepare for, protect against, and handle any crises that impacts the security or operation of the premises in the event of fire, flood, or other natural disaster, or other situations of local, state, or national emergency. To optimize safety and reduce diversion, employees will be trained on specific procedural instructions for responding to each emergency, including the following scenarios.

Armed Robbery Response

Flower Dept feels that educating employees on best practices during an armed robbery may minimize the risk of injury during a robbery. Employees will acquire the knowledge, procedures, and confidence to respond to a robbery safely and effectively via six steps learned in an online robbery-awareness training course.

Workplace Violence

If another employee, visitor, vendor, or a guest becomes aggressive or violent, a manager must be notified immediately. Management will be trained by a security consultant on how to deal with workplace violence, emphasizing de-escalation.

Emergency Evacuation Protocol

In case of fire, bomb threat, or other hazardous emergency, an evacuation protocol will be used to move employees from the facilities to an external rallying point. Employees will be briefed on pre-determined evacuation routes and periodically rehearse.

Severe Weather Shelter Protocol

Upon the initiation of shelter protocol, all employees will cease all work activity and assist visitors to pre-determined hardened shelter and await further instructions. Employees will remain at the pre-determined rallying site until all employees have been accounted for.

Power Outage

If there is an unexpected loss of power, designated employees with flashlights will direct all employees and visitors to a designated area until power resumes. A battery backup will be available from each security system until the generator can start.

Active Threat Protocols

If an active threat is witnessed or reported within reasonable proximity of the facility, a lockout protocol will be initiated to safeguard everyone within the facility. All exterior doors, gates, and windows will be locked and secured. No one will be allowed into or out of the facility until the situation that caused the lockout is resolved.

Civil Unrest Response Procedures

If looting or civil unrest appear to be a possibility in proximity to the premises, Flower Dept will implement civil unrest preparations to divert attention and limit damage. If civil unrest occurs during business hours, Flower Dept will follow severe weather protocol and monitor the news for updates or instructions from authorities.

Chemical Spill

Flower Dept will establish a chemical spill response plan and employees will be trained to deal with both minor and major chemical spill incidents. This chemical spill plan will include information about all chemicals stored on-site, evacuation plans, emergency and management contact information and instructions about proper containment, cleanup, and disposal of spilled materials and equipment.

Security and emergency response training is only part of the comprehensive training required for all employees. In developing our official safety and security policies, we consult with local law enforcement. We also work with local police to create practical ongoing employee training seminars and practices. Especially in developing our policies and training procedures on crime prevention and security threat response, we seek the involvement of local law enforcement. All emergency procedures will be rehearsed in periodic drills.

EMERGENCY CONTACT

Flower Dept provides the city with the name, telephone number (both landline and mobile, if available) of an onsite employee or owner to whom emergency notice can be provided at any hour of the day.

EMPLOYEE SAFETY & HYGIENE

Flower Dept adheres to policies and procedures to help prevent contamination of any cannabis product. This includes but is not limited to hand washing, employee training, use of

facemasks/gloves, prohibiting employees who are showing signs of illness, open wounds, sores, or skin infections from handling cannabis, etc.

DAILY PROCEDURES

Flower Dept has daily procedures to ensure clean and efficient operations. A monthly calendar will be maintained that tracks all activities related to maintaining a safe and clean facility.

WORKPLACE SAFETY AND ACCIDENT PREVENTION

A Workplace Accident and Injury Reduction Program will be put in place to ensure the appropriate controls are in place to maintain internal safety. A DR will be assigned with the responsibility for the overall implementation and execution of the program. All DRs will be charged with keeping safe working conditions through the policy described below.

CHIEF OPERATING OFFICER RESPONSIBILITIES

The Chief Operating Officer Antonio Simeone is responsible for ensuring the complete and thorough implementation of all internal safety procedures related to employees, assisted by the Designated Representative (DR) communicated with the State. Below is a summary of their responsibilities.

- Complete Start-Up Checklist – Create a start-up checklist of safety hazards to monitor and determine the correct method for compliance. Perform all the tasks identified on the start-up checklist.
- Track Corrective Actions to Completion - The need for action to correct workplace safety or health deficiencies may be identified and reported through workplace inspections, suggestions by management or employees, and accident investigations. Ensure that the person responsible for completing each corrective action is clearly documented. Report to the Cultivation Manager any required corrective actions that are not completed in a timely manner.
- Injury Reporting and Recording – All injuries and fatalities will be reported in accordance with State Law.
- Notify Accident Investigator - Notify the appropriate accident investigator of all accidents, injuries, illnesses, and near-miss incidents—file documentation of completed investigations in the [Accident Investigations] folder.
- Team Lead and Manager Safety Training - Ensure that all team leads and managers are aware of their responsibilities under this Workplace Accident and Injury Reduction Program. Ensure that all team leads and managers are aware of the hazards to which their employees may be exposed and the controls necessary for their employees to work safely.
- New Employee Safety Training - Provide employees with a copy of the Code of Safe Practices and perform all the training required. Perform additional training if employees

are given new job assignments with additional hazards, when new substances, processes, procedures, or equipment are introduced into the work area, and when new workplace hazards are recognized. Have the employee date and sign a copy of the safety training certification (at the bottom of the training requirements form). File the completed form in the [Safety Training] folder.

- Start-Up Safety Training - Ensure that all employees receive initial safety training when this Workplace Accident and Injury Reduction Program are first established.
- Hazard, Control, and Personal Protective Equipment Changes - Update this Workplace Accident and Injury Reduction Program to reflect any changes in the hazards to which employees are exposed, the engineering controls used to protect them from those hazards, or personal protective equipment they use.
- Perform Annual Review - Review the effectiveness of this program every year by completing the Program Review Checklist. Report the results of the review to the head DR, and place the completed checklist in the [Program Reviews] file.
- Disseminate Internal Safety Inspections - Ensure that all safety inspections which are not performed by the safety committee are provided to the safety committee for review.
- Disseminate External Safety Inspections - Ensure that the results of third-party safety inspections (e.g., government, the insurance company, etc.) are provided to the safety committee for review.
- Disseminate Accident Investigations - Provide the safety committee with the results of any accident/near miss investigations, which were not performed by the committee itself for review.
- Maintain Workplace Accident and Injury Reduction Program Files - Ensure that all documentation generated by this program is appropriately filed.
- File Safety Inspections - Review all safety inspection checklists to verify that all hazards identified during the inspection have been corrected. Provide copies of the inspection checklists to the Safety Committee for discussion at the next meeting. File completed safety inspection checklists in the Safety Inspections folder.

ALL MANAGERS AND TEAM LEADS

Flower Dept recognizes that safety falls on the community. Therefore, in addition to the DR, all managers and team leads will be required to adhere to the following general practices to ensure that the workplace remains safe, and the appropriate monitoring and disciplinary mechanisms are in place.

- Set A Good Example - Set a good example by complying with all health and safety requirements established for employees. Act promptly to correct any health and safety issue that is identified.
- Follow-up on Unsafe Condition Reports - Follow-up on all unsafe conditions or near-miss incidents reported by employees. Report problems that are corrected immediately to the

DR verbally. Issues that cannot be corrected immediately must be documented in writing and forwarded to the Workplace Accident, and Injury Reduction DR. Inform the Workplace Accident and Injury Reduction DR in writing when appropriate corrective actions are implemented.

- Enforce Code of Safe Practices - Discipline employees who do not comply with the Code of Safe Practices or behave unsafely in accordance with company discipline policy. At a minimum, discipline must include:
    - Verbal warning and retraining for a first offense
    - Written warning for a second offense (place copy in employee's personnel file)
    - Suspension without pay or termination for subsequent offenses
- Do not sanction employees who refuse to work in dangerous conditions until the hazards are corrected. Do not sanction or retaliate against employees who report workplace hazards in any way; they are required to do so by this program.
- Imminent Hazards - In the event of an imminent hazard, which cannot be corrected immediately, stop work, and remove all exposed personnel from the area. Ensure that all employees assigned to correct the risk are provided all necessary safeguards. Report imminent hazard events to the Workplace Accident and Injury Reduction DR.
- Process Changes - Notify the Workplace Accident and Injury Reduction DR of all changes to the work environment, which affect the hazards to which employees are exposed or the methods used to protect employees from those hazards. This Workplace Accident and Injury Reduction Program may need to be updated to accommodate the process changes.

CODE OF SAFE WORK PRACTICES

Below is the Code of Safe Work Practices that will be provided to all employees.

- Follow All Safety Rules - All employees must work safely and follow all safety rules.
- Workplace Accident and Injury Reduction Program Available - Flower Dept will have a written Workplace Accident and Injury Reduction Program that describes in detail the policies and procedures which are used to provide a safe workplace.
- Report Unsafe Conditions or Actions - All employees must immediately report unsafe conditions or near misses to any manager or supervisor, the Workplace Accident, and Injury Reduction DR, or any safety committee member. A near miss is an incident where someone could have been hurt but wasn't this time. It is essential to correct unsafe conditions or procedures before someone is hurt.
- Report all Injuries - Employees must report all injuries (no matter how minor) to their supervisor so that arrangements can be made for medical or first aid treatment. This includes illness or aches and pains that the employee thinks may be work-related, and that doesn't go away normally. Do not disturb or clean up the scene of a serious accident (except to aid injured people or make the area safe) until an accident investigation has been completed.

- Do NOT Work When Impaired - Employees shall not work when impaired by fatigue, illness, medication, or intoxicating substances such as alcohol. The use of illegal drugs is strictly prohibited.
- Housekeeping - Keep your work area tidy and free from unnecessary clutter and trip hazards. Clean up spills as soon as possible.
- No Horseplay - Horseplay is forbidden.
- Threats and Violence are Prohibited - Violence, threats of violence, and physical intimidation are prohibited. Employees who feel that a company employee, visitor, or client is potentially violent must immediately report their concerns to any manager or supervisor, the Workplace Accident, and Injury Reduction DR, or any safety committee member. Employees who experience violence on the job or are threatened or experience physical or verbal intimidation must report this to their supervisor immediately.
- Fire Extinguishers - Do not use a fire extinguisher unless you have been trained to do so. Do not use a fire extinguisher to fight a fire unless you are very confident the extinguisher will safely put the fire out. Instead, report fires to your supervisor, and evacuate the building and summon the fire department if necessary.
- Eyesight is Precious - Always wear your eye protection when required. There are many types of eye protection available, tell your supervisor if your eye protection distorts your vision or gives you headaches.
- Computer Ergonomics - Employees should take the time to set up their computers comfortably. The keyboard and monitor should be directly in front of them so that they can work without twisting. The keyboard should be just below elbow height when sitting with their shoulders and arms relaxed at their sides. The top of the monitor screen should not be above eye level. If necessary, employees should raise their seats and use a footrest if their feet don’t rest flat on the ground. Employees should request a split keyboard or alternative mouse if their existing equipment generates wrist or arm discomfort.
- Minimize monitor glare - Employees should arrange their workspace so that there is not excessive glare on their monitor screen from lights or windows.
- Follow Security Procedures - Employees must strictly follow all security procedures. Report any security lapses to your supervisor immediately.
- In the Event of a Robbery - Remain calm and cooperate with the robbers. Do not respond or threaten.
- Inspect Power Cords - Never use electrical equipment unless the power cord and grounding plug (if present) are in good condition. Never use equipment that shocks you, even the small shock from a minor short will get worse in time. Report all problems with electrical equipment to your supervisor.
- Additional Information - Your supervisor will provide further information regarding emergency evacuation procedures and any other hazards or working procedures specific to your work area.

EMERGENCY MANAGEMENT

Emergency situations and disasters can range from fires, robbery, injury, and severe weather, to security breaches and vandalism. Flower Dept will have an emergency response team that will manage all aspects of the given emergency. Initial emergency protocols are should always be followed first (security system activated, 911 called, etc.). Once an emergency is identified, the team will be responsible for communication to leadership, employees, and the community. The responsibilities for emergency communications are outlined below:

- Launch immediately after an emergency is identified.
- Provide a brief to senior management on the situation.
- Identify and brief Flower Dept spokesperson of the situation.
- Employee contacts will be stored in a single location, and we will utilize a phone tree to cascade down relevant information to employees.
- Communicate situation information and procedural instructions to employees and other stakeholders.
- Communicate with employee families and the local community.
- Continually adapt to changing events associated with the emergency.

Emergency Exit Protocol

In the event of an emergency, the building may require evacuation. Situations requiring evacuation could be, but are not limited to the following:

- Natural gas leak
- Flammable liquid spill/and or release
- Power line failure
- Active Shooter/Hostage situation
- Hazardous chemical spill/and or release
- Flooding
- Fire alarm

Building Evacuation

All building evacuations will occur when an alarm sounds and upon notification by Flower Dept, Police Officer, or Fire Department personnel.

- When the building evacuation alarm is activated during an emergency, leave by the nearest marked exit and alert others to do the same.
- Elevators should never be used during an emergency evacuation situation.
- Assist persons with disabilities in exiting the building. Two or three individuals may carry persons with disabilities from the building if the persons with disabilities cannot negotiate the stairs.

- If persons with disabilities cannot be transported from the building without using an elevator – assist persons with disabilities to a safe area, notify emergency personnel immediately.
- Once outside, proceed to the designated gathering point. This should be a clear area that is at least 500 feet or further, depending on the type of incident, away from the affected building. Stay there. This designated area should be pre-determined by an office manager or supervisor.
- Keep streets, fire lanes, hydrant areas, and walkways clear for emergency vehicles and personnel. Know your area assembly points.
- Immediately notify emergency personnel of any injured persons and individuals remaining in the affected building.
- Do not return to an evacuated building unless told to do so by emergency personnel.

QUARTERLY EMERGENCY TRAINING

Flower Dept understands and subscribes to the belief that preparedness is best thought of as a process, that is, a continual sequence of analysis, plan development, and the acquisition of skills through training, drills, exercises, and critiques. Flower Dept will build the framework for responding to emergencies, crimes, and disasters, and ensure each employee is prepared to react and adequately trained to handle circumstances of duress. But just having a framework does not equate to prepared under duress; there must be actual training and drills, as well as open discussion and forum of potential dangers and disasters.

Flower Dept has established procedures for addressing emergencies and incidents, including natural disasters, fire, unauthorized facility access, theft of cannabis products, or release of confidential information.

The Security Manager is assigned responsibility for confirming the occurrence of an incident requiring the execution of this protocol and for ensuring the response protocol is followed. The Security Manager will notify appropriate law enforcement authorities within twenty-four (24) hours after the discovery of a reportable incident. All incident response and emergency activities will be documented. All documentation related to a reportable incident will be maintained for no less than seven years and made available, upon request, to local authorities, state authorities, and to law enforcement authorities acting within their lawful jurisdiction.

Primary Objective of Emergency Procedures

The primary emphasis of activities described within this protocol is the return to a normalized (secure) state as quickly as possible while minimizing adverse impacts to the facility. Flower Dept's plan addresses incident identification, response protocols, containment activities, and corrective measures.

Incident Training Required

All employees must be required to receive incident management training upon hiring and annually per the staffing and training policies of Flower Dept. The Cultivation Manager shall ensure the adequate training of employees. Third-party trainers may be utilized as necessary to ensure Flower Dept's employees are ready for any situation.

Roles & Responsibilities

Flower Dept's goal is to ensure the safety of its employees, vendors, and the surrounding community. Accordingly, each of its employees will have the following responsibilities:

- Each employee must be familiar with the contents of this plan and must know the location of alarms, utility cabinets, fire extinguishers, emergency exits, and first aid supplies.
- Receiving training in using a fire extinguisher.
- If a management-level employee is not available to make an evacuation decision, all employees shall decide with the health and safety of employees and visitors as the primary consideration.
- Do not reenter the building or allow others to reenter during an emergency. Stay with vendors, authorized visitors, and other evacuated employees until directed by the Cultivation Manager.
- Flower Dept shall maintain and visibly post a current emergency contact list and evacuation plan. All employees should save emergency contact numbers on their cell phones.
- Every employee must know the evacuation route and the location of the map.
- Regular review of the facility floor plans, and evacuation plan maps must be completed by the Cultivation Manager and updated as necessary.

Management Responsibilities

To ensure appropriate and timely execution of the proper incident response, all executive employees and management-level employees must ensure Flower Dept does the following:

- Develops and maintains this Safety Plan continuously. Identify potential hazards, develop mitigation strategies and improve the response protocols accordingly.
- Update management employees and training programs as needed. The building must be stocked with an emergency preparation kit including provisions for sequestration in the building if required.
- Maintains an updated emergency notification contact list and maintains an internal contact list and employee notification system via email and text messaging.
- Visibly posts all evacuation routes and ensures all environmental detectors and alarms, emergency lighting and exit signs are operational.
- Confirms the occurrence of an incident requiring the execution of this protocol.
- Secures all products following any instance of diversion, theft, or loss of cannabis and conducts an assessment to determine whether additional safeguards are necessary.

- Collects any evidence supportive of the event (unless law enforcement is required and collects evidence).
- Supervises and direct the consistent, timely, and appropriate response to an incident.
- Provides appropriate communication to parties having a vested interest in the incident.
- Offers support to employees, visitors, or other interested parties as appropriate until the incident is resolved.
- Conducts a post-incident review and report making any necessary adjustments to security measures and procedures.

Safety Risk Assessments

The Security Manager will receive OSHA and PEOSH training to conduct quarterly safety risk assessments and conduct training on the proper use of security measures and controls ensuring that Flower Dept's security policies are compliant with all applicable local and state regulations. All senior management will receive CPR, First Aid, and fire-extinguishing training.

Annual safety risk assessments will also be conducted by third-party vendors certified in relevant fields, including hazardous materials and fire protection. Risk assessments will be scrutinous of the site, inspecting Flower Dept's cleanliness and sanitation, readiness and safety of areas of work, and any other areas pertinent to safety and security. Safety assessments will also be conducted after any incident, and solutions to liabilities or concerns will be addressed within 30 days following the review.

Incident Reports

Reports of emergencies and incidents may come from outside parties, employees, news sources, direct observation, or other sources. The primary objective for all employees is to determine if the problem being reported is an incident. In most instances, the problem being reported will not constitute an incident as defined within Flower Dept's protocols. However, protocols can be a good guideline for dealing with other minor issues. No set of protocols will address every circumstance, and all employees must, in good faith, take all necessary and responsible actions.

Receiving External Reports

All employees are accountable for asking necessary questions about an incident, making a reasonable attempt at determining if an incident has occurred, recording facts and responses to questions, and forwarding pertinent information to a management-level employee or Cultivation Manager immediately. If the employee cannot reach the managers, an executive employee must be contacted. Employees' duties include, but are not limited to:

- Familiarity with applicable protocols and the appropriate procedures.

- Individuals reporting problems and/or incidents to an employee should be informed as to the reason for the questions, and all individuals should be encouraged to discuss the issue being reported openly.
- Any information provided by an individual that helps in the determination is of considerable value; the individual's cooperation is critical, much appreciated, and should be recognized by the employee receiving the report.

Discovery and Internal Reporting

If the situation indicates that an incident may have occurred, employees should assume that an incident has occurred and performed the following activities:

- Obtain and record the contact information for the individual reporting the problem (name, telephone numbers, and email address).
- Record relevant information about the incident (e.g., time/date of suspected occurrence, type of information compromised, location of the compromise) in the Incident Report Log.
- Inform the individual to expect contact from a member of management.
- Request the individual to treat the incident as a confidential matter.
- Notify the Management Employee immediately of the incident.

Assessment and Escalation

Except in the case of an emergency needing immediate attention, the Cultivation Manager will determine the category and severity of the incident and undertake discussions and activities to best determine the best course of action. All discussions, decisions, and activities are to be documented, as described herein. The Cultivation Manager is responsible for making an early determination if an incident has occurred or might be indicated.

Notification and Communication

The Cultivation Manager will take action to notify the appropriate internal and external parties as necessary.

Containment

The Cultivation Manager if available, will determine and cause to be executed and the appropriate activities and processes required to quickly contain and minimize the immediate impact on personal safety, the building, vendors, and other affected parties. Containment activities are designed to:

- Minimize harm to individuals.
- Counteract the immediate threat.
- Prevent propagation or expansion of the incident.
- Minimize actual and potential damage.

- Restrict knowledge of the incident to authorized personnel.
- Preserve information relevant to the incident.

Corrective Measures

The Cultivation Manager will determine and cause to be executed necessary activities to quickly restore circumstances to a normalized and secure state of operation. Corrective measures should be designed to:

- Secure the environment; and
- Restore the environment to its normalized state.

Notification Required

Any employee with the knowledge or reasonable suspicion of an incident (i.e., theft or diversion) is required to make an immediate report to the Cultivation Manager and record the incident in the incident report log. All incident activities, from receipt of the initial report through post-incident review, are to be documented by the Cultivation Manager.

ROBBERY

Managers will review the following procedures to be followed during the situation and immediately following the robbery.

Procedure During a Robbery

- Do not be a Hero or Heroine! Do nothing that would jeopardize your safety or the safety of others.
- Try to remain calm.
- If a firearm is displayed, assume it is real and loaded.
- Make no sudden moves and remain calm. If the robber(s) have a weapon, those persons may use it if provoked or agitated.
- Activate alarms (where available) ONLY if you can do so safely and without detection.
- Follow the robber(s) directions, but volunteer nothing more than you are asked.
- Make no sudden moves. If you must put your hands into a pocket, or make any other moves, explain the action before doing it.
- If the robber's hands you a note, drop it on the floor or place it out of sight to retain as evidence.
- Study the robber(s) as carefully as possible without being obvious. Note height, weight, race, age, clothing, jewelry, sex, speech characteristics, scars, tattoos, deformities, gait, and method of operation.
- Note the number of accomplices and where they stood. Pay special attention to the way the robbers address each other. Under stress, they may use real names.

- Note the type of weapon used by the robber and where it was carried.
- Note the direction in which the robber(s) departed and how any stolen items were carried away (sack, bank bag, etc.).
- Try to remember exactly what the robber(s) said.

FIRE SAFETY PLAN AND ALARM SYSTEM

Flower Dept recognizes that the presence of plant materials and various supplies could lead to fires in an environment that is particularly hazardous. Major risks of fire in cannabis cultivation environments include the gas-lines and the lighting units, as well as any portable sources of gas on the premises, such as propane tanks. Too many lights running in an enclosed space and on an overtaxed circuit could lead to a short circuit that could spark a fire in the cultivation environment. Other fire hazards include combustible materials such as plant containers, packaging, plastic glazing materials, shade cloth, stored chemicals and fertilizers, and other plant materials. High temperatures resulting from operations, devices such as CO2 generators, heating appliances, sulfur pots, sparks from electrical equipment and wiring, oxygen, and even discarded cigarettes are other sources of fires according to the National Greenhouse Manufacturers Association (NGMA).

To quickly be alerted in the event of a fire, the alarm system will be directly connected to a robust smoke and fire detection system. Flower Dept procedure will require that if a single smoke detector sounds, an employee must immediately investigate the area where the unit is located to determine if there is an actual fire. Hand-held fire extinguishers will be available throughout the facility for those with proper fire safety training to put out a small fire. If no fire is located, the smoke detector will be inspected for functionality and the alarm company will be notified for service. If multiple smoke detectors sound, all employees and visitors must follow the established evacuation procedure. Management will be responsible for contacting the local Fire Department and all persons will be required to wait outside at a pre-identified marked location at a safe distance from the building until the Fire Department provides further direction.

Fire Response

All fire exits will be constructed so that the path to egress is obvious and direct, and all fire exit doors will swing open in the direction of egress. In the event of a fire, the nearest fire alarm will be activated, employees will calmly and orderly exit to the designated area of safe refuge, and immediately dial 911 to alert the local Fire Department.

FIRE PREVENTION & SUPPRESSION

The facility conforms to all local and state building and fire codes and fire suppression regulations. High standards for fire safety will be developed to ensure that the facility can prevent and mitigate emergencies.

Developing these standards will involve:

- Carrying out an assessment to identify possible dangers and risks.
- Thinking about who might be particularly at risk, such as disabled employees.
- Providing a plan for emergencies.
- Conducting a follow-up fire risk assessment and requiring regular periodic review of this assessment by all employees.
- Keeping records regarding all potential fire-related incidents and assessments.

Electrical Safety

Flower Dept will minimize workplace electrical hazards by specifying electrical equipment and designing electrical systems as required by the National Electrical Cod.

No Open Flames

Flower Dept has a strict “no smoking” policy to mitigate the risk of any open flames.

Minimizing Risks

To limit the risk of fires, Flower Dept intends to implement the following procedures:

- No storage of combustible materials or liquids
- Ensure doors, hallways, stairs, and other exits are kept free of obstruction
- Not rely on extension cords if wiring improvements are needed
- Not overload circuits with multiple pieces of equipment

Training

Flower Dept will train all its employees on safety procedures and policies in the event of any fire-related emergency as follows:

- Employees will be made aware of the locations of circuit breakers and boxes; emergency phones; panic buttons; alarms; fire extinguishers; first aid kits, and the appropriate procedures for using these devices.
- Management will periodically test employees on their knowledge of fire safety matters within the facility.
- All employees are required to participate in fire drills to test their knowledge in practice. Random drills conducted at least twice per year will give employees the opportunity to practice protocols and allow Flower Dept to assess the effectiveness of the training.
- In the case that an employee does not implement emergency procedures properly, the employee will be required to review procedures and attend additional training and drill exercises.

General Evacuation

All employees will receive instruction on the general evacuation procedures to be followed in case of a fire:

- How and where to assemble
- Whom to report to
- How to evacuate disabled persons

FIRE SECURITY PROCEDURES

The facility will comply with all local fire code requirements. Fire Prevention is a vital aspect of dispensing safely. As part of Flower Dept's commitment to the safety of our employees, we have developed a comprehensive Fire Plan to address how fires will be prevented and managed/contained if they do occur. Knowing that people are our most valuable resources, all employees will be trained and required to conduct themselves with consistent due diligence to prevent fires from occurring.

Recognizing Fire Hazards

Housekeeping is an essential component of fire safety in our facility. Our facility will have the following policies in place:

- Work areas must be kept as clean as work allows.
- Space should be evaluated for fire hazards
- Unused combustible items, such as unused boxes, paper, and other flammable items, must remain clear of the workspace.
- Items being stored inside each building should not block access to fire extinguishers or other safety equipment. Flower Dept will equip all buildings with a Fire Extinguisher and Fire Alarm Pull Station.

When Fire Is Identified

Flower Dept recognizes that fires can be extremely dangerous. We will adopt and train to the policy below regarding our staff. When a fire is discovered, employees should do the following:

First, assist any person in immediate danger to safety if it can be accomplished without risk to yourself.

Second, activate the building fire alarm system or notify the fire department by dialing 911 (or designating someone else to notify them for you). When you activate the building fire alarm system, some, but not all, will automatically notify the fire department and get help on the way.

Only after having done these two things, if the fire is small, you may attempt to use an extinguisher to put it out. You should always be certain that you will not endanger yourself or others when attempting to put out a fire.

Never Attempt to Extinguish a Fire if

You do not know what is burning. If you do not know what is burning, you do not know what type of extinguisher to use. Even if you have an extinguisher, there may be something in the fire which is going to explode or produce highly toxic smoke.

The fire is spreading rapidly beyond the spot where it started. The time to use an extinguisher is in the incipient or beginning stages of a fire. If the fire is already spreading quickly, it is best to simply evacuate the building, closing doors and windows behind you as you leave.

You do not have adequate or appropriate equipment. If you do not have the correct type or large enough extinguisher, it is best not to try to fight the fire.

What to do if

If your clothes catch on fire, the best thing to do is to find a safety shower.

If a safety shower is available, then immediately remove your outer clothing and use the shower long enough to remove any contaminating material and to cool the skin.

If there is not a safety shower nearby, then stop where you are, drop and roll on the floor, covering your face with your hands and roll back and forth to extinguish the flames.

Fire Extinguishers

All personnel will be adequately trained in the use of fire extinguishers and know where the closest fire extinguishers are located. Extinguishers should not be blocked access or covered up. Below are the methods that will be taught to employees regarding fire extinguisher use:

Pull the Pin

This will allow you to discharge the extinguisher.

Aim at The Base of The Fire

If you aim at the flames (which is frequently the temptation), the extinguishing agent will fly right through and do no good. You want to hit the fuel.

Squeeze the Top Handle or Lever

This depresses a button that releases the pressurized extinguishing agent in the extinguisher.

Sweep from Side to Side

Start using the extinguisher from a safe distance away, then move forward. Once the fire is out, keep an eye on the area in case it re-ignites.

Emergency Egress

The Security Agent will regularly inspect the facility to ensure that all emergency exits are clear. Additionally, the facility will have the appropriate lighting and directions placed in a clear location to evacuate the building in case of a fire safely. Employees will be trained on the following policies:

- Aisles need to remain clear so that there is a clear path of egress to emergency exits.
- Do not wedge or block doors in the event of a fire.
- Make sure you are familiar with your building's evacuation plan and know where exits are located and learn all the escape routes from your facility area
- Leave immediately if the fire alarm sounds. Do not ever assume it is just a fire drill.
- Ensure you take any personal belongings.
- Close all doors and windows on the way out.
- Make sure everyone in your area has been accounted for. Your manager may want to designate an assembly area outside to meet in the event of an evacuation.
- Do not reenter the building unless authorized to do so.

Door Placards

Door placards provide critical emergency information to firefighters or other emergency personnel who need to enter the lab.

Flower Dept will ensure that door placards are updated a least once a year (or more frequently if the information changes).

This information will be available to the fire department in the event of a fire or other emergency.

HVAC

Ventilation and Inhalation Issues

Flower Dept will utilize a new AC unit configured for this space, with the addition of high-grade HEPA Filters added to the system for purification of the inside air.

HVAC Systems

The facility will be equipped with Energy Star HVAC technology, which allows an energy-efficient means of controlling the facility's climate, and the facilitation of proper ventilation to prevent the spread of unwanted odors. HVAC equipment will provide the following:

- Installation of vent dampers
- Analysis of systems and replacement of inefficient components

- Use of programmable thermostats and controls
- Sealing and insulation of ducts and hot water pipes.

FIRE SUPPRESSION

Fire Extinguishers

Fire extinguishers are a necessary tool in controlling fires prior to the arrival of emergency personnel. Flower Dept shall install fire extinguishers in each room, and additional extinguishers as determined by the engineer and fire consultant. These extinguishers will be inspected annually and certified by a licensed company.

Fire Evacuation Plan

Flower Dept recognizes that the safe, orderly, and prompt evacuation of its employees, vendors, and any other building occupants depends upon the establishment of a safe and efficient emergency evacuation plan. Every employee will be trained in carrying out a safe and effective evacuation when the fire alarm sounds or when directed by a public authority or management representative. The fire evacuation plan consists of the following:

- Flower Dept is a firm believer that emergency preparedness can mitigate the risk of various emergencies, especially fire. Accordingly, Flower Dept will ensure the following pre-planning activities are conducted:
  - Exits will be checked routinely to ensure there are always at least two unobstructed pathways.
  - Periodic fire drills conducted to ensure employee and vendor familiarity.
  - Evacuation diagrams will be posted throughout the building.

Evacuation Process

Flower Dept will implement the following general policies relative to an evacuation process (these are subject to change in accordance with the emergency conditions and circumstances, and preservation of life shall always be the dictating determination for evacuation procedures):

- Upon discovery of fire or smoke condition, an employee shall immediately sound the alarm by activating the nearest pull station.
- Employees must leave immediately and never assume the alarm is a drill.
- Employees will be trained to help others, but only if he/she can do so safely; and
- Once outside, employees will meet at the designated assembly spot where the acting manager will conduct a headcount and report to authorities accordingly.

Sprinkler System

The building will be fully sprinklered and sprinkler head relocation based on the new floor plan will be submitted for approval to the city. The primary purpose of the Fire Sprinklers is to protect employees, visitors, and the building in the event of a fire. The fire sprinkler system is monitored per code by a fire alarm system and with 24-7 central station monitoring. There are duct detectors located on the HVAC units and will provide a supervisory alarm to the central station and will shut down the AC units and any air movement in the building on alarm.

Portable Fire Extinguishers

Approved portable fire extinguishers will be supplied at the facility to give employees and management the means to suppress a fire during its initial or incipient stage. Flower Dept will ensure that all portable fire extinguishers are located where they are always readily visible and accessible. Proper maintenance of the installed portable fire extinguishers is the responsibility of the Cultivation Manager and will be included in their monthly checklist for the operations of the site.

Electrical: Wiring and Main Room

In accordance with Section 605 of the IFC:

Doors into electrical control panel rooms will be marked with a sign stating ELECTRICAL ROOM. The means for turning off electrical power to each electrical service and each electrical circuit must be clearly and legibly marked.

Security Gates & Egress Doors

Any security gates installed at the facility that impact any Fire Exit shall be approved by the City Chief Fire Marshal prior to installation.

A key box shall be installed on the site, which shall only be accessible by the Cultivation Manager and City Chief Fire Marshal (or any Fire Department officials approved by the Chief Fire Marshal). The Chief Fire Marshal shall also be issued a Key Swipe Card that permits access to Levels 1-5 at the facility. The Chief Fire Marshal shall only be permitted to use such Swipe Card in the event of an emergency. Egress doors shall be allowed to open without the need for a key. These doors shall be easily opened without the use of a key. They shall be alarmed to prevent unauthorized use, and the security guards shall be briefed to physically check such doors midway through their shift to ensure they are kept shut. At the approval of the City Manager and Chief Fire Marshal, these doors shall have an electromagnetic lock and shall not be opened from the exterior of the building, without the use of a key.

Exits and Exit Signage

The number of exits at the facility shall be in accordance with Table 1006.2.1 and Table 1006.3.2(2) and Section 1017.2 of the International Fire Code (IFC). Accordingly:

- All exits will be clearly illuminated by EXIT signage on the roof of the facility - signs will be clearly visible from both directions
- A Fire Exit Plan will be printed and appropriately displayed on the walls of the facility
- Egress doors will be installed and required to swing in the direction of egress
- All staff will be briefed on Fire Safety procedures, and a Fire Safety Exercise shall be conducted at least twice a year.

The facility will operate with a centrally monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Department of Security and Investigative Services in accordance with California Business and Professions Code section 7590 et seq. and whose agents are properly licensed and registered under applicable law.

Intrusion Detection devices will be installed at all entry points, and motion detectors will be installed to cover all areas of the facility. A licensed and accredited company will monitor the alarm system and perform monthly service on the system. The system will be put into test mode and tested at least once a month for any failures.

All security guards employed at Flower Dept will be licensed by the Department of Security and Investigative Services (BSIS) with a valid Department of Consumer Affairs Security Guard License ('Security Guard Card'), which is obtained by completing the annual pre-licensing course. Flower Dept Security Guards will also undertake pre-work training with GSG, who conduct advanced training covering threat assessment, risk mitigation, visitor management, systems, and hardware and incident management. GSG is a Department-certified training provider.

All security guards must be at least 21 years of age, have undergone a criminal history background check through the California Department of Justice (DOJ) and the Federal Department of Investigation (FBI), and complete the Power to Arrest Training, which includes:

- 32 hours of training in security officer skills; and
- 8 hours of continual training, which must be completed annually.

Flower Dept will implement a policy that requires Security Guards to patrol for a 100-foot radius surrounding the business around the clock. All guards will be issued with a hands-free single-wire earpiece with a Push-to-Talk function for covert communications.

ALARM MONITORING COMPANY

To ensure the alarm system remains operational, an alert will automatically be sent to designated company personnel by the alarm company when communications or power is lost. Onsite, an

audible signal shall be emitted in the event of power loss and/or communications breakdown with central monitoring. Real-time monitoring is part of the alarm company contract.

HAZARD COMMUNICATION

MATERIAL SAFETY DATA SHEETS

Copies of Material Safety Data Sheets (MSDSs) for all hazardous chemicals to which employees may be exposed will be available via hard copy in each chemical area of the facility in a binder designated "MSDS Sheets." Employees are required to read MSDSs for the chemicals they use. MSDSs will be available to all employees during all shifts. If an MSDS is missing, or if a new product arrives without an MSDS, employees must immediately inform their manager and/or the Safety Coordinator, so they can call the supplier or manufacturer.

HAZARDOUS CHEMICALS LIST

Managers must maintain a list of all the chemicals and products used at Flower Dept within their unit. This list is kept in the front of the MSDS book. Each chemical entry on the inventory list has a corresponding MSDS available for providing specific hazard information and personal protective measures. This list must be updated quarterly by the Safety Coordinator to remove chemicals that are no longer in use at Flower Dept and to add new products.

HAZARDOUS MATERIAL

Hazardous Materials Plan: To the extent that Flower Dept intends to use any hazardous materials in its operations, it shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for the management of such substances.

TOXIC MATERIAL CONTROL PROCEDURES

To ensure all safety and hygiene policies and procedures are customized specifically to the risks common to cannabis businesses, Flower Dept has leveraged a guide recommended by that was produced by the state of Colorado: *Guide to Worker Safety and Health in the cannabis Industry* (The Colorado guide was used because there is not a comparable California guide for reference.)

The Safety Coordinator will conduct the initial review of Flower Dept's building and design plans, and as construction is completed, will leverage Cal/OSHA's Hazard Assessment Checklist, to identify all potential hazards, and how Flower Dept will mitigate them. This assessment, along with Cal/OSHA's Cal/OSHA's IIPP Self-Assessment Checklist, will facilitate the creation of Flower Dept' Injury and Illness Prevention (IIP) Program. A written IIP is required, which is required for all employers in the State of California.

The facility and the full premises (including outside of buildings) will be inspected quarterly by the Safety Coordinator to identify potential hazards, using the OSHA Self- Inspection Checklist to

prevent hazardous material and chemical incidents that could result in injury and/or illness to any employee or visitor.

The Safety Coordinator will be responsible for conducting training (or coordinating training with a certified third-party OSHA consultant) of all employees on Flower Dept's IIPP. Additionally, the Senior Order Manager is assigned responsibility for conducting job-specific hazard training on chemicals used by all Dispensing Agents. After attending training, each employee will sign a form to verify that he or she attended the training and understands Flower Dept's policies on hazard communication.

Copies of Material Safety Data Sheets (MSDS's) for all hazardous chemicals to which employees may be exposed will be available on the intranet and by hard copy in each chemical storage area of the operating unit in a designated MSDS binder. Sample documents include accident report forms, a safety rule violation notice, and the OSHA Self- Inspection Checklist.

Safety rules addressed include those relevant to accident and hazard reporting, drug, and alcohol use, driving, work-related injuries, and the required use of Personal Protective Equipment (PPE). Enforcement measures and disciplinary actions detailed are to be implemented in response to safety rule violations.

All emergencies, including chemical spill response, will be handled by local emergency response agencies in accordance with Flower Dept's emergency and incident response SOPs. Additional measures serve to establish procedures for injury claims and policies related to workers' compensation and benefits provided.

HAZARD COMMUNICATION POLICY

Flower Dept is committed to the prevention of hazardous material and chemical incidents that could result in injury and/or illness to any employee. Flower Dept will spare no effort in providing a safe and healthy work environment for employees, and all levels of supervision will be accountable for the safety of those employees under their direction.

The Occupational Safety and Health Administration's (OSHA) Hazard Communication standard (29 CFR 1910.1200) is based on the simple concept that employees have both a need and a "right to know" the identities and hazards of any chemicals they work with during their employment. Employees also need to know what protective measures are available to prevent chemical exposures and how to avoid adverse health effects.

The following constitutes Flower Dept's written Hazard Communication program. Flower Dept will meet the requirements of OSHA's Hazard Communication standard as follows:

Container Labeling

It is the policy of Flower Dept that no container will be released for use unless it has a complete label. Managers will ensure that secondary containers, such as spray bottles, have complete labels. Either (1) a copy of the original manufacturer's label will be made and placed on the secondary container, or (2) the minimal information bulleted above will be placed on the container in permanent ink. The Safety Coordinator will verify that all product containers kept onsite will clearly list contents on the label:

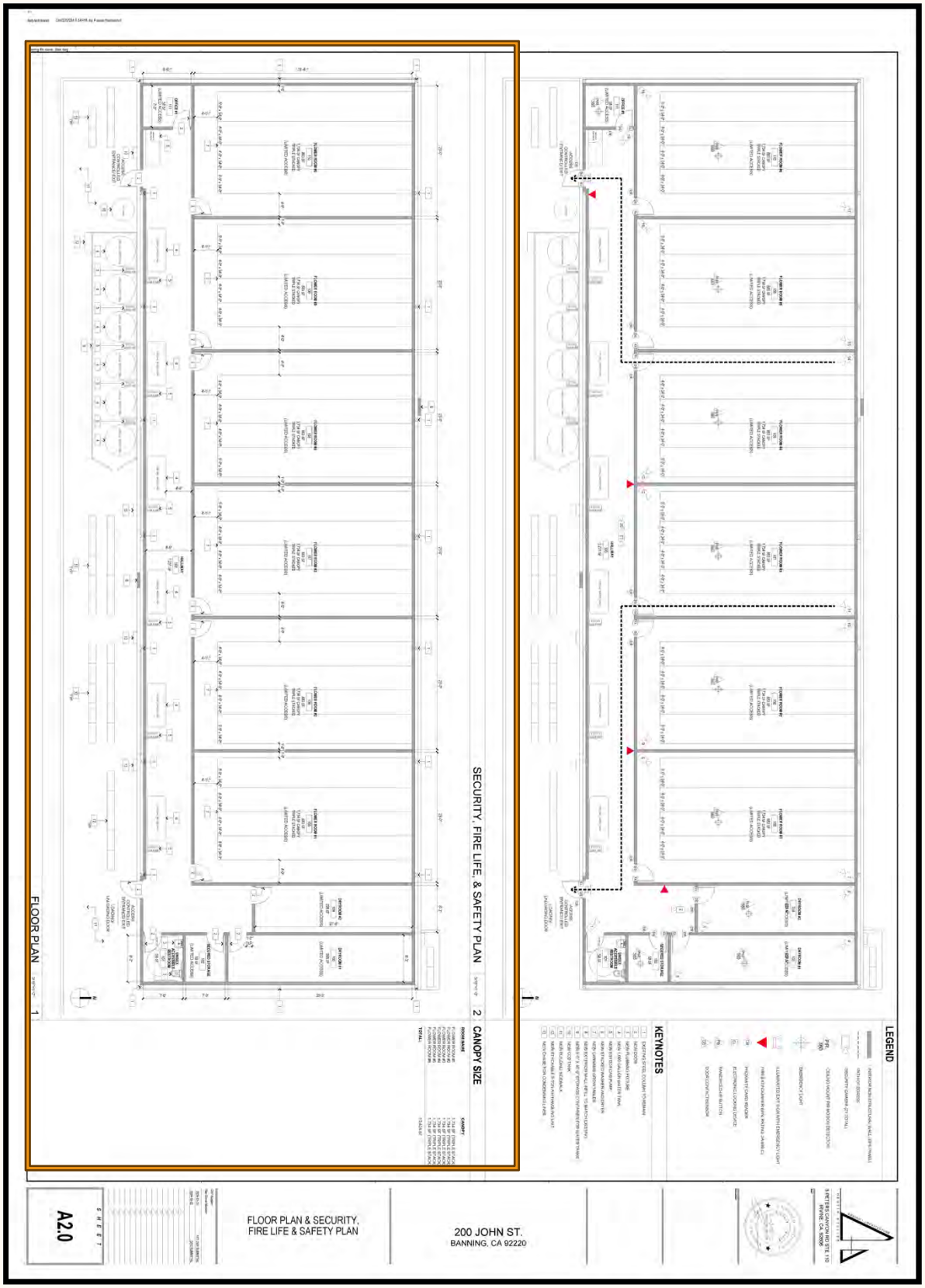
- Product Name
- Hazard warnings (corrosive, flammable, skin irritant, etc.)
- Manufacturer's name and address

Hazardous Non-Routine Tasks

Occasionally, an employee may be asked to perform a task that is not part of their normal job. Before taking on a new task, the affected employee will be given information by their manager and/or the Safety Coordinator about any hazardous chemicals that might be used during the activity. This information will include:

- Specific chemical hazards
- Protective measures employees can take
- Measures Flower Dept has taken to reduce the hazards, which might include ventilation, personal protective equipment, use of the buddy system, and emergency procedures.

SECURITY AND FIRE LIFE SAFETY PLAN DIAGRAM



F. ODOR CONTROL

OVERVIEW

The company has designed the following odor abatement plan which includes a filtration plan and system in accordance with the local regulations to prevent nuisance odors from being detected off site. The system will prevent cannabis odor which is distinctive to the operations from being detected in any neighboring suites, common areas, sidewalks, roads, sidewalks, tenants, outside areas, adjacent lots, or anywhere outside of the operation. All plant containing rooms will be completely sealed and using supplemental co2 to encourage growth. Air in these rooms will be recirculated through HVAC and air handlers internally with no exhausted air to maintain co2 levels. In addition to the following hardware and operations plan the "no on-site consumption" rules will be enforced by staff and security on and around the premises.

EQUIPMENT

Equipment technical data is included in the product inserts attached for industry standard Can Filter's line of Australian granulated activated carbon. This system is a proven method to eliminate volatile organic compounds, pollutants, gasses, and odors from the air, and is utilized by many cannabis operators in the industry. Combined with a Can Filter brand "whisper quiet adjustable speed can fan," the air is recirculated throughout the areas containing cannabis products and near entrance and exit doors to prevent odors from escaping the facility. The activated carbon literally traps and absorbs the carbon-based contaminants in the air.

CFM AIR CHANGE OVER CALCULATIONS

We will calculate air change over calculations based on the total volume of each section of the building. The air change over calculations will likely provide a complete changeover of the air every 3 to 27 minutes.

INSTALLATION

The company uses a closed loop HVAC system in each one of the plant containing rooms and the dry/trim room. The air is never changed over or exhausted to the exterior of the room or building. In all plant containing rooms there will be supplemental co2 systems to encourage growth. The goal is to keep co2 levels optimal and costs low by recirculating all of the air inside of the room through HVAC systems, fans, and filters. Air and possible odor will only escape these rooms as doors are opened and closed. The company has placed all odor abatement equipment above or near all exit/entrance doors to the facility. This ensures that the air is constantly being scrubbed in these common areas and cleanest odorless air is always near doors as people enter and exit.

We include our proposed facility floor plan with an anticipated odor abatement system layout. The system will be installed by a professional contractor who will test the system to ensure functionality and that all stated air change over rates and cubic feet per minute rates are being achieved. The system will be installed on the ceiling or affixed to the wall.

OPERATIONS

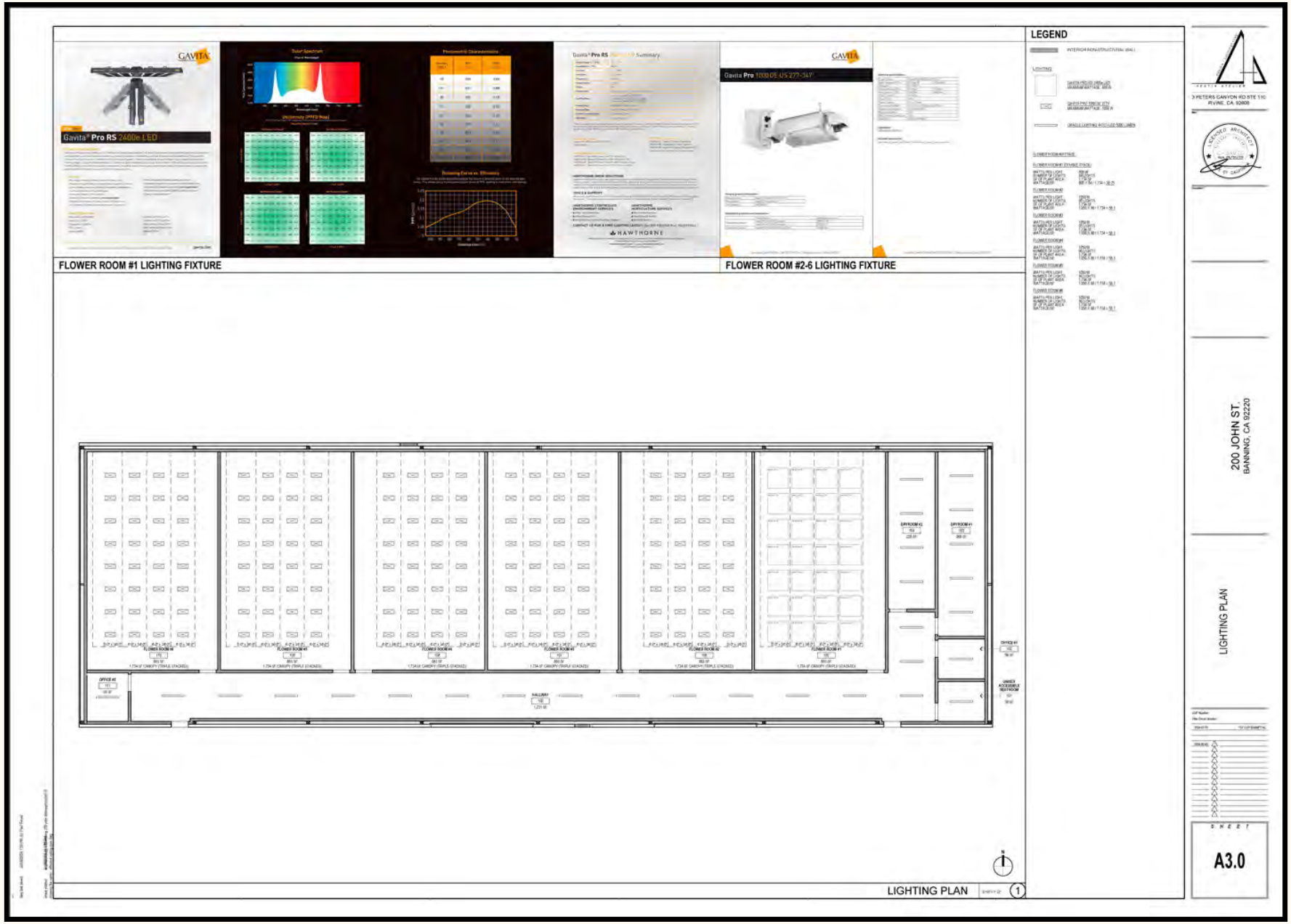
The company will operate the odor abatement system 24 hours a day 7 days a week ensuring that all air in the rooms with exits have been changed over several times. At the start of each business day an employee will verify that all odor abatement equipment is functioning properly and check for odor at designated areas outside of the facility such as walkways, breezeways, parking lots, front and back portions of the buildings, near entrances and exits, and all shared interior and exterior areas. Furthermore, at the end of each business day an employee will use a Daily Check on Odors checklist to verify that no nuisance smell is detected off site such as in or near exits, interior and exterior common areas, and but not limited to, front and back portions of building.

The company will create and maintain a maintenance schedule with an HVAC specialist who will replace the activated carbon filters at manufacturer recommended intervals, maintain the fans, clean all intake and exhaust grates, check all timers/switches, and ensure the system is functioning as described in this plan.

NEIGHBORHOOD COMPLAINT AND COMMUNICATION PLAN

The company will meet with all its neighbors and the surrounding community and make both a phone number and email address available for anyone to contact our management team with any concerns or complaints about the operations including cannabis odor. Once contact is made an employee or manager will fill out a Complaint Intake Form where we will log all information pertaining to the complaint such as the complainant information, date of occurrence, nature of occurrence, manager review, and action taken to resolve the complaint. These reports can be made anonymously, and the management team will respond promptly to these reports and adjust the filtration system to mitigate any odor issues.

G. LIGHTING PLAN


GAVITA
Gavita® Pro RS 2400e LED
FLOWER ROOM #1 LIGHTING FIXTURE
GAVITA
Gavita Pro 1000 DE US 277-347
FLOWER ROOM #2-6 LIGHTING FIXTURE
LEGEND
LIGHTING PLAN
3 PETERS CANYON RD STE 110
IRVINE, CA 92606
200 JOHN ST.
BANNING, CA 92220
LIGHTING PLAN
SHEET
A3.0

ELECTRICAL PHOTOMETRIC PLAN - INDOOR

SCALE: 1/8" = 1'

Schedule							
Symbol	Label	QTY	Manufacturer	Catalog	Description		Number Lamps
	A	13	ELITE LIGHTING	4-INCH LED+ PDS - [DIRD-WCCL1-40K-90]			1
+ + +	B	12	Lithonia Lighting	ELM4L	ELM4L SPR40L		1

Statistics							
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min	
Calc Zone #1	+	6.6 fc	18.1 fc	1.1 fc	16.5:1	6.0:1	

200 JOHN ST
BANNING, CA 92220

ELECTRICAL PHOTOMETRIC PLAN - INDOOR

E-1.1

H. ON-SITE COMMUNITY RELATIONS

Our onsite community relations designee will be Antonio Simeone. He will be readily available to assist in any issues related to any problems complaints or concerns associated with the cannabis business throughout the entire development process. He will be reachable at (213) 479-7601, 1simeonegroup@gmail.com.

I. LEASE

AIR CRE contracts

STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET
(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. **Basic Provisions ("Basic Provisions").**

1.1 **Parties.** This Lease ("**Lease**"), dated for reference purposes only 07/01/2024, is made by and between 200 John Street LLC. ("**Lessor**") and Flower Dept. LLC. ("**Lessee**"), (collectively the "**Parties**," or individually a "**Party**").

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, city, state, zip): 200 John Street, Banning, Ca. 92220 ("**Premises**"). The Premises are located in the County of Riverside, and are generally described as (describe briefly the nature of the property and, if applicable, the "**Project**," if the property is located within a Project): 25,365 Sq. Ft. Parcel w/ Approx. 8,000 Sq. Ft. Warehouse. (See also Paragraph 2)

1.3 **Term:** 5 years and 0 months ("**Original Term**") commencing 07/01/2024 ("**Commencement Date**") and ending 11/30/2028 ("**Expiration Date**"). (See also Paragraph 3)

~~1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing _____ ("**Early Possession Date**"). (See also Paragraphs 3.2 and 3.3)~~

1.5 **Base Rent:** $15,000 per month ("**Base Rent**"), payable on the first day of each month commencing 07/01/2024. (See also Paragraph 4)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 52.

1.6 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $15,000 for the period July 1, 2024 - July 31, 2024.

(b) **Security Deposit:** $1.00 ("**Security Deposit**"). (See also Paragraph 5)

(c) **Association Fees:** N/A for the period N/A.

(d) **Other:** N/A for N/A.

(e) **Total Due Upon Execution of this Lease:** $7,501 (see Addendum to Lease).

1.7 **Agreed Use:** Cannabis Cultivation. (See also Paragraph 6)

1.8 **Insuring Party.** Lessor is the "**Insuring Party**" unless otherwise stated herein. (See also Paragraph 8)

1.9 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("**Broker(s)**") and/or their agents ("**Agent(s)**"):

Lessor's Brokerage Firm DCR Commercial License No. 01523278 is the broker of (check one): ☐ the Lessor; or ☑ both the Lessee and Lessor (dual agent).

Lessor's Agent Edmond Melendez License No. 01518581 is (check one): ☐ the Lessor's Agent (salesperson or broker associate); or ☑ both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm DCR Commercial License No. 01523278 is the broker of (check one): ☐ the Lessee; or ☑ both the Lessee and Lessor (dual agent).

Lessee's Agent Edmond Melendez License No. 01518581 is (check one): ☐ the Lessee's Agent (salesperson or broker associate); or ☑ both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) **Payment to Brokers.** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement ~~(or if there is no such agreement, the sum of _____ or _____% of the total Base Rent) for the brokerage services rendered by the Brokers.~~

1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by Antonio Simeone ("**Guarantor**"). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☑ an Addendum consisting of Paragraphs 51 through 51;

☐ a plot plan depicting the Premises;

☐ a current set of the Rules and Regulations;

☐ a Work Letter;

☑ other (specify): Addendum to Lease. Rent Adjustments. Guaranty of Lease. Agency Disclosure.

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be

INITIALS INITIALS

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different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition**. Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the "**Building**") shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance**. Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 **Acknowledgements**. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant**. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. Term.

3.1 **Term**. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession**. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession**. Lessor agrees to use commercially reasonable efforts to deliver exclusive possession of the Premises to Lessee by the

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Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. Use.

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition,

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Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor**. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation**. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification**. Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification**. Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations**. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option**. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements**. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. In addition, Lessee shall provide Lessor with copies of its business license, certificate of occupancy and/or any similar document within 10 days of the receipt of a written request therefor.

6.4 **Inspection; Compliance.** Lessor and Lessor's "**Lender**" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1(e)) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

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(a) **In General**. Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), foundations, ceilings, roofs, roof drainage systems, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts**. Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, (v) roof covering and drains, and (vi) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform**. If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement**. Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay Interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations**. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises.

7.3 **Utility Installations; Trade Fixtures; Alterations**.

(a) **Definitions**. The term "**Utility Installations**" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent**. Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds**. Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration**.

(a) **Ownership**. Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal**. By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration**. Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary

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wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 **Payment For Insurance**. Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of $2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within 10 days following receipt of an invoice.

8.2 **Liability Insurance**.

(a) **Carried by Lessee**. Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor**. Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value**.

(a) **Building and Improvements**. The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value**. The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises**. If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance**.

(a) **Property Damage**. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption**. Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance**. Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage**. Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies**. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation**. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire

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right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity**. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability**. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance**. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 **Definitions**.

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "**Insured Loss**" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "**Replacement Cost**" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss**. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss**. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction**. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such

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Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term**. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies**.

(a) **Abatement**. In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies**. If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments**. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 **Definition**. As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes**. In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax installment due at least 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

10.3 **Joint Assessment**. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes**. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.2 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

12. Assignment and Subletting.

12.1 **Lessor's Consent Required**.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

DS (c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged

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buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "**Net Worth of Lessee**" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting**.

(a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting**. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 **Default; Breach**. A "**Default**" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; the vacating of the Premises prior to the expiration or termination of this Lease without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism; or failure to deliver to Lessor exclusive possession of the entire Premises in accordance herewith prior to the expiration or termination of this Lease.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

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(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "**debtor**" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies**. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges**. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the

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exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest**. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.**

(a) **Notice of Breach**. Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor**. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 **Additional Commission**. In addition to the payments owed pursuant to Paragraph 1.9 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed. The provisions of this paragraph are intended to supersede the provisions of any earlier agreement to the contrary.

15.2 **Assumption of Obligations**. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships**. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

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17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Days. Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements**. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice**. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23.3 **Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) *Lessor's Agent*. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: *To the Lessor*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. *To the Lessee and the Lessor*: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) *Lessee's Agent*. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. *To the Lessee*: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. *To the Lessee and the Lessor*: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) *Agent Representing Both Lessor and Lessee*. A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the

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agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. At or prior to the expiration or termination of this Lease Lessee shall deliver exclusive possession of the Premises to Lessor. For purposes of this provision and Paragraph 13.1(a), exclusive possession shall mean that Lessee shall have vacated the Premises, removed all of its personal property therefrom and that the Premises have been returned in the condition specified in this Lease. In the event that Lessee does not deliver exclusive possession to Lessor as specified above, then Lessor's damages during any holdover period shall be computed at the amount of the Rent (as defined in Paragraph 4.1) due during the last full month before the expiration or termination of this Lease (disregarding any temporary abatement of Rent that may have been in effect), but with Base Rent being 150% of the Base Rent payable during such last full month. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

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

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located. Signatures to this Lease accomplished by means of electronic signature or similar technology shall be legal and binding.

30. Subordination; Attornment; Non-Disturbance.

30.1 **Subordination**. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment**. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance**. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing**. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

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32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 **Execution**. The Guarantors, if any, shall each execute a guaranty in the form most recently published by AIR CRE, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default**. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 **Definition**. "**Option**" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee**. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options**. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Multiple Buildings. If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

41. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do

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not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

44. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS LEASE.

49. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

50. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☑ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

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WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:
On: 10/22/2024

By LESSOR:
200 John Street LLC.

By: DocuSigned by: Ben Melendez
Name Printed: Ben Melendez
Title: Owner/Lessor
Phone: (951) 897-273
Fax: N/A
Email: Ben@Melencorp.com

By:
Name Printed:
Title:
Phone:
Fax:
Email:

Address:
Federal ID No.:

BROKER
DCR Commercial

Attn: Edmond Melendez
Title: Lessor's Agents

Address: 8047 Day Creek Blvd.
Rancho Cucamonga, Ca. 91739
Phone: (626) 434-0494
Fax: N/A
Email: Edmond@emrecs.com
Federal ID No.:
Broker DRE License #: 01523278
Agent DRE License #: 01518581

Executed at:
On: 10/22/2024

By LESSEE:
Flower Dept. LLC.

By: Signed by:
Name Printed: Giulio Simeone
Title: CEO/Lessee
Phone: (213) 479-7601
Fax: N/A
Email: lsimeonegroup@gmail.com

By:
Name Printed:
Title:
Phone:
Fax:
Email:

Address:
Federal ID No.:

BROKER
DCR Commercial

Attn: Edmond Melendez
Title: Lessee's Agent

Address: 8047 Day Creek Blvd.
Rancho Cucamonga, Ca. 91739
Phone: (626) 434-0494
Fax: N/A
Email: Edmond@Emrecs.com
Federal ID No.:
Broker DRE License #: 01523278
Agent DRE License #: 01518581

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ADDENDUM TO LEASE

Date: 07/01/2024

By and Between

Lessor: 200 John Street LLC.

Lessee: Flower Dept. LLC.

Property Address: 200 John Street, Banning, Ca. 92220
(street address, city, state, zip)

Paragraph: 51

51) Base Rent discounted to $7,500 per month until City & State licenses are issued. Lessee shall be responsible for all operating expenses during this period. Lessee accepts property in as-is condition.

In the event of any conflict between the provisions of this Addendum and the printed provisions of the Lease, this Addendum shall control.

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RENT ADJUSTMENT(S)
(ORIGINAL TERM)
STANDARD LEASE ADDENDUM

Dated: 07/01/2024
By and Between
Lessor: 200 John Street LLC.
Lessee: Flower Dept. LLC.
Property Address: 200 John Street, Banning, Ca. 92220
(street address, city, state, zip)

Paragraph: 52

The monthly Base Rent during the Original Term of the Lease shall be increased by using the method(s) selected below *(check method(s) to be used and fill in appropriately)*:

☐ I. **Consumer Price Index.**

a. The monthly Base Rent shall be increased on _____ and every _____ months thereafter during the Original Term ("**CPI Increase Date(s)**") commensurate with the increase in the CPI (as herein defined) determined as follows: the monthly Base Rent scheduled for the first month of the Original Term shall be multiplied by a fraction the denominator of which is the Base CPI (as herein defined), and the numerator of which is the Comparison CPI (as herein defined). The amount so calculated shall constitute the new Base Rent until the next CPI Increase Date, but in no event shall any such new Base Rent be less than the Base Rent for the month immediately preceding the applicable CPI Increase Date.

b. The term "**CPI**" shall mean the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (*select one*): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (*fill in Urban Area*): _____ or ☐ the area in which the Premises is located, All Items (1982-1984 = 100). The term "**Comparison CPI**" shall mean the CPI of the calendar month which is 2 full months prior to the applicable Original Term CPI Increase Date. The term "**Base CPI**" shall mean the CPI of the calendar month which is 2 full months prior to the Commencement Date of the Original Term.

c. If the compilation and/or publication of the CPI is transferred to another governmental department, bureau or agency or is discontinued, then instead the index most nearly the same as the CPI shall be used to calculate the Base Rent increases hereunder. If the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said association and the decision of the arbitrators shall be binding upon the parties, with the cost of such arbitration being paid equally by the Parties.

☑ II. **Fixed Percentage.** The monthly Base Rent shall be increased on 07/01/2025 and every 12 months thereafter during the Original Term ("**Percentage Increase Date(s)**") by four percent (4 %) of the monthly Base Rent scheduled to be paid for the month immediately preceding the applicable Percentage Increase Date.

☐ III. **Fixed Rental Adjustment(s)** ("**FRA**").

The monthly Base Rent shall be increased to the following amounts on the dates set forth below:

On (fill in FRA Adjustment Date(s)):	The new Base Rent shall be:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

BROKER'S FEE: For each adjustment in Base Rent specified above, the Brokers shall be paid a Brokerage Fee in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.

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GUARANTY OF LEASE

Paragraph: 53

WHEREAS Flower Dept. LLC. ("Lessee") desires to lease from 200 John Street LLC. ("Lessor") the premises commonly known as (street address, city, state, zip) 200 John Street, Banning, Ca. 92220 ("Premises") pursuant to a lease dated for reference purposes only as of 07/01/2024 ("Lease").

WHEREAS, as a material inducement to and in consideration of Lessor executing the Lease, Lessor requires Antonio Simeone ("Guarantor") to execute this Guaranty of Lease ("Guaranty"); Guarantor desires Lessee to consummate the Lease. Accordingly, contemporaneous with execution of the Lease, Guarantor is executing this Guaranty to induce Lessor to execute the Lease with Lessee.

NOW THEREFORE, Guarantor hereby unconditionally and irrevocably guarantees and promises to perform and be liable for any and all obligations and liabilities of Lessee under the Lease, including, but not limited to, payment of all rents and all other sums payable by Lessee under the Lease and performance by Lessee of each and every one of the terms, conditions and covenants to be kept and performed by Lessee under the Lease.

Guarantor hereby agrees that, without the consent of or notice to, Guarantor and without affecting or in any way releasing Guarantor's obligations under this Guaranty: (i) Lessor and Lessee may, by agreement or course of conduct, amend, extend, renew or otherwise alter any term, covenant or condition of the Lease, or the Lease may be assigned by Lessor or Lessee (and their successors and assigns) and this Guaranty shall guarantee all obligations of Lessee under the Lease as so amended, extended, renewed, altered or assigned; (ii) Lessor may release, change or add a party to the Lease and/or a guarantor of the Lease; (iii) Lessor may exercise, not exercise, delay exercising, impair, modify, limit, terminate or suspend any of Lessor's rights or remedies under the Lease or this Guaranty; and (iv) Lessor may permit all or any part of the Premises to be subleased, or the Lease to be assigned, assumed, transferred, mortgaged or encumbered.

Guarantor hereby agrees that no notice of nonperformance or default by Lessee or by another guarantor need be given to Guarantor. This Guaranty is a continuing and irrevocable guarantee. Guarantor waives the benefit of any law allowing Guarantor to revoke this Guaranty. No provision of this Guaranty or rights of Lessor hereunder may be waived, nor may any Guarantor be released from any obligation under this Guaranty except by a writing duly executed by Lessor.

Guarantor hereby waives and agrees not to assert or take advantage of any right or defense based on: (i) notice of acceptance of this Guaranty; (ii) demands (including demands for payment or performance), presentation and protest; (iii) any statute of limitations; (iv) requiring Lessor to proceed against Lessee, any Guarantor or other guarantor or any other person (as herein defined) liable to Lessor, or to proceed against these persons in any order; (v) requiring Lessor to apply any security deposit or other security; (vi) requiring Lessor to proceed under any other remedy Lessor may have before proceeding against Guarantor; (vii) any right of subrogation that Guarantor may have against Lessee or other guarantors; (viii) any right or defense that may arise by reason of the incapacity, lack of authority, death or disability of Lessee, any guarantor or any other person; (ix) any right or defense arising by reason of the absence, impairment, modification, limitation, destruction or cessation (in bankruptcy, by an election of remedies, or otherwise) of the liability of Lessee, of the subrogation rights of Guarantor, or of the rights of Guarantor to proceed against Lessee for reimbursement; (x) limiting Guarantor's obligations to not exceed Lessee's obligations; and (xi) notices (including notices of adverse change in the financial status of Lessee or other facts that increase the risk to Guarantor).

The obligations of Guarantor under this Guaranty shall not be altered, limited or affected by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization or liquidation of Lessee, Guarantor, any other guarantor, or by any defense that Lessee, Guarantor or any other guarantor may have by reason of any order, decree, or decision of any court or administrative body resulting from any such proceeding.

Guarantor subordinates any and all existing or future indebtedness of Lessee to Guarantor to Lessee's obligations owed to Lessor under the Lease. Any recovery by Lessor from any other guarantor or insurer shall first be credited to the portion of Lessee's indebtedness to Lessor which exceeds the maximum liability of Guarantor under this Guaranty. If a person comprising Guarantor is married, such Guarantor expressly agrees that recourse may be had against such Guarantor's separate or community property.

Guarantor shall, upon ten (10) days' prior written notice from Lessor, provide Lessor with Guarantor's financial statements for the current year and tax returns for the three (3) preceding years and, if such is the normal practice of Guarantor, such statements shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant. Lessor shall maintain Guarantor's financial statements and tax returns in confidence but shall be permitted to disclose Guarantor's financial statements and tax returns to prospective lenders, purchasers or others for a bona fide business purpose.

Guarantor shall, upon ten (10) days' prior written notice from Lessor, in writing reaffirm that this Guaranty remains and continues in full force and effect, that no event has occurred that would invalidate the Guaranty or excuse Guarantor's obligations or performance under the Guaranty, and that the Guaranty applies to the Lease, as amended, extended, renewed, altered or assigned. Guarantor shall, upon ten (10) days' prior written notice from Lessor, execute such other and further documents and do such further acts as may be reasonably necessary or required by Lessor to effectuate the intent of the parties and carry out the terms of this Guaranty.

Guarantor agrees that any suit, action or proceeding arising directly or indirectly from the Guaranty or the Lease shall be litigated only in courts located within the county and state in which the Premises is located. Guarantor irrevocably consents to the jurisdiction of any local, state or federal court located within the county and state in which the Premises is located, and waives and agrees not to assert by way of motion, defense or otherwise in any suit, action, or proceeding any claim that Guarantor is not personally subject to the jurisdiction of the above-named courts, that such suit, action, or proceeding is brought in an inconvenient forum, or that the venue of such action, suit, or proceeding is improper.

Each person which comprises Guarantor consents to service of process by a nationally recognized overnight courier service (such as Federal Express) at either the Premises or at the Guarantor's address for notices set forth below, and shall be deemed served and received three (3) business days after deposit with the overnight mail service. Guarantor irrevocably waives and agrees not to plead or claim in any action or proceeding that such service of process was in any way invalid or ineffective. Lessor reserves the right to serve process in any other manner permitted by law.

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This Guaranty shall be governed by the laws of the state in which the Premises is located and, for purposes of conflicts of law, Guarantor shall be treated as if resident of or domiciled in such state. Guarantor waives the right to a jury trial of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought against Guarantor. If and to the extent the Lease requires Lessor and Lessee to arbitrate any disputes, then Guarantor also agrees to arbitrate such disputes in the same arbitration to the extent related to the Guaranty and upon the same terms and conditions provided in the Lease.

If Lessor brings an action or proceeding against Guarantor to enforce this Guaranty, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, the party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred.

This Guaranty constitutes the entire agreement between Guarantor and Lessor with respect to the subject matter of this Guaranty and supersedes all prior agreements, understandings, negotiations, representations and discussions, whether verbal or written, of the parties, pertaining to such subject matter. Guarantor is not relying on any representations, warranties or inducements from Lessor that are not expressly stated in this Guaranty.

If any provision of this Guaranty is determined to be illegal or unenforceable, all other provisions hereof shall nevertheless be effective. The waiver or failure to enforce any provision of this Guaranty shall not operate as a waiver of any other breach of such provision or any other provisions of this Guaranty, nor shall any single or partial exercise of any right, power or privilege preclude any other or further such exercise or the exercise of any other right, power or privilege. Time is strictly of the essence under this Guaranty and any amendment, modification or revision of this Guaranty.

Each person executing this Guaranty represents and warrants to Lessor that (i) each individual executing this Guaranty has the legal power, right, and actual authority to bind Guarantor; (ii) Guarantor has the legal right, power and authority to enter into and perform this Guaranty; (iii) all requisite action by or on behalf of a corporation, limited liability company, partnership (general or limited), trust or other legal entity ("entity") has been taken for this Guaranty to be duly authorized by such entity or Guarantor; (vi) no consent of any partner, shareholder, member, creditor, investor, government, judicial or administrative body or other party is required in connection with Guarantor executing this Guaranty; (v) this Guaranty is a valid and legally binding obligation of Guarantor; (vi) the execution and delivery of this Guaranty does not conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement or other agreements or instruments to which Guarantor is a party or by which Guarantor is bound; and (vi) Guarantor will derive a substantial and material economic benefit from Lessor's execution of the Lease. If Guarantor is an entity, Guarantor shall, concurrently with the execution of this Guaranty (or upon ten (10) days' prior written notice from Lessor), deliver to Lessor a certified copy of a resolution or other documentation evidencing that such entity is authorized or ratifies the entity's execution of this Guaranty.

The term "person" as used in this Guaranty shall include an individual and/or an entity. If more than one (1) person comprises Guarantor, the obligations of such persons shall be joint and several. The unenforceability of this Guaranty or Lessor's election not to enforce this Guaranty against one (1) or more persons shall not affect the obligations of the remaining persons which comprise Guarantor or the enforceability of this Guaranty against such remaining persons.

Any notice, request, demand, instruction or other communication to be given to Guarantor under this Guaranty shall be in writing and shall be delivered at either the Premises or the address set forth beneath the Guarantor's signature below, or to such other place as Guarantor may from time to time in writing designate by at least fifteen (15) days' notice to Lessor.

When the context and construction so requires, all words used in the singular in this Guaranty shall be deemed to have been used in the plural. The term "Lessee" as used in this Guaranty shall mean the Lessee named in the Lease, any assignee of Lessee's interest under the Lease and their respective successors and assigns. The term "Lessor" as used in this Guaranty shall mean the Lessor named in the Lease, any assignee of Lessor, whether by outright assignment, assignment for security or otherwise. Lessor may without Guarantor's consent assign this Guaranty, voluntarily or by operation of law. This Guaranty applies to, inures to the benefit of, and binds all persons that comprise Guarantor, their heirs, devisees, legatees, executors, administrators, representatives, successors and assigns.

Signatures to this Guaranty accomplished by means of electronic signature or similar technology shall be legal and binding. This Guaranty may be executed in counterparts.

Guarantor is advised to seek advice of legal counsel before signing this Guaranty. Guarantor acknowledges that AIR CRE, the real estate brokers or their agents or employees have not made any representation or statement as to the legal sufficiency or effect or tax consequences of this Guaranty or the Lease.

GUARANTOR
Antonio Simeone

Executed At: _____
On: 10/22/2024

Signed by:

By: _____
Name Printed: Antonio Simeone
Title: Guarantor/Lessee
Address: 19360 Rinaldi St. 388
Porter Ranch, Ca. 91326
Email Address: lsimeonegroup@gmail.com

By: _____
Name Printed: _____
Title: _____
Address: _____
Email Address: _____

AIR CRE * https://www.aircre.com * 213-687-8777 * contracts@aircre.com
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AIRCRE contracts

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salesperson and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).

☐ Buyer ☐ Seller ☑ Lessor ☐ Lessee — Docusigned by: Ben Melendez — Date: 10/22/2024

☐ Buyer ☐ Seller ☐ Lessor ☑ Lessee — Signed by: — Date: 10/22/2024

Agent: DCR Commercial DRE Lic. #: 01523278

(Real Estate Broker Firm)

By: Edmond Melendez DRE Lic. #: 01516581 Date: 10/22/2024

(Salesperson or Broker-Associate)

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THIS FORM HAS BEEN PREPARED BY AIR CRE. NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF THIS FORM FOR ANY SPECIFIC TRANSACTION. PLEASE SEEK LEGAL COUNSEL AS TO THE APPROPRIATENESS OF THIS FORM.

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DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
CIVIL CODE SECTIONS 2079.13 THROUGH 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:
(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobile home, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multi-unit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobile home as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.
(C) CONFIRMATION: The following agency relationships are confirmed for this transaction.

Seller's Brokerage Firm DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)
Seller's Agent DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is (check one): ☐ the Seller's Agent. (salesperson or broker associate), or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)
Buyer's Brokerage Firm DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)
Buyer's Agent DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate), or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.18 (Repealed pursuant to AB-1289, 2017-18 California Legislative session)

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically

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prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

2079.23 (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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J. CANNABIS BUSINESS ORGANIZATIONAL STATUS

202463019506

STATE OF CALIFORNIA
Office of the Secretary of State
ARTICLES OF ORGANIZATION
CA LIMITED LIABILITY COMPANY
California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only
-FILED-
File No.: 202463019506
Date Filed: 7/16/2024

Limited Liability Company Name	
Limited Liability Company Name	FLOWER DEPT LLC
Initial Street Address of Principal Office of LLC	
Principal Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326
Initial Mailing Address of LLC	
Mailing Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326
Attention	TONY SIMEONE
Agent for Service of Process	
Agent Name	TONY SIMEONE
Agent Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326

Purpose Statement
The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

Management Structure
The LLC will be managed by: All LLC Member(s)

Additional information and signatures set forth on attached pages, if any, are incorporated herein by reference and made part of this filing.

Electronic Signature

☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

ANTONIO SIMEONE — Organizer Signature
07/16/2024 — Date

B2892-2809 07/16/2024 3:31 PM Received by California Secretary of State

Page 1 of 1

BA20241928279

STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
LIMITED LIABILITY COMPANY
California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only
-FILED-
File No.: BA20241928279
Date Filed: 10/31/2024

B3160-3870 10/31/2024 9:57 AM Received by California Secretary of State

Entity Details

Limited Liability Company Name	FLOWER DEPT LLC
Entity No.	202463019506
Formed In	CALIFORNIA

Street Address of Principal Office of LLC

Principal Address	200 JOHN ST BANNING, CA 92220

Mailing Address of LLC

Mailing Address	200 JOHN ST BANNING, CA 92220
Attention	TONY SIMEONE

Street Address of California Office of LLC

Street Address of California Office	200 JOHN ST BANNING, CA 92220

Manager(s) or Member(s)

Manager or Member Name	Manager or Member Address
+ Antonio Simeone	200 JOHN ST BANNING, CA 92220
+ Kenneth Brymer	200 JOHN ST BANNING, CA 92220
+ Victor Quezada	200 JOHN ST BANNING, CA 92220

Agent for Service of Process

Agent Name	TONY SIMEONE
Agent Address	19360 RINALDI ST 388 PORTER RANCH, CA 91326

Type of Business

Type of Business	Cannabis Cultivation

Email Notifications

Opt-in Email Notifications	Yes, I opt-in to receive entity notifications via email.

Chief Executive Officer (CEO)

CEO Name	CEO Address
+ Antonio Simeone	200 JOHN ST BANNING, CA 92220

Labor Judgment

No Manager or Member, as further defined by California Corporations Code section 17702.09(a)(8), has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal is pending, for the violation of any wage order or provision of the Labor Code.

Electronic Signature

☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

Antonio Simeone	*10/31/2024*
Signature	Date

B3160-3871 10/31/2024 9:57 AM Received by California Secretary of State

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

Date of this notice: 07-16-2024

Employer Identification Number:
99-4005279

Form: SS-4

Number of this notice: CP 575 B

FLOWER DEPT LLC
ANTONIO SIMEONE MBR
19360 RINALDI ST STE 388
PORTER RANCH, CA 91326

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 99-4005279. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

Taxpayers request an EIN for their business. Some taxpayers receive CP575 notices when another person has stolen their identity and are opening a business using their information. If you did **not** apply for this EIN, please contact us at the phone number or address listed on the top of this notice.

When filing tax documents, making payments, or replying to any related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following forms by the dates shown.

Form 1065 03/15/2025

If you have questions about the forms or the due dates shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification (corporation, partnership, estate, trust, EPMF, etc.) based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2020-1, 2020-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

(IRS USE ONLY) 575B 07-16-2024 FLOW B 9999999999 SS-4

IMPORTANT REMINDERS:

* Keep a copy of this notice in your permanent records. This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you. You may give a copy of this document to anyone asking for proof of your EIN.

* Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.

* Refer to this EIN on your tax-related correspondence and documents.

* Provide future officers of your organization with a copy of this notice.

Your name control associated with this EIN is FLOW. You will need to provide this information along with your EIN, if you file your returns electronically.

Safeguard your EIN by referring to Publication 4557, Safeguarding Taxpayer Data: A Guide for Your Business.

You can get any of the forms or publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions about your EIN, you can contact us at the phone number or address listed at the top of this notice. If you write, please tear off the stub at the bottom of this notice and include it with your letter.

Thank you for your cooperation.

Keep this part for your records. CP 575 B (Rev. 7-2007)

Return this part with any correspondence so we may identify your account. Please correct any errors in your name or address.

CP 575 B

9999999999

Your Telephone Number ( ) -
_____

Best Time to Call
_____

DATE OF THIS NOTICE: 07-16-2024
EMPLOYER IDENTIFICATION NUMBER: 99-4005279
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE
CINCINNATI OH 45999-0023

FLOWER DEPT LLC
ANTONIO SIMEONE MBR
19360 RINALDI ST STE 388
PORTER RANCH, CA 91326

DISPLAY THIS PERMIT CONSPICUOUSLY AT THE PLACE OF BUSINESS FOR WHICH IT IS ISSUED

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

SELLER'S PERMIT

PERMIT NUMBER

208502176 - 00001

FLOWER DEPT
FLOWER DEPT LLC
200 JOHN ST
BANNING CA 92220-6042

START DATE:
October 29, 2024

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION.

THIS PERMIT IS NOT VALID AT ANY OTHER ADDRESS.

YOU ARE REQUIRED TO OBEY ALL FEDERAL AND STATE LAWS THAT REGULATE OR CONTROL YOUR BUSINESS. THIS PERMIT DOES NOT ALLOW YOU TO DO OTHERWISE.

PLEASE RETAIN THIS DOCUMENT FOR YOUR RECORDS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE.
FOR GENERAL TAX QUESTIONS, PLEASE CALL OUR CUSTOMER SERVICE CENTER AT 1-800-400-7115 (TTY:711).
FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYERS' RIGHTS ADVOCATE OFFICE AT 1-888-324-2798.

CDTFA-442-R REV. 20 (2-22)

A MESSAGE TO OUR PERMIT HOLDER

As a permittee, you have certain rights and responsibilities under the Sales and Use Tax Law. For assistance, we offer the following resources:

- Our website at *www.cdtfa.ca.gov*.
- Our toll-free Customer Service Center at 1-800-400-7115 (TTY:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

As a permittee, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a California Department of Tax and Fee Administration (CDTFA) representative when requested. You are also required to know and charge the correct sales or use tax rate, including any local and district taxes.

You must notify us if you are buying, selling, adding a location, or discontinuing your business; adding or dropping a partner, officer, or member; or when you are moving any or all of your business locations. This permit is valid only for the owner specified on the permit. A person who obtains a permit and ceases to do business, or never commenced business, shall surrender their permit by immediately notifying CDTFA in writing at this address: California Department of Tax and Fee Administration, Field Operations Division, P.O. Box 942879, Sacramento, CA 94279-0047. You may also surrender the permit to a CDTFA representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with CDTFA, please contact the Taxpayers' Rights Advocate Office for help by calling 1-888-324-2798 or by faxing 1-916-323-3319.

As authorized by law, information provided by an applicant for a permit may be disclosed to other government agencies.

Print Form

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Riverside
2724 Gateway Drive
Riverside

From: (Public Agency): City of Banning
99 E Ramsey St
Banning, CA 92220
(Address)

Project Title: Indoor Cannabis Cultivation, Flower Dept.

Project Applicant: Ricardo Alcantara

Project Location - Specific:
200 John St, Banning, CA 92220 APN: 541-220-006 Address change to 319 Galleher Way

Project Location - City: Banning Project Location - County: Riverside

Description of Nature, Purpose and Beneficiaries of Project:

The project proposes to allow the interior tenant improvement and operation of a commercial cannabis cultivation facility within an existing 8,041 square-foot industrial building. The facility will include grow rooms, dry/trim rooms, storage, restrooms, and a break area. No structural additions are proposed. The project includes site access via an easement from Gallaher Way and onsite security, odor control, and waste management systems. Flower Dept, LLC will operate daily from 6:00 AM to 10:00 PM.

Name of Public Agency Approving Project: City of Banning

Name of Person or Agency Carrying Out Project: Flower Dept, LLC

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Section 15301 (Existing Facilities)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project qualifies as a Class 1 Categorical Exemption under CEQA Guidelines Section 15301, which applies to the interior or exterior alterations involving negligible or no expansion of use beyond what previously existed. The proposed commercial cannabis cultivation will occur entirely within an existing permitted structure. No new ground disturbance, expansion of building footprint, or significant environmental effects will occur. All activity will comply with local and state cannabis regulations.

Lead Agency Contact Person: Ted Lopez Area Code/Telephone/Extension: 951-922-3125

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Kristine Gutierrez, Community Development Operations Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Annual Review of Development Agreement between Tri Pointe Homes (Previously Pardee Homes) and the City of Banning Regarding the Development of the Atwell Project within the Butterfield Specific Plan Generally Located Northeast of Wilson Street and Highland Springs Avenue.**

RECOMMENDATION:

Receive and file.

BACKGROUND:

Government Code Section 65865.1 requires that development agreements include provisions requiring periodic review at least every 12 months, at which time the applicant, or successor in interest thereto, must be required to demonstrate good faith compliance with the terms of the agreement. Section 65865.1 also states that if, as a result of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the local agency may terminate or modify the agreement.

The annual review requirements for the Butterfield Specific Plan Project are set forth in Section 12 of the Development Agreement for the Project. In accordance with Section 12 (pages 34-35) of the Development Agreement between the City of Banning ("City") and Tri Pointe Homes ("Developer"), which was entered into on March 27, 2012, with a subsequent revised effective date of February 9, 2015, the City is conducting an annual review to review the Developer's performance under the Development Agreement. Try Pointe Homes is a successor in interest to Pardee Homes under the Development Agreement. The Developer has delivered the necessary information, reasonably requested by the City, regarding the Developer's performance under the Agreement. Staff has reviewed the information requested, performed a series of site inspections, conducted several meetings internally and with the Developer, and determined that the Developer has, and continues to, demonstrate compliance with the Agreement. Based on the review, staff has also determined that the Developer is implementing the Development Agreement in good faith, and continues to comply with the provisions and regulations of the adopted Specific Plan, the certified Environmental Impact Report prepared for the Project, and the existing land use regulations applicable to the Project as set forth in the Banning Municipal Code and the Butterfield Specific Plan.

JUSTIFICATION:

A summary of the project activities, over the past year, is detailed in the table below:

Development Agreement Section/Provisions	Developer Status Update
Section 1 - Definitions	Conforming/No Update
Section 2 – Exhibits	Conforming/No Update
Section 3 – Term	Conforming/No Update
Section 4 – Development of the Developer's Property	(4.7) A Development Impact Fee Update was completed in September 10, 2019. Per DA, Atwell DIF fees are locked in for 10 years post DIF Fee acceptance/approval.
Section 5 – Financing and the City's Obligations	Formation of the first, second, third and fourth Financing Districts have been completed with the bonds for all four series successfully sold. It is anticipated that the fifth Financing District being formed in the third quarter of 2025. A Development Impact Fee Agreement has been approved.

Section 6 – Time for Construction and Completion of Project	(6.1) The development is proceeding at an acceptable pace given current market conditions. (6.2) *Permits:* All residential permits have been pulled in Phase 1A, Phase 1B and Phase 2A-1. TPH has been pulled permits continuously in Phases 2B-1 and 2B-2 to support current demand in the area. Homes in the current phases are in various stages of construction. *Closings:* There have been approximately 470 closings within in Phase 1A, approximately 355 closings within Phase 1B, approximately 311 closings within Phase 2A-1, approximately 156 closings within Phase 2B-1 and approximately 25 closings within Phase 2B-2. Sales continue to be steady but there is always the threat of rising interest rates, rising material costs and delays due to material lead times slowing the pace of sales. (6.2.3.) Infrastructure related plans have been submitted and/or approved for all of various development phases either current or future. (6.2.4.) Developer has undergone a good faith effort to market the commercial retail planning area. All surrounding infrastructure is in place to accommodate construction should a commercial developer show interest in starting. All other provisions, of Section 6, are proceeding in good faith.
Section 7 – Development Impact Fees	(7.2.2) Development Impact Fee Studies are complete. Adjustments will be made at the 10-year review. (7.3.5.) Fee Impact Studies associated with reclaimed water facilities are complete. (7.5.1 – 7.5.3.) A TUMF Credit Agreement was executed by the City Council at the May 14, 2019 Meeting and work has been completed on Highland Springs Avenue between 8th Street/Wilson Street and Oak Valley Parkway/Meadowline Way.

Section 8 – Dedications and Conveyances of Property Interests	(8.1.1.) Plans have been submitted and are continuing to be submitted for review. Plans are being submitted and actively processed by the City for infrastructure improvements.
Section 9 – Processing of Requests and Applications: Other Government Permits	(9.2) A Deposit Reimbursement Agreement is executed between the Developer and City. (9.3) The City recently implemented a new planning checking software that has slowed the improvement plan turnaround times.
Section 10 – Amendment and Modification of Development Agreement	Conforming/ Settlement Agreement Passed updating Fee Waivers provisions.
Section 11 – Reservations of Authority	Conforming/No Update
Section 12 – Annual Review	Conforming
Section 13 – Default, Remedies & Termination	Conforming/No Update
Section 14 – Assignment	Conforming/No Update
Section 15 – Releases and Indemnities	Conforming/No Update
Section 16 – Effect of Agreement on Title	Conforming/No Update
Section 17 – City Officers and Employees: Non-Discrimination	Conforming/No Update
Section 18 – Mortgage Protection	Conforming/No Update
Section 19 – Miscellaneous	Conforming/No Update

After reviewing the Developer's update, staff concurs that the project is being carried out in good faith and in accordance with the terms of the Development Agreement. After conducting the public hearing on the annual review of the Development Agreement. it is that the Council receive and file this matter. The next annual review will serve as the 10 Year Anniversary Review, which is a milestone review under the Agreement.

Public Communication:
On October 3, 2025, a notice of public hearing was published in the Record Gazette, a newspaper of general circulation within the City of Banning, notifying the public that the subject review would be considered by the City Council at a public hearing on October 14, 2025. The notice was a 1/8-page display advertisement. As of the time of the writing of this staff report, no public comments were received.

FISCAL IMPACT:

None. As required in Section 12 of the attached Development Agreement, the cost for the annual review is paid by the Developer.

ALTERNATIVES:

Continue the hearing to a date certain to allow additional information be provided.

BUDGETED?:

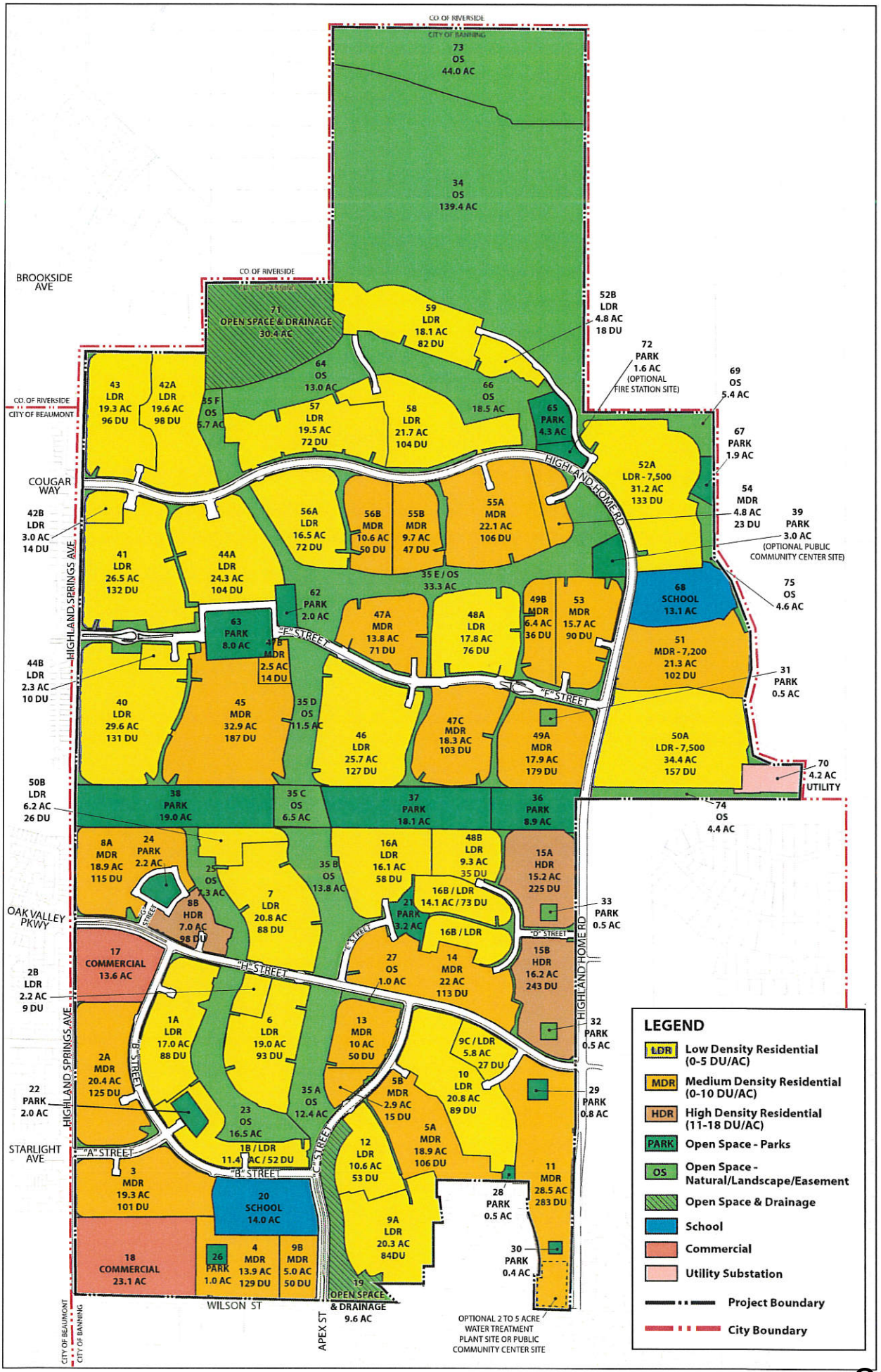
No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Specific Plan Land Use Plan.pdf
2. Dev Agree.Pardee 7-17-12.pdf
3. Affidavit of Publication_Atwell DA.pdf



Michael Baker INTERNATIONAL

NOT TO SCALE

PARDEE HOMES • BUTTERFIELD SPECIFIC PLAN

Land Use Plan

DOC # 2012-0332888
07/17/2012 02:58P Fee:NC
Page 1 of 82
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

*RECORDING REQUESTED BY,)

AND WHEN RECORDED MAIL TO:)

)

CITY CLERK)

City of Banning)

99 E. Ramsey Street)

Banning, CA 92220)

S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY
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No Recording Fee Required – Government Code § 27383

M 043

DEVELOPMENT AGREEMENT

between

THE CITY OF BANNING

("City")

and

PARDEE HOMES

A California Corporation

("Developer")

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into on March 27, 2012, between the CITY OF BANNING (the "City"), a municipal corporation, and PARDEE HOMES (the "Developer"), a California corporation, pursuant to Article 2.5 of Chapter 4 of Division 1 of Title 7, §§ 65864 through 65869.5 of the Government Code. The City and the Developer shall be referred to within this Agreement jointly as the "Parties" and individually as a "Party."

RECITALS:

A. Capitalized Terms. The capitalized terms used in these Recitals and throughout this Agreement shall have the meaning assigned to them in Section 1. Any capitalized terms not defined in Section 1 shall have the meaning otherwise assigned to them in this Agreement or apparent from the context in which they are used.

B. Development of the Developer's Property. Concurrent with the approval of this Agreement, the City has approved the Specific Plan, which contemplates low, medium and high density residential development, to a maximum total of 5, 387 dwelling units, 36 acres of commercial/retail development, schools, parks and supporting infrastructure on 1,543 acres, and a general plan amendment and a zone change and has certified a Final Environmental Impact Report, State Clearinghouse No. 2007091149, for the area described in Exhibit "A" (the "Developer's Property").

C. Legislation Authorizing Development Agreements. 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 the Development Agreement Statute, authorizing the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein. The legislative findings and declarations underlying the Development Agreement Statute and the provisions governing contents of development agreements state, in Government Code §§ 65864(c) and 65865.2, that the lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities is a serious impediment to the development of new housing, and that applicants and local governments may include provisions in development agreements relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

D. Intent of the Parties. The Developer and the City have determined that the Project is a development for which a development agreement is appropriate. The Parties desire to define the parameters within which the obligations of the Developer for infrastructure and public improvements and facilities will be met and to provide for the orderly development of the Developer's Property, assist in attaining the most effective utilization of resources within the City and otherwise achieve the goals of the Development Agreement Statute. In consideration of these benefits to the City and the public benefits of the development of the Developer's Property, the Developer will receive assurances that the City shall grant all permits and approvals required

for total development of the Developer's Property and will provide for the assistance called for in this Agreement in accordance with the terms of this Agreement.

E. Public Benefits of the Project. This Agreement provides assurances that the public benefits identified below in this Recital E will be achieved in accordance with the terms of this Agreement. The Project will provide local and regional public benefits to the City, including, without limitation:

1. Increased Tax Revenues. The development of the Developer's Property in accordance with the terms of this Agreement will result in increased real property and sales taxes and other revenues to the City.

2. Reduced Vehicle Miles Travelled. The Project will reduce vehicle trips by implementing a transportation demand management program that takes advantage of alternative modes of mass transit within the City.

3. Pedestrian Mobility. The Project encourages pedestrian mobility through the provision of walking paths, through signage guiding pedestrians to nearby destinations and through preservation of significant open space to create pleasant environments that will encourage walking.

4. Sustainable Design. The Developer will, to the extent reasonably feasible, include sustainable design for commercial and industrial uses and green building standards for residential construction.

5. Pedestrian Connection. The Project will include a series of public pedestrian trails throughout the Developer's Property.

6. Reduced Traffic Congestion. The Project will include improvements and contribute fees to improvements that will reduce congestion on local streets and the regional transportation network.

7. Public Schools. The Project will allow for the construction of elementary schools in both the Beaumont Unified School District and Banning Unified School District, which will benefit residents both within and outside the Project.

8. Natural Open Space. Over 56 acres of natural open space will be preserved in perpetuity.

9. Parks and Recreation. Park and recreation improvements include:

a. 58.5 acres of community and neighborhood parks

b. 8.0 acres devoted to private recreation centers.

c. 254 acres of public golf course or active open space amenity

d. 108.4 acres of other open space.

10. Financial Impact Mitigation. Based upon a study of financial impacts on the City, the Project will pay a Services Special Tax to alleviate negative financial impacts of the Project on the City.

F. Public Hearings: Findings. In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq. ("CEQA")), appropriate studies, analyses, reports and documents were prepared and considered by the Planning Commission and the City Council. The Planning Commission, after a public hearing on March 7, 2012, recommended, and the City Council, after making appropriate findings, certified, by Resolution No. 2012-24 adopted on March 27, 2012 a Final Environmental Impact Report for the Project, more specifically identified as the Final Environmental Impact Report for the Butterfield Specific Plan, State Clearinghouse No. 2007091149, as having been prepared in compliance with CEQA. On March 7, 2012, the Planning Commission, after giving notice pursuant to Government Code §§ 65090, 65091, 65092 and 65094, held a public hearing on the Developer's application for this Agreement. On March 27, 2012, the City Council, after providing the public notice required by law, held a public hearing to consider the Developer's application for this Agreement. The Planning Commission and the City Council have found on the basis of substantial evidence based on the entire administrative record, that this Agreement is consistent with all applicable plans, rules, regulations and official policies of the City.

G. Mutual Agreement. Based on the foregoing and subject to the terms and conditions set forth herein, Developer and City desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and having determined that the foregoing recitals are true and correct and should be, and hereby are, incorporated into this Agreement, the Parties agree as follows:

1. DEFINITIONS

The following words and phrases are used as defined terms throughout this Agreement. Each defined term shall have the meaning set forth below.

1.1 Acquisition Agreement. "Acquisition Agreement" shall have the meaning set forth in Section 5.1 below.

1.2 Anniversary Date. "Anniversary Date means the date of the anniversary of each year following the Effective Date established in Section 3.5.

1.3 Annual Review. "Annual Review" means the annual review of the Developer's performance of the Agreement in accordance with Section 12.1 of the Agreement and Government Code § 65865.1.

1.4 Applications. "Application(s)" means a complete application for the applicable land use approvals (such as a subdivision map, conditional use permit, etc.) meeting all of the current ordinances of the City provided that any additional or alternate requirements in those ordinances enacted after the Effective Date which affect the Project application shall apply only to the extent permitted by this Agreement.

1.5 Appraisal of Land Value. "Appraisal of Land Value" when referred to herein shall mean the determination by an experienced and independent MAI appraiser retained by City (Developer may veto any appraiser selected by City for good cause), in a written appraisal at fair market value based upon comparable sales of unimproved land, and serviced by the existing infrastructure, and with the development restrictions of the Specific Plan, and with the understanding that such value shall not exceed $80,000 per acre.

1.6 Assignment. "Assign" shall have the meaning set forth in § 14.1.1 below. All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

1.7 Authorizing Ordinance. "Authorizing Ordinance" means Ordinance No. 1451 approving this Agreement, introduced on March 27, 2012 and adopted on April 10, 2012.

1.8 Building Permit. "Building Permit," with respect to any building or structure to be constructed on the Developer's Property, means a building permit for not less than the shell and core of such building or structure issued by the City's Division of Building and Safety.

1.9 CC&R's. "CC&R's" shall have the meaning set forth in Section 14.4 below.

1.10 Certificate of Compliance. "Certificate of Compliance" shall have the meaning set forth in Section 12.2 below.

1.11 Certificate of Occupancy. "Certificate of Occupancy," with respect to a particular building or other work of improvement, means the final certificate of occupancy issued by the City with respect to such building or other work of improvement.

1.12 CFD. "CFD" means a community facilities district for the Project allowed to be formed pursuant to the CFD Act by a Local Agency.

1.13 CFD Act. "CFD Act" means the Mello Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.), as it may be amended from time to time, authorizing the imposition of special taxes to fund capital facilities and services.

1.14 City. "City" means the City of Banning, California.

1.15 City Council. The "City Council" means the governing body of the City.

1.16 City Development Agreement Ordinance. "City Development Agreement Ordinance" means Chapter 17.60 of the Zoning Ordinance which establishes a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Statute.

1.17 City Manager. "City Manager" means the City Manager of City.

1.18 City Wide Traffic Improvements. "City Wide Traffic Improvements" means those traffic improvements identified in the Traffic Impact Mitigation Fee established in Article 7.

1.19 Claims or Litigation. "Claims or Litigation" means any challenge by adjacent owners or any other third parties (i) to the legality, validity or adequacy of the General Plan, Land Use Regulations, this Agreement, Development Approvals or other actions of the City pertaining to the Project, or (ii) seeking damages against the City as a consequence of the foregoing actions, for the taking or diminution in value of their property or for any other reason.

1.20 Dedicate or Dedication. "Dedicate" or "Dedication" means to offer the subject land to the City .

1.21 Default. "Default" refers to any material default, breach, or violation of a provision of this Development Agreement as defined in Section 13 below. "City Default" refers to a Default by the City, while "Developer Default" refers to a Default by the Developer.

1.22 Developed Property. "Developed Property" shall mean residential property for which a certificate of occupancy has been issued or a final inspection conducted.

1.23 Development Goals. "Development Goals" shall have the meaning set forth in Section 6.2 below.

1.24 Developer's Property. "Developer's Property" means the 1543 acres of land, more or less, described in Exhibit A in which Developer holds a legal or equitable interest and upon which the Project will be developed.

1.25 Development. "Development" means the improvement of the Developer's Property for purposes of effecting the structures, improvements and facilities composing the Project including, without limitation: grading, the construction of infrastructure and public facilities related to the Project, whether located within or outside the Developer's Property; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement or facility after the construction and completion thereof, provided that such repair, or reconstruction takes place during the Term of this Agreement on parcels subject to this Agreement.

1.26 Development Agreement Statute. "Development Agreement Statute" means §§ 65864 through 65869.5 of the Government Code as it exists on the Effective Date.

1.27 Development Approvals. "Development Approvals" means all site-specific (meaning specifically applicable to the Developer's Property only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements to use of every kind and nature. Development Approvals includes, but is not limited to, specific plans, site plans, tentative and final subdivision maps, vesting tentative maps, variances, zoning designations, planned unit developments, conditional use permits, grading, building and other similar permits, the site-specific provisions of general plans, environmental assessments, including environmental impact reports, and any amendments or modifications to those plans,

maps, permits, assessments and entitlements. The term Development Approvals does not include rules, regulations, policies, and other enactments of general application within the City.

1.28 Development Impact Fees. "Development Impact Fees" means the monetary consideration, other than a tax or assessment, charged by the City in connection with mitigating the Project's specific impacts and the development of the public facilities related to the Development of the Project, including those fees, calculated on the basis of the number of residential units or square footage of non-residential development to be constructed, as set forth on Exhibit "D" attached hereto as well as those Development Impact Fees set forth in Exhibit B and being revised. Development Impact Fees do not include Processing Fees.

1.29 Development Plan. "Development Plan" means the Existing Development Approvals, Future Development Approvals and Existing Land Use Regulations.

1.30 Director. "Director" means the City's Director of Community Development or equivalent official.

1.31 Economically Distressed Year. "Economically Distressed Year" means any calendar year in which the number of building permits for single family dwelling units issued in Western Riverside County (includes all cities and unincorporated county territory) are less than 50% of the average number of building permits issued during the prior 25 years, based on the annual report of the California Construction Industry Research Board. For example, for the 25 year period from 1987 to 2011, inclusive, total permits issued were 235,455 and the annual average was 9418. In 2008, 2009, 2010 the total permits issued were 2794, 2717 and 3321, so all three years would have been declared "Economically Distressed" hereunder. If the number of building permits issued in any calendar year are not available from the California Construction Industry Research Board, then the City shall obtain them from any other reliable source measuring the same data over the period.

1.32 Effective Date. "Effective Date" means the date this Agreement becomes effective as set forth in Section 3.5.

1.33 Eligible Facitlities. "Eligible Facilities" means the Proposed Project Facilities and other public facilities, fees and contibutions for public facilities, as described in the Financing Plan.

1.34 Exaction. "Exaction" means Dedications, payment of Development Impact Fees and/or construction of public infrastructure by the Developer as part of the Development of the Project. The development will be subject to all development and/or in lieu fees currently in the process of being studied by the City as indentified in Section 7.22 so long as they are adopted prior to the issuance of building permits for specific portions of the development proposed herein. The amount of the fees shall be as required at the time of issuance of building permits.

1.35 Existing Development Approvals. "Existing Development Approvals" means only the Development Approvals which are listed on Exhibit "B."

1.36 Existing Land Use Regulations. "Existing Land Use Regulations" means those Land Use Regulations applicable to the Property in effect on the Effective Date.

1.37 Financing Plan. "Financing Plan" means Exhibit "H" attached hereto.

1.38 Force Majeure. "Force Majeure" shall have the meaning set forth in Section 19.2 below.

1.39 Future Development Approvals. "Future Development Approvals" means those Development Approvals applicable to the Developer's Property approved by the City after the Effective Date such as tentative tract maps, subdivision improvement agreements and other more detailed planning or engineering approvals.

1.40 General Plan. "General Plan" means the City's General Plan as it exists on the Effective Date, and as expressly amended by (i) General Plan Amendment 11-2501 approved by the City Council concurrently with this Agreement; and (ii) future amendments applicable to the Developer's Property, if permitted, by Article 11.

1.41 Goals and Policies for Financing. "Goals and Policies for Financing" or "Goals and Policies" means the City's goals and policies adopted in accordance with Section 5.2.1.

1.42 Golf Course/Active Open Space. "Golf Course/Active Open Space" means the area containing all of Planning Area 35 and Planning Area 39 as described in the Specific Plan and Sections 5.3 and 5.9.10 below.

1.43 Grading Permit. "Grading Permit" means a permit issued by the City's Division of Building and Safety which allows the excavation or filling, or any combination thereof, of earth.

1.44 Improvement Area. "Improvement Area" shall have the meaning set forth in Section 5.1 below.

1.45 Innocent Owner. "Innocent Owner" shall have the meaning set forth in Section 13.6 below.

1.46 LAFCO. "LAFCO" means the Riverside County Local Agency Formation Commission.

1.47 Land Use Regulations. "Land Use Regulations" means those ordinances, laws, statutes, rules, regulations, initiatives, policies, requirements, guidelines, constraints, codes or other actions of the City which affect, govern, or apply to the Developer's Property or the implementation of the Development Plan. Land Use Regulations include the ordinances and regulations adopted by the City which govern permitted uses of land, density and intensity of use and the design of buildings, applicable to the Property, including, but not limited to, the General Plan, the Specific Plan, zoning ordinances, development moratoria, implementing growth management and phased development programs, ordinances establishing development exactions, subdivision and park codes, any other similar or related codes and building and

improvements standards, mitigation measures required in order to lessen or compensate for the adverse impacts of a project on the environment and other public interests and concerns or similar matters. The term Land Use Regulations does not include, however, regulations relating to the conduct of business, professions, and occupations generally; taxes and assessments; regulations for the control and abatement of nuisances; building codes; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; any exercise of the power of eminent domain; or similar matters.

1.48 Legal or Equitable Interest. "Legal or Equitable Interest" means (i) an option or purchase agreement or (ii) fee title evidenced by appropriate title insurance issued in favor of the Developer.

1.49 LMD. "LMD" means the Landscape and Maintenance District established pursuant to Streets and Highways Code § 22500 et seq. to fund parks, parkways, City rights of way landscaping and common areas.

1.50 Local Agency. "Local Agency" means any public agency authorized to levy, create or issue any form of land secured financing over all or any part of the Project, including, but not limited to, the City.

1.51 Lot. "Lot" means any of the parcels legally created within the Project as a result of any approved final subdivision, parcel or tract map, pursuant to the Subdivision Map Act or recordation of a condominium plan pursuant to Civil Code § 1352 .

1.52 Master Tract Map. "Master Tract Map" (or "A Map") means a large scale tract map covering one or more complete Planning Areas which will include all infrastructure necessary to develop the tract and a phasing plan as to the development of the infrastructure and the subsidiary subdivisions within the tract. The Master Tract Map is a subdivision map within the meaning of the Subdivision Map Act and shall meet the requirements of the Act and of this Agreement. The Master Tract Map may also be a financing map for purpose of financing the development of the Project or the conveyance of large lots and may not require the actual construction of improvements.

1.53 Mortgage. "Mortgage" means a mortgage, deed of trust, sale and leaseback arrangement or other transaction in which all, or any portion of, or any interest in, the Developer's Property is pledged as security.

1.54 Mortgagee. "Mortgagee" refers to the holder of a beneficial interest under a Mortgage.

1.55 Mortgagee Successor. "Mortgagee Successor" means a Mortgagee or any third party who acquires fee title or any rights or interest in, or with respect to, the Developer's Property, or any portion thereof, through foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise from, or through, a Mortgagee. If a Mortgagee acquires fee title or any right or interest in, or with respect to, the Developer's Property, or any portion thereof, through foreclosure, trustee's sale or by deed in lieu of foreclosure and such Mortgagee subsequently conveys fee title to such portion of the Developer's Property to a third party, then such third party shall be deemed a Mortgagee Successor.

1.56 Municipal Code. "Municipal Code" means the City's Municipal Code as it existed on the Effective Date and as it may be amended from time to time consistent with the terms of this Agreement.

1.57 Non-Defaulting Party. "Non-Defaulting Party" shall have the meaning set forth in Section 13.1 below.

1.58 Owner. "Owner" means Pardee Homes and any successors during the period of time that each such person or entity owns fee title to any portion of the Developer's Property prior to the development of such portion of the developer's Property and subject to the terms of this Agreement.

1.59 Park fees. "Park Fees" means Development Impact Fees levied by the City for Open Space and Park Development pursuant to Chapter 15.68 of the Municipal Code.

1.60 Phase. "Phase" shall have the meaning set forth in Section 6.2 below.

1.61 Phasing Plans. "Phasing Plans" shall mean the detailed plans for development of the Proposed Project Facilities and other infrastructure and for the Project which are developed pursuant to Section 6.5 as a part of processing the Subdivision Maps.

1.62 Planning Area. "Planning Area" means each of the 75 planning areas described in the Specific Plan, and shown on Exhibit "A."

1.63 Planning Commission. "Planning Commission" means the City's Planning Commission.

1.64 Pre-Qualified Buyer. "Pre-Qualified Buyer" means a publicly traded builder or developer or a privately held merchant builder with a minimum net financial worth of Five Million Dollars ($5,000,000) who has constructed at least 75 homes in California during the preceding five year period.

1.65 Property Owner's Association or POA. "Property Owner's Association" or "POA" means one or more association formed among the owners of real estate located within the Property (as the same may be subdivided from time to time), including, but not limited to, one or more associations of homeowners and/or other associations of owners of industrial, commercial, educational and retail property.

1.66 Processing Fees. "Processing Fees" means (i) the City's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection and similar fees imposed to recover the City's costs associated with processing, review and inspection of applications, plans, specifications, etc., and (ii) fees and charges levied by any other public agency, utility, district or joint powers authority, whether or not City is a member of such body or such fees are collected by the City, and whether or not such fees are used for maintenance or capital outlay purposes.

1.67 Project. "Project" means the Development of the Developer's Property, pursuant to this Agreement and the Existing Land Use Regulations, as depicted on Exhibit "B" attached hereto.

1.68 Proposed Project Facilities. "Proposed Project Facilities" means those improvements set forth on Exhibit "F" attached hereto or otherwise included in conditions of approval of the maps.

1.69 Reimburse or Reimbursement. "Reimburse" or "Reimbursement" means the provision by the City of cash or credit in return for land, goods or services provided by Pardee Homes.

1.70 Reservations of Authority. "Reservation of Authority" shall have the meaning set forth in Article 11 below.

1.71 Services Special Tax. "Services Special Tax" shall mean the special tax authorized to be levied by the CFD(s) established over the Developer's Property to alleviate the negative fiscal impact of the Project on City services as established by the Fiscal Impact Analysis ("FIA") and as further described in Section 5.3 below.

1.72 Specific Plan. "Specific Plan" means the Butterfield Specific Plan, prepared by RBF Consulting and approved by the City Council by Ordinance No. 1450 introduced on March 27, 2012, adopted on April 10, 2012.

1.73 Subdivision Map. "Subdivision Map" (or "B Map") means the subsidiary subdivision maps for the development of any Tract which shall be consistent with the conditions of the Master Tract Map and shall contain its own phasing plan for the installation of the infrastructure and other improvements within the subdivision. All subdivision maps shall meet the requirements of the Subdivision Map Act including § 66473.7 (See 65867.5).

1.74 Subdivision Map Act. "Subdivision Map Act" means Government Code § 66412 et seq. as implemented by Title 16 of the Municipal Code.

1.75 Taxes. "Taxes" means general or special taxes, including but not limited to ad valorem property taxes, sales taxes, transient occupancy taxes, utility taxes or business taxes of general applicability citywide which do not burden the Developer's Property disproportionately to similar types of development in the City and which are not imposed as a condition of approval of a development project. Taxes do not include Development Impact Fees, Processing Fees or Traffic Control Facility Fees.

1.76 Ten or 10th Year Anniversary Review. "Ten Year Anniversary Review" means the review performed upon each 10th anniversary of the Effective Date as provided in Section 6.6.

1.77 Term. "Term" means that period of time during which this Agreement shall be in effect and bind the Parties, as defined in Article 6.7 below.

1.78 Traffic Control Facility Fee. "Traffic Control Facility Fee" means the fee set forth in Exhibit "B" attached hereto.

1.79 Transfer. "Transfer" shall have the meaning set forth in Article 14 below.

1.80 Trigger Percentages. "Trigger Percentages" shall have the meaning set forth in Section 14.1.1 below.

1.81 TUMF. "TUMF" means the Transportation Uniform Mitigation Fee promulgated by the Western Riverside Council of Governments and implemented by Chapter 15.76 of the Municipal Code.

1.82 Zoning Code. "Zoning Code" means Title 17 of the Municipal Code as it existed on the Effective Date except (i) as amended by any zone change relating to the Developer's Property approved concurrently with the approval of this Agreement, including Zone Change No. 11-3501, and (ii) as the same may be further amended from time to time consistent with this Agreement.

2. EXHIBITS.

The following are the Exhibits to this Agreement:

Exhibit "A": Map and Legal Description of the Developer's Property

Exhibit "B": Existing Development Approvals/Fee Studies

Exhibit "C": Estoppel Certificate

Exhibit "D": Development Impact Fees

Exhibit "E": Additional Agreements Concerning Development

Exhibit "F": Proposed Project Facilities

Exhibit "G": Highland Springs Avenue Improvements

Exhibit "H": Butterfield Project Financing Plan

3. TERM.

3.1 Term. The term of this Development Agreement (the "Term") shall commence on the Effective Date and shall continue for a period of forty (40) years, subject to review, as called for in Section 6.2 below, to determine whether the Development Goals have been met, and reduction in the Term of five (5) years for each time the Development Goals of a Phase are not met and extensions for Economic Distress, as provided in Sections 6.6.5 and 6.7 below.

3.2 Termination Upon Completion of Construction. This Agreement shall terminate with respect to any Lot, and such Lot shall be released and no longer subject to this Agreement, without the execution or recordation of any further document, when a certificate of occupancy has been issued for the last building on the Lot or, if no certificate is issued, when the final inspection for the last building on the Lot has taken place.

3.3 Termination for Default. This Agreement may be terminated due to the occurrence of any default in accordance with the procedures in Article 13.

3.4 Extension of the Term: The Term shall be extended by one (1) year for each Economically Distressed Year occurring during any Phase up to a maximum of three (3) years for any Phase.

3.5 Effective Date. This Agreement shall become effective upon the date thirty (30) days after the adoption of the Authorizing Ordinance if no Claim or Litigation have been filed which would prevent the Authorizing Ordinance from taking effect. If such a Claim or Litigation has been filed, then the Effective Date shall be the date that the Claim or Litigation has been successfully resolved in the City's favor, and the time for any further judicial review has run, so that the Authorizing Ordinance shall be effective. The City shall give Developer notice as to the date established as the Effective Date. The Effective Date is not otherwise tolled for any other Force Majeure as described in Section 19.2.

4. DEVELOPMENT OF THE DEVELOPER'S PROPERTY.

4.1 Right to Develop. During the Term, the Developer shall have a vested right to develop the Developer's Property (subject to Article 11 below) to the full extent permitted by the Development Plan and this Agreement. Except as provided within this Agreement, the Development Plan shall exclusively control the development of the Developer's Property (including the uses of the Developer's Property, the density or intensity of use, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project). The maximum number of residential units authorized to be constructed hereunder and the approximate acreage of commercial development, without regard to any density bonus or incentive or concession for child care pursuant to Government Code §§ 65915 through 65918 or other similar legislation or regulation, is 5,387 units and approximately 36-acres of commercial development. In furtherance of the foregoing, the Developer retains the right to apportion the uses, intensities and densities, between itself and any subsequent Owners, upon the sale, transfer, or assignment of any portion of the Property, so long as such apportionment is consistent with the Existing Land Use Regulations and this Agreement.

4.2 Right To Future Approvals. Subject to the City's exercise of its police power authority as specified in Article 11 below, the Developer shall have a vested right: (i) to receive from the City all future Development approvals for the Developer's Property that are consistent with, and implement, the Existing Land Use Regulations and this Agreement; (ii) not to have such approvals be conditioned or delayed for reasons which are inconsistent with the Existing Land Use Regulations or this Agreement; and (iii) to Develop the Developer's Property in a manner consistent with such approvals in accordance with the Existing Land Use

Regulations and this Agreement. All future Development Approvals for the Developer's Property, including without limitation General Plan amendments, zone changes, or parcel maps or tract maps, shall upon approval by the City, be vested in the same manner as provided in this Agreement for the Existing Land Use Regulations, for the term of this Agreement.

4.3 Existing Development Approvals. Only those items specifically set forth on Exhibit "B" hereto are deemed Existing Development Approvals for purposes of this Agreement. Any approvals not included within Exhibit "B" shall not apply to the Project with the exception of those reservations set forth in Article 11 below.

4.4 Specific Plan. Land use and Development of the Property shall be governed by the Specific Plan and this Agreement. Notwithstanding any other provision of this Agreement, the Developer shall have the right, but not the obligation, to Develop the Developer's Property for the uses specified in the Specific Plan at the locations specified in the Specific Plan.

4.5 Priority Of Specific Plan. The City has determined that the Specific Plan is consistent with the General Plan and the Zoning Code. As such, the Specific Plan shall be the primary document governing the use and Development of the Developer's Property and, in the event of a conflict, shall prevail over any other of the Existing Land Use Regulations except for this Agreement, which prevails over the Specific Plan.

4.6 Later Enacted Measures. This Agreement is a legally binding contract which will supersede any initiative, measure, moratorium, statute, ordinance, or other limitation enacted after the Effective Date, except as provided in Article 11. Any such enactment which affects, restricts, impairs, delays, conditions, or otherwise impacts the implementation of the Development Plan (including the issuance of all necessary Future Project Approvals or permits for the Project) in any way contrary to the terms and intent of this Agreement shall not apply to the Project unless otherwise provided by State law.

4.7 Impact Fee Studies. As provided in Section 7.2, studies for certain Development Impact Fees, listed in Exhibit "D," will be performed after the Effective Date of this Agreement and shall become a part of the Existing Development Approvals. Additionally, Development Impact Fees are subject to review and adjustment as a part of the 10 Year Anniversary Reviews, in accordance with Section 6.6. The cost of performing the studies may be included in the fees.

5. FINANCING AND THE CITY'S OBLIGATIONS.

5.1 Formation of CFD(s) and LMDs. Subject to the provisions of this Article 5, some or all of the Eligible Facilities shall be funded through the City's formation of one or more CFDs and the levy of a special tax of the CFD(s) (the "Facilities Special Tax") and issuance of bonds secured by the Facilities Special Tax (the "Bonds") in accordance with the Financing Plan set forth in Exhibit H. Such CFD(s) shall, pursuant to Section 5.3, also be authorized to finance certain City public services costs (incurred as a result of Development of the Developer's Property) through the levy of a special tax, in the not to exceed amount set forth in the Financing Plan, on each residential unit located within the boundaries of such CFD(s) (the

"Services Special Tax"). Additionally, landscape maintenance districts ("LMDs") may be formed under Section 5.6.

5.1.1. Procedures for Formation. The City and the Developer shall cooperate in good faith to form one or more (i) CFDs and/or designate improvement areas therein (the "Improvement Areas"), (ii) LMDs and designate improvement areas therein (also "Improvement Areas"), and (iii) CFDs for the Special Services Tax (collectively referred to herein as the "Financing Districts"), which are consistent with the Financing Plan and which in the aggregate will encompass and encumber the Developer's Property. Final terms and conditions regarding the formation of the Financing Districts, their boundaries, Improvement Area boundaries, the rate and method of apportionment of the Services Special Taxes and Facilities Special Taxes to be levied in any CFD, LMD and/or Improvement Area (including any tax zones therein), any acquisition or construction agreements related thereto, and the terms of one or more series of Bonds to be issued in conjunction therewith shall be determined jointly by City and the Developer in accordance with the Financing Plan and the City's Goals and Polices for Financing . In conjunction with the formation of any Financing District, the Developer and the City shall cooperate in good faith to negotiate and finalize any acquisition and funding agreement prior to the formation of the first Financing District addressing the terms of construction, acquisition and financing of any of the Eligible Facilities to be funded by the Financing District (such agreement to be referred to herein as the "Acquisition Agreement"). Developer shall cooperate in the establishment of the levy over Developer's Property and not exercise any rights of protest.

5.1.2. Timing of Formation. Developer shall prepare all studies and submit all documents necessary to form the Financing Districts within one year after the adoption of City's Goals and Policies for Financing. After Developer has initiated formation of the Financing Districts, City shall form the Financing Districts consistent with the City's adopted Goals and Policies for Financing and State Law. City shall complete formation proceedings within 180 days after Developer makes the necessary submission. The Developer shall indemnify the City and hold it harmless against Claims or Litigation brought in connection with the formation of the Financing Districts.

5.1.3. Failure to Form Financing Districts. If any of the contemplated Financing Districts are not formed, or formed but not in accordance with the terms of this Agreement, through the failure of one Party to perform its obligations pursuant to Section 5.1, the other Party shall have the right, but not the obligation, to terminate this Agreement upon providing 30 days written notice to the Party which has failed to perform prior to the actual termination date.

5.2 Adoption of Goals and Policies for Financing. Before the Developer undertakes development of any units, the City shall retain a financial advisor and prepare a City-wide policy for undertaking land based CFD and assessment financing. The draft policy will be reviewed with the Developer and the City shall in good faith consider any comments made by the Developer on the draft policy. The goals and policies for Financing shall be adopted within 180 days after the Effective Date and shall be consistent with Exhibit H, including the Financing Parameters described therein. The goals and policies shall be adopted by Council by resolution and thereafter be the Goals and Policies for Financing. The City may amend the Goals and

Polices for Financing from time to time, and will be a part of the Existing Land Use Regulations hereunder, but such amendment shall not apply to the Development unless they are consented to by Developer.

5.3 Services Special Tax. The final Fiscal Impact Analysis prepared by the City's consultant, Willdan Financial Services, dated September 16, 2011, (the "FIA") demonstrates an overall negative fiscal impact on certain City public service costs incurred as a result of Development of the Developer's Property, including without limitation, the City's costs for police and fire services. The FIA demonstrates that such negative fiscal impact can fully be mitigated by an annual Services Special Tax, implemented as required by this Section 5.3 and the Financing Plan set forth in Exhibit "H" attached hereto. The annual services Special Tax shall not exceed $ 115 per dwelling unit of greater than 1820 square feet of habitable area and $92 per dwelling unit of 1820 or less square feet of habitable area in fiscal year 2013-14 and shall increase each fiscal year thereafter by 3%. The Services Special Tax may be levied in perpetuity and shall only be levied by the CFD(s) formed pursuant to Section 5.1 on residential parcels classified as Developed Property, but Developer shall cooperate in the establishment of the levy over Developer's Property and not exercise any rights of protest.

5.4 Planning Area 19, 35, 39 and 71 Drainage Facilities. In the event that the Developer, in its sole and absolute discretion, determines that the Golf Course is financially infeasible, the flood control improvements within Planning Areas 35 and 39 shall be considered Proposed Project Facilities and may be funded through the CFD(s). If this occurs, then portions of the land within Planning Areas 35 and 39 will be dedicated as public open space and the remaining portions dedicated to flood control appurtenances, to be transferred to the City or the Riverside County Flood Control District upon completion of the flood control facilities on such site and shall be improved to the Master Plan Standards of District. Plans for developing the necessary improvements shall be developed as a part of the Phasing Plans pursuant to Section 6.5, but improvements may not be required until the City Engineer determines that development will (i) intrude into the flood plan or (ii) cause the alteration of Smith Creek. The City Engineer may approve temporary improvements until the scale of the portion of the Project completed requires permanent structures. Upon transfer of the portions of the Planning Areas relating to the flood control facilities to the City or District, if the CFD(s) are formed or, as soon thereafter as the CFD(s) are formed, the City shall pay the agreed upon construction costs to the Developer from available CFD Proceeds in accordance with the Financing Plan. (Also see Sections 8.1.3. and 8.2.)

5.5 Reimbursement Agreements. If, and to the extent that, the Developer constructs or installs any infrastructure and/or facilities that have a capacity or size in excess of that required to serve the Project or to mitigate its impacts, the City shall reimburse the Developer for all costs and expenses incurred by the Developer in constructing such improvements for that portion of the Dedications, public facilities and/or infrastructure that the City, pursuant to this Agreement, may require pursuant to the Existing Land Use Regulations. The City further shall adopt ordinances, including but not limited to those authorized by Government Code § 66485 et seq., as may be required in order to impose a reimbursement obligation on other properties which may be served or benefited by the oversized infrastructure or facilities. The terms of the Reimbursement Agreements shall otherwise be consistent with the City's forms generally used with all other development projects of over 200 units. Such

reimbursement shall be paid to the Developer at the earliest opportunity out, and upon collection, of available fees from benefited developments so long as consistent with City's other contractual obligations. Repayment shall not extend beyond the Term of this Agreement.

5.6 Landscape Maintenance Districts. The City shall take, and Developer shall support, all steps necessary to establish LMD(s) or other maintenance districts, to fund maintenance of City parks, parkways, City rights of way landscaping, and common areas as provided in Section 5.1. The Developer shall make a deposit to pay the cost for review and approval of all agreements, studies, analysis and actions necessary for the establishment of the LMD(s).

5.7 Reimbursement for Pre-Approval Costs. The City shall provide fee credits to the applicable DIFs, as set forth below, for those residential units for which Commencement of Construction occurs by the twelfth anniversary of the Effective Date, but not more than for the first 1200 units. "Commencement of Construction" as used herein shall have the same meaning as under Section 6.3. The units eligible for fee credits for reimbursement shall be those of the 1200 which are not eligible for the incentive provided for in Section 6.8. If the incentive is taken in accordance with Section 6.8, then the amount of the credit for each unit for each fee shall be determined by taking the amount of cost to be reimbursed and dividing it by 1200 minus the number of units eligible for the incentive. As an example, if the total amount of the cost to be reimbursed is $227,500 and the number of units eligible for the incentive is 400, then the amount of the credit for each unit after the first 400 within the 12 years following the Effective Date will be $227,500/(1200-400) = $227,500/800 = $284 rounded to the nearest dollar. These fee reimbursements may be included in the subsequent fee studies performed pursuant to Section 7.2.2. [The per unit figure shown below assumes the credit is taken over 1200 units.]

5.7.1.1 A fee credit against updated Sewer Sanitary Fee and Recycled Water Fee of $227,500 or $189.60 per unit for the Corollo Study related to the sewer and recycled water master plans.

5.7.1.2 A fee credit against the updated Domestic Water Fee of $1,115,000 or $929.17 per unit for the consultant time related to the preparation of the City's 2010 Urban Water Management Plan.

5.7.1.3 A fee credit against the proposed revised Traffic Control Facility Fee of $105,000 or $875 per unit for the consultant time related to the preparation of the Traffic Impact Analysis and related traffic fee prepared documents.

5.7.1.4 A fee credit against the proposed revised Traffic Control Facility Fee of $45,000 or $375 per unit for the development of Citywide fees related to the Traffic Impact Fees study or other fee studies required as a result of entitlement activities.

5.7.1.5 A fee credit against the proposed revised Traffic Control Facility Fee or other appropriate fee of $550,000 or $462.50 per unit for the consultant time and plan preparation for required studies related to pre-project improvements to Highland Springs near the I-10 freeway.

5.7.1.6 A fee credit against the General Plan Fee of $187,500 or $156 per unit for the General Plan Traffic Circulation Element Amendment preparation.

5.8 Obligations of Developer Respecting Financing; No Speculation. Except as specifically provided herein, it is expressly understood that the Developer is fully responsible for the cost of the Project and obtaining any necessary construction or long term financing therefore. The Developer's Property shall be used solely to support the development of the Project and may not be pledged as security to support financing for any other purpose, in accordance with Article 18.

6. TIME FOR CONSTRUCTION AND COMPLETION OF PROJECT.

6.1 Timing of Development. The Parties acknowledge that the substantial public benefits to be provided by the Developer to the City pursuant to this Agreement are in consideration for, and in reliance upon, assurances that the City will permit Development of the Developer's Property in accordance with the terms of this Agreement. Accordingly, the City shall not attempt to restrict or limit the Development of the Developer's Property in any manner that would conflict with the provisions of this Agreement. The City acknowledges that the Developer cannot at this time predict the timing or rate at which the Developer's Property will be Developed. The timing and rate of Development depend on numerous factors such as market demand, interest rates, absorption, completion schedules and other factors, which are not within the control of the developer or the City. In Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, the California Supreme Court held that a construction company was not exempt from a city's growth control ordinance notwithstanding that the construction company and the city had entered into a consent judgment (tantamount to a contract under California law) establishing the company's vested rights to develop its property in accordance with the zoning. The California Supreme Court reached this result on the basis that the consent judgment failed to address the timing of development. It is the intent of the Parties to avoid the result of the Pardee case by acknowledging and providing in this Agreement that the Developer shall have the vested right to Develop the Developer's Property in such order and at such rate and at such time as the Developer deems appropriate, but in accordance with the Development Goals and the phasing plans developed in accordance with Section 6.5, and in accordance with other terms hereof or in the Development Approvals related to project phasing and timing. In addition to, and not in limitation of, the foregoing, but except as set forth in the following sentence, it is the intent of the Parties that no City moratorium or other similar limitation relating to the rate or timing of the Development of the Developer's Property or any portion thereof, whether adopted by initiative, referendum or otherwise, shall apply to the Developer's Property to the extent that such moratorium, referendum or other similar limitation is in conflict with this Agreement. Notwithstanding the foregoing, the Developer acknowledges that nothing herein is intended or shall be construed as (i) overriding any provision of the Existing Land Use Regulations to the phasing of development of the Project; or (ii) restricting the City from exercising the powers described in Section 11 of this Agreement to regulate development of the Property. Nothing in this Section 6.1 is intended to excuse or release the Developer from any obligation set forth in this Agreement which is required to be performed on or before a specified calendar date or event without regard to whether or not one or more Owners proceeds with any portion of the Project. The City acknowledges that the Project Phasing set forth in the Specific Plan does not require

that the Project be Developed in any specific order but, instead, are illustrative of how the Project may be Developed. The Project Phasing instead is controlled by this Agreement.

6.2 Development Goals. Notwithstanding the provisions of Section 6.1, the Developer must achieve certain goals and objectives in terms of Project development in order to keep the Agreement in place for the full term contemplated in Section 3.1. The development of the Project will be reviewed at each Ten Year Anniversary Review. The Development Goals are as follows:

Phase I (10th Anniversary)	▪ Development will begin near the corner of Highland Springs and Wilson unless otherwise agreed ▪ 1,200 Residential Units to be constructed ▪ Commercial retail development per 6.2.4 ▪ Outlet for Smith Creek and other improvements in Section 6.2.3.
Phase II (20th Anniversary	▪ 1,600 residential units to be constructed
Phase III (30th Anniversary)	▪ 1,400 residential units to be constructed
Phase IV (40th Anniversary)	▪ 1,187 residential units to be constructed

6.2.1. Cumulative Measure of Units. The Development Goals for each Phase shall be cumulative, e.g., if the Developer has constructed 2000 Residential Units in Phase I and 1000 Residential Units in Phase II, then the Developer will have met the Development Goal for Phase II even though less than 1500 Residential Units were constructed during Phase II.

6.2.2. More Detailed Phasing Plans Developed. Within each Phase, as defined above, more detailed phasing plans for each subdivision shall be developed in accordance with Section 6.5, and are subject to the City's review and approval as conditions of approval of the Tract or Subdivision Map and, as approved, shall become a part of the Existing Approvals.

6.2.3. Additional Phase I Development. In addition to the residential unit Development Goals, Phase I shall also include: (i) commercial development as specified in Section 6.2.4, (ii) the outlet for the Smith Creek flood control improvements at Wilson, (iii) the preparation and dedication of the Recreation/Emergency Center site described in Section 8.1.4, (iv) the satellite water treatment plant described in Section 8.3, (v) the water tanks described in Section 8.5; and (vi) such other Proposed Project Facilities as required by the Specific Plan and the Phasing Plans approved pursuant to Section 6.5. Notwithstanding the specification of timing as provided herein, with the approval of the City Manager, any public improvement required herein may be deferred for good cause.

6.2.4. Commercial Development. A minimum 23-acre retail-commercial site at the corner of Highland Springs and Wilson (Planning Area 18) will be prepared as a part of Phase I, and concurrently with the development undertaken pursuant to Section 6.8. Site preparation

shall require the grading of the Site, construction of surrounding streets, and bringing all necessary utilities and infrastructure for development. Developer shall also demonstrate a good faith effort undertaken over at least a five (5) year period to market the site for sale or lease to a suitable user. Additionally, Developer shall maintain the potential to expand the site to as much as 88 acres to permit a larger commercial development, provided that such expanded project obtains any necessary entitlements. Developer shall advise City within five (5) years of the Effective Date as to what interest there might be in the expanded project and the parties will mutually agree as to the scope of the project. The timely preparation and attempts to market this site is required for completion of Phase I and is subject to the same treatment as the residential units (i.e. phasing period can be prolonged for economic distress and the Term of Agreement can be shortened pursuant to Section 6.7). The goal of the City is to locate a significant sales tax generating "big box user" as the major tenant of the project. Accordingly, City retains the right to approve the major tenant in the project (tenants over 75,000 sq. ft), in accordance with the provisions in Article 14 as a transferee by lease or sale.

6.2.5. Extensions of Phases. The length of each Phase for the purposes of this Section 6.2 shall be extended by one (1) year for each Economically Distressed Year occurring during the Phase, up to a maximum of three (3) years as provided in Section 6.6.5.

6.3 Development Goals Satisfied By Commencement of Construction. The Development Goals for residential units specified above are satisfied if construction has commenced. "Commencement of Construction" of a residential unit means that building plans have been approved, that a building permit has been issued and that construction has commenced on the unit. The unit shall not be counted if the building permit expires without completion of the unit.

6.4 Public Improvements. The Parties understand and agree that the Specific Plan identifies the public infrastructure and though it contains phasing concepts, it does not specify precisely the phasing of the construction of public infrastructure. The development phasing will be consistent with the Specific Plan and this Agreement. The City desires that required public infrastructure generally be constructed in the early portion of the applicable phase of the development cycle subject to the guidelines specified below. In consideration of the foregoing, notwithstanding any provision herein to the contrary, the City shall retain the right to condition any Future Approvals to require Developer to dedicate necessary land, pay the development fees specified in Article 7, and/or to construct the required public infrastructure ("Exactions"), at such time as City shall determine in accordance with the process in Section 6.5 and subject to the following conditions:

A. The dedication, payment or construction must be to alleviate an impact caused by the Project or be of benefit to the Project; and

B. The timing of the Exaction should be reasonably related to the phasing of the development of the Project and said public improvements shall be phased to be commensurate with the logical progression of the Project development as well as the reasonable needs of the public and the improvements shall be completed based upon the needs of the general public existing from time to time.

When the Developer is required by this Agreement and/or the Development Plan to construct any public improvements which will be dedicated to the City or any other public agency, upon completion, and if required by applicable laws to do so, the Developer shall perform such work in the same manner and subject to the same construction standards as would be applicable to the City or such other public agency should it have undertaken such construction work. The Developer shall pay prevailing wages as required by law.

6.5 Development of Phasing Plans During Subdivision Map Approvals. The phasing and timing requirements for the construction of all development including public improvements shall generally be in accordance with the Development Approvals and applicable provisions of this Agreement (For example, Sections 6.2, 6.4, 6.5, 7.3, 8.0, etc.). Although the overall timing of Project development remains subject to the Developer's discretion based on market conditions in accordance with Section 6.1, there is a logical sequence to the development and certain improvements are required to be complete before phases of the Project can be considered complete and ready for occupancy. The Phasing Plan will be developed over time in accordance with the following process:

6.5.1. Master Phase Tract Map. Each Phase shall have a Master Tract Map which shall be submitted for financing and conveyance purposes only and no improvements may be constructed nor shall development be permitted pursuant to such approved Tract Map except through submission and approval of tentative and final Subdivsion Maps. Concurrently with processing of the Master Tract Map, all tentative Subdivision Maps for the Tract shall be submitted and processed.

6.5.2. Subdivision Maps. Each Master Tract Map shall designate future subdivisions within the Tract and the order of subdivision development to the extent that the need for development of public infrastructure dictates the logical progression of subdivision development. Each Subdivision Map shall show all infrastructure necessary for the development of the Subdivision. Each subdivision will have a written Phasing Plan approved by the Director and the City Engineer prior to commencement of development of the subdivision specifying when the lots within the subdivision will be developed and when all public infrastructure within the subdivision will be constructed. Generally all streets, lighting, curbs and gutters, sidewalks, parkway landscaping, asphalt concrete paving, traffic signs and stripping, medians, landscaping, drainage facilities, storm drains, water lines, sewer lines, utility lines, trails and other facilities within the subdivision must be completed before release of any occupancy permits within the subdivision. All conditions which require the provision of Proposed Project Facilities and Subdivision Improvements for the area covered by each tentative Subdivision Map must be satisfied, either through performance or through the provision of suitable security, prior to the approval and recordation of the Subdivision Map.

6.5.3. Proposed Project Facilities. Attached as Exhibit "F" are diagrams showing Proposed Project Facilities and depicting the major public infrastructure of the development, including roadways, detention basins, water lines, sewer lines, recycle water lines, utilities, storm drains and drainage facilities, treatment plants, power substations, community parks, community centers, fire stations, and other infrastructure serving area-wide populations. The Proposed Project Facilities serve multiple subdivisions, and may need to be constructed in the initial phase of a particular Tract, or even before certain Tracts can be developed. The

detailed phasing of construction will be provided through the Master Tract and Subdivision Phasing Plans, and subject to Section 6.4.

6.5.4. Time for Map Submission. The Developer shall submit all applications for tentative, or vesting tentative, Master Tract Maps and, concurrently with each application for a Master Tract Map, the applications for tentative, or vesting tentative, Subdivision Maps thereof within five (5) years of the Effective Date for the City's review and approval.

6.6 Ten Year Anniversary Review.

6.6.1. Generally. On or about each Tenth Anniversary of the Effective Date as provided herein, the City shall conduct the Ten Year Anniversary Review") the City and the Developer review to shall review the performance of this Agreement, and the development of the Project to see if the Development Goals have been met. The cost of the Annual Review shall be borne by the Developer and the Developer shall pay a reasonable deposit in an amount requested by City to pay for such review.

As part of each Ten Year Anniversary Review, sixty (60) days before each tenth anniversary of this Agreement, the Parties shall mutually meet and outline the review process, including (i) the information needed and formats, (ii) the schedule for performing the review, (iii) indentifying any needed consultants and studies, (iv) the adequacy of current DIFs and any anticipated need for changes, (v) any adjustments to needed public infrastructure, (vi) the estimated deposit needed to pay the City's costs of performing the review, and (vii) other matters necessary for the review.

The Developer shall deliver to the City all information reasonably requested by City (i) regarding the Developer's performance under this Agreement demonstrating that the Developer has complied in good faith with the terms of this Agreement and (ii) as required by this Agreement or the Existing Land Use Regulations. The Developer's submittal shall include a written explanation of any reasons why the Development Goals were or were not met, and any request for the modification of future Development Goals in the next 10 year period, and the reasons therefore.

The Developer shall submit its report on or before the Tenth Anniversary. Thereafter, the Director shall prepare and submit to City Council a written report on the performance of the Project. The Developer's written response shall be included in the Director's report. The report and recommendations to Council shall be made within 45 days of the anniversary, and a public hearing shall be held thereon.

6.6.2. Adjustment to DIFs. As provided in Section 7.2.2, all Development Impact Fees are subject to adjustment as put of the Ten Year Anniversary Review provided (i) the adjustment is based on the preparation a suitable analysis by an independent professional consultant experienced in performing such studies demonstrating the basis for the increase, (ii) the study is performed on a City-wide basis and applies to all development projects of 200 or more residential units, (iii) all infrastructure financed is included within the City's General Plan and capital projects master plan, (iv) the study demonstrates a reasonable nexus to

the Project and the fees are proportionate to the benefit received. The Development Impact Fees shall not contain any escalators but the studies justifying the fees may use cost numbers which recognize the ten year horizon of each study.

6.6.3. Parties Can Alter Development Goals Objectives. The Development Goals for the next Ten Year Anniversary Review period as set forth in Section 6.2 may be modified with the mutual agreement of the Parties at the time of the hearing set forth in Section 6.6.1. Unless the Parties reach agreement for modification, the Development Goals will remain as provided therein.

6.6.4. No Other Changes to Development Plan. Other than the Development Impact Fee adjustments provided in Section 6.6.2 which may be unilaterally approved by City subject to performing the required studies, no other changes to the Development Approvals may be made by City without the consent of Developer. Nothing herein shall restrict the City's reservations of rights under Article 11.

6.6.5. Extensions Due to Economic Distress.

6.6.5.1 Determination of Distress. As provided in Section 6.2.4, the Phases can be extended up to three (3) years due to the occurrence of an Economically Distressed Year(s). In any year in which Developer believes conditions exist to warrant Declaration of an Economically Distressed Year, within 30 days following the Anniversary Date, Developer shall submit his request therefore. Additionally, in support thereof, Developer shall provide City with a Report including the following: (i) a written analysis of County-wide data supporting the Declaration; (ii) publicly available reports concerning general market conditions affecting home building; (iii) analysis as to how general market conditions have affected the Project including demand, costs and financing; and (iv) forecasts concerning the next three (3) years. The Report is for informational purposes only and City shall not be permitted to disapprove the Declaration of Economic Distress if the data submitted meets the definition in Section 1.31. Within 30 days the City Manger shall review the Declaration and Report and determine if the data supports the declaration of an Economically Distressed Year. The City Manager's determination is appealable to the Council under Section 13.6.3, but not as a default thereunder.

6.6.5.2 Effect of Determination on 10-Year Review. Generally the effect of the declaration of an Economically Distressed Year shall also toll the performance of the 10 Year Anniversary Review. For example, if during any 10 year cycle, two years had been declared Economically Distressed, then the 10 Year Anniversary Review would be performed on or about the Anniversary Date of the 12th year, as otherwise provided in Section 6.6. The City, however, retains the right to elect to perform the DIF adjustments in accordance with Section 6.6.2 on the 10 Year Anniversary, or to defer the studies and do them in accordance with the general 10 Year Anniversary Review performed on the date to which the Phase has been extended due to the extensions for Economically Distressed Years pursuant to Section 6.2.4.

6.7 Failure to Satisfy Phasing Goals and Objectives. For reasons stated in Section 6.1, failure to achieve the Development Goals in any ten year period shall not be a default hereunder, but it shall cause the term of the Agreement to be shortened five (5) years.

Accordingly, a failure at the first Ten Year Anniversary Review shall cause the term of the Agreement in Section 3.1 to be reduced to 35 years, while a failure at the second review in year 20 (to achieve 3000 units) shall cause the Agreement to be shortened another five (5) years to 30 years (subject to any extension of the Term due to the occurrence of Economically Distressed Years as set forth in Section 3.4), but once the Term has been reduced, the lost time is not reinstated due to production of excess units in later phases.

The termination of this Agreement shall not alter the provisions of the Specific Plan concerning the zoning, density of development or any other regulatory provisions concerning the development of the Project, though the limitations provided in Article 4 on enactment of Future Land Use Regulations would be null and void.

6.8 Developer Incentives for Expedited Development.

6.8.1. Incentive for Early Development. The City wishes to establish new communities in the City and to encourage the early development of the Project, which, in light of current economic conditions, may require economic incentives to be provided to the Developer. Accordingly, the Developer shall be given a credit so that DIFs do not have to be paid for up to 500 residential units, if Commencement of Construction, as that term is defined in Section 6.3, occurs on or before the production dates in Section 6.8.4.

6.8.2. Conditions for Receipt of Credits. To receive the credits, the following conditions must be satisfied: (i) the units must be in Planning Areas 1 and 2 provided that, for good cause, City may approve building the units in alternative Planning Areas, (ii) each Tract containing residential units needs to be developed as a single unit with appropriate entry design features including walls, fountains, landscaping, signage and other features approved by City, (iii) the preparation of the commercial site in Planning Area 18 shall take place pursuant to Section 6.2.4, unless waived by City.

6.8.3. Fees Eligible for Credit. The DIFs eligible for credit are those identified as eligible in Exhibit "D."

6.8.4. Schedule. The credit shall be given for all units for which the Commencement of Construction, as that term is defined in Section 6.3, occurs within five (5) years after the Effective Date.

6.9 City Provided Assistance. The City shall provide the Developer with each of the items set forth in Exhibit "E."

7. FEES, TAXES AND ASSESSMENTS.

7.1 Processing Fees. During the Term of this Agreement, the City may require the Developer to pay all Processing Fees applicable to the Development of the Project at the rates in effect on the applicable application date or as described in this Agreement unless a specific amount is stated herein.

7.2 Development Impact Fees.

7.2.1. Limit on Exactions, Mitigation Measures, Conditions and Development Fees. Except for those fees expressly set forth in Sections 7.3 and 7.5 below, and for the reservations of authority in Article 11, the City shall charge and impose only those Exactions, mitigation measures and conditions, including, without limitation, dedications as are set forth in the Existing Land Use Regulations, and those fees relating to the Development of the Developer's Property as are expressly set forth in Exhibit "D" attached hereto, and no others. Per Section 7.4 below, Park Fees shall not be imposed during the life of this Agreement. The Developer shall pay the stated amount of all other fees shown in Exhibit "D" for the first 10 years of the Term, and subsequently adjusted amounts determined in accordance with Section 6.6.2.

7.2.2. Development Impact Fees to be Established Based on Studies. The City will study and establish DIFs within one year of the effective Date for the following: revised City Traffic Control Facility Fee, revised Domestic Water Fee, new Recycled Water Fee and revised Sanitary Sewer Fee. The Developer shall be obligated to pay the revised fees and the revised DIFs shall be considered part of the Existing land Use Regulations. The initial DIFs shall be established in accordance with fee studies meeting the requirements of Section 6.6.2.

7.2.3. Adjustment at 10 Year Anniversary Review. The Developer shall pay increased fees after the Ten Year Anniversary Review if those fees are adopted on a City wide basis after the preparation of, and are justified by, a suitable analysis demonstrating the basis for the increase in accordance with Section 6.6.2. The City shall be entitled to repeat the process of increasing the fees thereafter upon the same terms, during the Ten Year Anniversary Review in accordance with Section 6.6.2, throughout the Term of this Agreement.

7.2.4. Payment of Development Impact Fees. The Developer shall pay all Development Impact Fees with respect to Development commenced on the portion of the Developer's Property owned by the Developer. The Development Impact Fees set forth on Exhibit "D" attached hereto shall be paid at the issuance of the Certificate of Occupancy for each building. Unless otherwise specified herein, all other fees, including Processing Fees shall be paid when at issuance of building permits or otherwise when required by code.

7.3 Wastewater, Domestic and Reclaimed Water Facilities Development Impact Fees.

7.3.1. Wastewater Fees. The City levies two capital facilities fees related to wastewater: (i) a sewer collection fee; and (ii) a sewer frontage fee, but collectively such fees are referred to herein as sewer collection fees. The sewer collection fee shall be fixed in accordance with Section 7.2.1 above.

7.3.2. Construction of Wastewater Collection Infrastructure in Lieu of Fees. If any additions, improvements and/or upgrades to the City's wastewater collection system outside or within the boundaries of the Developer's Property are required in

connection with any Development of the Project, then with the mutual agreement of the parties, the Developer shall have the option to elect to construct some or all of such additions, improvements and/or upgrades at its sole cost and expense. The City shall develop the project specifications and shall undertake a design process to develop project plans and drawings meeting the City's specifications. The City may utilize the Developer to develop the plans and drawings if the design costs are competitive and Developer has retained competent design professionals who can timely perform the services. If, thereafter, the Developer wishes to construct the improvements, the Developer shall give City a fixed budget and construction schedule, while City obtains competitive bids. City may award the contract to the most competitive entity, considering price, financing, schedule and ability to perform. The contract may include liquidated damages provisions and other requirements to assure the timely and satisfactory completion of the project within budget. If performed by Developer, upon completion of such works of improvement, the Developer shall be entitled to offset the actual costs approved by City and incurred by it for the design, permitting, construction and installation of such works of improvement against any wastewater collection-related Development Impact Fees that may otherwise be payable in connection with future Development of the portion of the Developer's Property owned by the Developer.

7.3.3. Wastewater Treatment Capacity. The City shall use its best efforts to obtain the required permits and to construct the needed improvements to the City's wastewater treatment facilities in order to serve the Project as the need for additional facilities arises. The Developer shall include the construction of the wastewater treatment plant within the phasing plan developed pursuant to Section 6.5. The City estimates that a four year lead time is required with one year for design and one year for permitting with the remaining period needed for construction.

7.3.4. Wastewater, Domestic and Reclaimed Water Facilities and Fees. If any additions, improvements and/or upgrades to the City's water system, either domestic or reclaimed, outside or within the boundaries of the Developer's Property are required in connection with any Development of the Project, then with the City's approval, they may be undertaken by the Developer in accordance with the procedures in Section 7.3.2. Without limiting the generality of the foregoing, this includes the water tanks, pipelines and appurtenant facilities described in Section 8.5.

7.3.5. Recycled and Domestic Water Fees. Recycled and domestic water developer impact fees shall be established in accordance with Section 7.2.1 above. City does not currently have Development Impact Fees for reclaimed water facilities or for domestic water facilities for the Project. Within a year after the Effective Date, the City shall conduct a study to determine the reasonable charge and the Developer's pro rata share of the cost of such improvements. When adopted by the Council, the fees shall be considered incorporated herein as Existing Land Use Regulations, and shall be subject to further review at the Ten Year Anniversary Review as provided in Section 6.2.2.

7.4 Park Fees.

7.4.1. Construction of Facilities. The Developer will be constructing, installing and improving the park and recreation facilities listed below, which are

deemed to be park, recreation and/or open space for the purpose of complying with the Municipal Code's park fee requirements. All parkland and open space shall be maintained by the POA, the Developer, the City, the Golf Course operator or such other entity as approved by the City. Provided that all required parks and recreation facilities are constructed and installed in accordance with the Specific Plan and this Agreement, the Project shall not be subject to the imposition of Park Fees by the City. The City acknowledges that the value of the land and improvements for the park, recreation and open space land and facilities exceeds the aggregate of all park fees which may be charged by the City pursuant to the Municipal Code in connection with the proposed Development of the entire Project. The Developer shall construct and install within the Project's boundaries the following park and recreation facilities:

7.4.1.1 254-acre Golf Course or Active Open Space, as set forth in Sections 5.3 above and 8.1.3 below;

7.4.1.2 22 publicly accessible parks (each ranging in size from approximately less than 1 acre to over 16 acres), equipped by Developer with typical neighborhood park facilities, which may include picnic facilities, shade structures, playgrounds, turf areas, and related facilities as further defined in the Specific Plan and in accordance with the plans developed in Section 8.1;

7.4.1.3 Two private recreation centers, totaling approximately eight acres, which will be gated and accessible only to the residents of the Project. These centers may, but are not required to, include clubhouse facilities, restrooms, and other amenities as further defined in the Specific Plan; and

7.4.1.4 108.4 acres of additional open space as described in the Specific Plan.

7.4.2. Community Recreation Center. The City shall also be entitled to construct a community recreation center in Planning Areas 35 or 39, on any park or open space site or on any site identified for a public facility, such as a fire station or waste water treatment plant, if that site is not used for the public facility. Once the site has been identified, the Developer shall grade it and stub utilities to site. The Developer's obligations are further described in Section 8.1.4.

7.5 Traffic Impact Mitigation.

7.5.1. Fees to be Established. The City has established a Development Impact Fee for the purpose of collecting funds to pay for the cost of constructing localized transportation improvements. At the request of the City, the Developer may initiate a study to expand upon the existing Traffic Control Facility Fee to include additional improvements not currently covered in the fee. The fee includes signal costs and minor roadway improvements. The Developer shall pay the applicable Traffic Control Facility Fee established by the City in effect on the Effective Date or at the time that the new revised fee is established, pursuant to Section 7.2.1 above.

7.5.2. Highland Springs Interim Improvement Project. The Developer has initiated and will complete interim improvements to Highland Springs Avenue between Ramsey Street and the I-10 Freeway. These improvements include, but are not limited to, the synchronization of traffic signals along Highland Springs Avenue, relocation of traffic signals, closings and relocation of Joshua Palmer Way and the restriping and repaving of Highland Springs Avenue. The City believes that the current traffic impacts are caused by the Developer's earlier project in Beaumont. The City shall use its best efforts to coordinate with the City of Beaumont an agreement to reimburse a portion of the improvements either through the appropriate transportation fee credits or other mechanism.

7.5.3. The Developer to Construct Traffic Improvements In Lieu of Paying City Fair Share Fees. In the event the Developer is required to construct traffic improvements in lieu of paying the City's fair share fees, City shall reimburse the Developer for the cost of the completed improvements through Reimbursement Agreements mandating that any project larger than 20 dwelling units pay a prorated share for benefits associated with completion of the Project.

8. DEDICATIONS AND CONVEYANCES OF PROPERTY INTERESTS

8.1 Park Improvements.

8.1.1. Neighborhood/Community Parks. Prior to the construction of any parks, the Developer shall meet with both the Director and the Director of Parks and Recreation to review the provisions set forth in the Specific Plan outlining the facilities to be provided at each park and discuss the Developer's plans for near term construction of the parks. Prior to development of each park, a detailed site plan consistent with the Specific Plan shall be prepared by the Developer and approved by the Director and the Parks and Recreation Commissions. The Developer shall complete the construction of neighborhood parks, Planning Areas 22 through 34, 62, 64 through 67 and 72, and the parks in the SCE easement, Planning Areas 36 through 38, no later than the issuance of the final Certificate of Occupancy for residential units within the adjacent subdivisions. Active use park improvements may not be placed in the SCE easement parks if the Director and Commissions believe there are issues of public health with electro magnetic radiation. A subdivision separated from a park by a street shall not be considered to be adjacent to the park. The Parties shall, mutually, determine what constitutes the adjacent subdivision if a park adjoins more than one subdivision. Upon completion of each neighborhood park, the City shall after the one-year maintenance period has expired, within 10 working days, develop final punch lists of items to be corrected prior to acceptance by the City. Upon correction of final punch list items by the Developer, the City shall accept the park within 30 days of the date of the final inspection.

8.1.2. POA Recreation Centers. The POA Recreation centers identified in Planning Areas 21 and 63 shall be constructed by the Developer in accordance with the Tract Phasing Plan pursuant to Section 6.5.

8.1.3. Golf Course/Active Open Space. The Golf Course shall be constructed at the sole and absolute discretion of the Developer. The determination to construct the Golf Course will take place within the first phase of Phase I of development due to the need to construct of the flood control improvements for Smith Creek. The Golf Course will be maintained by a Developer selected operator and open to the public. The operator may sell annual play memberships. If, as described in Section 5.4 above, the Golf Course is determined to be financially infeasible, the Developer shall notify the Planning Department in writing and the open space and drainage provisions described in the Specific Plan shall dictate the uses allowed on Planning Areas 35 and 39. The revised use of Planning Areas 35 and 39 shall be approved by both the Planning Commission (as the recommending body) and City Council prior to construction. The revised plan shall incorporate active recreational use including biking and pedestrian trails, turnouts for exercise, viewing and educational facilities, all linkable to other tracts, parks and open space, landscaping and providing full public access.

8.1.4. Community Recreation/Emergency Center. The City's Parks Master Plan indentifies the need in the Project for a community recreation center, and this is even more necessary if the Golf Course is not developed. This Center would be on an approximately six (6) acre parcel in Planning Area 39 in lieu of the golf clubhouse, or alternatively could be located as a part of a community park or other available site including in Planning Area 71, or in lieu of the waste water treatment plant site in Planning Area 11. Depending on the site selected, the six (6) acres may be reduced so as to not adversely affect the development area of adjacent parcels from the development areas shown in the Specific Plan. The Center is contemplated as a 30,000 sq. foot facility. The plan for the Center shall be included in the Park Master Plan and the site plan shall be processed at the time the chosen Planning Area is developed, subject to the Phasing Plans approved pursuant to Section 6.5, and provided that if the City chooses to put the Center in Planning Area 11, it may be developed as part of Phase I provided that Developer shall satisfy the Phase I obligation by providing a developed Site, and need not fund the construction of the improvements if there are insufficient DIF's for credit. The Developer shall dedicate the site to City without charge. If developed as part of a park it shall be developed at the time required for parks in Section 8.1.1. The Center may include emergency operations and shelter components, and will also include appropriate landscaped grounds and facilities as specified in the Master Plan. The Center may be developed and constructed by Developer in the same manner as for the waste water treatment plant in Section 7.3.2, except as provided above.

8.2 Drainage Facilities. Planning Areas 19 and 71 are required areas of detention, recharge and conveyance of Project created and natural storm flows through the Project as set forth in Section 5.4 above. Planning Area 19 will consist of water quality basins, habitat restoration and flood conveyance facilities as well as the head works for the culvert underneath Wilson Street. This Planning Area may be ultimately transferred to the Flood Control District or City for acceptance and maintenance, but the Developer shall have the right to utilize it until such time as Development has fully or partially occurred for erosion control purposes. Planning Area 71 may be constructed in Phase I of the Project if required for the realignment of Smith Creek. This Planning Area may also consist of a large open reservoir, detention basin and recharge facility that may ultimately be transferred to the City or other appropriate body for acceptance and maintenance. The City shall have no obligation to accept

the facilities if they primarily benefit the Project and are for flood control purposes but City may do so if the recharge facility and reservoir facility is designed for water recharge purposes and City determines in its sole and absolute discretion that they are needed to enhance the City's water supply.

8.3 Satellite Water Treatment Plant. The Director of Public Works Director shall determine the location of a two to five acre portion of Planning Area 11 for the onsite treatment of Project-related and other localized wastewater flows. The City shall have an Appraisal of Land Value determined within one (1) year of the signing of this Agreement. The City shall grant a credit equal to the fair market value determined by the appraisal to the City's waste water impact fee, when that fee is established, which credit may be used by the Developer on a unit by unit basis. Title to the site shall be transferred to the City after the site has been graded by the Developer and utilities are stubbed to the site.

8.4 Fire Station Site. The Specific Plan has identified a site in Planning Area 60 as the possible site for a fire station. The City shall have the an Appraisal of Land Value performed for a site of up to two (2) acres within one (1) year of the signing of this Agreement. The City shall grant a credit equal to the fair market value determined by the appraisal to the City's Fire Facilities Development Fee which credit may be used by the Developer on a unit by unit basis. Title to the site shall be transferred to the City after the site has been graded by the Developer and utilities are stubbed to the site.

8.5 Water Tanks. The City's water facilities and improvements described in Section 7.3.4 include certain water tanks, pipelines, access roads and appurtenant facilities which largely serve the Development and must be located at specific locations and elevations to make the water system function correctly and maintain public health and safety. The water tanks shall be developed as follows:

A. A 500,000 gallon tank in Planning Area 73 at an high water elevation line of 3237 feet.

B. A 1.4 million gallon tank in Planning Area 73 at an high water elevation line of 3070 feet.

C. A 1.6 million gallon tank Planning Area 68 or 50 at an high water elevation line of 2822 feet.

Each tank will require a parcel from 1 to 1.5 acres in area and additional area for access, and shall be dedicated to City without charge after the site has been graded and stubbed out by Developer. The Developer may construct the improvements in accordance with Section 7.3.2 and receive fee credits to the water development impact fee on a unit per unit basis for the construction costs. The water tanks are considered part of the Proposed Project Facilities and shall be constructed in accordance with the Phasing Plans developed in accordance with Section 6.5 provided that the tanks in paragraph C above must be in Phase I.

9. PROCESSING OF REQUESTS AND APPLICATIONS: OTHER GOVERNMENT PERMITS.

9.1 Processing. In reviewing Future Development Approvals which are discretionary, the City may impose only those conditions, exactions, and restrictions which are allowed by the Development Plan and this Agreement. Upon satisfactory completion by the Developer of all required preliminary actions, meetings, submittal of required information and payment of appropriate processing fees, if any, the City shall promptly commence and diligently proceed to complete all required steps necessary for the implementation of this Agreement and the development by the Developer of the Project in accordance with the Existing Development Approvals. In this regard, the Developer, in a timely manner, will provide the City with all documents, applications, plans and other information necessary for the City to carry out its obligations hereunder and will cause the Developer's planners, engineers and all other consultants to submit in a timely manner all required materials and documents therefor. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, building or other approvals for development of the Project in accordance with the Existing Development Approvals and those items set forth in Exhibit "E." Notwithstanding the foregoing, nothing contained herein shall be construed to require City to process Developer's Applications ahead of other projects in process in the City and City's obligations hereunder shall be subject to the City's workload and staffing at any given time.

9.2 Developer to Pay for Expedited Processing. If Developer elects, in its sole and absolute discretion, to request the City to incur overtime or additional consulting services to receive expedited processing by the City, the Developer shall pay all such overtime costs, charges or fees incurred by City for such expedited processing.

9.3 General Time Periods for Processing.

9.3.1. General Plan Review and Approval. The City shall provide comments within two weeks for all plan checks for required infrastructure, building, grading, both mass and finished, architectural, erosion control or any other required plan submittal and will not unduly extend amount of plan checks beyond three submittals provided that Developer's consultants are responsive . In the event that consensus between the City and the Developer regarding the content of the plans after the 3rd submittal can not be made, a meeting will be scheduled to discuss how to reconcile the differences.

9.3.2. Architectural Plan Submittal Process. The Developer shall submit architectural plans to the Planning Department for maximum two-week review of the entire plan set for each submittal for a maximum of three plan check reviews to ensure that they conform to the guidelines set forth in Specific Plan provided that Developer's consultants are responsive. In the event that consensus can not be made after the third plan check, a meeting will be coordinated with the plan checker, Planning Department and the Developer or the Developer's representative. The Planning Department, upon determining compliance with the guidelines set forth in the Specific Plan, shall approve the plans. This review is a ministerial action. Additional architectural enhancements that are above and beyond the design guidelines

will be implemented at the Developer's sole and absolute discretion but are subject to review by City if proposed.

9.4 Precise Grading/Plot Plan Revisions. In the event that the Developer wishes to revise house plan type or elevation on an approved plot plan or revised grading plan, City Engineering and Planning staff review and approval shall be done over the counter.

9.5 Additional Inspectors and Plan Checkers. In the event that the Developer requests it, the City shall permit overtime, including both additional days and hours, for inspections and plan checking at the Developer's expense. In the event that the City is unable to provide inspectors or plan checkers capable of meeting the demand for inspections or plan checks required for the Development of the Project in a timely fashion, the City shall, if requested to do so by the Developer and at the Developer's expense, employ additional private entities or persons to perform such services.

9.6 Tentative Subdivision Maps. The City shall extend through the Term hereof (pursuant to Government Code § 66452.6) all Master Tract Maps and all tentative and vesting tentative Subdivision Maps applied for by the Developer during the term of this Agreement and approved by the City in the future.

9.7 Multiple Final Subdivision Maps: The Developer may file as many final maps over a tentative Subdivision Map as it deems appropriate in its sole and absolute discretion.

9.8 Financing and Conveyance Maps: The Developer may have a Master Tract Map approved for the purpose of conveying portions of the Developer's Property to others and/or for the purpose of creating legal lots which may be used as security for loans to develop the Developer's Property and as provided in Section 6.5.1. Any such map shall not authorize any Development and shall not be subject to any conditions, Exactions or restrictions, other than monumentation and conditions which do not require the payment of money or the installation or construction of improvements.

9.9 Water Availability. Any final subdivision map prepared for the Developer's Property, or any portion of the Developer's Property, shall comply with the provisions of Government Code § 66473.7.

9.10 Other Governmental Permits. The Developer shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. The City shall cooperate with the Developer in its efforts to obtain such permits and approvals.

9.11 Public Agency Coordination. The City and Developer shall cooperate and use reasonable efforts in coordinating the implementation of the Development Plan with other public agencies, if any, having jurisdiction over the Property or the Project.

9.12 Annexation. This Agreement's effectiveness over land within the Developer's Property that is currently not within the City nor within its sphere of influence is subject to the annexation of that land into the City. If the land is annexed into the City, the terms

of this Agreement shall automatically apply to all portions of that land upon its annexation. In the event that annexation of portions of the Developer's Property not currently within the City is not approved by LAFCO, or for any other reason is not annexed to the City, then any such portions shall be excluded from this Agreement. With the exception of land within Planning Area 43B, the City shall, subject to the negotiation of a tax allocation agreement with the County of Riverside acceptable to City, use its best efforts to expeditiously accomplish the annexation of those portions of the Developer's Property not within the City, or such portions thereof as may be approved by the developer, to the City.

10. AMENDMENT AND MODIFICATION OF DEVELOPMENT AGREEMENT.

10.1 Initiation of Amendment. Either Party may propose an amendment to this Agreement.

10.2 Procedure. Except as set forth in Section 10.4 below, the procedure for proposing and adopting an amendment to this Agreement shall be the same as the procedure required for entering into this Agreement in the first instance, and meet the requirements of the Development Agreement Statute § 65867.

10.3 Consent. Except as expressly provided in this Agreement, no amendment to all or any provision of this Agreement shall be effective unless set forth in writing and signed by duly authorized representatives of each of the Parties hereto and recorded in the Official Records of Riverside County.

10.4 Minor Modifications.

10.4.1. Flexibility Necessary. The provisions of this Agreement require a close degree of cooperation between the City and the Developer. Implementation of the Project may require minor modifications of the details of the Development Plan and affect the performance of the Parties under this Agreement. The anticipated refinements to the Project and the Development of the Developer's Property may demonstrate that clarifications to this Agreement and the Existing Land Use Regulations are appropriate with respect to the details of performance of the City and the Developer. The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, non-substantive and procedural modifications of the Development Plan shall not require modification of this Agreement.

10.4.2. Non-Substantive Changes. A modification will be deemed non-substantive and/or procedural if it does not result in a material change in fees, maximum residential density, maximum intensity of use, permitted uses, the maximum height and size of buildings, the reservation or dedication of land for public purposes, or the improvement and construction standards and specifications for the Project, including density transfers between phases. A "material change" is generally one which does not change the standard by ten percent (10%) or more. For example, for a height limit of 20 feet, a change of less than two feet is deemed non-material.

10.4.3. Hearing Rights Protected. Notwithstanding the foregoing, City will process any change to this Development Agreement consistent with state law and will hold public hearings thereon if so required by state law and the parties expressly agree nothing herein is intended to deprive any party or person of due process of law.

10.5 Effect of Amendment to Development Agreement. Except as expressly set forth in any such amendment, an amendment to this Agreement will not alter, affect, impair, modify, waive, or otherwise impact any other rights, duties, or obligations of either Party under this Agreement.

11. RESERVATIONS OF AUTHORITY.

11.1 Limitations, Reservations and Exceptions. Notwithstanding anything to the contrary set forth hereinabove, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by City hereafter shall apply to and govern the Development of the Developer's Property ("Reservation of Authority"):

11.1.1. Future Regulations. Future Land Use Regulations which (i) are not in conflict with the Existing Land Use Regulations, (ii) which would be applicable under the Development Agreement statute (§ 65866); (iii) if in conflict with the Existing Land Use Regulations but the application of which to the Development of the Developer's Property has been consented to in writing by Developer.

11.1.2. State and Federal Laws and Regulations. Where state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of the Development Agreement, those provisions shall be modified, through revision or suspension, to the extent necessary to comply with such state or federal laws or regulations.

11.1.3. Public Health and Safety/Uniform Codes.

11.1.3.1 Adoption Automatic Regarding Uniform Codes. This Agreement shall not prevent the City from adopting Future Land Use Regulations or amending Existing Regulations which are uniform codes and are based on recommendations of a multi-state professional organization and become applicable throughout the City, such as, but not limited to, the Uniform Building, Electrical, Plumbing, Mechanical, or Fire Codes.

11.1.3.2 Adoption Regarding Public Health and Safety/Uniform Codes. This Development Agreement shall not prevent the City from adopting Future Land Use Regulations respecting public health and safety to be applicable throughout the City which directly result from findings by the City that failure to adopt such Future Land Use Regulations would result in a condition injurious or detrimental to the public health and safety and that such Future General Regulations are the only reasonable means to correct or avoid such injurious or detrimental condition.

11.1.3.3 Adoption Automatic Regarding Regional Programs. This Agreement shall not prevent the City from adopting Future Land Use Regulations or amending Existing Regulations which are regional codes and are based on recommendations of a county or regional organization and become applicable throughout the region, such as Western Riverside Council of Governments.

11.1.4. Amendments to Codes for Local Conditions. Notwithstanding the foregoing, no construction within the Project shall be subject to any provision in any of the subsequent Uniform Construction Codes, adopted by the State of California, but modified by the City to make it more restrictive than the provisions of previous Uniform Construction Codes of the City, notwithstanding the fact that the City has the authority to adopt such more restrictive provision pursuant to the California Building Standards Law, including, but not limited to, Health and Safety Code § 18941.5, unless such amendment applies City-wide. The City shall give Developer prior written notice of the proposed adoption of such amendment and Developer shall have the right to present its objections to the amendment.

11.2 Regulation by Other Public Agencies. It is acknowledged by the Parties that other public agencies not within the control of the City possess authority to regulate aspects of the Development of the Developer's Property separately from, or jointly with, the City and this Agreement does not limit the reasonable authority of such other public agencies.

11.3 Fees, Taxes and Assessments. Notwithstanding any other provision herein to the contrary, the City retains the right (i) to impose or modify Processing Fees and Development Impact Fees as provided in Article 7, (ii) to impose or modify business licensing or other fees pertaining to the operation of businesses, (iii) to impose or modify taxes and assessments which apply City-wide such as utility taxes, sales taxes and transient occupancy taxes, (iv) to impose or modify fees and charges for City services such as electrical utility charges, water rates, and sewer rates, (v) to impose or modify a community wide or area-wide assessment district which does not predominately apply to the Developer's Property, and (vi) to impose or modify any fees, taxes or assessments similar to the foregoing.

12. ANNUAL REVIEW.

12.1 Annual Monitoring Review. Following commencement of construction, the City and the Developer shall review the performance of this Agreement, and the Development of the Project, on or about each anniversary of the Effective Date (the "Annual Review"). The cost of the Annual Review shall be borne by Developer and Developer shall pay a reasonable deposit in an amount requested by City to pay for such review. As part of each Annual Review, within ten (10) days after each anniversary of this Agreement, the Developer shall deliver to the City all information reasonably requested by City (i) regarding the Developer's performance under this Agreement demonstrating that the Developer has complied in good faith with the terms of this Agreement and (ii) as required by the Existing Land Use Regulations.

The Director shall prepare and submit to Developer and thereafter to City Council a written report on the performance of the Project, and identify any deficiencies. If any deficiencies are noted, or if requested by a Councilmember a public hearing shall be held before the City Council on the report to Council. The Developer's written response shall be included in the Director's report. The report to Council shall be made within 45 days of the anniversary date.

If the City determines that the Developer has substantially complied with the terms and conditions of this Agreement, the Annual Review shall be concluded. If the City finds and determines that the Developer has not substantially complied with the terms and conditions of this Agreement for the period under review, the City may declare a default by the Developer in accordance with Section 13.1.

12.2 Certificate of Compliance. If, at the conclusion of an Annual Review, the City finds that the Developer is in substantial compliance with this Agreement, the City shall, upon request by the Developer, issue an Estoppel Certificate to the Developer in the form shown on Exhibit "C."

12.3 Failure to Conduct Annual Review. The failure of the City to conduct the Annual Review shall not be a Developer Default unless Developer fails to cooperate in providing necessary information.

13. DEFAULT, REMEDIES AND TERMINATION.

13.1 Rights of Non-Defaulting Party after Default. The Parties acknowledge that both Parties shall have hereunder all legal and equitable remedies as provided by law following the occurrence of a Default or to enforce any covenant or agreement herein except as provided in Section 13.2 below. Before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief ("Non-Defaulting Party") shall comply with the notice and cure provisions of this Article 13.

13.2 No Recovery for Monetary Damages. The nature of a development agreement under the Development Agreement Statute is a very unusual contract involving promoting a very large development project facing many complex issues including geologic, environmental, finance, market, regulatory and other constantly evolving factors over an extremely long time frame. The high level of uncertainty and risk involved justify the extraordinary commitments made to the Developer. However, the original persons representing the parties and approving the transaction are only likely to be involved with the Project for a limited time in comparison to the over-all life of the Project.

It is highly likely that misunderstandings will develop over time. Moreover, municipal budgets are extremely constrained, and a threat of recovery of damages against a municipal entity may pressure a municipality with limited resources to settle in a manner adverse to its interests and those of its citizens. Finally, the municipal entity represents the public welfare of the entire community, a community who cannot directly represent themselves. The City Council has come to believe that entering into a development agreement with the Developer vesting the Developer with the extraordinary rights provided herein is in the best interests of the community

through the Developer's active engagement with the community and open communications over several years. It is critical to the success of this Project that as inevitable obstacles are met, and the persons implementing the Project change over the 40 year time span of the Project, that close working relationships be maintained. Accordingly, in this Agreement, the rights of enforcement are limited as follows (i) the remedy of monetary damages is not available to either Party, and (ii) there is no shortcut to a mediation or arbitration procedure where a nonelected representative can arbitrarily determine land use development issues.

For purposes of enforcement, stated positively, the Parties shall have the equitable remedies of specific performance, injunctive and declaratory relief, or a mandate or other action determining that the City has exceed its authority, and similar remedies, other than recovery of monetary damages, to enforce their rights under this Agreement. The Parties shall have the right to recover their attorney fees and costs pursuant to Section 19.9 in such action. Moreover, the Developer shall have the right to a public hearing before the City Council before any default can be established under this Agreement, as provided in Section 13. 6.

13.3 Recovery of Monies Other Than Damages.

13.3.1. Restitution of Improper Exactions. In the event any actions, whether monetary or through the provision of land, good or services, are imposed on the Development of the Developer's Property other than those authorized pursuant to this Agreement, the Developer shall be entitled to recover from City restitution of all such improperly assessed exactions, either in kind or the value in lieu of the exaction, together with interest thereon at the rate of the maximum rate provided by law per year from the date such exactions were provided to City to the date of restitution.

13.3.2. Monetary Default. In the event the Developer fails to perform any monetary obligation under this Agreement, City may sue for the payment of such sums to the extent due and payable. The Developer shall pay interest thereon at the lesser of: (i) ten percent (10%) per annum, or (ii) the maximum rate permitted by law, from and after the due date of the monetary obligation until payment is actually received by the City.

13.4 Compliance with the Claims Act. Compliance with this Article 13 shall constitute full compliance with the requirements of the Claims Act, Government Code § 900 et seq., pursuant to Government Code § 930.2 in any action brought by the Developer.

13.5 Notice and Opportunity to Cure. A Non-Defaulting Party in its discretion may elect to declare a Default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Defaulting Party") to perform any material duty or obligation of the Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by the Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in Default under this Agreement, if the breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such default within thirty (30) days after the date of such notice or ten (10) days for monetary defaults (or such lesser time as may be specifically provided in this Agreement).

However, if such non-monetary Default cannot be cured within such thirty (30) day period, and if and, as long as the Defaulting Party does each of the following:

1. Notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;

2. Notifies the Non-Defaulting Party of the Defaulting Party's proposed cause of action to cure the default;

3. Promptly commences to cure the default within the thirty (30) day period;

4. Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure;

5. Diligently prosecutes such cure to completion, and

Then the Defaulting Party shall not be deemed in breach of this Agreement.

Notwithstanding the foregoing, the Defaulting Party shall be deemed in default under this Agreement if the breach or failure involves the payment of money but the Defaulting Party has failed to completely cure the monetary default within ten (10) days (or such lesser time as may be specifically provided in this Agreement) after the date of such notice.

13.6 Dispute Resolution.

13.6.1. Meet & Confer. Prior to any Party issuing a Default Notice hereunder, the Non-Defaulting Party shall inform the Defaulting Party either orally or in writing of the Default and request a meeting to meet and confer over the alleged default and how it might be corrected. The Parties through their designated representatives shall meet within ten (10) days of the request therefore. The Parties shall meet as often as may be necessary to correct the conditions of default, but after the initial meeting either Party may also terminate the meet and confer process and proceed with the formal Default Notice.

13.6.2. Termination Notice. Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Nondefaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement and other Agreements ("Termination Notice"). The Termination Notice shall state that the Nondefaulting Party will elect to terminate the Agreement and such other Agreements as the Non-defaulting Party elects to terminate within thirty (30) days and state the reasons therefor (including a copy of any specific charges of default) and a description of the evidence upon which the decision to terminate is based. Once the Termination Notice has been issued, the Non-defaulting Party's election to terminate Agreements will only be waived if (i) the Defaulting Party fully and completely cures all defaults prior to the date of termination, or (ii) pursuant to Section 13.6.3 below.

13.6.3. Hearing Opportunity Prior to Termination. Prior to any termination, a termination hearing shall be conducted as provided herein ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, the Defaulting Party shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follows:

A. Decide to terminate this Agreement.

B. Determine that the alleged Defaulting Party is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or

C. Impose conditions on a finding of default and a time for cure, such that Defaulting Party's fulfillment of said conditions will waive or cure any default.

Findings of a default or a condition of default must be based upon substantial evidence supporting the following three findings: (i) that a default in fact occurred and has continued to exist without timely cure, (ii) that the Non-Defaulting Party's performance has not excused the default; and (iii) that such default has, or will, cause a material breach of this Agreement and/or a substantial negative impact upon public health, safety and welfare, or the financial terms established in the Agreement, or such other interests arising from the Project. Notwithstanding the foregoing, nothing herein shall vest authority in the City Council to unilaterally change any material provision of the Agreement.

Following the decision of the City Council, any Party dissatisfied with the decision may seek judicial relief consistent with this Article 13.

13.7 Waiver of Breach. By not challenging any Development Approval within 90 days of the action of City enacting the same, Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement. By recordation of a final map on all or any portion of the Developer's Property, the Developer shall be deemed to have waived any claim that any condition of approval is improper or that the action, as approved, constitutes a breach of the provisions of this Agreement.

13.8 Limitations on Defaults. Notwithstanding any provision in this Agreement to the contrary, a Default by one Owner shall not constitute a Default by an Owner of a portion of the Developer's Property, which is not the owner of the portion of the Developer's Property that is the subject of the Default (an "Innocent Owner"). Likewise, a Default by an Owner with respect to a Lot (or group of Lots) it owns or leases shall not constitute a Default by an Innocent Owner, nor shall the Default by another Owner of a portion of the Developer's Property not owned by an Innocent Owner constitute a Default of the Innocent Owner. Therefore, (i) no Innocent Owner shall have any liability to the City for, or with respect to, any

Default by another Owner or any Default of any other Owner, (ii) an Innocent Owner shall have no liability to the City for, or with respect to, any Default by any other Owner, and (iii) the City's election to terminate this Agreement as a result of a Default by an Owner shall not result in a termination of this Agreement with respect to either (x) any portion of the Developer's Property not owned by such Owner or (y) those Lots owned or leased by an Innocent Owner until such time that this Agreement would otherwise terminate in accordance with its terms.

13.9 Venue. In the event of any judicial action, venue shall be in the Superior Court of Riverside County.

14. ASSIGNMENT.

14.1 Right to Assign.

14.1.1. General. Neither Party shall assign (as hereinafter defined) or transfer (as hereinafter defined) its interests, rights or obligations under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. The term "assignment" as used in this Agreement shall include successors-in-interest to the City that may be created by operation of law. Notwithstanding the foregoing, the City shall have the right to sell, assign or transfer its interest in any real property dedicated or transferred to the City pursuant to the terms of this Agreement or to another public agency.

As used in this Section, the term "transfer" shall include the transfer to any person or group of persons acting in concert of more than seventy percent (70%) of the present equity ownership and/or more than fifty percent (50%) of the voting control of the Developer (jointly and severally referred to herein as the "Trigger Percentages") or any general partner of the Developer in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of the Developer in amounts less than the Trigger Percentages shall not constitute a transfer subject to the restrictions set forth herein. In the event the Developer or any general partner of the Developer or its successor is a corporation or trust, such transfer shall refer to the transfer of the issued and outstanding capital stock of the Developer, or of beneficial interests of such trust; in the event that Developer or any general partner of the Developer is a limited or general partnership, such transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership interest; in the event that the Developer or any general partner is a joint venture, such transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis.

The Developer shall not transfer this Agreement or any of the Developer's rights hereunder, or any interest in the Developer's Property or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant approval to any transfer by Developer, which transfer requires City approval, City shall consider factors such as (i) the financial strength and capability of the

proposed transferee to perform the obligations hereunder; and (ii) the proposed transferee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects. In no event shall the City's approval of any transfer be unreasonably withheld or delayed.

In addition, no attempted assignment of any of the Developer's obligations hereunder shall be effective unless and until the successor party signs and delivers to the City an assumption agreement, in a form approved by the City, assuming such obligations. No consent or approval by City of any transfer requiring the City's approval shall constitute a further waiver of the provision of this Section 14.1.1 and, furthermore, the City's consent to a transfer shall not be deemed to release the Developer of liability for performance under this Agreement unless such release is specific and in writing executed by City. In no event shall the City's release of the Developer from liability under this Agreement upon a transfer be unreasonably withheld or delayed.

Notwithstanding any provision of this Agreement to the contrary, City approval of a Transfer or Assignment of any portion of the Developer's Property under this Agreement shall not be required in connection with any of the following provided that such person or entity transferee or assignee assumes in writing all of the Developer's obligations under this Agreement and notifies the City in writing of the same:

A. Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing and any resulting foreclosure therefrom.

B. The granting of easements or dedications to any appropriate governmental agency or utility or permits to facilitate the development of the Developer's Property.

C. A sale or transfer resulting from, or in connection with, a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

D. A sale or transfer of less than the Trigger Percentages between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the trustor or transfers to a corporation or partnership in which the immediate family members or shareholders of the transferor who owns at least ten percent (10%) of the present equity ownership and/or at least fifty percent (50%) of the voting control of Developer.

E. A transfer of common areas to a POA.

F. Any transfer to an entity or entities in which the Developer retains a minimum of 51% of the ownership or beneficial interest and retains management and control of the transferee entity or entities.

G. Any transfer of interests in Owner for estate planning purposes to the heirs of Owner, provided that the heirs retain a minimum of 51% of the ownership or beneficial interest of the transferor entity and retain management and control of the transferee entity.

H. Any transfer of interest to a Pre-Qualified Buyer.

14.1.2. Subject to Terms of Agreement. Following any such Transfer or Assignment of any of the rights and interests of the Developer under this Agreement, in accordance with Section 14.1.1 above, the exercise, use and enjoyment of such rights and interests shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were the Developer.

14.1.3. Release of Developer. Upon the written consent of the City to the complete assignment of this Agreement or the transfer of a portion of the Developer's Property and the express written assumption of the assigned obligations of the Developer under this Agreement by the assignee, the Developer shall be relieved of its legal duty from the assigned obligations under this Agreement with respect to the portion of the Developer's Property transferred, except to the extent the Developer is in default under the terms of this Agreement prior to the transfer.

14.1.4. No Approval of Terms of Loan by City. Notwithstanding anything to the contrary set forth herein with regards to the approval by the City of hypothecation, encumbrances or mortgages, the City shall only have the right to approve the identity of the Developer's lender, which approval will not be unreasonably withheld, taking into consideration such lender's financial strength, reputation, and other relevant factors. The City shall not have any right to approve any of the terms or conditions of the Developer's financing arrangements with third party lenders.

14.2 Sale to Pre-Qualified Buyer. Nothing herein shall prevent the Developer from selling a portion of the Developer's Property for residential development subject to any approved final subdivision map to a Pre-Qualified Buyer for construction of houses in accordance with the terms of this Agreement provided that the transferee must enter into appropriate agreements with the City to assure that all Development restrictions hereunder will be met.

14.3 Termination of Agreement With Respect to Individual Parcels Upon Sale to Public. Notwithstanding any provisions of this Agreement to the contrary, this Agreement shall terminate as to any Lot which has been finally subdivided and improved with all required public improvements and which is individually (and not in "bulk") sold to an owner-user and thereupon, and without the execution or recordation of any further document or instrument, such Lot shall be released from and no longer be subject to the provisions of this Agreement; provided, however, that CC&R's are placed of record in accordance with Section 14.4 below.

14.4 Declaration of Covenants. Conditions and Restrictions. Prior to the transfer of any portion of the Project to a third party, the Developer shall submit a proposed form of Declaration of Covenants, Conditions and Restrictions to be recorded against the applicable subdivision to the City for its review and approval ("CC&RS"). The CC&RS must be recorded prior to issuance of certificates of occupancy, and Developer shall pay City's review costs. It is anticipated that the CC&RS will contain, among other things, protective covenants to protect and preserve the integrity and value in the subdivision, including but not limited to use restrictions, maintenance covenants, EIR mitigation measures, restrictions under this Development Agreement which will continue to apply to the subdivision, covenants for construction and completion of the improvements and a provision giving the City the right to enforce the CC&RS, including the right to recover its enforcement costs if there is noncompliance following notice and the opportunity to cure.

15. RELEASES AND INDEMNITIES.

15.1 The City's Release As To Actions Prior To Effective Date. The City forever discharges, releases and expressly waives as against the Developer and its attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort, or other theories of direct and/or of agency liability (including but not limited to principles of respondent superior) that it has now or has had in the past, arising out of or relating to this Agreement and the development agreement approved in 1993, and the currently existing land use plans for the Developer's Property or any portion thereof.

15.2 The Developer's Release As To Actions Prior To Effective Date. The Developer forever discharges, releases and expressly waives as against the City and its respective councils, boards, commissions, officers, attorneys and employees any and all claims, liens, demands, causes of action, excuses for nonperformance (including but not limited to claims and/or defenses of unenforceability, lack of consideration, and/or violation of public policy), losses, damages, and liabilities, known or unknown, suspected or unsuspected, liquidated or unliquidated, fixed or contingent, based in contract, tort or other theories of direct and/or of agency liability (including but not limited to principles of respondent superior) that they have now or have had in the past, arising out of or relating to this Agreement and the development agreement approved in 1993, and the currently existing land use plans for the Developer's Property or any portion thereof.

15.3 Third-Party Litigation.

15.3.1. Non-liability of City. As set forth above, the City has determined that this Agreement is consistent with the General Plan and that the General Plan and Development Approvals meets all of the legal requirements of State law. The Parties acknowledge that:

A. In the future there may be challenges to legality, validity and adequacy of the General Plan, the Development Approvals and/or this Agreement; and

B. If successful, such challenges could delay or prevent the performance of this Agreement and the development of the Developer's Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of this Section 15, the City shall have no liability under this Agreement for any failure of the City to perform under this Agreement or the inability of the Developer to develop the Developer's Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, the Land Use Regulations, the Development Approvals, this Agreement, or portions thereof, are invalid or inadequate or not in compliance with law.

15.3.2. Revision of Land Use Restrictions. If, for any reason, the General Plan, Land Use Regulations, Development Approvals, this Agreement or any part thereof is hereafter judicially determined, as provided above, to not be in compliance with the State or Federal Constitution, laws or regulations and, if such noncompliance can be cured by an appropriate amendment thereof otherwise conforming to the provisions of this Agreement, then this Agreement shall remain in full force and effect to the extent permitted by law. The Development Plan, Development Approvals and this Agreement shall be amended, as necessary, in order to comply with such judicial decision.

15.3.3. Participation in Litigation: Indemnity. The Developer shall indemnify the City and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suites, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City and/or Agent for any such Claims or Litigation (as defined in Section 1.10) and shall be responsible for any judgment arising therefrom. The City shall provide the Developer with notice of the pendency of such action and shall request that the Developer defend such action. The Developer may utilize the City Attorney's office or use legal counsel of its choosing, but shall reimburse the City for any necessary legal cost incurred by City. The Developer shall provide a deposit in the amount of 150% of the City's estimate, in its sole and absolute discretion, of the cost of litigation, including the cost of any award of attorneys fees, and shall make additional deposits as requested by City to keep the deposit at such level. The City may ask for further security in the form of a deed of trust to land of equivalent value. If the Developer fails to provide or maintain the deposit, the City may abandon the action and the Developer shall pay all costs resulting therefrom and City shall have no liability to the Developer. The Developer's obligation to pay the cost of the action, including judgment, shall extend until judgment. After judgment in a trial court, the parties must mutually agree as to whether any appeal will be taken or defended. The Developer shall have the right, within the first 30 days of the service of the complaint, in its sole and absolute discretion, to determine that it does not want to defend any litigation attacking this Agreement or the Development Approvals in which case the City shall allow the Developer to settle the litigation on whatever terms the Developer determines, in its sole and absolute discretion, but Developer shall confer with City before acting and cannot bind City. In that event, the Developer shall be liable for any costs incurred by the City up to the date of settlement but shall have no further obligation to the City

beyond the payment of those costs. In the event of an appeal, or a settlement offer, the Parties shall confer in good faith as to how to proceed. Notwithstanding the Developer's indemnity for claims and litigation, the City retains the right to settle any litigation brought against it in its sole and absolute discretion and the Developer shall remain liable except as follows: (i) the settlement would reduce the scope of the Project by 10% or more, and (ii) the Developer opposes the settlement. In such case the City may still settle the litigation but shall then be responsible for its own litigation expense but shall bear no other liability to the Developer.

15.4 Hold Harmless: Developer's Construction and Other Activities. The Developer shall defend, save and hold the City and its elected and appointed boards, commissions, officers, agents, and employees harmless from any and all claims, costs (including attorneys' fees) and liability for any damages, personal injury or death, which may arise, directly or indirectly, from the Developer's or the Developer's agents, contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by the Developer or by any of the Developer's agents, contractors or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for the Developer or any of the Developer's agents, contractors or subcontractors. Nothing herein is intended to make the Developer liable for the acts of the City's officers, employees, agents, contractors of subcontractors.

15.5 Survival of Indemnity Obligations. All indemnity provisions set forth in this Agreement shall survive termination of this Agreement for any reason other than the City's Default.

16. EFFECT OF AGREEMENT ON TITLE.

16.1 Covenant Run with the Land. Subject to the provisions of Sections 14 and 18 and pursuant to the Development Agreement Statute (§ 65868.5):

A. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Developer's Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

B. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law; and

C. Each covenant to do or refrain from doing some act on the Developer's Property hereunder (i) is for the benefit of and is a burden upon every portion of the Developer's Property, (ii) runs with such lands, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

17. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION.

17.1 Non-liability of City Officers and Employees. No official, agent, contractor, or employee of the City shall be personally liable to the Developer, 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 Developer or to its successor, or for breach of any obligation of the terms of this Agreement.

17.2 Conflict of Interest. 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 this Agreement which affects the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any state statute or regulation.

17.3 Covenant Against Discrimination. The Developer 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. The Developer shall take affirmative action to insure that employees are treated during employment without regard to their race, color, creed religion, sex, marital status, national origin or ancestry.

18. MORTGAGEE PROTECTION.

18.1 Definitions. As used in this Section, the term "mortgage" shall include any mortgage, whether a leasehold mortgage or otherwise, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term "holder" shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

18.2 No Encumbrances Except Mortgages to Finance the Project. Notwithstanding the restrictions on transfer in Section 14, mortgages required for any reasonable method of financing of the construction of the improvements are permitted but only for the following: (i) for the purpose of securing loans of funds used or to be used for financing the acquisition of a separate lot(s) or parcel(s), (ii) for the construction of improvements thereon, in payment of interest and other financing costs, and (iii) for any other expenditures necessary and appropriate to develop the Project under this Agreement, or for restructuring or refinancing any for same. No map permitted herein, even if for financing purposes, shall permit financing for other than purposes of developing the Project solely. The Developer (or any entity permitted to acquire title under this Agreement) shall notify the City in advance of any future mortgage or any extensions or modifications thereof. Any lender which has so notified the City shall not be bound by any amendment, implementation, or modification to this Agreement without such lender giving its prior written consent thereto. In any event, the Developer shall promptly notify the City of any mortgage, encumbrance, or lien that has been created or attached thereto prior to completion of construction, whether by voluntary act of the Developer or otherwise.

18.3 Developer's Breach Not Defeat Mortgage Lien. The Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render void the lien of any mortgage made in good faith and for value but, unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage whose interest is acquired by foreclosure, trustee's sale or otherwise.

18.4 Holder Not Obligated to Construct or Complete Improvements. The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Project or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

18.5 Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer hereunder, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to the City therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

18.6 Right to Cure. Each holder (insofar as the rights of City are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, and one hundred twenty (120) days after the Developer's cure rights have expired, whichever is later, to:

A. Obtain possession, if necessary, and to commence and diligently pursue the cure until the same is completed, and

B. Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that, in the case of a default which cannot with diligence be remedied or cured within such cure periods referenced above in this Section 18.6, such holder shall have additional time as reasonably necessary to remedy or cure such default.

In the event there is more than one such holder, the right to cure or remedy a breach or default of the Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Developer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to City with respect to the Project or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations.

18.7 City's Rights upon Failure of Holder to Complete Improvements. In any case where one hundred eighty (180) days after default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Project or portion thereof has not exercised the option to construct afforded in this Section or, if it has exercised such option and has not proceeded diligently with construction, the City may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

A. The unpaid mortgage, debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

B. All expenses, incurred by the holder with respect to foreclosure, if any;

C. The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the applicable portion of the Project, such as insurance premiums or real estate taxes, if any;

D. The costs of any improvements made by such holder, if any; and

E. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the City.

If the City has not purchased the mortgage within ninety (90) days of the expiration of the ninety (90) days referred to above, then the right of the City to purchase shall expire.

In the event that the holder does not exercise its option to construct afforded in this Section, and if the City elects not to purchase the mortgage of holder, upon written request by the holder to the City, the City shall use reasonable efforts to assist the holder in selling the holder's interest to a qualified and responsible party or parties (as determined by City), who shall assume the obligations of making or completing the improvements required to be constructed by the Developer, or such other improvements in their stead as shall be satisfactory to the City. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs A through E hereinabove and any balance remaining thereafter shall be applied as follows:

(1) First, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, including, but not limited to, payroll expenses, management expenses, legal expenses, and others;

(2) Second, to reimburse the City for all payments made by City to discharge any other encumbrances or liens on the applicable portion of the Project or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees;

(3) Third, to reimburse the City for all costs and expenses actually and reasonably incurred by the City, in connection with its efforts assisting the holder in selling the holder's interest in accordance with this Section; and

(4) Fourth, any balance remaining thereafter shall be paid to the Developer.

18.8 Right of City to Cure Mortgage Default. In the event of a default or breach by the Developer (or entity permitted to acquire title under this Section) prior to completion of the Project or the applicable portion thereof, and the holder of any such mortgage has not exercised its option to complete the development, the City may cure the default prior to completion of any foreclosure. In such event, the City shall be entitled to reimbursement from the Developer or other entity of all costs and expenses incurred by the City in curing the default, to the extent permitted by law, as if such holder initiated such claim for reimbursement, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the applicable portion of the Project to the extent of such costs and disbursements. Any such lien shall be subject to:

A. Any Mortgage; and

B. Any rights or interests provided in this Agreement for the protection of the holders of such Mortgages;

provided that nothing herein shall be deemed to impose upon the City any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Project in the event of its enforcement of its lien.

18.9 Right of the City to Satisfy Other Liens on the Developer's Property After Conveyance of Title. After the conveyance of title and prior to completion of construction and development, and after the Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Project, the City shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Project or any portion thereof to forfeiture or sale.

19. MISCELLANOUS.

19.1 Estoppel Certificates. Either Party (or a Mortgagee under Section 18) may at any time deliver written notice to the other Party requesting an Estoppel Certificate stating:

A. The Agreement is in full force and effect and is a binding obligation of the Parties;

B. The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments; and

C. There are no existing defaults under the Agreement to the actual knowledge of the party signing the Estoppel Certificate.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the City. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "C."

19.2 Force Majeure. The time within which the Developer or the City shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions on priority, initiative or referendum, moratoria, processing with governmental agencies other than the City, unusually severe weather, third party litigation as described in Section 15.3 above, or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if written notice by the party claiming such extension is sent to the other Party within thirty (30) days of knowledge of the commencement of the cause. Any act or failure to act on the part of a Party shall not excuse performance by that Party.

19.3 Interpretation.

19.3.1. Construction of Development Agreement. The language of this Agreement shall be construed as a whole and given its fair meaning. The captions of the sections and subsections are for convenience only and shall not influence construction. This Agreement shall be governed by the laws of the State of California. This Agreement shall not be deemed to constitute the surrender or abrogation of the City's governmental powers over the Developer's Property.

19.3.2. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and this Agreement supersedes all previous negotiations, discussions, and agreements between the Parties. No parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms of this Agreement.

19.3.3. Recitals. The recitals in this Agreement constitute part of this Agreement and each Party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement.

19.3.4. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefitted thereby of the covenants to be performed hereunder by such benefitted Party.

19.4 Severability. If any provision of this Agreement is adjudged invalid, void or unenforceable, that provision shall not affect, impair, or invalidate any other provision, unless such judgment affects a material part of this Agreement in which case the parties shall comply with the procedures set forth in Section 15.3.3 above.

19.5 Joint and Several Obligations. All obligations and liabilities of the Developer hereunder shall be joint and several among the obligees.

19.6 No Third Party Beneficiaries. The only Parties to this Agreement are the Developer and the City and their successor and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

19.7 Notice.

19.7.1. To Developer. Any notice required or permitted to be given by the City to the the Developer under this Development Agreement shall be in writing and delivered personally to the Developer or mailed, with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

Pardee Homes.
10880 Wilshire Boulevard, Suite 1900
Los Angeles, CA 90024
Attention: Legal department

With a copy to:

Kenneth B. Bley, Esq.
Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor
Los Angeles, CA 90067-3284

or such other address as the Developer may designate in writing to the City.

19.7.2. To the City. Any notice required or permitted to be given by the Developer to the City under this Development Agreement shall be in writing and delivered personally to the City Clerk or mailed with postage fully prepaid, registered or certified mail, return receipt requested, addressed as follows:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attention: Planning Director

With a copy to:

David J. Aleshire, Esq., City Attorney
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 400
Irvine, California 92612

or such other address as the City may designate in writing to the Developer.

Notices provided pursuant to this Section shall be deemed received at the date of delivery as shown on the affidavit of personal service or the Postal Service receipt.

19.8 Relationship of Parties. It is specifically understood and acknowledged by the Parties that the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. The only relationship between the City and the Developer is that of a government entity regulating the development of private property and the owner of such private property.

19.9 Attorney's Fees. If either Party to this Agreement is required to initiate or defend litigation against the other Party, 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 a final judgment.

19.10 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent necessary to implement this Agreement. Upon the request of either Party at any time, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary to implement this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

19.11 Time of Essence. Time is of the essence in:

A. The performance of the provisions of this Agreement as to which time is an element; and

B. The resolution of any dispute which may arise concerning the obligations of the Developer and the City as set forth in this Agreement.

19.12 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

19.13 Execution.

19.13.1. Counterparts. This 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.

19.13.2. Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Riverside County

no later than ten (10) days after the Effective Date (Gov't Code § 65868.5). The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and the Development Agreement Statute does not make this Agreement void or ineffective.

19.13.3. Authority to Execute. 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 sign and deliver this Agreement on behalf of the Party he or she represents, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, (iv) the entering into of this Agreement does not violate any provision of any other Agreement to which the Party is bound and (v) there is no litigation or legal proceeding which would prevent the Parties from entering into this Agreement.

(SIGNATURES ON THE NEXT PAGE.)

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement on the date first above written.

CITY OF BANNING

BY: _____
Don Robinson, Mayor

ATTEST:

_____
Marie Calderon, City Clerk

Approved as to form:
ALESHIRE & WYNDER, LLP

_____
David J. Aleshire, City Attorney

"DEVELOPER"

PARDEE HOMES, a California corporation

BY: _____
~~President~~ Michael V. McGee
President and Chief Executive Officer

BY: _____
~~Secretary~~ Amy Glad
Senior Vice President-Governmental Affairs

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California
County of Los Angeles

On April 24, 2012, before me, Nancy Trojan, Notary Public personally appeared Michael V. McGee, President and Chief Executive Officer and Amy Glad, Senior Vice President-Governmental Affairs who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entities upon behalf of which the persons 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

Nancy Trojan
Notary Public in and for said State.

- - - - - - - - - - - - - - - - -OPTIONAL -

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Development Agreement – City of Banning

Signers are Representing: Pardee Homes

Signer(s) other than named above:

CAPACITY CLAIMED BY SIGNER

Name of Signer: Michael V. McGee and Amy Glad
Corporate Officers Title: President and Chief Executive Officer and Senior Vice President-Governmental Affairs

EXHIBIT "A"
MAP AND LEGAL DESCRIPTION OF DEVELOPER'S PROPERTY

LEGAL DESCRIPTION

Those certain parcels of land situated in the City of Banning, County of Riverside, State of California, being Lots 1 through 20 of Tract No. 34330 as shown on a map thereof filed in Book 429, Pages 84 through 103 of Maps in the Office of the County Recorder of said Riverside County.

EXHIBIT "A"
MAP OF DEVELOPER'S PROPERTY

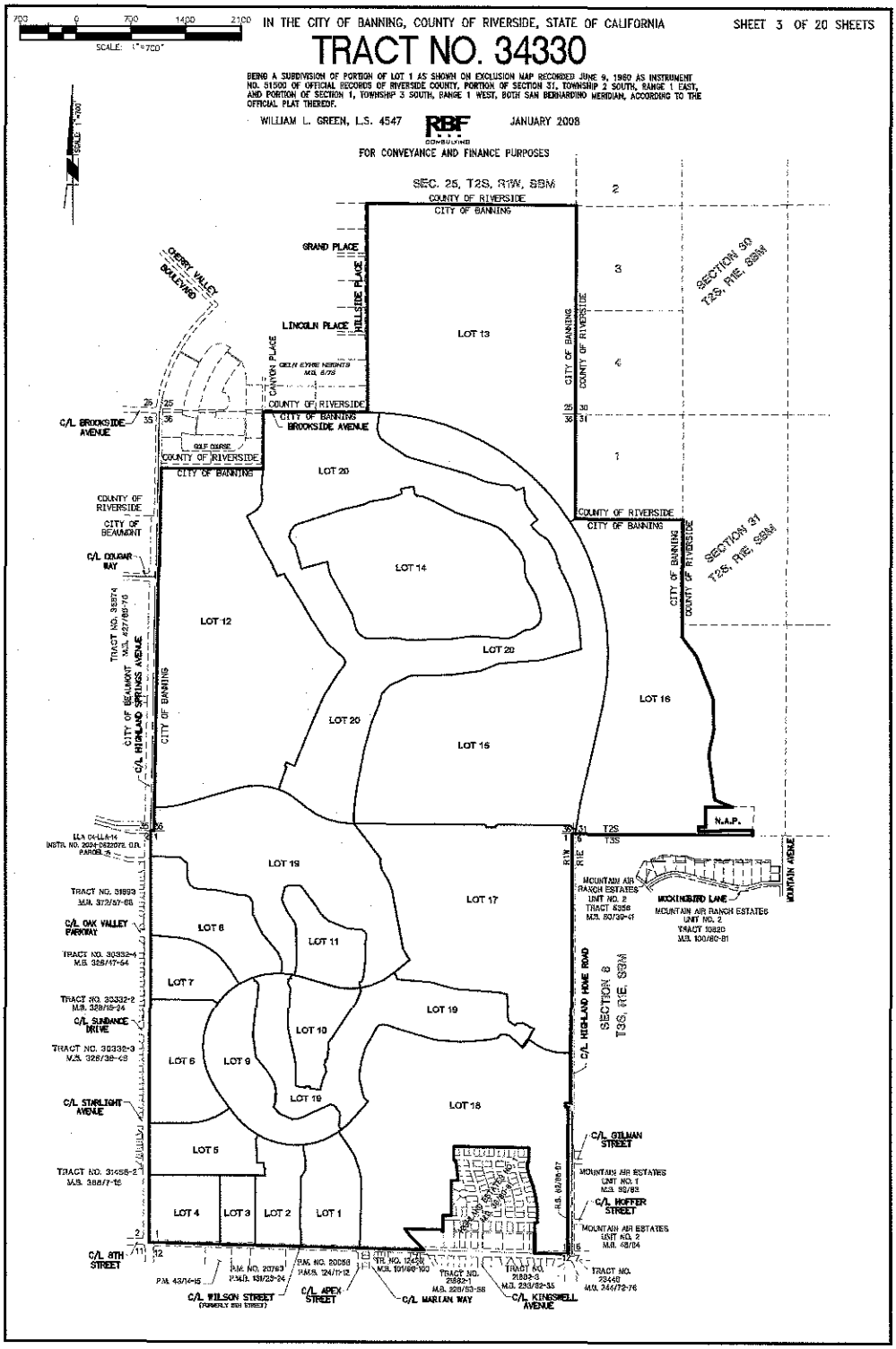
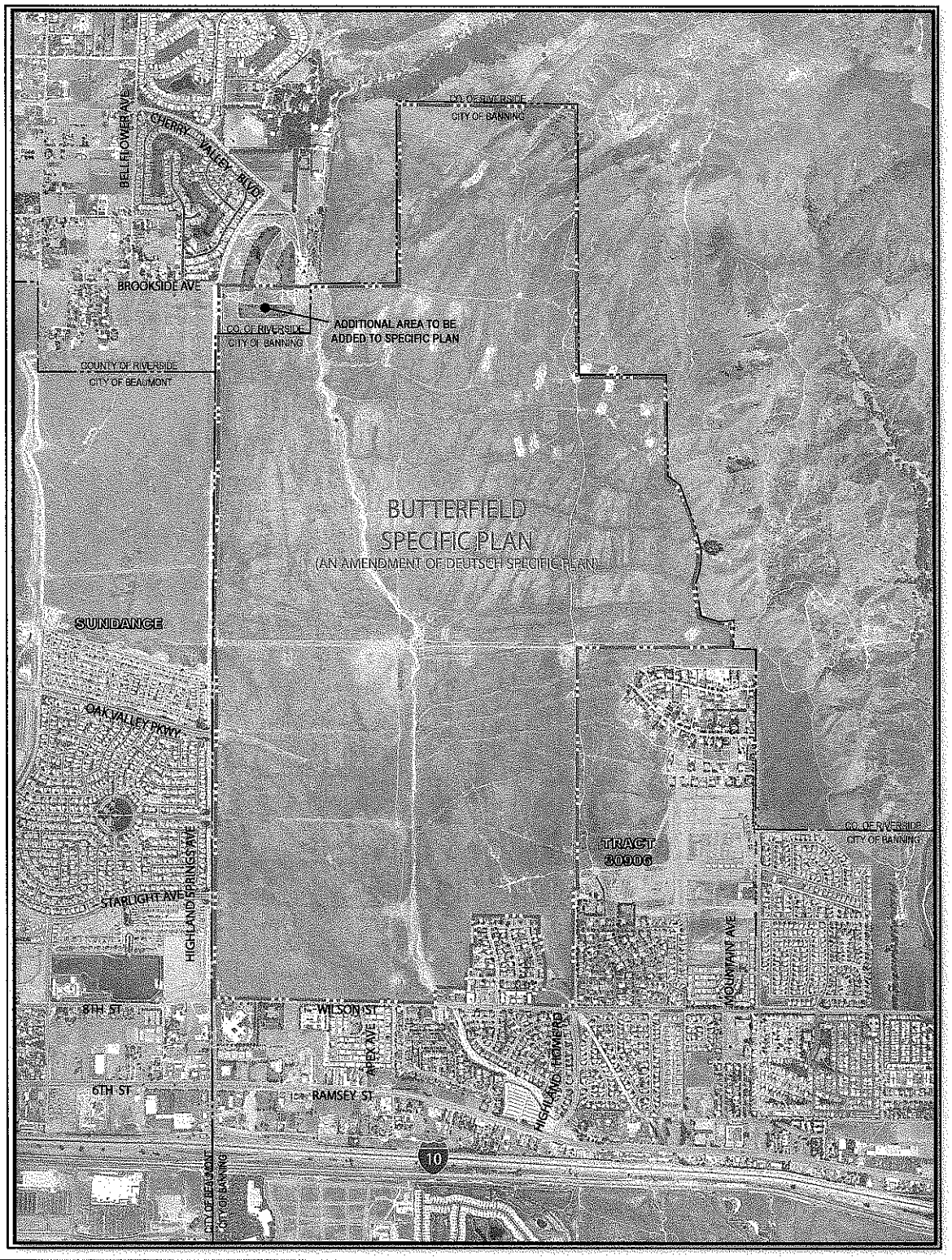


EXHIBIT "A"
PARDEE BANNING PROPERTY



SPECIFIC PLAN MAP

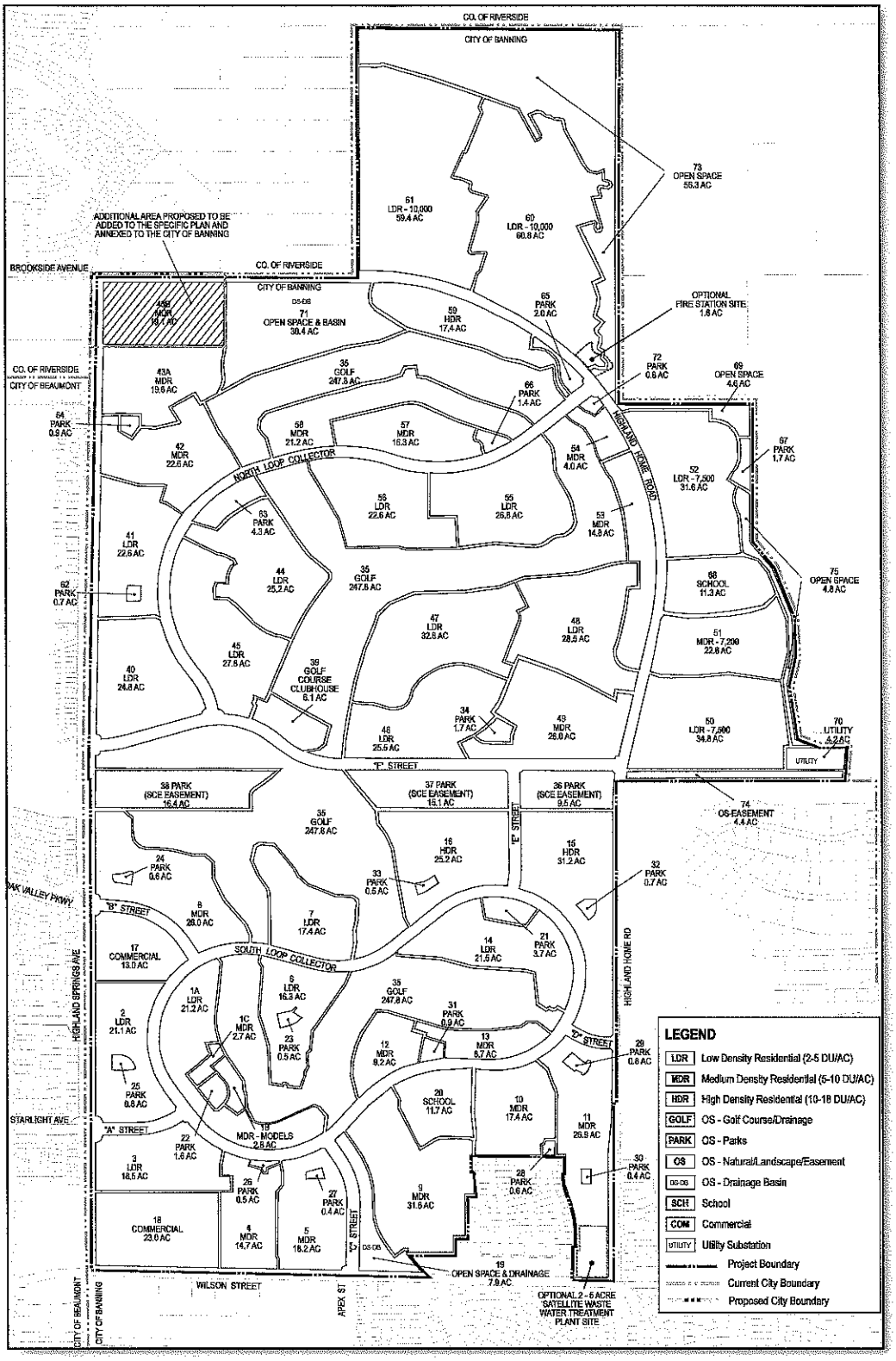


EXHIBIT "B"
EXISTING DEVELOPMENT APPROVALS/FEE STUDIES

A. EXISTING DEVELOPMENT APPROVALS (DA Section 1.35)

1. General Plan Amendment No. 11-2501
2. Zone Change No. 11-3501
3. Butterfield Specific Plan
4. Development Agreement

B. DEVELOPMENT FEE STUDIES IN PROCESS (DA Sections 1.28, 4.7)

Studies being pepared in accordance with Section 7.2.

1. General Facilities Fee*
2. Fire Facilities Fee*
3. Police Facilities Fee*
4. Traffic Control Fee*
5. Park Land Fee
6. Road and Bridge Fee
7. Recycled Water Fee
8. Water Connection*
9. Waste Water Connection* (Collection Fee)
10. Waste Water Frontage Fee
11. Emergency Shelter Fee

* Also included in Exhibit D and are subject to Developer Incentive Credit under Section 6.8.

EXHIBIT "C"
ESTOPPEL CERTIFICATE

Date Requested: _____

Date of Certificate: _____

On _____, 2012, the City of Banning approved the Development Agreement between Pardee Homes, a California corporation and the City of Banning (the "Development Agreement").

This Estoppel Certificate certifies that, as of the Date of Certificate set forth above:

[CHECK WHERE APPLICABLE]

____ 1. The Development Agreement remains binding and effective.

____ 2. The Development has not been amended.

____ 3. The Development Agreement has been amended in the following aspects:_____
_____
_____.

____ 4. To the best of our knowledge, neither Developer nor any of its successors is in default under the Development Agreement.

____ 5. The following defaults exist under the Development Agreement:_____
_____
_____.

This Estoppel Certificate may be relied upon by an transferee or mortgagee of any interest in the property which is the subject of the Development Agreement.

CITY OF BANNING

BY:_____
PLANNING DIRECTOR

EXHIBIT "D"
DEVELOPMENT IMPACT FEES

EXHIBIT "D"
CITY OF BANNING
SCHEDULE OF FEES
DEVELOPMENT IMPACT FEES

DISCRIPTION OF FEE		CURRENT FEE	UNIT	RESOLUTION/ ORDINANCE #	EFFECTIVE DATE
Fire Facilities					
Residential					
Single Family Detached	$	1,335.00	per unit	Reso. 2006-075	8/8/2006
Townhouse/Duplex	$	1,335.00	per unit	Reso. 2006-075	8/8/2006
Multi-Family	$	1,335.00	per unit	Reso. 2006-075	8/8/2006
Mobile Home	$	1,335.00	per unit	Reso. 2006-075	8/8/2006
Nonresidential					
Com/Shopping Ctr 50,000 SF or less	$	579.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 50,001 - 100,000 SF	$	506.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 100,001 - 200,000 SF	$	450.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr over 200,001 SF	$	405.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,000 SF or less	$	841.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,001 - 50,000 SF	$	792.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 50,001 - 100,000 SF	$	748.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Medical - Dental Office	$	821.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Hospital	$	685.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Business Park	$	640.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Light Industrial	$	468.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Manufacturing	$	363.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Warehousing	$	259.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Elementary School	$	186.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Other Nonresidential					
Lodging	$	144.00	per room	Reso. 2006-075	8/8/2006
Day Care	$	32.00	per student	Reso. 2006-075	8/8/2006
Nursing Home	$	73.00	per bed	Reso. 2006-075	8/8/2006
Police Facilities					
Residential					
Single Family Detached	$	823.00	per unit	Reso. 2006-075	8/8/2006
Townhouse/Duplex	$	626.00	per unit	Reso. 2006-075	8/8/2006
Multi-Family	$	913.00	per unit	Reso. 2006-075	8/8/2006
Mobile Home	$	500.00	per unit	Reso. 2006-075	8/8/2006
Nonresidential					
Com/Shopping Ctr 50,000 SF or less	$	472.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 50,001 - 100,000 SF	$	413.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 100,001 - 200,000 SF	$	358.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr over 200,001 SF	$	307.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,000 SF or less	$	192.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,001 - 50,000 SF	$	164.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 50,001 - 100,000 SF	$	140.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Medical - Dental Office	$	379.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Hospital	$	184.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Business Park	$	134.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Light Industrial	$	73.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Manufacturing	$	40.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Warehousing	$	52.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Elementary School	$	152.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Other Nonresidential					

EXHIBIT "D"
CITY OF BANNING
SCHEDULE OF FEES
DEVELOPMENT IMPACT FEES

DISCRIPTION OF FEE		CURRENT FEE	UNIT	RESOLUTION/ ORDINANCE #	EFFECTIVE DATE
Lodging	$	95.00	per room	Reso. 2006-075	8/8/2006
Day Care	$	47.00	per student	Reso. 2006-075	8/8/2006
Nursing Home	$	24.00	per bed	Reso. 2006-075	8/8/2006
Traffic Control Facilities					
Residential					
Single Family Detached	$	250.00	per unit	Reso. 2006-075	8/8/2006
Townhouse/Duplex	$	153.00	per unit	Reso. 2006-075	8/8/2006
Multi-Family	$	172.00	per unit	Reso. 2006-075	8/8/2006
Mobile Home	$	130.00	per unit	Reso. 2006-075	8/8/2006
Nonresidential					
Com/Shopping Ctr 50,000 SF or less	$	1,176.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 50,001 - 100,000 SF	$	1,029.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 100,001 - 200,000 SF	$	891.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr over 200,001 SF	$	764.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,000 SF or less	$	479.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,001 - 50,000 SF	$	409.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 50,001 - 100,000 SF	$	349.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Medical - Dental Office	$	944.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Hospital	$	459.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Business Park	$	333.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Light Industrial	$	182.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Warehousing	$	130.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Elementary School	$	379.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Other Nonresidential					
Lodging	$	238.00	per room	Reso. 2006-075	8/8/2006
Day Care	$	117.00	per student	Reso. 2006-075	8/8/2006
Nursing Home	$	62.00	per bed	Reso. 2006-075	8/8/2006
Parkland					
Residential					
Single Family Detached	$	1,955.00	per unit	Reso. 2006-075	8/8/2006
Townhouse/Duplex	$	1,485.00	per unit	Reso. 2006-075	8/8/2006
Multi-Family	$	2,168.00	per unit	Reso. 2006-075	8/8/2006
Mobile Home	$	1,187.00	per unit	Reso. 2006-075	8/8/2006
Commercial/Industrial	$	1,233.00	per acre	Reso. 2006-075	8/8/2006
General City Facilities					
Residential					
Single Family Detached	$	478.00	per unit	Reso. 2006-075	8/8/2006
Townhouse/Duplex	$	363.00	per unit	Reso. 2006-075	8/8/2006
Multi-Family	$	530.00	per unit	Reso. 2006-075	8/8/2006
Mobile Home	$	290.00	per unit	Reso. 2006-075	8/8/2006
Nonresidential					
Com/Shopping Ctr 50,000 SF or less	$	208.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 50,001 - 100,000 SF	$	182.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Com/Shopping Ctr 100,001 - 200,000 SF	$	162.00	per 1,000 SF	Reso. 2006-075	8/8/2006

EXHIBIT "D"
CITY OF BANNING
SCHEDULE OF FEES
DEVELOPMENT IMPACT FEES

DISCRIPTION OF FEE		CURRENT FEE	UNIT	RESOLUTION/ ORDINANCE #	EFFECTIVE DATE
Com/Shopping Ctr over 200,001 SF	$	146.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,000 SF or less	$	302.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 25,001 - 50,000 SF	$	285.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Office/Inst 50,001 - 100,000 SF	$	269.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Medical - Dental Office	$	295.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Hospital	$	246.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Business Park	$	230.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Light Industrial	$	168.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Manufacturing	$	130.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Warehousing	$	93.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Elementary School	$	67.00	per 1,000 SF	Reso. 2006-075	8/8/2006
Other Nonresidential					
Lodging	$	52.00	per room	Reso. 2006-075	8/8/2006
Day Care	$	12.00	per student	Reso. 2006-075	8/8/2006
Nursing Home	$	26.00	per bed	Reso. 2006-075	8/8/2006
Water Connection					
Water system connection fee	$	7,232.00	per equivalent dwelling unit	Ord. # 1320	12/14/2004
Wastewater Connection					
Wastewater connection fee	$	2,786.00	per equivalent dwelling unit	Ord. # 1321	1/13/2005

** Fee shall be revised annually based on the average percentage change over the previous calender year set forth in the Construction Price Index for the Los Angeles metropolitan area.*

EXHIBIT "E"
ADDITIONAL AGREEMENTS CONCERNING DEVELOPMENT

In addition to the other terms and conditions concerning the City's assistance to the Project, the City shall accommodate and expedite the development of the Developer's Property as follows:

1.0 CONSTRUCTION CONDITIONS

1.1 Provision of Utility Connections. The City shall provide, at the Developer's expense, any necessary temporary and permanent utility connections requested by the Developer for power, water service and sewer service prior to recordation of final map.

1.2 Allowance of Transformers. The City shall allow the setting of transformers without requiring adjacent streets to be fully paved. It is anticipated that 6' feet of curb and gutter will be placed adjacent to the transformer to ensure correct elevation of the transformer pad. In the event that the location or elevation change, the Developer shall incur the full costs of relocation of both the curb and transformer.

1.3 Temporary Water Pipes. Temporary above ground pipes for construction water and temporary fire hydrants will be acceptable for model and production homes prior to the first certificate of occupancy in the construction phase being developed.

1.4 Provision of Construction Water. The City shall provide "jumpers" or temporary construction water at the City's normal rate.

1.5 Temporary Use of City Sewer System. The City shall allow the temporary connection of construction trailers to the permanent City sewer system.

1.6 Temporary Use of City Water System. The City shall allow temporary connection of construction trailers to the permanent City water system, provided that all required backflow devices are installed to protect the integrity of the system.

2.0 MAINTAINENCE

2.1 Maintenance of Construction Activities. The Developer shall contract directly for all work required for the maintenance of construction related activities, including but not limited to recycling of construction materials, erosion control, temporary fence installation, and temporary power installation. The selection and retention of the contractor, subcontractor or other person or entity to do such work shall be made by the Developer in its sole and absolute discretion. Trash removal will be coordinated directly with City franchisee. In regards to recycled materials, the Developer will produce for the City, at its request, a manifest to confirm the location, type and amount of materials recycled.

3.0 STREETS

3.1 Timing of Street Paving. The Developer shall be allowed to begin construction of model and production homes without first paving streets. Paved streets shall be required as a condition for the issuance of the certificate of occupancy for the first production home in each construction phase. The Developer shall install all-weather access for construction and emergency personnel, which, during dry months, may, include maintained dirt roads.

3.1 Final Lift of Pavement. The City shall allow the installation of the final 1" of asphalt pavement through coordination with the Developer and the City's Public Works officials. If the final 1" of pavement is installed early in the Development of specific in-tract or on backbone streets, and if no structural failures have occurred within the street system, the City may require a fog coat seal prior to exoneration of any outstanding bonds.

4.0 GRADING/DRAINAGE

4.1 At Risk Grading. After the first plan check comments on either the rough or mass grading plans are received by the Developer, the City shall allow the Developer to begin grading operations for the area that is the subject of the plan check. The Developer acknowledges that any changes that may be required by the City will be made at the sole expense of the Developer.

4.2 Erosion Control. The Developer shall Develop the Developer's Property in such a way as to confine all storm water within the Project and shall, do so in a manner which adequately protects all construction within the Project. The Developer shall prepare an erosion control plan that will demonstrate methods that may be incorporated in the Development of the Project to protect downstream watersheds. The Developer shall manage and determine when erosion control measures need to be installed and maintained, but Developer shall comply with any order of City.

4.3 Drainage. Reverse lot drainage on lots that back up to open space, the Golf Course or parks shall be allowed provided that these areas are privately maintained by the Property Owners Association.

5.0 DEVELOPMENT CONDITIONS

5.1 Lot Line Adjustments. In the event that lot line adjustments are required for model complexes or adjustments to open space lots after the recordation of a final map, the City shall review the requested adjustment over the counter with City Engineering staff and the Developer or the Developer's representative. This will not be allowed for the construction of regular production homes.

5.2 Rear Residential Slopes. The Developer shall stabilize according to the City Grading and Landscape Ordinance the rear slope of all residential Lots prior to issuance of a Certificate of Occupancy but shall not be required to landscape and/or irrigate the slopes. It is the intention that rear yard landscaping will be required and installed within the time specified in the CCC & R's by the homeowner.

5.3 Use of Joint Trenches. The City shall allow the Developer, to utilize joint trenches if it deems it necessary for Internet capabilities and/or telecommunication purposes.

5.4 Curbs. The construction of wedge, rolled curb, or mountable curbs within residential and multifamily zoned Planning Areas shall be permitted at the Developer's sole and absolute discretion.

6.0 GOLF COURSE

6.1 Golf Course/Active Open Space Drainage Facilities. It is the Developer's intention that the flood control facilities proposed within this area will be constructed consistent with all applicable design standards for such facilities with their maintenance being the responsibility of the either the POA, the operator of the Golf Course, the Developer or the City and not the responsibility of the Riverside County Flood Control District (the "RCFCD") unless the facility has been identified as a Drainage Master Plan Facility by RCFCD.

6.2 Golf Course Water. The financial viability of the Golf Course will be dependent upon the costs to operate and maintain the Golf Course. The City shall provide water to the Project at a per unit rate not to exceed the cost highest tiered rate for irrigation water for the Golf Course for the Term of this Agreement.

7.0 PERMITTING

7.1 Fire Sprinkler Inspections. The City's Building and Safety Division shall serve as Special Fire Marshall for this project. Building and Safety shall be responsible for enforcing the then applicable provisions of the California Fire Code, and the California Building Standards Codes.

7.2 Bond Exoneration. Upon request by the Developer, the City shall generate a one-time punch list of items required for the full or partial exoneration of all Project-related improvement bonds, for improvements both within and outside of the Property. The City shall, within 5 days of receipt of a written request from the Developer, provide an inspector to determine if the punch list items have been corrected. Once it has been determined that they have been corrected, the City shall expeditiously exonerate the bonds, partially or fully, as applicable. No additional punch lists shall be generated once an improvement has been inspected and a punch list generated.

7.3 Building Permit Refunds. If a Building Permit has expired without construction having started on the structure for which the Building Permit was issued, the Developer shall be entitled to a refund of the building permit fee less 20% for an administrative fee. No refund will be provided if the request for the refund has not been provided to the City within 30 days of the Building Permit's expiration.

8.0 PREVAILING WAGES

The Developer shall pay prevailing wages in connection with the construction of the Project as required by law. To the extent that it is determined that Developer has not paid, or does not pay, prevailing wages required by law for any portion of the Project, Developer shall defend and hold the City harmless from and against any and all increase in construction costs, or other liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of any action or determination that the Developer failed to pay prevailing wages in connection with the construction of the Project.

Developer acknowledges and agrees that should any third party, including but not limited to the Director of the Department of Industrial Relations ("DIR"), require Developer or any of its contractors or subcontractors to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the DIR under Prevailing Wage Law, then Developer shall indemnify, defend, and hold City harmless from any such determinations, or actions (whether legal, equitable, or administrative in nature) or other proceedings, and shall assume all obligations and liabilities for the payment of such wages and for compliance with the provisions of the Prevailing Wage Law. The City makes no representation that any construction or Site uses to be undertaken by Developer are or are not subject to Prevailing Wage Law.

9.0 COST OF DEVELOPMENT AGREEMENT

Developer has previously deposited approximately $200,000 with the City to pay all the City's outside consulting costs, costs of the environmental and legal review, and costs to process and obtain the Development Approvals, including this Agreement. As of March 1, such costs in aggregate exceed the amount deposited by $20,000, and additional costs are anticipated by the end of the approval process. Accordingly, before this Development Agreement shall be executed by the City, the Finance Director shall prepare a final written statement of costs incurred by City in the processing and approval of the Project, and Developer shall pay such amount in good money to City.

EXHIBIT "F"
PROPOSED PROJECT FACILITIES

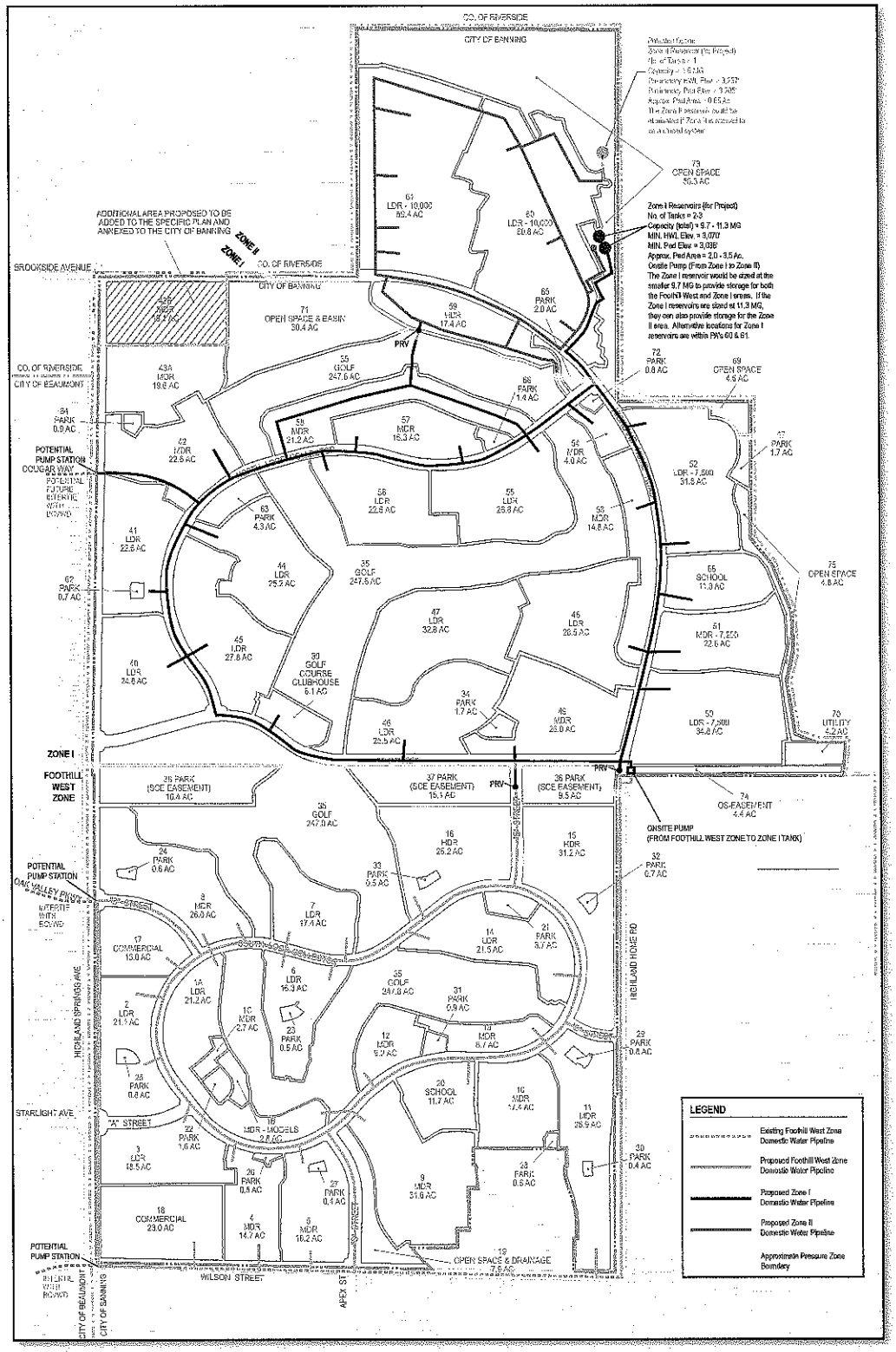


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PROPOSED PROJECT FACILITIES

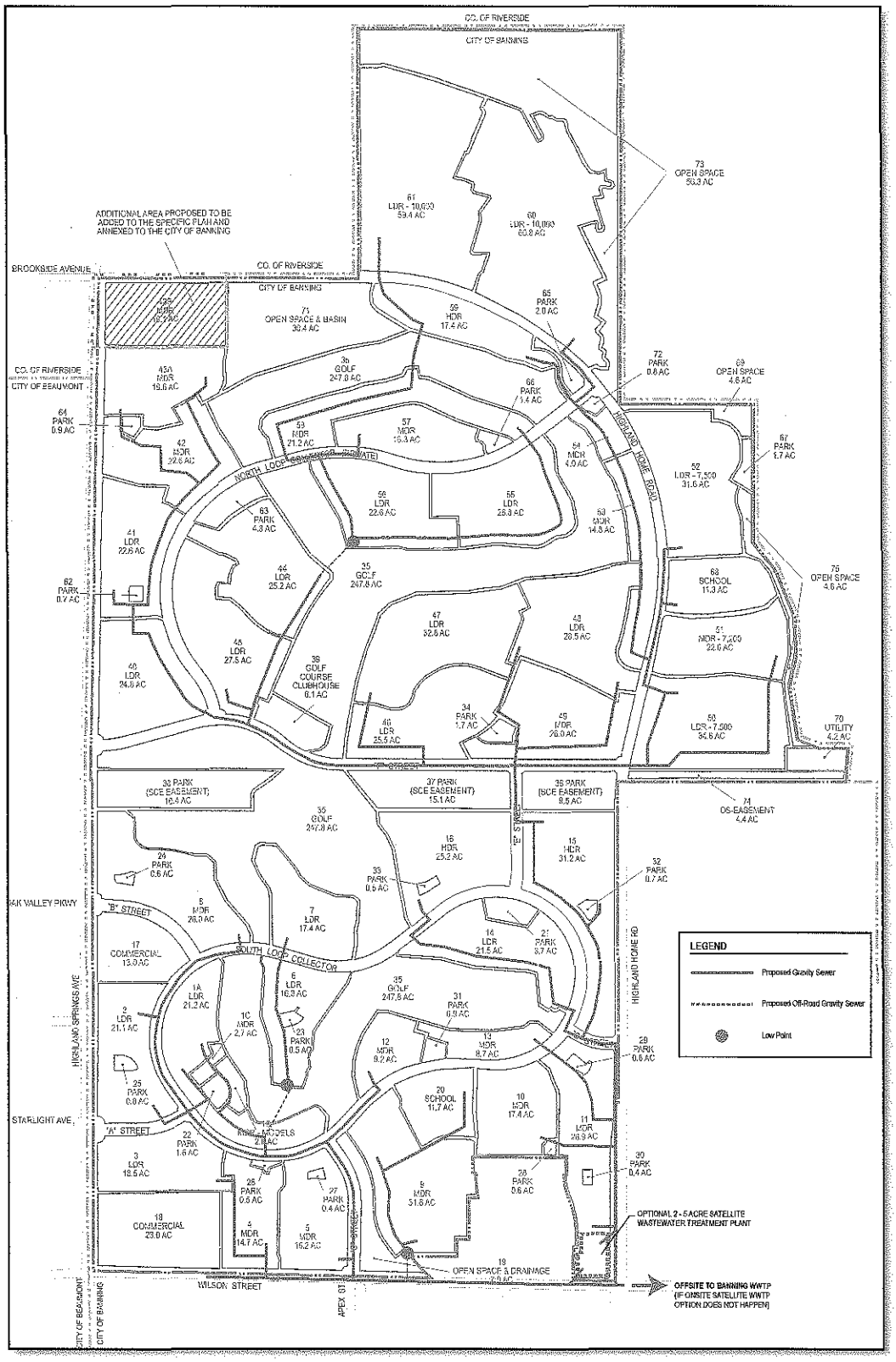


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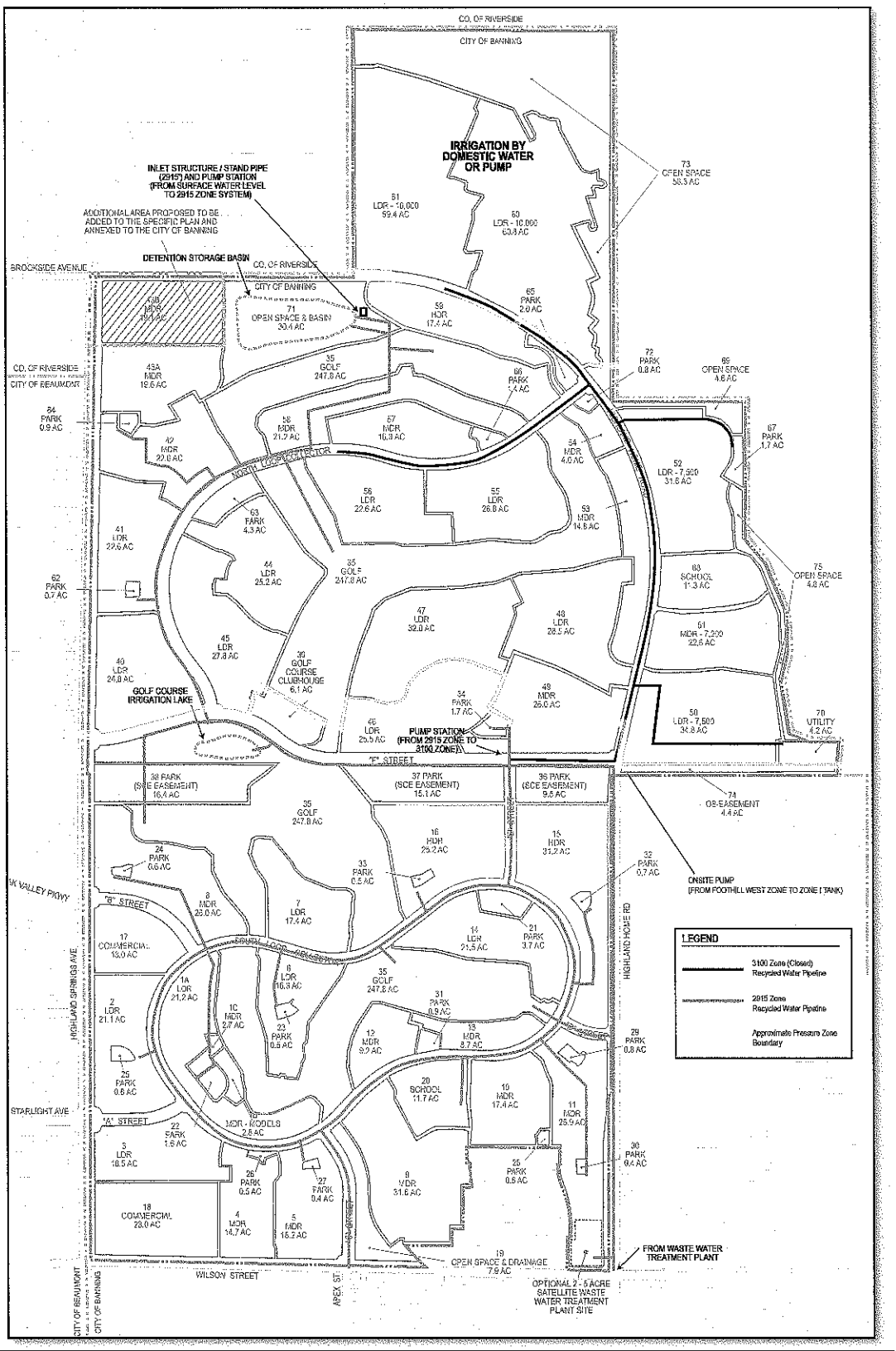


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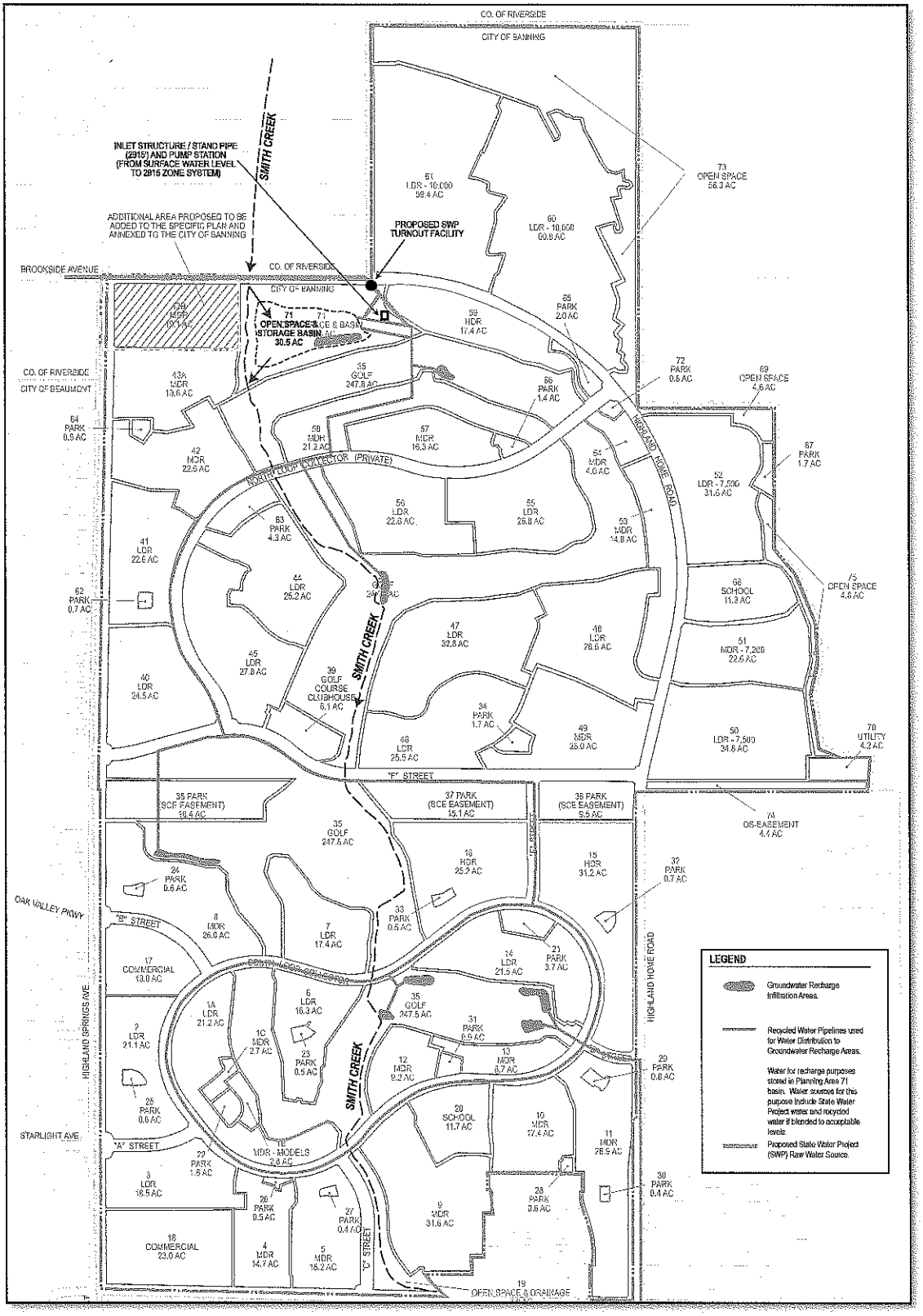


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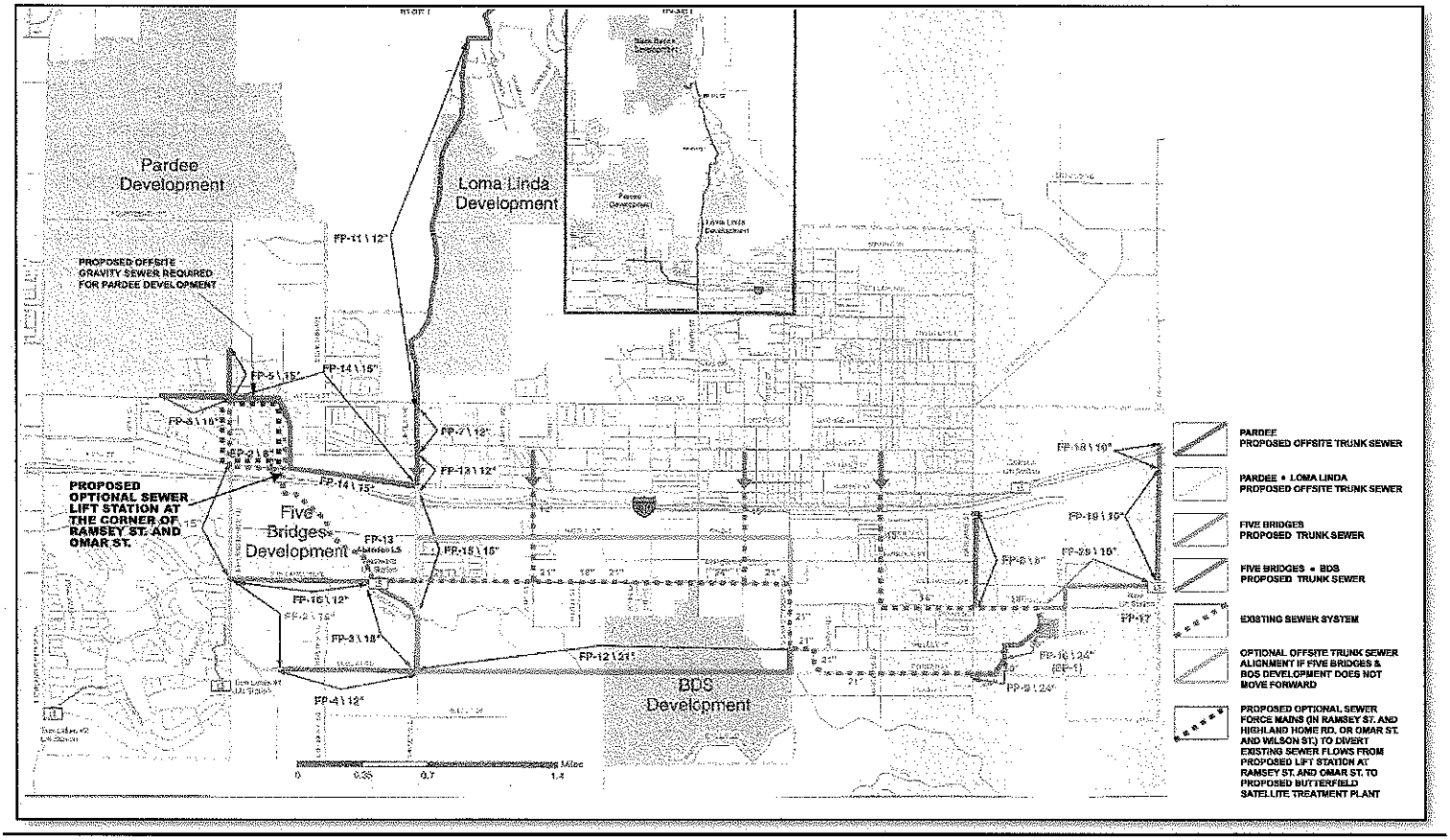


EXHIBIT "G"
HIGHLAND SPRINGS IMPROVEMENTS

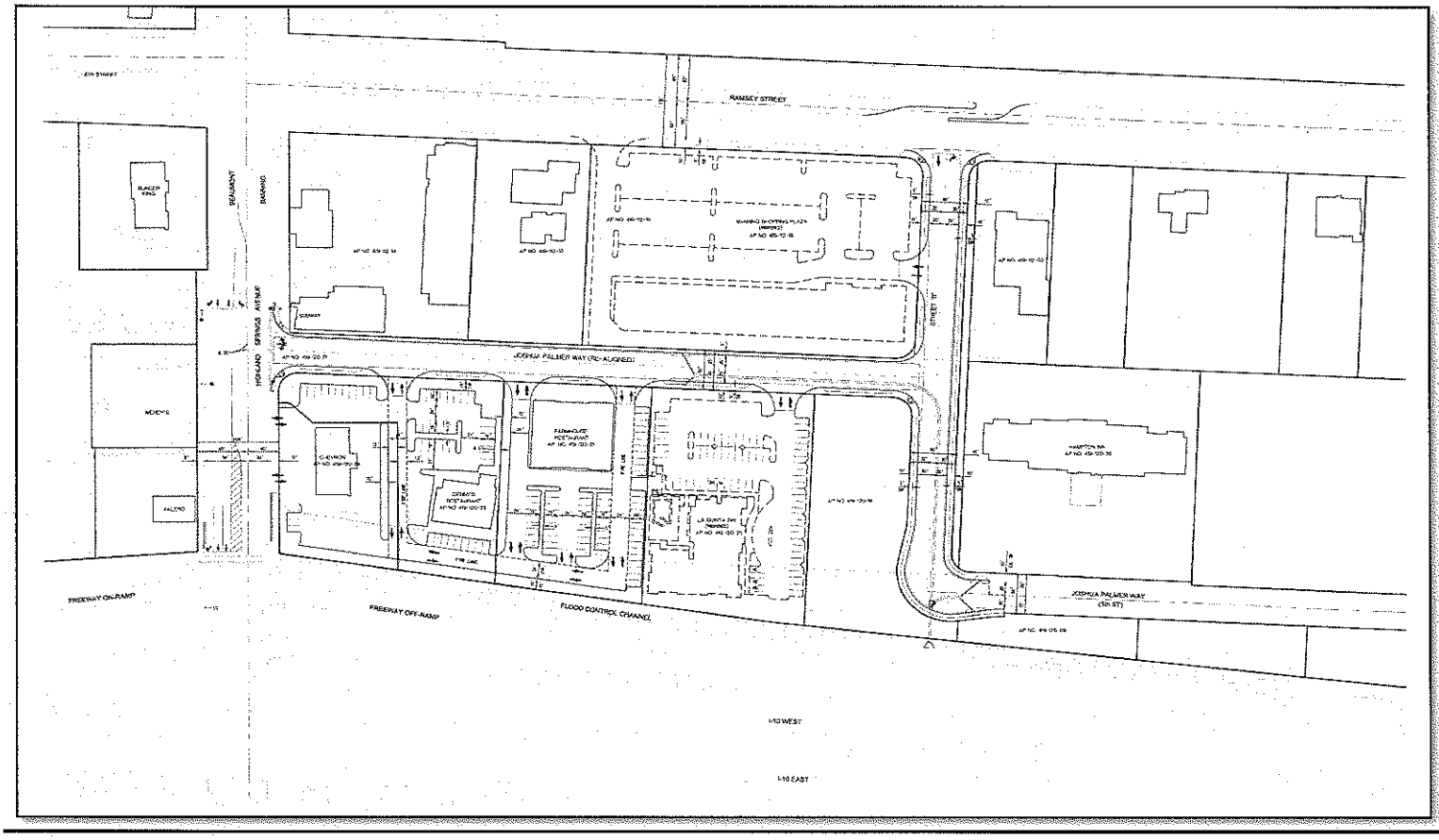


EXHIBIT "H"
BUTTERFIELD PROJECT FINANCING PLAN

This Financing Plan sets forth the basic terms and conditions pursuant to which City and Developer will cooperate to establish one or more CFD(s) and designate Improvement Areas therein pursuant to the CFD Act to finance the Eligible Facilities in connection with the Project and to levy the Services Special Tax. Capitalized terms not otherwise defined in this Financing Plan shall be defined as provided in the Development Agreement.

1. Goals and Policies for Financing. The City will adopt general Goals and Policies for establishing CFDs. The Goals and Polices for Financing shall apply on a City-wide basis and may be amended from time to time. This Financing Plan shall be consistent with the City's Goals and Policies for Financing. The principal objectives of this Financing Plan are to:

a. Provide City and Developer reasonable certainty that each CFD will be established in accordance with the Goals and Policies and this Financing Plan.

b. Provide basic parameters for the levy of (i) the Facilities Special Tax (defined below) within each CFD or Improvement Area to pay directly for Eligible Facilities and to secure the issuance of bonds of each CFD or Improvement Area secured by and payable from the Facilities Special Tax in order to finance the Eligible Facilities ("**Bonds**") and (ii) the Services Special Tax.

c. Provide basic parameters for the issuance of Bonds by or for the CFD(s) and any Improvement Areas therein.

2. Formation. City shall initiate proceedings to establish a CFD, upon Developer's petition request pursuant to the CFD Act and submittal of City's standard application form and receipt of an advance from Developer in an amount determined by City to pay for City's estimated costs to be incurred in undertaking the proceedings to establish the CFD ("Formation Proceeding Costs"). City agrees that all such advances for Formation Proceedings Costs so long as the costs re reasonable and not due to the actions of developer, incurred in connection with the formation of such CFD shall be eligible for reimbursement out of the first available proceeds of Surplus Special Taxes (defined below) and Bonds of the CFD and/or Facilities Special Taxes to the extent approved by the City's Bond Counsel ("CFD Proceeds"). The exact terms and conditions for the advance of funds by Developer and the reimbursement of such advances shall be memorialized in a separate agreement between City and Developer. City agrees to use its best efforts to complete the proceedings to form each CFD and record the notice of special tax lien for the CFD and each Improvement Area therein within 210 days after City's receipt of Developer's complete application and deposit.

3. Boundaries. The CFD boundary, or the boundaries of all CFDs if more than one is formed, shall encompass the Project. Each CFD may contain multiple Improvement Areas based on phasing of the Project within the CFD.

4. Eligible Public Facilities and Discrete Components. Subject to the City's adopted Goals and Policies for Financing, and review by Bond Counsel, conditions set forth in the following paragraph, City may authorize the CFDs to finance the acquisition or construction of the Eligible Facilities, which may include the following:

a. public streets and other related improvements within the public right-of-way

b. water facilities

c. storm drain facilities

d. sewer facilities

e. public parks, open space and landscaping

f. electrical facilities to be extent reasonable

g. any public facility to be constructed by City for which Developer is required to make a cash contribution pursuant to the Project's conditions of approval or this Agreement or which is included in any City capital improvement fee program and which public facility is to be owned by the City, subject to credit against the corresponding fee.

The costs of any Eligible Facility to be constructed by Developer that are eligible to be financed with CFD Proceeds ("**Actual Costs**") shall include the following if permissible under the Act:

(i) The actual hard costs for the construction or the value of the Proposed Eligible Facility, including labor, materials and equipment costs;

(ii) The costs of grading related to the Eligible Facility;

(iii) The costs incurred in designing, engineering and preparing the plans and specifications for the Eligible Facility;

(iv) The costs of environmental evaluation and mitigation of or relating to the Eligible Facility;

(v) Fees paid to governmental agencies for, and costs incurred in connection with, obtaining permits, licenses or other governmental approvals for the Eligible Facility;

(vi) Costs of construction administration and supervision;

(vii) Professional costs associated with the Eligible Facility, such as engineering, legal, accounting, inspection, construction staking, materials and testing and similar professional services; and

(viii) Costs of payment, performance and/or maintenance bonds and insurance costs directly related to the construction of the Eligible Facility.

(ix) Any other costs permitted by law.

The Eligible Facilities constructed by Developer, and for which Developer elects to submit payment requests, shall be bid, contracted for and constructed in accordance with the Acquisition Agreement to be entered into between City and Developer at the time of formation of the first CFD. The Acquisition Agreement shall provide additional detail, consistent with the provisions of the Goals and Polices for Financing and this Development Agreement, with respect to the acquisition and construction of the Eligible Facilities, including a more detailed description of the specific Eligible Facilities that will be eligible to be financed through the CFD and discrete components of each Eligible Facility that may be reimbursed prior to the completion of the entire Eligible Facility. The Acquisition Agreement will also provide additional detail with respect to the financing of the City's construction of Eligible Facilities in satisfaction of corresponding City capital improvement fees, as elected by Developer. The CFD financing of the acquisition of an Eligible Facility constructed by Developer that is included in a City Capital improvement fee program or required by the Project conditions of approval, shall not preclude the Developer's receipt of corresponding fee credits.

5. Financing Parameters. Each CFD shall be authorized to levy Facilities Special Taxes of each Improvement Area and issue Bonds of each CFD or Improvement Area in one or more series to finance the Eligible Facilities in accordance with the basic parameters set forth below:

a. A precondition to the issuance of Bonds shall be that the value of the real property subject to Facilities Special Taxes required to repay the Bonds shall be at least three times the amount of the Bonds.

b. Each series of Bonds shall have a term of at least thirty (30) years and include escalating annual debt service commensurate with any annual escalation in the Facilities Special Taxes.

c. The total effective tax rate within each Improvement Area applicable to any residential parcel on which a residential dwelling has or is to be constructed, taking into account all ad valorem property taxes, voter-approved ad valorem property taxes in excess of one percent (1%) of assessed value, the annual special taxes of existing community facilities districts and community facilities districts under consideration and reasonably expected to be established (but excluding the Services Special Tax), the annual assessments (including any administrative surcharge) of existing assessment districts and assessment districts under consideration and reasonably expected to be established (but excluding assessments for maintenance and services), and the Facilities Special Taxes, shall equal two percent (2.00%) of the projected initial sales price of the residential dwelling unit and such parcel, as estimated at the time of formation of the applicable CFD, or such lesser amount requested by Developer. The Facilities Special Taxes may escalate by up to 2% per year.

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Record Gazette
Your Community. Your Newspaper.

AFFIDAVIT OF PUBLICATION

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Proof of Publication
(2015.5 C.C.P.)

ATWELL DA

State of California)
County of Riverside) SS.

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737.
That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

Oct 3, 2025

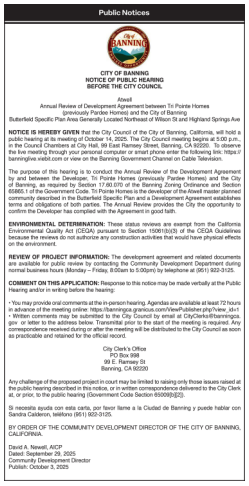
Executed on: October 3rd, 2025

At City of Banning, California

I ceritfy (or declare) under penalty of perjury that the foregoing is true and correct.

Kaila Geaman

Signature



Public Notices

CITY OF BANNING
NOTICE OF PUBLIC HEARING
BEFORE THE CITY COUNCIL

Atwell
Annual Review of Development Agreement between Tri Pointe Homes
(previously Pardee Homes) and the City of Banning
Butterfield Specific Plan Area Generally Located Northeast of Wilson St and Highland Springs Ave

NOTICE IS HEREBY GIVEN that the City Council of the City of Banning, California, will hold a public hearing at its meeting of October 14, 2025. The City Council meeting begins at 5:00 p.m., in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, CA 92230. 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 conduct the Annual Review of the Development Agreement by and between the Developer, Tri Pointe Homes (previously Pardee Homes) and the City of Banning, as required by Section 17.80.070 of the Banning Zoning Ordinance and Section 65865.1 of the Government Code. Tri Pointe Homes is the developer of the Atwell master planned community described in the Butterfield Specific Plan and a Development Agreement establishes terms and obligations of both parties. The Annual Review provides the City the opportunity to confirm the Developer has complied with the Agreement in good faith.

ENVIRONMENTAL DETERMINATION: These status reviews are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because the reviews do not authorize any construction activities that would have physical effects on the environment.

REVIEW OF PROJECT INFORMATION: The development agreement 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.

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://banninglive.granicus.com/ViewPublisher.php?view_id=1
- You may provide written comments to the City Council by email at CityClerk@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 92230

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: September 29, 2025
Community Development Director
Publish: October 3, 2025

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Fred Lyn, Deputy Director of Electric**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-139, Approving Electric Rate Increases and Revisions to Certain Electric Rates and Tariffs.**

RECOMMENDATION:

Adopt Resolution 2025-139.

BACKGROUND:

The Banning Electric Utility's (BEU's) cash position had been in decline for several years. This downward trend accelerated between Fiscal Years (FYs) 2020/21 and 2022/23, driven largely by increased capital expenditures that relied heavily on cash reserves. BEU's cash reserves fell below the threshold set by its reserve policy as of November 30, 2021, and became negative by December 31, 2022. By June 30, 2023, BEU reported an available cash balance of approximately negative $9 million. This negative cash balance is primarily attributed to the utility's failure to secure external financing for major capital improvement projects, combined with the absence of necessary rate increases to keep up with the cost of service and shrinking operating margins.

Recognizing the urgency of BEU's financial challenges, the City Council approved Resolution 2024-169 on October 22, 2024, which implemented an emergency rate increase of 13.9% effective on November 1, 2024 for all rate classes and a second rate increase of 13.9% effective on November 1, 2025 for all rate classes. Before this rate increase, BEU last implemented an electric rate increase in 2013.

On November 12, 2024, the City Council approved Resolution 2024-175, authorizing a Professional Services Agreement with NewGen Strategies and Solutions, LLC ("NewGen") to conduct a comprehensive Cost of Service Analysis and Rate Design. This effort officially launched in December 2024 and has progressed through key phases including data collection, rate strategy development, trend analysis, and multiple financial model reviews.

On May 20, 2025, City staff, in coordination with the NewGen team, presented an update to the Budget and Finance Committee. The presentation outlined the rate study process, key revenue requirements and assumptions, current fund balances and financial metrics, proposed revenue adjustments, and the next steps moving forward. The Budget and Finance committee provided feedback and recommended a more detailed analysis for a 5-year rate scenario that would include rate revenue requirement increases of 20%, 20%, 3%, 3% and 3% and it was also recommended for staff to look at the potential cost savings to defer some capital expenditures.

On July 15, 2025, City staff, in coordination with the NewGen team, presented a second update to the Budget and Finance committee, which provided two recommended funding scenarios for a cash positive electric fund balance by either FY 2027 or FY 2028 and the rate impacts and bill comparisons to BEU's

different customer classes for both scenarios. The Budget and Finance committee provided feedback and recommended that the NewGen team move ahead with a rate design process where a positive cash electric fund balance will be met by FY 2028.

On September 9, 2025, City staff, in coordination with the NewGen team, presented the final draft of the recommended rate scenarios and the potential bill impacts at a City Council workshop. No additional comments or recommendations were provided.

JUSTIFICATION:

The Banning Electric Utility (BEU) is committed to establishing equitable charges and providing efficient reliable electric service at the lowest possible rates for its customers. It is critically important for the City to maintain, repair and, when needed, replace aging system infrastructure and keep pace with increasing operating costs. Monthly electric fees are the primary source of revenue used to cover the expenditures to provide electric services to the City's customers. A comprehensive five-year Cost of Service Analysis and Rate Design Study ("Rate Analysis") has been performed by the NewGen team, and the proposed rate increases below is presented to the City Council for consideration and final approval at the Public Hearing. The proposed rate increases will allow BEU to cover its operating costs and to replenish its cash balances back up to the City's reserve policy.

If approved following the public hearing, the latest rate adjustments will take effect on November 1, 2025 and the previously approved November 1, 2025 rate adjustment from Resolution 2024-169 will be eliminated and replaced with the following rate tables below, which provides the current and proposed electric service rate increases. Customer bill impacts will vary by customer class and consumption level.

Residential Service (RS-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$34	$43	$43	$43	$43	$43
Energy Charge – per kWh	$0.1619	$0.1878	$0.2366	$0.2413	$0.2461	$0.2461

General Service Single Phase (GS-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$67	$80	$80	$80	$80	$80
Energy Charge – per kWh	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572

Small Commercial Multi-Phase (SC-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$67	$80	$80	$80	$80	$80
Energy Charge – per kWh	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572
Multi-Phase Service Meter Charge	$4.52	$4.52	$4.52	$4.52	$4.52	$4.52

Interruptible Well Service (IW-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$342	$400	$400	$400	$400	$400
Energy Charge – per kWh	$0.1198	$0.1438	$0.1697	$0.1952	$0.2147	$0.2362
Demand Charge – per kWh	$15.38	$18.50	$21.50	$24.50	$27.00	$29.50

Medium Commercial Service (MC-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$228	$290	$290	$290	$290	$290
Energy Charge – per kWh	$0.1259	$0.1574	$0.1968	$0.1988	$0.2048	$0.2048
Demand Charge – per kWh	$19.42	$20	$21	$22	$23	$23

Industrial Service (IS-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Basic Service Charge– per meter	$456	$525	$525	$525	$525	$525
Energy Charge – per kWh	$0.1150	$0.1380	$0.1615	$0.1809	$0.1845	$0.1845
Demand Charge – per kWh	$16.52	$20	$23.50	$26	$26.50	$26.50

Security Lighting Service (SL-2)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
100 Watt Equivalent LED	$11.07	$14.39	$15.90	$19.40	$21.15	$24.32
250 Watt Equivalent LED	$27.68	$35.98	$39.76	$48.51	$52.88	$60.81
100 Watt Sodium Vapor	$22.13	$28.77	$31.79	$38.78	$42.27	$48.62
150 Watt Sodium Vapor	$33.20	$43.16	$47.69	$58.18	$63.42	$72.93
175 Watt Sodium Vapor	$38.73	$50.35	$55.64	$67.88	$73.98	$85.08
200 Watt Sodium Vapor	$44.27	$57.55	$63.59	$77.58	$84.57	$97.25
250 Watt Sodium Vapor	$55.33	$71.93	$79.48	$96.97	$105.69	$121.55

400 Watt Sodium Vapor	$88.53	$115.09	$127.17	$155.15	$169.12	$194.48
20 Foot or 35 Foot Wood Pole (City owned)	$4.57	$5.94	$6.56	$8.01	$8.73	$10.04

Street Lighting Service (SL-1)

	Current	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
Per Street Light / month	$9.62	$12.51	$13.82	$16.86	$18.38	$21.13

General Provisions and Rate Riders to be amended or retired are as follows:

General Provisions (Retired)

Power Cost Adjustment Factor Rider (Amended to include details and clarity)

Economic Development Discount Rider (Amended to include a change in the existing New and Expanded load criteria and a new Job Creation criteria)

FISCAL IMPACT:

If approved, the expected rate increase would become effective on November 1, 2025. The rate increase will generate sufficient revenue to cover all of Banning Electric Utility's expenses including: operation services, general administrative services; services rendered by other city departments in support of the Banning Electric Utility; additions and betterments to the electric utility system; the amortization or depreciation of obsolete facilities within the electric utility system; any and all bonded indebtedness incurred in the construction or extension of the electrical utility system, including principal and interest thereof; and a reasonable reserve fund to provide for unforeseen contingencies. The proposed electric rate increases will result in approximately $ 2.7M in additional revenue in FY 2026, $8.9M in FY 2027, $11.4M in FY 2028, $12.4M in FY 2029 and $12.4M in FY 2030.

ALTERNATIVES:

The City Council could reject staff's recommendation and elect to reconsider the previously approved electric rate increase or request another be explored. This alternative will result in further degradation of BEU’s cash balance until a sustainable rate increase is approved by the City Council. This alternative may also lead to further lowering of BEU’s bond rating.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2025-139.docx
2. Resolution 2025-139 Exhibit A.pdf
3. Banning Electric Utility_COS and Rate Study Report__10.06.25.pdf
4. BEU Rate Trends Study_Final Report.pdf
5. Banning Draft Cost of Service Print-Out.pdf
6. Banning Draft Financial Forecast Print-Out.pdf

7. Banning Draft Cash Flow Print-Out Full_10.07.25.pdf

RESOLUTION 2025-139

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ELECTRIC RATE INCREASES AND REVISIONS TO CERTAIN ELECTRIC RATES AND TARIFFS

WHEREAS, the City of Banning owns and operates a municipal electric utility known as the Banning Electric Utility (BEU); and

WHEREAS, the purpose of BEU is to provide electric power generation and electrical energy procurement, transmission and delivery of electrical energy, retail electrical energy distribution, customer attraction and retention of economic development and load stability, metering, customer billing and energy efficiency services; and

WHEREAS, the City Council has the authority to establish and adjust electric utility tariffs, charges, general provisions, and rate riders; and

WHEREAS, BEU must ensure that it generates sufficient revenues to pay for expenses such as general administrative services; services rendered by other City departments in support of BEU; additions and betterments to the electric utility system; the amortization or depreciation of obsolete facilities within the electric utility system; any and all bonded indebtedness incurred in the construction or extension of the electrical utility system, including principal and interest thereof; and reasonable reserve funds to provide for unforeseen contingencies; and

WHEREAS, since Fiscal Year 2020/2021 BEUs cash balance has decreased significantly due to a combination of capital spending and inflationary pressures resulting in borrowing from other City funds; and

WHEREAS, on October 22, 2024, City Council approved Resolution 2024-169, implementing a rate increase of 13.9% effective November 1, 2024, and a second rate increase of 13.9% effective November 1, 2025: and

WHEREAS, subsequently, BEU retained the rate consulting firm NewGen Strategies & Solutions, LLC to perform a comprehensive five-year Cost of Service Analysis and Rate Design Study (Rate Analysis); and

WHEREAS, based upon the Rate Analysis, City Council was presented with several electric rate increase options and analyses of said options that were designed to cover the annual deficit, bring cash balances to positive and avoid bond debt coverage covenant default; and

WHEREAS, only those electric rates and tariffs, attached hereto as Exhibit “A”, are revised and all others remain unchanged and effective; and

WHEREAS, the electric rates and tariff revisions in Exhibit “A” will become effective on November 1, 2025; and

WHEREAS the rate revisions in Exhibit “A” will be replacing the November 1, 2025, rate increase of 13.9% that was approved by City Council via Resolution 2024-169.

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

SECTION 1. The City Council approves the electric rate increases and revisions to certain electric rates and tariffs as shown in Exhibit "A". The City Council is not taking action to amend any other electric rates set forth in the electric utility rate schedules (tariffs) as a result of approving the increased electric rates set forth in Exhibit "A". Those electric rates in the electric utility rate schedules (tariffs) that are not modified by Exhibit "A" to this Resolution shall continue and remain in effect unless and until modified by resolution or other action of the City Council. The previous rates are suspended upon the effective date of the rate increases and/or revisions as shown in Exhibit A. If there is a successful challenge to any of the increased and/or revised rates set forth in Exhibit A, the suspension of the previous rates will automatically be lifted as to the increased or revised rates successfully challenged only, and the previous rates will continue in full force and effect despite the previous suspension with respect to successful challenged rates only. If there is no timely legal challenge to the increase and/or revised rates the suspended rates will be revoked.

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 14th day of October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-139, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Revised Electric Rates and Tariffs

Rate Schedule: Residential Service (RS-1)

Rate Designation: Single-phase electrical service for residential, single family, accessory dwelling units, or mobile home, as primary residences; alternately a building of multiple occupancy which shares common walls and/or floors and ceilings with other single-family dwellings.

Class of Service: 120/240 volts, single-phase, three wire, alternating current, 60 Hertz per second, not to exceed a 400-amp service panel; alternately 120/208volts for multiple occupancy single-family dwellings.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for single-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any single-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$43.00	$43.00	$43.00	$43.00	$43.00
Energy Charge – all kWh	$0.18780	$0.23660	$0.24130	$0.24610	$0.24610

	~~11/01/2024~~	~~11/01/2025~~
~~Basic Service Charge~~	~~$34.00 per meter~~	~~$39.00 per meter~~
~~Energy Charge – all kWh~~	~~$0.1619 per kWh~~	~~$0.1843 per kWh~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and

fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Low-income Discount, Medical Discount, Net Energy Metering Surplus Production, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: General Service Single Phase (GS-1)

Rate Designation: Single-phase electrical service for small business, cottage industries, low use utility services such as irrigation pedestals, telecommunications support, commercial street lighting, and cable television types of services; not to exceed 12,500 kWh per month

Class of Service: 120/240 volts, single-phase, three wire, alternating current, 60 Hertz per second, not to exceed a 400-amp service panel; alternately 120/208volts for multiple occupancy business units.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for single-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any single-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$80.00	$80.00	$80.00	$80.00	$80.00
Energy Charge – all kWh	$0.16360	$0.20780	$0.24730	$0.25720	$0.25720

	~~11/01/2024~~	~~11/01/2025~~
~~Basic Service Charge~~	~~$67.00 per meter~~	~~$76.00 per meter~~
~~Energy Charge – all kWh~~	~~$0.1369 per kWh~~	~~$0.1559 per kWh~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and

fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Net Energy Metering Surplus Production, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: Interruptible Well Service (IW-1)
~~(Wells: C-2, C-3, C-4, C-5, C-6, M-10, M-11, M-12, Well 7, and Well 8)~~

Rate Designation: Generally, multi-phase electrical service for transmitting or pumping water for the City's water system

Class of Service: a variety of 208, 240, 277, or 480 voltages, multi-phase, three or four wire, alternating current, 60 Hertz per second.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for multi-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any multi-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Auxiliary/Emergency Generation Equipment: Auxiliary or emergency generation equipment is the customer-owned generation equipment normally used for auxiliary, emergency, or standby electrical generation purposes. Auxiliary or emergency generation equipment may be used by a customer to serve that customer's load only during a Period of Interruption (CASIO Flex Alerts), an only when such loads are isolated from the BEU system.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$400.00	$400.00	$400.00	$400.00	$400.00
Energy Charge – all kWh	$0.14380	$0.16970	$0.19520	$0.21470	$0.23620
Demand Charge – all kW	$18.50	$21.50	$24.50	$27.00	$29.50

~~| | 11/01/2024 | 11/01/2025 |~~
~~| Basic Service Charge | $342 per meter | $389 per meter |~~
~~| Energy Charge – all kWh | $0.1198 per kWh | $0.1365 per kWh |~~

~~**Demand Charge – all kW $15.38 per kW $17.51 per kW**~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing Demand: Billing Demand shall be the kilo-Watts of measured maximum demand during a billing cycle; the maximum demand will be the highest quarter-hour block (15-minute interval) of measurement in any one hour during the billing cycle. The maximum demand shall be determined to the nearest 1/100 kW.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Net Energy Metering True-up, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: Small Commercial Multi-Phase (SC-1)

Rate Designation: Multi--phase electrical service for a variety of small service applications; available to most revenue classes except residential service

Class of Service: 120/208 volts, multi-phase, four wire, alternating current, 60 Hertz per second; not to exceed a 400-amp service panel or 50kW monthly billing demand; other voltages and configurations may apply but are being phased out.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for multi-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any multi-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$80.00	$80.00	$80.00	$80.00	$80.00
Energy Charge – all kWh	$0.16360	$0.20780	$0.24730	$0.25720	$0.25720
Multi-phase Service	$4.52	$4.52	$4.52	$4.52	$4.52

	~~11/01/2024~~	~~11/01/2025~~
~~Basic Service Charge~~	~~$67 per meter~~	~~$76 per meter~~
~~Energy Charge – all kWh~~	~~$0.1369 per kWh~~	~~$0.1643 per kWh~~
~~Multi-phase Service~~	~~$4.52 per meter~~	~~$5.15 per meter~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing Demand: Billing Demand shall be the kiloWatts of measured maximum demand during a billing cycle; the maximum demand will be the highest quarter-hour block (15-minute interval)

of measurement in any one hour during the billing cycle. The maximum demand shall be determined to the nearest 1/100 kW.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Net Energy Metering Surplus Production, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: Medium Commercial Service (MC-1)

Rate Designation: Generally, multi-phase electrical service for a variety of service applications; available to most revenue classes except residential service

Class of Service: 208, 277, or 480 voltages, multi-phase, four wire, alternating current, 60 Hertz per second; exceeds a 400-amp service panel and greater than 50kW monthly billing demand but less than 500kW monthly billing demand; other voltages and configurations may apply but are being phased out.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for multi-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any multi-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$290.00	$290.00	$290.00	$290.00	$290.00
Energy Charge – all kWh	$0.15740	$0.19680	$0.19880	$0.20480	$0.20480
Demand Charge – all kW	$20.00	$21.00	$22.00	$23.00	$23.00

	~~11/01/2024~~	~~11/01/2025~~
~~Basic Service Charge~~	~~$228 per meter~~	~~$259 per meter~~
~~Energy Charge – all kWh~~	~~$0.1259 per kWh~~	~~$0.1434 per kWh~~
~~Demand Charge – all kW~~	~~$19.42 per kW~~	~~$22.12 per kW~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing Demand: Billing Demand shall be the kilo-Watts of measured maximum demand during a billing cycle; the maximum demand will be the highest quarter-hour block (15-minute interval) of measurement in any one hour during the billing cycle. The maximum demand shall be determined to the nearest 1/100 kW.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Net Energy Metering Surplus Production, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: Industrial Service (IS-1)

Rate Designation: Multi-phase electrical service for a variety of large commercial, manufacturing, cultivation, logistic, and industrial applications

Class of Service: 208, 277, or 480 voltages, multi-phase, four wire, alternating current, 60 Hertz per second; exceeds an 800-amp service panel and greater than 500kW monthly billing demand; other voltages and configurations may apply but are being phased out.

Service Area: All areas within the City's assigned area of service.

Availability: Applicable for multi-phase service through a single meter to a customer using BEU's standard service based upon service availability at a proposed location, the size of the load, and the operating characteristics of the customer's equipment.

BEU reserves the right to limit the capacity of any multi-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

	11/01/2025	11/01/2026	11/01/2027	11/01/2028	11/01/2029
Basic Service Charge ($/month)	$525.00	525.00	525.00	525.00	525.00
Energy Charge – all kWh	$0.13800	$0.16150	$0.18090	$0.18450	$0.18450
Demand Charge – all kW	$20.00	$23.50	$26.00	$26.50	$26.50

	~~11/01/2024~~	~~11/01/2025~~
~~Basic Service Charge~~	~~$456 per meter~~	~~$519 per meter~~
~~Energy Charge – all kWh~~	~~$0.1150 per kWh~~	~~$0.1310 per kWh~~
~~Demand Charge – all kW~~	~~$16.52 per kW~~	~~$18.81 per kW~~

Minimum Charge: The minimum charge per billing cycle will be the Basic Service Charge.

Billing Demand: Billing Demand shall be the kilo-Watts of measured maximum demand during a billing cycle; the maximum demand will be the highest quarter-hour block (15-minute interval) of measurement in any one hour during the billing cycle. The maximum demand shall be determined to the nearest 1/100 kW.

Billing: The bill is the amount computed when applying the above rates to the number of kWhs consumed plus a power cost adjustment factor and all other applicable riders and fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: Power Cost Adjustment Factor, Public Benefits, Net Energy Metering Surplus Production, Distributed Self-Generation Buy-back, and Power Factor Correction charges.

Rate Schedule: Security Lighting Service (SL-2)

Rate Designation: Applicable to customers for outdoor area security lighting service furnished from dusk to dawn, supplied from existing overhead facilities. The Utility will install, own, operate and maintain the complete lighting installation, including customer owned support. Security Lighting Service is not available for new service as of May 2013.

Service Area: All areas within the City's assigned area of service.

Rates:

		Per Lamp Per Month 11/1/2024	11/1/2025
(Fixture installed on existing support)			
100 Watt Equivalent LED		$ 11.07	$12.61
250 Watt Equivalent LED		27.68	$31.52
100 Watt Sodium Vapor	(9,500 Lumen)	22.13	$25.21
150 Watt Mercury Vapor	(16,000 Lumen)	33.20	$37.82
175 Watt Sodium Vapor	(7,000 Lumen)	38.73	$44.11
200 Watt Sodium Vapor	(16,000 Lumen)	44.27	$50.43
250 Watt Sodium Vapor	(25,000 Lumen)	55.33	$63.02
400 Watt Mercury Vapor	(20,000 Lumen)	88.53	$100.84

	Per Pole Per Month	
Pole (Department owned wood pole installation)		
20' or 35' Wood Pole	$ 4.57	$5.20

Per Lamp
Per Month

(Fixture installed on existing support)

	11/1/2025	11/1/2026	11/1/2027	11/1/2028	11/1/2029
100 Watt Equivalent LED	$14.39	$15.90	$19.40	$21.15	$24.32
250 Watt Equivalent LED	$35.98	$39.76	$48.51	$52.88	$60.81
100 Watt Sodium Vapor	$28.77	$31.79	$38.78	$42.27	$48.62
150 Watt Sodium Vapor	$43.16	$47.69	$58.18	$63.42	$72.93
175 Watt Sodium Vapor	$50.35	$55.64	$67.88	$73.98	$85.08

200 Watt Sodium Vapor	$57.55	$63.59	$77.58	$84.57	$97.25
250 Watt Sodium Vapor	$71.93	$79.48	$96.97	$105.69	$121.55
400 Watt Sodium Vapor	$115.09	$127.17	$155.15	$169.12	$194.48
20 Foot or 35 Foot Wood Pole (City owned)	$5.94	$6.56	$8.01	$8.73	$10.04

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: No rate riders are applicable.

Special Conditions:

1. Voltage: Service under this schedule will be supplied at a single-phase voltage from the Electric Utility's existing overhead lines.

2. Rates: The above lamp rates are applicable to Utility-owned outdoor area lighting equipment mounted on existing Utility owned poles or on customer owned supports acceptable to the Utility.

3. Standard Equipment: Lighting equipment will consist of a Utility standard overhead outdoor sodium vapor luminaries with photo electric switch, support and one overhead service drop not to exceed 100'.

4. Height: Mounting height of 175 watt lamp will be approximately 25 to 30 feet, and mounting height of 400 watt lamps will be approximately 30 feet.

5. Nonstandard Installation: A customer who requests more than one wood pole, or other than wood poles shall install the poles at the customer's expense. The standard sodium vapor luminaire will be provided and installed by the Utility.

6. Lump Sum Payment: Customers who do not wish to pay monthly pole charge, may pay a non-refundable amount for the installation of standard wood pole or other pole as the customer desires. Pole will remain the property of the customer at termination of service.

7. Service Contract: A contract for a period of one year will be required for initial installation of facilities under this schedule, and will remain in effect from month to month thereafter subject to termination or cancellation under terms stated therein.

8. Maintenance: Lamp maintenance will be done during regular working hours as soon as reasonably possible after the customer has notified the Utility of service failure. Monthly bills will not be adjusted because of a lamp outage.

9. Relocation of Poles: Relocation of an outdoor area lighting installation because of government requirements will be made providing the customer pays the entire cost of such relocation.

10. Billing: Billing for an installation will be to only one account. Prorated billings to more than one account for a unit, or a combination of units will not be made. If the customer prefers to pay on an annual basis, payment shall be done and payable in advance.

11. All Night Service: The Utility's dusk to dawn, all night service is based on a lighting period of approximately 4,380 hours per year.

12. Location of Poles: Poles will be located in areas where they may be serviced by truck.

13. Waiver: Customer must execute a waiver to participate in the Security Lighting Service program.

14. Termination: The City reserves the right to terminate the Security Lighting Service program or remove a customer from the program at any time at the City's sole discretion.

Rate Schedule: Street Lighting Service (SL-1)

Rate Designation: Unmetered lighting such as streetlights, solar powered streetlights, park lights, freeway lights, decorative pathway lights, or other lighting fixtures.

Class of Service: 120, 240, or 277 volts, single-phase, alternating current, 60 Hertz per second; may be fused, operated by a disconnect, or through a service panel.

Service Area: All areas within the City's assigned area of service.

Availability: Generally approved by the City of Banning Public Works for public safety.

BEU reserves the right to limit the capacity of any single-phase service when, in its judgment, such service will impair the service to other customers, or such service shall exceed the capacity of BEU's facilities.

Service hereunder is subject to the provision of BEU's Electric Service Standards, Rules and Regulations, this tariff, and the terms of the Application for electric service.

Monthly Rate:

~~11/01/2024~~	~~11/01/2025~~
~~$9.62 per light~~	~~$10.96 per light~~

Standard Luminaires (per light per month)

11/1/2025	**11/1/2026**	**11/1/2027**	**11/1/2028**	**11/1/2029**
$12.51	$13.82	$16.86	$18.38	$21.13

Solar Powered Luminaires 28' Pole only (per light per month)

11/1/2025	**11/1/2026**	**11/1/2027**	**11/1/2028**	**11/1/2029**
SL-2 pole rate	$6.56	$8.01	$8.73	$10.04

Minimum Charge: No minimum charge applicable.

Billing: The bill is the amount computed when applying the above rates to the number of lights, and all other applicable riders and fees per the tariff. Bills are rendered on a cycle basis, on or about the same day of every month. The bill is due upon receipt and becomes delinquent 20 days after the billing cycle date.

Energy Taxes and Surcharges: All applicable local, county, state, and federal taxes or surcharges or franchise fees may be included in the above rates or may be added to the rates.

Applicable Riders: No rate riders are applicable.

RIDER: The Power Cost Adjustment Factor (PCA-1)

Applicable Rate Schedules: RS-1, GS-1, IW-1, SC-1, MC-1, and IS-1 rate schedules.

Power Cost Adjustment Factor:

The Power Cost Adjustment Factor (PCAF) replaces the System Cost Adjustment Factor (SCAF). The ~~Power Cost Adjustment Factor (PCAF)~~ ~~The~~ PCAF is a charge per kWh that is used to ensure an adequate revenue stream to cover all power and transmission costs incurred by BEU and will be assessed to all customer classes with energy charges. It is designed to adjust bills either up or down.

A base PCAF (base) is calculated for the fiscal year of ~~2020~~2023 ~~-~~ ~~21~~ 24 based on the net total of all power and transmission costs and revenues divided by the total retail kWh sales. The resulting $/kWh amount is rounded to 4 decimals. ~~sales as a $/kWh to four decimals.~~ The PCAF (base) is $.~~1148~~1184/kWh. A monthly PCAF (month) is calculated based on a 12-month rolling average of the net of ~~-~~all power and transmission costs and revenues divided by the total retail kWh sales based on recent data. The resulting $/kWh amount is rounded to 4 decimals. ~~as a $/kWh to four decimals based on current data~~. This PCAF (month) will be published monthly by the Utility Directors Office.

The ~~power cost adjustment monthly billing unit (PCAMBU),~~PCAF $/kWh is calculated as PCAF (month) - PCAF (base) and averaged over a three ~~-~~month (quarterly) period. ~~.~~ The customer's bill will be adjusted ~~monthly~~ quarterly by ~~PCAMBU~~ PCAF times the customer's kWh usage for that period. All bills rendered under the tariffs described herein with kWh charges shall be subject to the PCAF.

If there is a catastrophic upward cost change in the power or transmission markets ~~that cause the PCAMBU to exceed $0.005/kWh~~, then the Electric Utility Director has the administrative authority to temporarily ~~suspend~~ amend the PCAF calculation and timely seek direction from City Council.

Rate Rider: Economic Development Discount Rider (ED-1)

Applicable Rate Schedules: Medium Commercial Service or Industrial Service.

Rate Designation: Commercial or industrial end-use customers that would otherwise receive service under electric rate Medium Commercial Service or Industrial Service, may take advantage of the Economic Development Discount Rider ("ED Rider") as a New Customer or Expanded Load Customer. This ED Rider is applicable to all or part of the services provided to 1) New Large Load Customers, ~~and~~ 2) Expanded Load Customers and 3) Job Creation Customers, as such terms are defined herein.

1. A New Load Customer shall be a customer seeking to locate a new business or relocate an existing business (not currently located in the City of Banning) within the City of Banning's service territory, where said business has a minimum monthly electrical demand of at least 200 kW ~~and an annual peak demand of at least 40 kW,~~ based upon the business' past electrical demand or reasonable projections of such demand, as determined by the Electric Utility Director.

2. An Expanded Load Customer shall be an existing City of Banning customer that is adding new load to Banning by at least ~~the greater of 20 percent~~50 kW to~~of~~ the existing customer's Current Peak Demand ~~or 20 kW~~ based upon the business' past electrical demand or reasonable projections of such demand, as determined by the Electric Utility Director. Current Peak Demand is determined by averaging the annual peak demand of the past three years. If a customer has not had service for at least three years, the maximum peak for the entire service period will be used. The expanded load can be at the customer's current site, or at a new site within the Banning service territory. The ED Rider will only be applied to the expanded load as determined in Section 5 below.

~~2.~~3. A Job Creation Customer shall be a new Customer which locates a new business or relocates an existing business (not currently located in the City of Banning) within the City of Banning's service territory. The discount will be tied to the number of full-time equivalent (FTE) jobs created or retained.

Class of Service: The service provided hereunder shall be alternating current with regulated frequency of 60 hertz, three-phase served through one meter, at a standard voltage not to exceed 480 volts, or as may be specified by the Electric Utility. To be eligible to participate all customers must have a demand meter.

Service Area: All areas within the City's assigned area of service.

Rate Reductions: Except as provided herein, or in the Economic Development Rider Agreement, all charges and provisions of the customer's otherwise applicable rate schedule (Medium Commercial Service or Industrial Service) shall apply including but not limited to the applicable Basic Service Charge, Energy Charge, Power Factor Correction Charge, and Power Cost Adjustment Factor. The ED Rider discount is determined by taking a percentage of the base demand charge as stated in the Customer's current Medium Commercial (MC-1) or Industrial Service (IS-1) Rate Schedules. The Customer's Demand Charge (kW) will be eligible for the rate reduction as follows:

Year 1 – ~~25~~50%
Year 2 – ~~25~~40%
Year 3 – 30%
Year 4 – 20%
Year 5 – 10%

Job Creation Tiers and Demand Discounts

Tier	Jobs (FTEs)	Typical industries
Tier 1 – Small	10–49	Small manufacturing, logistics support, back-office operations
Tier 2 – Medium	50–99	Manufacturing, health services, technology assembly
Tier 3 – Large	100–199	Distribution centers, regional headquarters

Year	Tier 1	Tier 2	Tier 3
1	30 %	40 %	50 %
2	20 %	30 %	40%
3	10 %	20 %	30 %
4	5 %	10 %	20 %
5	2.5 %	5 %	10 %

~~The applicable Public Benefits Charge will be calculated before the 25% rate reductions are applied.~~

Special Conditions:

1. Term: Economic Development Rider Agreements entered into under this Schedule shall be for a single five-year term.

2. Approval: Application of this Rider shall be subject to the approval of the Electric Utility Director, based on meeting the eligibility criteria outlined herein.
3. Agreement: The customer must sign a standard Banning Economic Development Rider Agreement in order for the rates under this Schedule to be applicable.
4. Minimum Load: Customers qualifying under this Schedule as a New Customer or an Expanded Load Customer must agree to maintain a minimum level of load for five years from the date the service is first rendered under this Rider and must~~,~~ reimburse Banning for all rate reductions received under this Rider, if the customer fails to maintain the required minimum load during such five-year term as set forth in the Economic Development Rider Agreement.
5. Job Creation: Customers qualifying under this Schedule as a New Job Creation tier under Applicability Section 3 respectively, must agree to create and retain a minimum level of full-time equivalent jobs for five years from the date service is first rendered under this Schedule and to document compliance with all applicable requirements, as set forth in the Economic Development Rider Agreement.

~~5.~~6. Base Period Usage: Base Period Usage shall be established and agreed to in the Economic Development Rider Agreement for Expanded Load Customers. Base Period Usage shall be the average monthly energy use and demand for the customer during the last three years of service to the customer, from the date ending the last payment period before the date of the Agreement. Expanded load qualifying for the rate under this Schedule shall be measured as the difference between the new monthly, meter documented energy use and demand, and the Base Period Usage.

~~6.~~7. State Mandated Public Benefits Charge: All bills rendered under this Rider shall be subject to the Public Benefits Charge as established by the City Council.

~~7.~~8. Miscellaneous Fees and Charges: Rates charged pursuant to this Rider shall be subject to any and all fees and charges per the customer's otherwise applicable rate schedule.

~~8.~~9. Expanded Load: Expanded Load Customers applying for this rate must demonstrate to the satisfaction of the Electric Utility Director that the expanded load is new within the ~~Territory~~ Service Area of Banning, and not just to the service address.

~~9.~~10. Effective Date: The effective date of the Economic Development Rider Agreement shall commence within 12 months from the date of the Electric Utility Director's approval, or the Agreement becomes null and void. The Agreement becomes effective upon execution by the parties, and the Economic Development Rider commences upon written notice by customer, and coincides with the customer's normal billing cycle.

~~10.~~11. Reapplication: Customers who have received service under the Economic Development Rider are eligible to reapply for the rate as an Expanded Load Customer 12 months after their current Economic Development Rider Agreement has expired, if they meet the criteria therefore.

~~11.~~12. Restrictions: Residential customers, ~~retail businesses,~~ and federal, state or local governmental agencies are not eligible to apply for service under this

Schedule. Customers qualifying for the ED Rider discount are not eligible to apply for more than one discount under Section 1, 2 or 3. If a customer qualifies for more than one discount section, they can choose the greater discount of the eligible ED Rate.

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NewGen Strategies & Solutions

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October 6, 2025
via email

Arturo Vela
Acting City Manager
Banning Electric Utility
99 East Ramsey Street
Banning, CA 92220

Subject: Banning Electric Utility Letter Report

Dear Mr. Vela:

In December 2024, the City of Banning (City) and the Banning Electric Utility (BEU) retained NewGen Strategies and Solutions, LLC (NewGen) to develop a detailed Cost of Service (COS) and Rate Study (Study) for its electric operations. The purpose of the Study was to analyze appropriate changes to BEU's current retail electric rate revenues to recover projected operating and non-operating expenses and improve its financial position. The Study resulted in recommended electric rate changes that are designed to ensure the financial integrity of the electric utility as an independent enterprise fund within the City.

The purpose of this report is to provide a summary of the Study's methodology, analysis, and findings. This includes a summary of the projected capital expenses, current and projected utility fund balances, ongoing operational expenses, and recommended rate changes. The Study utilized a future period, beginning in Fiscal Year (FY) 2026 (July 1, 2026) and concluding FY 2030 (June 30, 2030), which is referred to as the rate plan, Study period, or Test Year (TY). The methodology utilized in this Study was based on the industry accepted methodologies for developing COS and retail rate design for electric utility operations, supported by the American Public Power Association (APPA). This approach involved the development of an annual projected revenue requirement on a cash basis, which includes operations and maintenance (O&M) expenses, fuel costs, existing debt service, labor costs and other costs. Additionally, the City allocates expenses shared by various departments related to administrative, legal, and other costs through an internal process referred to as the City-wide Cost Allocation Plan (CAP). BEU's allocation of the CAP-related expenses were included on a historical and projected basis through the Study period.

BEU's other non-operating expenses include those necessary to fund future capital and replenish its financial reserve accounts. As indicated herein, no new debt was assumed to be issued by BEU to support future utility operations or capital improvements over the Study period. The projected net revenue requirement is the sum of the operating and non-operating expenses over the Study period, less revenue received from non-rate-related sources (including interest, market power sales, and others). The projected net cash revenue requirement determines the total cash to be recovered in retail rates, as recommended herein. A driving need for the rate changes identified during this Study is BEU's existing financial cash position related to its reserve funds.

Banning Electric Utility's Financial Position

BEU utilizes multiple unrestricted cash reserve funds for its financial operations. These include the Electric Operations Fund, the Rate Stability Fund, the Electric Improvement Fund, the Electric Revenue Bond

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Project Fund, and the Electric Revenue Bond Debt Service Fund. At the end of FY 2025 (July 1, 2025), the collective fund balance of these funds was estimated to be approximately negative $11 million.

One goal of this Study was to analyze and propose retail electric rates to address financial cash position of BEU's financial reserve funds. In coordination with BEU staff and the City's Budget and Finance Committee, a series of financial goals for improving BEU's fund balances were determined. The primary financial goal is to increase the revenues from electric rates so that the collective total fund balance of the utility is projected to be positive by the end of FY 2028. The estimated individual reserve fund balances for FY 2025 and the projected fund balances for FY 2026 through FY 2030, based on the proposed rate increases in this Study, are shown in Table 1 below.

Table 1
Projected Fund Balances

($000)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Electric Operations Fund	($1,968)	($1,046)	$1,838	$6,021	$7,747	$10,226
Rate Stability Fund	$6,904	$400	$2,525	$5,025	$5,025	$5,025
Electric Improvement Fund	($16,082)	($10,875)	($10,344)	($8,777)	($619)	$6,292
Electric Revenue Bond Project Fund	$696	$696	$696	$696	$696	$696
Electric Revenue Bond DS Fund	($11)	($11)	($11)	($11)	($11)	($11)
Proposed Working Capital Reserve (1)	$-	$452	$904	$1,356	$1,808	$2,260
Total Funds Balance (1)	**($10,461)**	**($10,383)**	**($4,391)**	**$4,311**	**$14,646**	**$24,489**

(1) BEU proposes developing a new Working Capital Reserve fund (see text).
(2) Numbers may not add due to rounding.

Based on the recommended rate changes developed for this Study, the total fund balance is projected to be positive at the end of FY 2028 and will continue to increase in FY 2029 and FY 2030. To reach a positive balance by FY 2028, the recommended rate changes are higher in the first two years than the last three years of the five-year rate plan. It is critical that the City and BEU continue to review the fund balance, the proposed electric rates, and projected revenues on an annual basis to ensure that they are on track to meet target goals established by this Study. Based on the values shown in Table 1, BEU's total fund balance is projected to be $24 million in FY 2030, which may exceed BEU's financial targets. City and BEU staff may need to adjust the recommended rate increases in the latter years of the five-year rate plan based on the actual rate revenues and the City's financial objectives.

The City proposes to develop a Working Capital Reserve fund to provide more financial stability for the utility. The Working Capital Reserve fund is proposed to be built up throughout the Study period to meet a balance equal to 1/8th of the projected annual non-fuel O&M expenses by the end of FY 2030. A Working Capital Reserve fund equal to 1/8th of annual non-fuel O&M expenses is a common electric utility practice for municipal electric utilities to address unforeseen and unplanned increases to O&M expenses.

The City also proposes to set a Days Cash on Hand (DCOH) minimum of 90 days relative to a portion of its reserve fund balances. DCOH is a common metric used in the utility industry to track a utility's short-term financial stability. A minimum DCOH of 90 days is a typical minimum target in the electric utility industry. The DCOH is calculated by dividing the available cash by the daily operating expenses for non-cash items to determine the total number of days cash that is available. The available cash proposed to be used in

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this metric is from BEU's Electric Operations and Rate Stability Funds. The proposed rates in this Study are estimated to meet the BEU's proposed 90 DCOH minimum by the end of FY 2028.

Revenue Requirement Forecast

BEU provides electrical service to retail customers in the City. The projected annual electric revenue requirement for the average of FY 2026 through FY 2030 (the TY), was estimated to be approximately $46.5 million (see Table 2). One purpose of this Study was to determine the rate changes needed to recover future operational costs, while addressing BEU's financial reserve cash position. Operational expenses for the electric utility operations include those for electric administration, O&M, and cash required for capital and existing debt service (as noted, no additional debt is proposed to be issued for BEU over the Study period). Operational expenses were assumed to increase annually based on estimated inflation rates for labor and non-labor costs and other estimates provided by BEU for specific cost items. The projected annual revenue requirement was estimated to increase from approximately $35.9 million in FY 2026 to approximately $53.2 million in FY 2030. Table 2 below shows the revenue requirement forecast for BEU for each year of the Study period, as well as the TY (average).

Table 2
BEU Projected Annual Revenue Requirement

($000)	Year 1 FY 2026	Year 2 FY 2027	Year 3 FY 2028	Year 4 FY 2029	Year 5 FY 2030	Test Year
Operating Expenses						
Purchased Power	$23,214	$24,428	$25,706	$27,051	$28,465	**$25,773**
Supplies and Services	$1,399	$1,432	$1,464	$1,496	$1,529	**$1,464**
Labor Expenses	$7,346	$7,523	$7,688	$7,857	$8,030	**$7,689**
Interfund Services	$5,480	$5,612	$5,735	$5,862	$5,990	**$5,736**
Other Expenses (Revenues)	$194	$199	$203	$208	$212	**$203**
Other						
Other Income	($5,784)	($5,794)	($5,804)	($5,814)	($5,824)	**($5,804)**
Contributions to Funds	$1,677	$7,702	$10,952	$12,452	$12,452	**$9,047**
Debt Service (2)	$2,390	$2,389	$2,392	$2,388	$2,315	**$2,375**
Total Revenue Requirement (1)	$35,918	$43,491	$48,338	$51,501	$53,174	**$46,483**

(1) Numbers may not add due to rounding.
(2) No additional debt service included in this Study.

Cost of Service Allocations

The next step in the COS process was to allocate the costs included in the revenue requirement to the various customer classes. Allocation factors were determined using BEU's specific customer class characteristic and usage data and industry standard practices. The allocation factors used in this Study can be categorized as energy-related, demand-related, or customer-related. Energy-related allocation factors were used to allocate energy-related costs or costs that vary directly with the amount of energy

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(kilowatt-hours [kWh]) used by each customer class. Demand-related allocation factors were used for fixed costs that do not vary in nature, including debt service payments, fixed costs for the transmission and distribution systems, and other fixed costs. The demand-related allocation factors used in this Study were based on apportionment of each customer class to total system load during peak times. Customer-related allocation factors were calculated based on the number of customers in a customer class. Customer-related costs included items such as customer billing, meter reading, customer installations, and customer-related accounting. Using the various allocation factors, the system's revenue requirement was allocated to each customer class to provide each class's individual revenue requirement.

Cost of Service Results

The fully allocated COS analysis determined the system-level COS and each customer class COS. The projected revenues needed to meet each class COS were compared to the projected revenue by class based on existing rates. The COS results served as a guide to BEU when designing the proposed retail rates herein. Table 3 shows the COS results by class (total dollars in thousands) and compared to the projected revenues at current rates for the average year (TY) developed for this Study.

Table 3
Cost of Service Results by Class

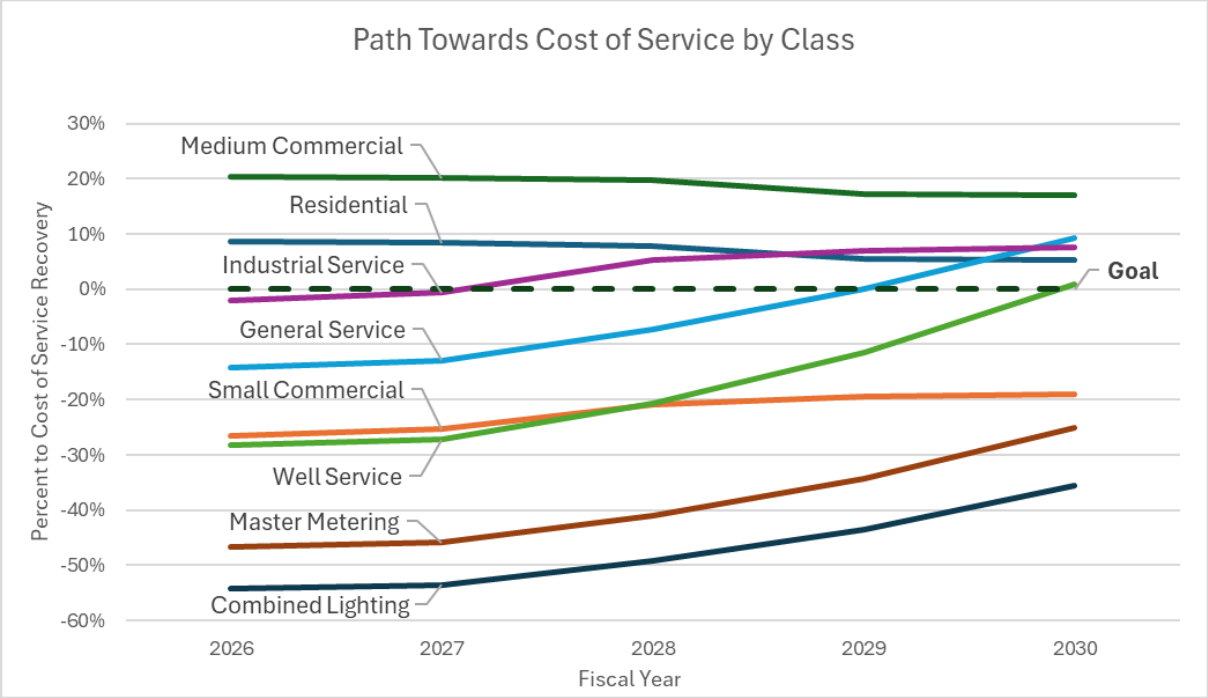
Rate Class	Test Year Cost of Service ($000)	Test Year Revenue at Current Rates ($000)	% Revenue Change Needed
Residential	$24,387	$19,767	23%
Small Commercial	$2,253	$1,247	81%
Medium Commercial	$4,840	$4,371	11%
General Service	$2,736	$1,751	56%
Industrial Service	$9,076	$6,707	35%
Well Service	$1,484	$800	86%
Master Metering	$1,062	$452	150%
Street & Security Lighting	$644	$258	149%
Total System	**$46,483**	**$35,326**	**32%**

Note: Totals may not add due to rounding.

As shown in Table 3, the total system revenues are projected to require a 32% increase to recover the projected revenue requirement for the TY period based on current rates. Some customer classes need higher revenue increases than others to meet their individual class COS. The proposed rate design in this Study is to bring each customer class closer to its individual COS over the five-year period, while attempting to avoid undue rate shock to the customers within each class. However, the overriding concern of this Study is to address BEU's cash reserve position, while moving each class closer to its COS over the five-year rate plan period. Figure 1 below shows each customer class's projected revenues as a percentage of their TY COS for each year of the five-year rate plan proposed herein.

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Figure 1 – Projected Revenues by Class as a Percent of Test Year Cost of Service



As previously mentioned, it is critical that the City and BEU continue to review the actual and projected annual rate revenues by class. To meet a positive reserve fund cash balance by the end of FY 2028, large rate increases are needed in the first three years of the five-year rate plan. The City and BEU have the ability and responsibility to adjust rate changes included in the five-year rate plan if actual revenues are determined to be higher than projected for this Study.

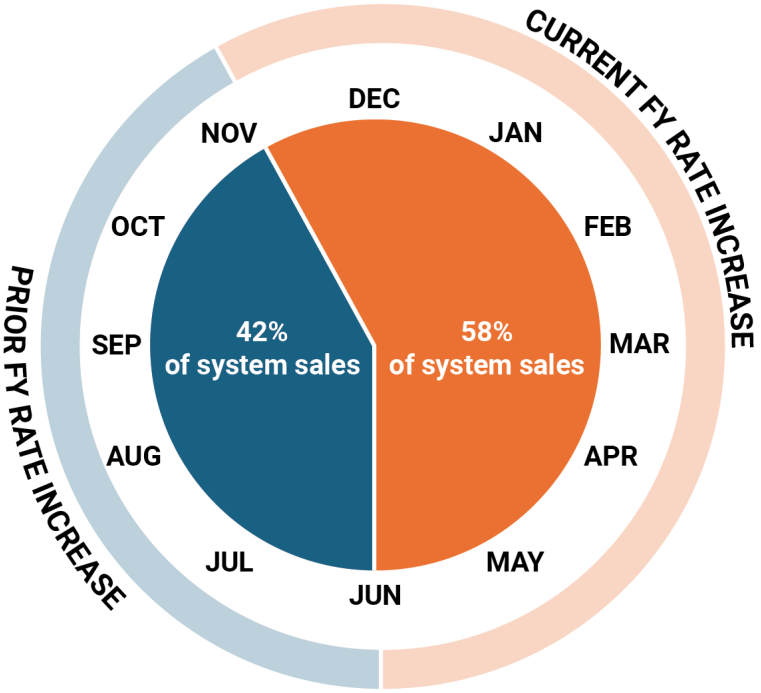
Proposed Electric Rates

To meet the annual projected cash needs for BEU's utility operations, NewGen proposes to increase rates for all customer classes for each year of the five-year rate plan. The cash needs for the electric utility operations are anticipated to exceed those provided by current rates in FY 2025. These rate changes were assumed to occur on November 1 of each year, based on direction provided by BEU.

As indicated previously, the FY begins on July 1 of each year, which means each FY of this Study will have two sets of rates. The previous FY's rates will be in effect until October 31, and the current FY rates will be in effect for the remainder of the FY (November 1 through June 30). Figure 2 below provides a graphic of the timing of the proposed FY rate increases compared to the system usage during the rate periods. It is important to note that almost half of the system usage occurs in the first four months of the FY, and the resulting percentage rate increase will be larger than the targeted revenue increase for each class.

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Figure 2 – Proposed Rate Increase Timing Compared to Fiscal Year



The average revenue change for all the customer classes is proposed to be approximately 20% in FY 2026 and FY 2027. Afterward, the average revenue change for each class varies, as the goal of the rate revenue is to move each class closer to its COS, as discussed above. Table 4 below shows these proposed rate changes for each rate component, for each rate class, for each year of the five-year rate plan.

It is important to note that the proposed rate changes do not include a projection of the existing Power Cost Adjustment Factor (PCAF) charge. The PCAF charge is designed to recover a portion of the power supply costs incurred by BEU to serve customers, which varies by month based on wholesale power purchases. The PCAF charge has a separate process by which the value is adjusted based on actual and projected costs as determined by BEU, which is excluded from the base rate analysis developed for this Study.

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Table 4
Proposed Base Rate Changes by Class

Rate Class / Base Rate	Current	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Residential						
Basic Service Charge ($/month)	$34.00	$43.00	$43.00	$43.00	$43.00	$43.00
Energy ($/kWh)	$0.1619	$0.1878	$0.2366	$0.2413	$0.2461	$0.2461
Small Commercial						
Basic Service Charge ($/month)	$67.00	$80.00	$80.00	$80.00	$80.00	$80.00
Energy ($/kWh)	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572
Multi-Phase Service Charge ($/month)	$4.52	$4.52	$4.52	$4.52	$4.52	$4.52
General Service						
Basic Service Charge ($/month)	$67.00	$80.00	$80.00	$80.00	$80.00	$80.00
Energy ($/kWh)	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572
Medium Commercial						
Basic Service Charge ($/month)	$228.00	$290.00	$290.00	$290.00	$290.00	$290.00
Energy ($/kWh)	$0.1259	$0.1574	$0.1968	$0.1988	$0.2048	$0.2048
Demand Charge ($/kW)	$19.42	$20.00	$21.00	$22.00	$23.00	$23.00
Industrial Service						
Basic Service Charge ($/month)	$456.00	$525.00	$525.00	$525.00	$525.00	$525.00
Energy ($/kWh)	$0.1150	$0.1380	$0.1615	$0.1809	$0.1845	$0.1845
Demand Charge ($/kW)	$16.52	$20.00	$23.50	$26.00	$26.50	$26.50
Well Service						
Basic Service Charge ($/month)	$342.00	$400.00	$400.00	$400.00	$400.00	$400.00
Energy ($/kWh)	$0.1198	$0.1438	$0.1697	$0.1952	$0.2147	$0.2362
Demand Charge ($/kW)	$15.38	$18.50	$21.50	$24.50	$27.00	$29.50
Master Metering						
Basic Service Charge ($/month)	$34.00	$43.00	$43.00	$43.00	$43.00	$43.00
Energy ($/kWh)	$0.1619	$0.1935	$0.2245	$0.2660	$0.2953	$0.3248

Notes: Proposed rate components are rounded to four decimal places for energy and two decimal places for the Basic Service Charge and Demand Charge, as applicable. Excludes PCAF (see text).

Revenue Recovery from Proposed Base Rates

The projected revenues from the proposed base rates were estimated to be sufficient to meet the net revenue requirements of BEU's electrical operations for the Study period, as well as to produce a positive electric fund balance by the end of FY 2028 (as provided in Table 1).

Residential Bill Comparisons

BEU requested a review of the potential impacts from the recommended utility base rate changes. Table 5 below provides a comparison of the current and future monthly electric utility bills for an average

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residential BEU customer. The current bill includes an estimated PCAF charge of $0.0075/kWh for all years, while the actual PCAF will change according to BEU's policy. The total current bill for this residential customer was estimated based on an assumption of 511 kWh of energy per month, which equates to approximately $118.00. As indicated herein, the rates for electric services are proposed to increase on November 1, 2025, resulting in a monthly total bill increase of approximately $15.00. The proposed changes for residential electric services in November 2026 would increase that portion of the bill by approximately $26.00 per month (based on the estimated usage). As noted herein, the subsequent rate changes are relatively modest, however, the impact of the November 1 rate change is evident in the percentage increases shown for the estimated residential customer monthly bill impact in Table 5.

Table 5
Estimated Residential Customer Monthly Bill Impact

Bill Component	Current	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Energy Use (kWh) (1)	$117.66	$132.56	$159.08	$177.91	$183.24	$188.73
Difference ($)	N/A	$14.89	$26.53	$18.82	$5.34	$5.49
Difference (%)	N/A	13%	20%	12%	3%	3%

(1) Assuming 511 kWh monthly energy consumption, based on average BEU residential customer.

Recommendations

Based on the analysis developed in coordination with the City and BEU for this Study, NewGen recommends the following:

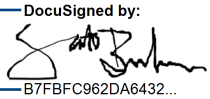
- The City and BEU should adopt the recommended rate changes proposed herein to address the immediate cash reserve needs of the utility.
- The City and BEU should monitor the performance of its new rates on an annual basis to ensure that revenues are sufficient to meet its cash reserve needs and related policy objectives.
- The City and BEU should establish a Working Capital Reserve fund that is equal to 1/8th of its estimated annual O&M expenses (excluding fuel costs) by 2030.
- The City and BEU should establish a policy for a minimum 90 DCOH. This DCOH policy should be calculated using the total fund balance of the Electric Operations and Rate Stability Funds, as discussed herein.

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We greatly appreciate the assistance of the City and BEU staff throughout the development of this Study. If you have any questions regarding our methodology, analysis, and recommended rates, please contact me directly at (720) 259-1762 or sburnham@newgenstrategies.net.

Sincerely,

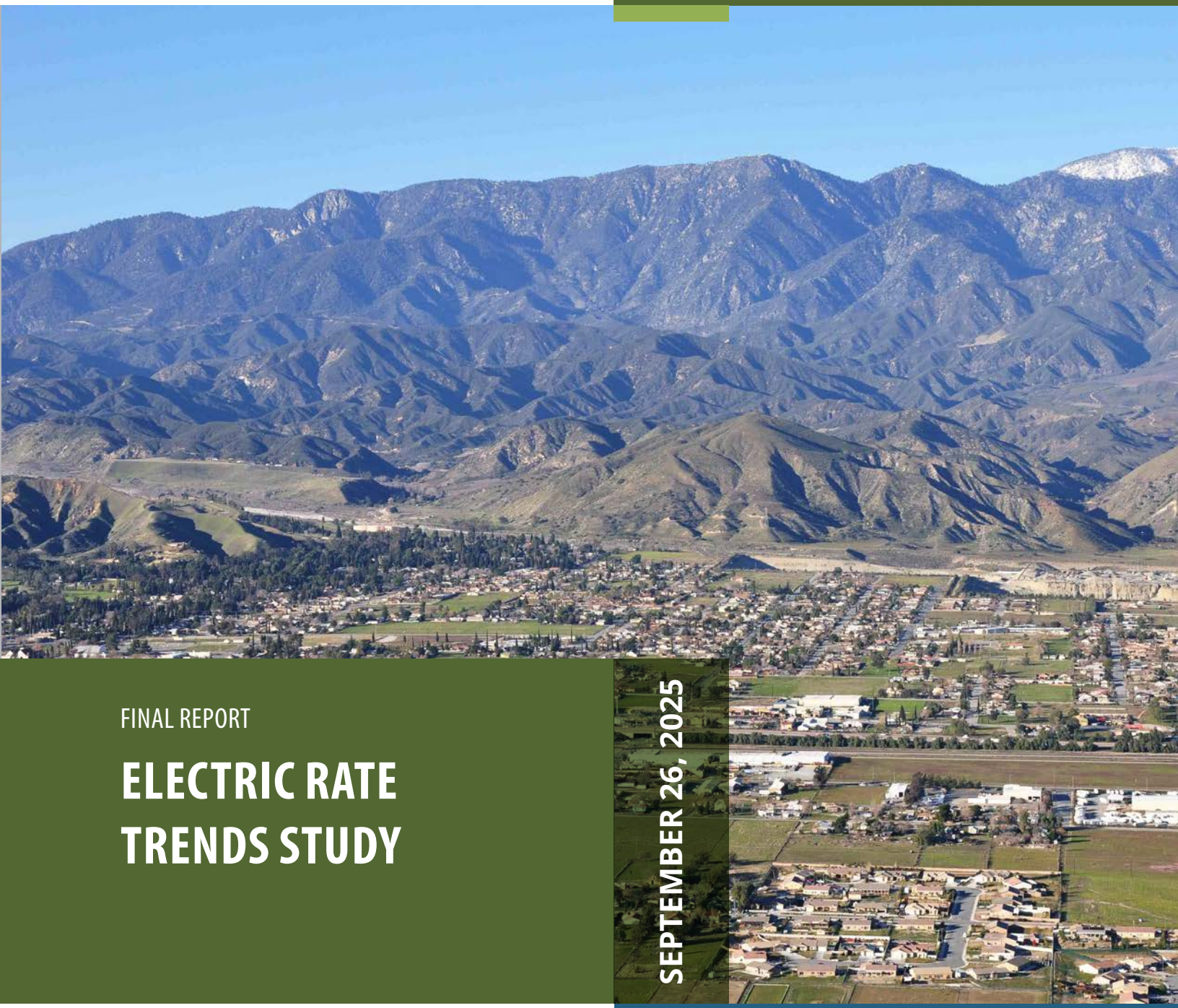
NewGen Strategies and Solutions, LLC

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Scott Burnham
Partner

NewGen Strategies & Solutions

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FINAL REPORT

ELECTRIC RATE TRENDS STUDY

SEPTEMBER 26, 2025

Prepared for:
Banning Electric Utility
99 E Ramsey St.
Banning, CA 92220

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Section 1
INTRODUCTION

Banning Electric Utility (BEU) generates, transmits, and distributes electricity throughout its 22 square mile service territory within the City of Banning (City). BEU is the sole provider of electric service within its territory and, with only a few exceptions, serves virtually no customers outside of its boundaries.

BEU currently serves approximately 13,500 electric customers with approximately 150,000 megawatt-hours (MWh) annually.

Cost of Service Study

This report is part of an Electric Cost of Service (COS) Study (COS Study) prepared by NewGen Strategies and Solutions, LLC (NewGen). BEU faces difficult challenges with the ever-changing electric industry, such as changes to national and regional energy policies, as well as changes in operating costs and customer behavior. It is important for BEU to recognize these challenges while continuing its work in evolving its electric rates and rate structures to ensure customer equity, to remain competitive among other electric utilities, and to ensure the long-term financial stability of the utility.

BEU's goal is to develop and adopt a series of electric rate designs that are based on COS principles. The goals of this COS analysis are to:

1. Improve the Electric Fund Balance to positive by the end of fiscal year (FY) 2028.
2. Perform a comprehensive review of BEU's power system costs, allocations, and categories.
3. Assess customer characteristics and classifications.
4. Design and evaluate the impact of various rate structures and their impacts on customers.
5. Develop and produce a flexible non-proprietary working model that will be conveyed to the City and the public.

The COS Study is intended to recognize and implement solutions to challenges arising from regulatory mandates, customer choice, and customer behavior. As customers have more options for their electricity usage, BEU must be able to quickly respond to its customers' needs and changing behaviors.

Rate Trends Study

The purpose of the Electric Rate Trend Study (Study) within the COS Study was to evaluate and analyze different rate structures in the electric utility industry and how they could influence, impact, or apply to BEU currently and in the future. The different rate structures and industry concepts researched for this Study included emerging technologies and their future implications, electricity pricing, customer classification, and new customer choices, among others. The Study included analysis of current rate offerings from investor-owned utilities (IOUs) and various municipal utilities with similar attributes as BEU. The use of multiple IOUs and municipal utilities is intended to best inform BEU of the different rate trends and rate structures in the California area.

The goal of this Study was to help BEU develop rates that are both COS-based and a reflection of the industry. With the COS results and the knowledge gained from this Study, BEU will be in the best position to design electric rates with the future of the utility and the industry in mind.

In this report, Section 2 summarizes the general ratemaking principles and Section 3 discusses the various electric rate alternatives based on recent and emerging trends in the electric utility industry. Section 3 highlights various summary rate matrices which show the rate structures of the utilities researched, their advantages and disadvantages, and rankings of the alternative rates. Section 4 of this report provides general recommendations, including the results of the rate rankings and a summary matrix. Finally, implementation considerations such as customer acceptance, usage patterns, technology, and costs and benefits are discussed in Section 5.

This Study was developed by NewGen with input from BEU management and staff. We wish to express our appreciation for the spirited cooperation and valuable assistance given to us throughout this Study by each member of BEU's management and staff.

Section 2
GENERAL RATE MAKING PRINCIPLES

Rate design is the process of establishing electric rates and charges using a completed COS Study. The electric rates are designed to recover the revenue requirement of the system in an equitable manner. The rates must be consistent with the COS results and applicable standards and/or requirements of local, state, and federal regulations. Rates should be designed to best reflect overall revenue stability, financial health, historical rate structures, energy efficiency and conservation, competitiveness among neighboring electric utilities, and the management and operations policies of the utility.

General ratemaking principles proposed by James Bonbright are often referenced in rate cases throughout the country. Bonbright's Eight Utility Rate Design Principles, which he first identified in his text titled *Principles of Public Utility Rates* (released in 1961 and updated in 1988), are as follows:

1. Practical: simple, understandable, acceptable.
2. Uncontroversial as to interpretation.
3. Should meet revenue requirements.
4. Should provide stable revenues.
5. Should provide stable rates.
6. Fairness among customer classes.
7. Avoidance of undue discrimination.
8. Should be economically efficient.

These ratemaking principles are not concrete or absolute, which has allowed them to stay relevant for many years. Ratemaking must be flexible as there can be instances where these principles conflict with one another. For municipal utilities, electric rates should be based on a rate policy targeting the lowest possible prices consistent with fulfilling customer requirements and producing quality service.

BEU's ratemaking principles establish that rate structures will be designed to provide a transition to rates that align with the transformational changes occurring in the electric industry. Specifically, BEU's rates should be designed to achieve the following goals:

- Achieve full recovery of costs.
- Equitably allocate costs across and within customer classes.
- Encourage efficient use of electricity.
- Provide rate stability.
- Offer flexibility and options.
- Maintain rate competitiveness in the region.
- Be simple and easy to understand.

The following subsections provide a discussion of various ratemaking considerations that will be incorporated into BEU's rate design process.

Alignment with Policies and Strategic Objectives

The COS Study lays the foundation for the development of electric rates and provides an opportunity to confirm that the electric rates are aligned with the policies and long-term goals of BEU. The policies and objectives of a utility will determine how that utility approaches COS methodology and rate design. Common utility policies impacting COS methodology and rate design are those that avoid cost subsidization across the classes, enhance community energy goals, and promote transparency between the customer and the utility. The rate design must have a balance between the economics of operating a utility, the policies and objectives of the utility and its governing bodies, and the unique needs and preferences of the community. In California, state-specific regulations such as Proposition 26, feed-in tariff compliance, greenhouse gas (GHG) reduction, renewable portfolio standards, solar power initiatives, and others will impact the utility in its rate setting policies.

Appropriate Rate Levels

The revenue authorized for a utility to collect through its electric rates and charges is the rate level. The rate levels among different customer classes differ based on the nature of the customer class. Customer class attributes, such as unique costs, usage characteristics, and delivery requirements, create differing rate levels. A utility's overall rate level should ensure revenue adequacy and meet the revenue requirement. In setting appropriate rate levels, there are trade-offs among the rate design policies and objectives which must be considered.

Energy Efficiency and Conservation

In the past, regulators and rate designers have had a desire to adopt rates that encourage conversation and energy efficiency. However, as the electric utility industry has evolved and energy efficiency of buildings, homes, and appliances has drastically increased, energy conservation has become a result of most updated and/or innovative rate structures. For example, time-of-use (TOU) rate structures are typically implemented with the goal of overall load flattening on the system, but the same price signals sent to the customer to impact their behavior to flatten the load curve also promote energy conservation for the customer. As people continue to monitor and improve their own energy efficiency, energy conservation will increase as a result, allowing electric utilities to focus the intent or goal of a rate structure on other elements of the electric utility industry.

Customer-Sited Distributed Energy Resources

Distributed energy resource (DER) systems are small-scale on-site power sources located at or near a customer's premises. Examples of DER systems include rooftop solar panels, energy storage devices, small-scale wind turbines, combined heat and power systems, and fuel cells. Customers with DER systems are connected to the local electric grid. These customers use the electric grid to both buy and sell power depending on whether the DER system is meeting their power supply needs. When the DER system produces more power than is used by the customer, the excess power is generally sold to the utility. When the DER system produces less power than is used by the customer, the remaining power that they need is purchased from the utility. The use of DER systems at customer locations has the potential to reduce energy sales without reducing the fixed costs of the system. As customers change their usage patterns and introduce on-site generation, the utility may not be assured of full fixed-cost recovery through variable energy rates alone.

Alongside customer-sited DER systems, utility scale DER systems have become a more common utility practice. A popular example of a utility scale DER system is community solar, in which a utility pays a larger solar provider for its energy generated.

Self-Generation Program

In response to the increased popularity of DER systems and the potential risks to a utility based on outdated net metering rates, BEU introduced a new self-generation program for renewable DER customers called the Distributed Self-Generation Buy-Back Rate Rider. In this self-generation program, customers use a bidirectional meter to measure energy consumption from the grid and excess energy generation supplied to the grid. The Distributed Self-Generation Buy-Back Rate is set at the average price of the California Independent System Operator (CAISO) Day-Ahead Wholesale energy prices during the hours when solar is producing. All energy returned to BEU's distribution system is credited at a rate of $0.028/kilowatt-hour (kWh). BEU is monitoring the Distributed Self-Generation Buy-Back Rate. Periodically reviewing the methodology behind this rate ensures that it continues to adequately collect revenue as the usage characteristics and price of solar continues to change.

An emerging method to determine the rate at which excess electricity is purchased is sometimes called the "value of solar." When evaluating the value of solar, the goal is to identify the cost of only the electricity supplied to the grid. From a utility's perspective, purchasing power from DER customers at the retail electric rate is a financial detriment because the current retail energy rate includes fixed costs of the system. BEU's self-generation program was created as the successor to the Net Energy Metering Surplus Production Rider. Instead of paying the electric retail rate, BEU pays the customer the Distributed Self-Generation Buy-Back Rate.

Electric Utility Business Challenges

The electric industry, as with many other industries, is facing increasing business challenges. In particular, many utilities are relying on rate structures created years ago that do not address any of the new trends and changes in the electric industry. These outdated rate structures may be creating a misalignment between fixed and variable costs incurred by the utility and costs recovered by the utility through rates.

Utilities now offer rates to encourage high load factor use and energy efficiency which, as a result, increases energy conservation. As mentioned earlier in this report, DER systems also create a unique business challenge as these systems lead to reduced energy sales without a reduction in utility fixed costs. Since utilities have relied on variable energy charges to collect a majority of their fixed costs for so long, these historical rate structures have hindered their ability to recover revenue. Ideally, a utility's fixed and variable costs should be able to recover required revenue regardless of customer actions, such as increased energy efficiency or installed on-site generation.

One challenge BEU faces is excess solar generation. One step to mitigating this issue is updating the avoided cost rate. Adjusting the price signal sent to customers can shape customer behavior and reduce excess generation during less desirable times. During the next study, BEU can conduct a TOU analysis. Creating TOU rates would allow BEU to tailor their rates to their own system. This will further mitigate the issue of excess solar generation.

Electric Vehicles

As the electric vehicle (EV) market continues to grow and gain popularity across the country, electric utilities need to understand the impacts on their systems from EV charging. There are two key elements for a utility to consider regarding the charging and use of EVs: first, the size of service needed to charge the vehicle or vehicles, and second, the time periods when charging is occurring. Older electric distribution systems that typically support single transformer homes generally do not have the capacity at a local level to support a large influx of EV charging. Additionally, charging EVs during on-peak times (afternoon/evening hours), either at home or at a public charging station, places added strain and cost on the utility system. These added costs to the system are generally not recovered through typical electric rates. A connection charge for EV customers is a reasonable way to recover the additional investment costs. As the use and popularity of EVs continue to grow, it is sensible for a utility to prepare for high EV penetration in the future.

Rates applicable to customers with EV charging should include a TOU component to reflect the accurate cost to serve those customers and to decrease the potential strain on the system caused by EV charging during peak periods. The increase in EV charging offers an opportunity to introduce true marginal cost considerations into rate design, as EV charging is a unique addition to the system. With a TOU rate, customers can pay a lower rate for charging their EV during off-peak times (at night) compared to a higher rate for charging during on-peak times (during the day). For public charging stations, a TOU rate can be designed to collect system costs incurred from the station. Controlling when a public charging station is available (i.e., only during off-peak periods) can accomplish the same cost recovery goals as the TOU rates.

In addition to rates for public charging stations and residential EV charging rates, it is important to discuss the potential for commercial and industrial EV charging rates (i.e., EV fleet rates). In a typical commercial or industrial rate, the customers are charged for their demand as well as their energy. This creates a potential concern where, when adding EV fleet charging to these customers' systems, the customers' demand charges may increase substantially. EV charging rate design for fleet charging must include a special focus on the demand charges. One option to address this issue is to offer a voltage discount to customers on a dollars per kilowatt (kW) basis where the discount is larger for higher voltage usage. This option is currently in place at some IOUs.

Embedded, Marginal, and Market-Based Pricing

There are three types of pricing methodologies typically associated with rate development for electric utilities: embedded (or average), marginal (incremental), or market-based (which may be incremental as well). Embedded pricing is the most traditional pricing method in which prices are based on an average historical cost incurred by the utility to serve its customers. Marginal pricing is based on the marginal cost of supply, meaning that the cost of supply is the cost for the next incremental amount of energy produced. Generally, marginal prices are often higher than current average costs, given increased costs of equipment and commodities. Market-based pricing is based on the current price of electricity in a given market. These prices vary significantly with the time of year and the time of day

Energy Storage

As renewable energy resources and the use of DERs continue to expand in the electric industry, technology used to store energy from these types of intermittent power sources has been a major breakthrough. Energy storage devices can manage the amount of power supplied to a utility's customers and the time at which it is supplied, meaning energy storage devices can provide some or all of the power requirements

to a customer during peak periods. Energy storage makes renewable energy sources dispatchable with much smoother operation.

Utility programs for renewable DER customers that have TOU-based rates provide a strong incentive for those customers to install an energy storage device. This allows customers to decide if energy generated onsite will be immediately supplied back to the grid or stored for usage during a different time, such as an on-peak period with higher energy rates.

Equity and Fairness

Equity is a term commonly used in state statutes and laws that authorize publicly owned utilities and define utilities' regulatory objectives. Equity can be described or characterized in the electric industry as rates that are cost-based, assigned to customer classes in proportion to their costs (cost causation), and produce no undue discrimination between customers. Developed rates should be able to demonstrate they are fair and are not unduly discriminatory to any customer or customer class. Additionally, California law requires that charges for electric service should not exceed the reasonable cost for providing that service (Proposition 26).

Fixed and Variable Costs

An important aspect of the COS analysis is the classification of costs into fixed costs and variable costs. Fixed costs are costs associated with labor, equipment, debt service, and infrastructure. They are related to the generation, transmission, and distribution services of the utility with little to no correlation to the amount of energy sold. Variable costs are costs associated with fuel, some aspects of generation and transmission, and variable operations and maintenance (O&M). These costs vary with the amount of energy sold. The rate design process accounts for variable and fixed costs when determining energy and demand charges; however, for many customer classes, such as residential, fixed costs have historically been recovered through the energy charges.

Functional Unbundling

In the COS analysis, costs are divided into generation, transmission, and distribution costs to help determine the rates for each class of service. The process of functional unbundling is done to ensure that customers are charged for the costs on the system that they incur and are not charged for costs on the system that they do not incur. This allows the utility to better understand its cost to serve customers for each of its functions or business units. The COS analysis will unbundle the costs of providing electric service and will provide BEU with insights for the rate design process.

Low-Income Rate Programs

Historically, the electric industry tries to keep rates for low-income customers, especially residential customers, as low as possible. More specifically, utilities typically try to keep the monthly customer charges as low as possible to protect low-usage customers who may be both low income and/or fixed income. On a percentage basis, increased customer charges have the greatest impact on low-usage and low-income customers. In 2006, California adopted AB1890, which requires all utilities, including BEU, to establish a surcharge on electric usage to fund public benefit programs. This surcharge is commonly referred to as the Public Benefits Surcharge.

BEU offers a Low Income Discount Rider, which provides qualifying customers with a discount of up to $32.50 per month on their electric bill. The Low-Income Discount Rider is funded by the revenues collected in the Public Benefits Surcharge. BEU also offers rebate incentives for energy-efficient products such as Energy Star appliances, smart thermostats, and air conditioner replacements.

BEU is currently exploring an opportunity to increase equity in EV charging rates within the community. In partnership with GRID Alternatives (a national nonprofit installer of clean energy technologies), BEU would receive a $1.5 million grant over 24 months. The project would be split into two stages: planning and implementation. This program would provide analysis and community support to roll out discounted EV rates for income-qualified customers in BEU's territory.

Rate Design Objectives

In the rate design process, the policies and objectives of the utility and the regulatory bodies must be considered along with the cost of electric service. For example, there may be objectives to modify customer electricity usage behavior to improve the efficient use of the system or respond to varying utility costs. These objectives can be accomplished by implementing TOU rates. Before these policies and objectives can be included in the rate design and implemented in electric rate structures, the utility must decide which policies and objectives are desirable, acceptable, and to what degree they should be enacted.

Time-of-Use Power Costs

With the use of advanced metering and smart grid technologies, the electric utility industry is increasingly moving to rates based on when the energy is consumed rather than how much energy is consumed. Using rates based on TOU can reduce a utility's exposure to market costs that are based on real-time wholesale power markets. TOU periods that are easy to understand, such as on-peak, mid-peak, and off-peak periods, allow customers to react to the varying power costs that the utility experiences while also incentivizing customers to shift load to off-peak periods. The economic incentive provided to the customer for shifting load to the off-peak period must be noticeable. Generally speaking, on-peak prices need to be at least 2–3 times higher than off-peak prices for customers to effectively respond to the pricing signal.[1] TOU power costs allow the utility to use existing generators more efficiently, as well as to optimize transmission lines, distribution lines, and customer systems to hopefully defer the construction of additional resources.

[1] Source: Energy News Network – https://energynews.us/2019/12/02/survey-customer-education-needed-for-time-of-use-rates-to-be-successful/

Section 3
ELECTRIC RATE ALTERNATIVES

BEU's Current Rate Structure

Residential Service (RS-1) is provided as a single-phase service for primary residences, including single-family homes, mobile homes, and multi-occupancy buildings, at 120/240 volts or 120/208 volts, with a maximum 400-amp panel. These customers are billed a monthly service charge of $34.00 that recovers a portion of the utility's fixed costs. The Schedule RS-1 energy charge is a variable charge reflecting energy usage billed on a dollars per kWh basis. BEU's RS-1 rate is $0.1619 per kWh and does not vary by season.

General Service (GS-1) offers single-phase service for small businesses, as well as low-use applications like irrigation or street lighting at 120/240 volts or 120/208 volts, with a maximum 400-amp panel and 12,500 kWh monthly usage. Schedule GS-1 customers are billed a monthly service charge of $67.00 and a flat energy rate of $0.1369 per kWh.

Small Commercial Service (SC-1) offers multi-phase service for small-scale non-residential applications at 120/208 volts, with up to a 400-amp panel or 50 kW monthly demand. The Small Commercial monthly rate includes a basic service charge (monthly charge of $67.00/meter), an energy charge ($0.1369/kWh), and a multi-phase service charge (for customers taking multi-phase power) of $4.52 per meter (in addition to the basic service charge).

Medium Commercial Service (MC-1) offers multi-phase service for non-residential applications at 208, 277, or 480 volts, and supports 50–500 kW monthly demand that exceeds 400 amps. The Medium Commercial monthly rate includes a basic service charge ($228/meter), a flat energy charge ($0.1259/kWh), and a demand charge ($19.42/kW)

Industrial Service (IS-1) offers multi-phase service for large industrial needs at 208, 277, or 480 volts, and supports over 800 amps and a monthly demand greater than 500 kW. Billed demand is the largest demand over a 15-minute interval within any one hour during the billing period. These customers are billed a monthly customer charge ($456.00/meter), a demand charge ($16.52/kW), and a flat energy charge ($0.1150/kWh).

BEU also offers Lighting Service and Interruptible Well (IW-1) Service. Lighting Service customers are charged a monthly fee that differs depending on their light type. Street Lighting Service charges a monthly rate per light with a rate designation, including unmetered lighting such as streetlights, park lights, freeway lights, decorative pathway lights, or other lighting fixtures. The IW-1 Service rate designation generally includes multi-phase electrical service for transmitting or pumping water for the City's water system. The IW-1 service monthly rate includes a basic service charge, an energy charge, and a demand charge.

A summary of the current rate structure, current rates, and rates for November 2025 are provided below in Table 3-1. For the purpose of brevity, the Lighting Service rates have not been included in the rate summary table below.

Table 3-1
City of Banning – Current and Future Electric Rates*

Rate Class	Units	Current Rates 11/01/2024	Potential Rates 11/01/2025
Residential Service (RS-1)			
Basic Service Charge	$/meter	$34.00	$39.00
Energy Charge – All kWh	$/kWh	$0.1619	$0.1843
General Service Single Phase (GS-1)			
Customer Service Charge	$/meter	$67.00	$76.00
Energy Charge – All kWh	$/kWh	$0.1369	$0.1559
Small Commercial Multi-Phase (SC-1)			
Basic Service Charge	$/meter	$58.50	$67.00
Energy Charge – All kWh	$/kWh	$0.1202	$0.1369
Multi-Phase Service	$/meter	$3.97	$4.52
Medium Commercial Service (MC-1)			
Basic Service Charge	$/meter	$228.00	$259.00
Energy Charge – All kWh	$/kWh	$0.1259	$0.1434
Demand Charge – All kW	$/kW	$19.42	$22.12
Industrial Service (IS-1)			
Basic Service Charge	$/meter	$456.00	519.00
Energy Charge – All kWh	$/kWh	$0.1150	$0.1310
Demand Charge – All kW	$/kW	$16.52	$18.81
Interruptible Well Service (IW-1)			
Basic Service Charge	$/meter	$342.00	$389.00
Energy Charge – All kWh	$/kWh	$0.1198	$0.1365
Demand Charge – All kW	$/kW	$15.38	$17.51

*Excludes Lighting Service rates ($/lamp by lamp type).

Recent Developments

In the electric utility industry, the ongoing developments surrounding rates for customer-owned renewable DERs and Net Energy Metering (NEM) are increasingly important. On December 15, 2022, the California Public Utility Commission (CPUC) adopted D.22-12-056, establishing NEM 3.0. The decision is referred to as the Net Billing Tariff and is the third revision to the NEM tariffs in California. It immediately applied to the IOUs in the state and provides guidance for municipal utilities who are improving and/or adopting NEM tariffs. The Net Billing Tariff is based on the avoided cost concept and creates an average hourly value or price of energy at each hour of a given month. This avoided cost concept is intended to compensate customers for the value of the energy they export to the grid based on the cost to the utility of buying clean energy from another source.

The Net Billing Tariff includes two additional components: a grid participation charge and a market transition credit. The grid participation charge is designed to ensure that net billing customers are paying the same fixed costs to the utility as non-net billing customers. This charge is based on the size of the

customer's DER (primarily solar systems). The market transition credit is an added credit to the customer that is designed to help customers pay back the costs of both a solar system and an energy storage system within the first nine years after the purchase. The Net Billing Tariff incentivizes customers to install and use solar energy storage by both issuing a credit to help the payback of the system and by motivating customers to limit energy consumption from the grid during on-peak periods with higher energy prices.

NEM 3.0 also increases the allowable size of rooftop solar systems to cover 150% of a customer's electricity usage. NEM 1.0 is capped at 5% of the utility's demand, which BEU reached in 2018. NEM 2.0 is capped at 1,000 kW per system. This means that the prevalence of solar energy will continue to increase. Currently, about 11% of BEU's customers are solar users and about 5% of BEU's total energy load is from solar customers.

As solar usage continues to increase among BEU's customers, the shape of BEU's load will begin to change. This shift may push the peak time later into the evening. Monitoring the avoided cost rate will be important to ensure revenue sufficiency.

Power Cost Adjustments

A power cost adjustment is a clause or rate rider that adjusts retail rates to reflect the variations and volatility of power supply costs that are outside the control of the utility. If power supply costs (such as fuel) increase, the power cost adjustment rate increases, and vice versa. Most California utilities, including BEU, have a power cost adjustment applied to some or all of their rate structures. BEU currently has a power cost adjustment in its General Provisions which is called the Power Cost Adjustment Factor (PCAF).

BEU currently has many procedures in place to mitigate the risks of cost fluctuations typically included in power cost adjustments, including BEU's current fiscal and reserve policies, maintenance of reserve levels, long-term financial planning, and long- and short-term power supply planning. Although cost adjustment mechanisms can provide cost recovery certainty to a utility, they can also provide rate uncertainty to customers and become an administrative burden.

BEU and NewGen have discussed the policies and methodology related to the PCAF. BEU's PCAF is updated quarterly to reflect the changing purchased power costs used in the calculation for determining the PCAF.

Electric Impact Fee

An impact fee is a charge levied against new development to generate revenue for the purpose of funding capital improvements necessitated by that development. This fee can help fund expansion of the electric system. Typically, it is charged up front to help fund development. BEU is currently undergoing an Impact Fee Study as a part of its Electric Master Plan. If BEU implemented an electric impact fee, it would be rolled out in a new rate tariff and would apply to new customers connecting to BEU's system. This is not a recurring fee and would have minimal impact on the majority of BEU's existing customers.

Power Factor Charges

The power factor is a ratio of kW to kilovolt-amperes (kVA) that is used to measure or quantify the efficiency of energy used by a facility or customer. Large service customers often pay a power factor charge if the power factor is below a certain ratio, typically 95%. BEU has a power factor charge for large customers that consistently have a power factor below 90%. The charge is $1.90 per kVA.

Most of the California utilities reviewed in this Study include power factor charges, as shown in Appendix A-1. Monitoring power factors of the entire system, as well as individual customers, is a practice that is highly benefited by the use of advanced metering infrastructure (AMI) because of the amount and timeliness of the data.

Mobile Home Park Master Metering

Customers in a mobile home park typically have either master metering or submetering. Submetering requires a meter on each home. This approach allows the utility to charge each customer for their home's electric usage. Under master metering, a single meter is set up for the entire mobile home park. The utility generates a total bill for the mobile home park, and it is the responsibility of the property manager to distribute the costs among the individual homes in the park. BEU has mobile home park master metering and will set up a meter with the appropriate service voltage and characteristics for the mobile home park. The park will be put on the appropriate non-residential schedule based on the park's usage and demand.

BEU is considering making a change to its mobile home park master metering schedule by including this as a Residential Service offering. This would make it easier for customers to review their bill and understand how it is calculated.

Commercial Demand Charges

Commercial customers, as well as Residential customers, can be billed for their maximum monthly demand. Demand charges are designed to collect more fixed costs directly rather than trying to collect fixed costs through energy charges. The demand charges can be used to address issues such as fixed cost recovery from NEM customers. Billing demand charges to Residential and Small Commercial customers requires AMI technology capable of measuring demand. Residential demand charges are not common in the electric utility industry; however, they have been applied by various utilities across the country with many more utilities proposing the concept. BEU does not have a Residential demand charge and is not considering one as part of this Study. Typical Commercial demand charges start in the range of 20 kW to 30 kW. Table 3-2 shows the threshold for demand charges for various California utilities as of January 2025. Appendix A-3 provides further information on the demand cutoffs for Small, Medium, and Large General Service offerings from various California utilities.

Table 3-2
Commercial Demand Rate Thresholds

	Demand Threshold	Schedule
Banning	**50 kW**	**MC-1**
Alameda	500 kW	A-2
Anaheim	15 kW	GS-1B
Azusa	20 kW	G-2
Burbank	20 kVA	D
Colton	20 kW	GS-1
Glendale	20 kW	LD-2-A
Los Angeles	30 kW	A-2(B)
Palo Alto	1,000 kW	E-4
Pasadena	30 kW	M-1
PG&E	75 kW	B-10
Redding	25 kW	E7
Riverside	20 kW	A
SCE	20 kW	GS-2
SVP	200 kW	CB-1

Electric Vehicle Time-of-Use Rates and Charging Stations

At-home EV charging is sometimes placed on a separate meter from the customer's premise. This allows the utility to develop TOU rates specifically for the EV charging system. These EV TOU rates most commonly offer lower rates during off-peak periods and higher rates during on-peak periods. Submetering the EV charging system helps prevent the customer from reaching higher energy tiers with more costly energy charges since the EV charger usage is not included on the main electric meter.

Electric utilities must have a vested interest in the adoption of EVs while ensuring that EVs are charged at times that support the efficiency of the grid. In the second quarter of 2024, California had approximately 26% of the country's EV charging ports and had increased the number of EV charging ports by 4.9% from Q4 2019 to Q2 2024.[2] This suggests that EV charging and infrastructure in the state of California is a critical service for utilities. Many California utilities offer an EV TOU rate. However, BEU does not currently have EV TOU rates. These rate options will be further explored as part of the COS and rate studies.

As established above, the state of California has a relatively high rate of EV adoption. TOU rates allow utilities to send pricing signals to anyone charging. This is a tool for managing the often-erratic usage patterns of EV charging stations. EV TOU rates for at-home charging allow utilities to incentivize customers to charge during off-peak times, such as the early hours of the morning.

[2] Source: "Electric Vehicle Charging Infrastructure Trends from the Alternative Fueling Station Locator: Second Quarter 2024" – National Renewable Energy Laboratory.

kVA Reactive Billing

As mentioned above, power factor is a ratio of kW to kVA that is used to measure or quantify the efficiency of energy used by a facility or customer. Large Service customers often pay a power factor charge if the power factor is below a certain percentage; for BEU, this percentage is 90%. Reactive billing differs from a power factor charge in that it is always applied to customers. Reactive billing is not a corrective measure; it is a different way of billing energy usage that accounts for the customer's power factor. Customers are billed on apparent energy consumption measured in kVA hours. This eliminates the need for a power factor correction because this rate structure incentivizes maximizing power factor by basing the charge on apparent power, more closely aligning customer bills with the costs they incur on the system.

BEU does not currently use reactive billing. While there are a few utilities in California that do use reactive billing, it is not widespread.

Community Solar

Community Solar is a voluntary solar-electric system program that is owned by multiple community members. The Community Solar members receive power and/or financial benefits through the program. The main driver for Community Solar programs is the fact that not all customers of a given energy market have the ability to install on-site solar facilities. A 2016 report by the National Renewable Energy Laboratory found that only 25% of residential rooftop space is useable for on-site photovoltaic systems that could support the average household. Issues such as the structure of the residence, the shading on the rooftop space, or ownership conflicts are attributed to the low percentage of usable rooftop space. Solar options are needed for renters, those with shaded roofs, and those who choose not to install an on-site photovoltaic system at their residence for their own personal reasons. These solar incentive programs are funded by ratepayers and/or taxpayers. In the spirit of equity, solar energy programs need to be designed to allow all contributors to participate. Community Solar programs are typically owned and operated by the utility and are open to voluntary participation.

Currently, several California utilities, listed in Appendix A-1, and other utilities across the country have Community Solar programs in which their customers are able to participate voluntarily.

Real-Time and Critical Peak Pricing

Rates based on market prices that vary hourly are called real-time pricing rates. These types of pricing rates encourage customers to react to the real-time variations in the market price. Los Angeles Department of Water and Power (LADWP), Southern California Edison (SCE), and Pacific Gas and Electric Company (PG&E) offer real-time pricing options. Real-time pricing rates are not as common because of the technological barriers to implementation. Real-time pricing rates require AMI, communications, and increased administrative costs.

Critical Peak Pricing (CPP) is employed by utilities to reward customers for voluntarily reducing electricity usage during the highest peak demand periods and/or shifting electricity usage to off-peak periods. There are a few critical peaks per year due to weather or system conditions. In a CPP rate, the critical peak times are limited to specified days and times. There is a limit to the frequency and total number of hours per year that are considered critical peak. For example, SCE's critical peak times are weekdays between 4 p.m. and 9 p.m., with 12–15 CPP events per year. SCE is one of the few California utilities with CPP.

The barriers for BEU to implement CPP are similar to the barriers to implement real-time pricing—it requires AMI, communications, and increased administrative costs. BEU is considering the real-time and

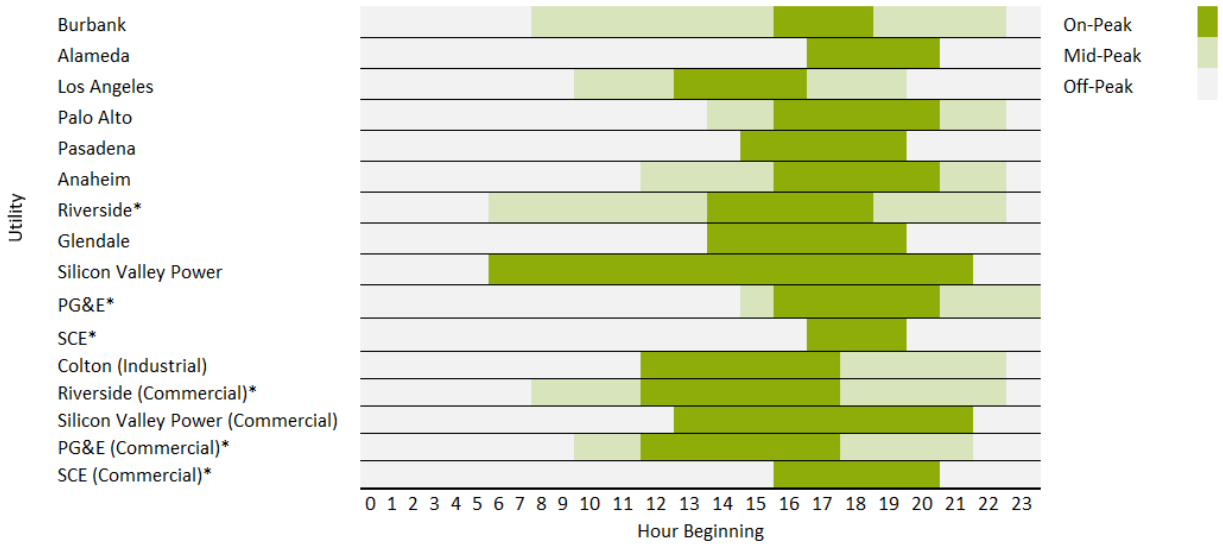
CPP concepts as it looks to utilize the capabilities of its AMI infrastructure. These rate options will be further explored as part of the COS and rate studies.

Time-of-Use Pricing for All Residential and Commercial Customers

TOU rates are usually optional for utility customers, but some utilities have made these rates mandatory. Most of the California utilities shown in Appendix A-1 have TOU rates. As AMI technologies have become more accessible, some California IOUs are moving toward collapsing tiered rates and transitioning to only TOU rates. In these California IOUs, the TOU rate is the default rate for all customers.

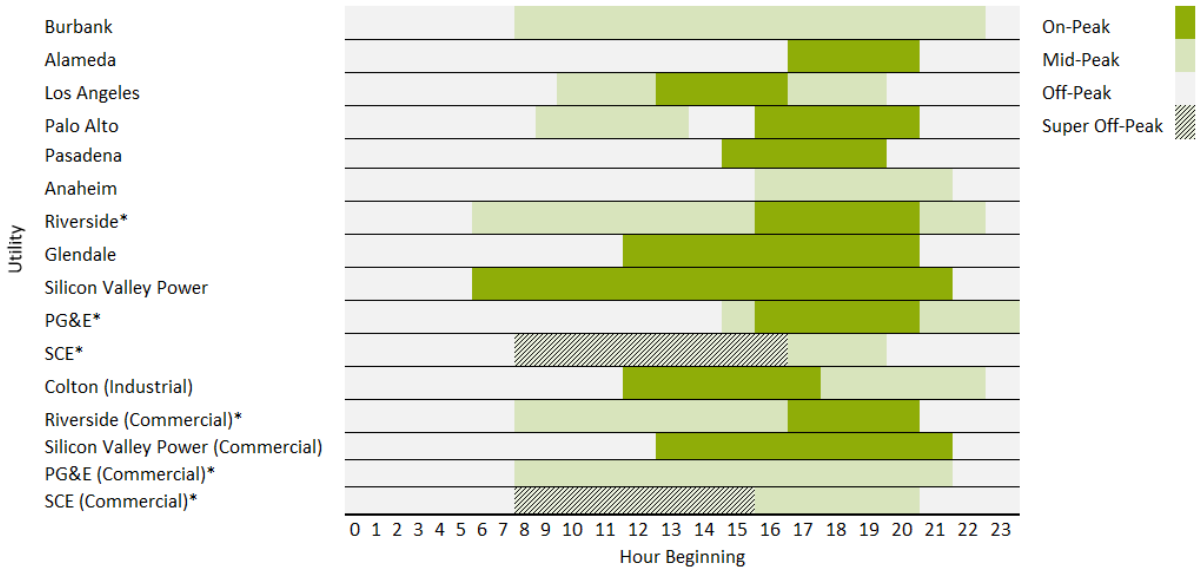
The figures below compare TOU periods for utilities across California. Unless otherwise stated, TOU periods in Figures 3-1 and 3-2 are residential. As shown in Figures 3-1 and 3-2, PG&E and SCE have on-peak rates from 4 p.m. to 9 p.m. in the summer. In the winter, PG&E has on-peak rates from 4 p.m. to 9 p.m., while SCE offers super off-peak rates from 8 a.m. to 5 p.m. and mid-peak rates from 5 p.m. to 8 p.m. The municipal utilities considered in the Study tend to have on-peak hours between 4 p.m. and 9 p.m. in the summer. Silicon Valley Power is an outlier and has on-peak rates from 6 a.m. to 10 p.m. In the winter, the municipal utilities tend to have on-peak rates between 4 p.m. and 9 p.m. There is more variance in the on-peak period windows in the winter. Municipal utilities do not utilize seasonal mid-peak rates as frequently as IOUs do.

Figure 3-1
Summer TOU Periods



* TOU periods include holidays and weekends

Figure 3-2
Winter TOU Periods



* TOU periods include holidays and weekends

Advanced Metering Infrastructure

AMI is a metering system that records electric consumption on an hourly or more frequent basis and transmits data back to a central collection point. AMI technology is becoming more common for IOUs and public utilities across the country as the benefits it provides to a utility outweigh the costs and time associated with installation. AMI provides a massive amount of data regarding items like cumulative kWh usage, peak demand, load profile, and TOU and peak energy readings. This data can be used to transmit demand response messages, automate net metering, discover and/or verify power outages, and provide tamper notifications, among other things. AMI data is not only incredibly informative and helpful to an electric utility, it is also required to implement innovative rate structures. Rate structures, such as residential or commercial demand charges and critical-peak or real-time pricing, are not possible without AMI. Other rate structures, such as TOU rates, EV charging rates, and virtual NEM rate programs, are greatly enhanced by AMI systems. Appendix A-2 describes the advantages and disadvantages of the different rate structures and designates which rate alternatives are benefited by AMI and which rate alternatives require AMI to operate.

BEU implemented its AMI infrastructure in July 2023. By the beginning of 2024, the AMI rollout was completed, and the City has been collecting AMI usage data by class since January 2024 with the help of a third-party meter data management system (MDSM).

Summary Rate Matrices

The electric rate alternatives are summarized in Appendices A-1 and A-2. Appendix A-1 summarizes the various types of rates offered by some California utilities and selected utilities outside the state of California. Appendix A-2 grades the rate alternatives on a desirability scale from 1–3 relative to customer acceptance, changes in customer usage patterns, technology required and its costs, barriers to new rates, risks, and the costs and benefits to both the utility and the customer.

As shown in Appendix A-1, most California utilities offer a variety of rate alternatives. No utilities were found to have a residential demand charge, and some rate alternatives were only offered by a few utilities. All the California utilities included in the Study have a NEM rate. Currently, only SCE, PG&E, and LADWP offer both real-time pricing and CPP.

Appendix A-2 evaluates the rate offerings on a scale of 1–3, with 1 being not desirable and 3 being desirable, based on customer acceptance, changes in customer usage patterns, technology required and its costs, barriers to new rates, risks, and the costs and benefits to both the utility and the customer. For example, reliability charges and power cost adjustments are ranked as desirable (3 on the scale) in terms of the costs and benefits from the utility perspective, while the same rate alternatives are ranked as not desirable (1 on the scale) in terms of the costs and benefits to the customer. This is because these types of charges help the utility collect fixed costs and ensure revenue stability, but from a customer's perspective, they may only be viewed as extra charges and line items on the electric bill.

On the far-right side of Appendix A-2 are cumulative and average scores for each rate alternative. These scores are color coded from red to yellow to green for low to high scores to help easily identify the highest scoring rate alternatives. The highest scoring rate alternatives in terms of the desirability scale are economic development rates, power factor correction, EV public charging, and mobile home park master metering.

Figure 3.3 below summarizes the scoring of the rate alternatives not currently offered by BEU. The highest scoring rate alternatives are unbundled rates, EV rates, EV submetering, and TOU rates. The lowest scoring rate alternatives that are not currently used by BEU are residential demand charges, real-time pricing, and CPP.

Each rate offering was scored on this scale across nine dimensions: customer acceptance, change in customer usage, technology required, customer costs of technology, utility costs of technology, barriers to new rates, risk – utility perspective, costs and benefits – utility perspective, and costs and benefits – customer perspective. The cumulative and average scores are the last two columns on the right in Figure 3-3.

Figure 3-3
Banning Electric Utility
Rate Trends Study
Rate Structure Rankings

	Other Innovative Rate Offerings not Currently Offered by Banning											
13	Community Solar	3	1	2	2	2	2	3	2	2	19	2.11
14	Critical Peak Pricing and Real Time Pricing	1	3	3	1	1	1	2	3	1	16	1.78
15	EV Rates	3	3	3	2	2	2	2	2	3	22	2.44
16	EV Submetering	1	3	3	2	2	2	3	3	2	21	2.33
17	kVa Reactive Billing	1	3	2	2	2	1	2	3	1	17	1.89
18	Residential Demand Charge	1	3	2	2	1	1	1	2	1	14	1.56
19	Small Commercial Demand Charge	1	3	2	2	1	2	2	2	1	16	1.78
20	Special Rates/Charges (i.e. Wildfire Rate)	2	1	1	3	3	1	3	3	1	18	2.00
21	TOU Rates	2	3	3	3	2	2	3	3	2	23	2.56
22	Transmission Access Charge	1	1	2	3	3	2	3	3	1	19	2.11
23	Unbundled Rates	2	1	1	3	3	2	3	3	3	21	2.33

3	= Desirable
2	= Moderate
1	= Not Desirable

Color Scale	Cumulative Score	Average Score
	14 - 20	1.5 - 2.2
	20 - 23	2.2 - 2.5
	23 +	2.5 +

Section 4
GENERAL RECOMMENDATIONS

Summary Rate Matrix

NewGen's recommendations for BEU are as follows:

1. BEU should continue its current practices, monitoring and updating its rate structure as necessary based on COS analyses, economic development discounts, PCAF, and low-income programs. We recommend revisiting the COS and rate design annually. Consistent reviews allow for rapid response to changes in the utility environment.
2. BEU should consider transitioning from a flat energy rate to TOU-based rates for residential customers.
3. BEU should continue its distributed generation buy-back rate. As this rate is analyzed and modified as necessary, BEU should investigate potential aggregated self-generation programs consistent with potential state mandates. BEU should continue to monitor NEM 2.0 customers and pay attention to the development of NEM 3.0.
4. BEU should not implement real-time pricing rates or CPP rates at this time but should monitor other utilities' practices regarding these rate alternatives.
5. BEU should explore a residential rate for individually metered building units, such as mobile homes, to charge customers more equitably for their costs.

Section 5
GENERAL IMPLEMENTATION CONSIDERATIONS

When implementing the Study recommendations, the following elements should be considered by BEU's management and staff. Appendix A-2 summarizes these considerations.

Customer Acceptance

Even though a particular rate structure may be ideal from a utility perspective, the customer acceptance of the new rate or rate structure must be considered. For example, increasing the customer charge helps the utility recover its fixed costs, but the acceptance may be poor for low-usage customers. For low-usage customers, such as those using around 500 kWh per month, an increase in the customer charge will increase the user's total bill quite dramatically. The desired rate structures of the utility and their outcomes must be balanced with rates that are acceptable to customers. However, some rate alternatives are easy to comprehend by electric customers and have high customer acceptance. Rate alternatives such as EV TOU rates, community solar programs, and seasonal rates typically experience higher levels of customer acceptance.

Customer Usage Patterns

Customer usage patterns must be monitored and analyzed before and after rate changes to see the impact of the rate change on a customer's energy usage, demand, load factor, and on-peak versus off-peak usage. One objective of rate design is to influence customer behavior and impact customer usage patterns to achieve the goals of the utility, such as increased efficiency of the system and reduction of overall costs. However, it is possible that the new rate change impacts customers' energy usage to an unpredictable degree that leads to lower revenues than expected. An inclining block rate that is intended to promote energy conservation by charging higher energy rates at higher usage tiers has the chance to reduce customers' usage throughout the system with the consequence of reduced revenues.

Technology Considerations

Technology associated with the implementation of a new rate alternative or rate structure must be considered. Alternative rates, such as TOU rates, require AMI and updated or revised billing systems to properly analyze and bill energy usage at each hour of the day. Newer rate alternatives, such as real-time pricing and CPP, require even more technology, including AMI, updated communications systems, and advanced billing. The technologies for some newer rate alternatives are still being developed or improved while other technologies are currently commercially available.

Barriers

On top of specific technological barriers, there are other barriers such as legal, social, administrative, and regulatory barriers to alternative rates that need to be considered. An example of a social barrier is the impact of increased fixed charges on low-energy users or low-income customers. The administrative barrier to most of these rate alternatives is the increased burden on the administrative staff of the utility.

Additionally, there is always the opportunity for legal and regulatory barriers to arise from items such as mandates from federal and state regulatory bodies or local municipalities.

Risks

Since there are uncertainties regarding how a new rate alternative may impact customer usage and behavior, the resulting revenues may be not as projected. Revenues that are lower than projected create a financial risk for a utility. Additionally, some rate alternatives may create risks as a result of lower sales and less recovery of a utility's fixed costs.

Costs and Benefits

The costs and benefits of implementing a new rate alternative must be considered when evaluating potential new rate alternatives. The costs and benefits to both the utility and the customer must be examined. Some rate alternatives may have significant cost barriers to the utility, such as AMI requirements, while other rate alternatives may have low-cost barriers to implementation. Other rate alternatives may benefit the utility through increased cost recovery while also offering specific rate alternatives for specific customer classes.

Next Steps and Moving Forward

After the completion of the COS analysis and development of rates, a more detailed plan for the short-term and long-term future can be determined. The following is a summary of the next steps.

1. Complete COS Analysis with Proposed Rates
2. Public Involvement and Education for Proposed Rates
3. Implement Proposed Rates

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APPENDIX A-1: TYPES OF RATES OFFERED BY CALIFORNIA UTILITIES

SEPTEMBER 26, 2025

ELECTRIC RATE TRENDS STUDY

FINAL REPORT

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Appendix A-1
Banning Electric Utility
Rate Trends Study
Types of Rates Offered by California Utilities

		Banning	Alameda	Anaheim	Azusa	Burbank	Colton	Glendale	Los Angeles	Palo Alto	Pasadena	PG&E	Redding	Riverside	So.Calif. Edison	Silicon Valley Power
Current Banning Rate Offerings																
1	Distributed Self-Generation Buy-back (NEM Surplus)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2	Economic Development Discount	✓		✓	✓						✓	✓	✓	✓	✓	
3	Electric Vehicle Public Charging	✓	✓		✓	✓	✓	✓	✓	✓	✓					✓
4	Industrial Service	✓				✓	✓	✓	✓		✓	✓		✓	✓	✓
5	Interruptible Well Service	✓														
6	Low Income Rider	✓	✓			✓	✓	✓		✓	✓		✓	✓	✓	✓
7	Medium Commercial Service	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓
8	Mobile Home Park Master Metering	✓							✓	✓		✓				
9	Power Cost Adjustment	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	
10	Power Factor Correction	✓	✓	✓	✓		✓		✓		✓	✓	✓		✓	✓
11	Residential Service	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
12	Small Commercial Service	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	
Other Innovative Rate Offerings not Currently Offered by Banning																
13	Community Solar								✓			✓			✓	
14	Critical Peak Pricing and Real Time Pricing								✓			✓			✓	
15	EV Rates		✓	✓	✓	✓	✓					✓		✓	✓	
16	EV Submetering			✓	✓							✓		✓		
17	kVa Reactive Billing					✓		✓	✓							
18	Residential Demand Charge															
19	Small Commercial Demand Charge		✓		✓				✓						✓	✓
20	Special Rates/Charges (i.e. Wildfire Rate)											✓			✓*	
21	TOU Rates			✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
22	Transmission Access Charge										✓				✓	
23	Unbundled Rates		✓				✓		✓	✓	✓	✓			✓	✓

✓* Note: SoCal Edison using previously established DWR Bond Charge to support wildfire fund.

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APPENDIX A-2: RATE STRUCTURE RANKINGS

SEPTEMBER 26, 2025

ELECTRIC RATE TRENDS STUDY

FINAL REPORT

Appendix A-2
Banning Electric Utility
Rate Trends Study
Rate Structure Rankings

		Customer Acceptance	Change in Customer Usage	Technology Required	Customer Costs of Technology	Utility Costs of Technology	Barriers to New Rates	Risks Utility Perspective	Costs and Benefits Utility Perspective	Costs and Benefits Customer Perspective	Cumulative Score	Average Score
Current Banning Rate Offerings												
1	Distributed Self-Generation Buy-back (NEM Surplus)	3	3	3	1	2	2	2	2	3	21	2.33
2	Economic Development Discount	2	2	1	3	3	3	2	2	3	21	2.33
3	Electric Vehicle Public Charging	2	2	3	3	1	3	2	2	3	21	2.33
4	Industrial Service	3	3	1	3	3	3	3	3	3	25	2.78
5	Interruptible Well Service	2	2	1	3	2	3	2	3	3	21	2.33
6	Low Income Rider	3	2	2	3	2	2	3	2	3	22	2.44
7	Medium Commercial Service	3	3	1	3	3	3	3	3	3	25	2.78
8	Mobile Home Park Master Metering	3	2	2	2	2	3	3	2	2	21	2.33
9	Power Cost Adjustment	2	2	2	3	3	2	3	2	2	21	2.33
10	Power Factor Correction	2	3	2	2	2	2	3	3	2	21	2.33
11	Residential Service	3	3	1	3	3	3	3	3	3	25	2.78
12	Small Commercial Service	3	3	1	3	3	3	3	3	3	25	2.78
Other Innovative Rate Offerings not Currently Offered by Banning												
13	Community Solar	3	1	2	2	2	2	3	2	2	19	2.11
14	Critical Peak Pricing and Real Time Pricing	1	3	3	1	1	1	2	3	1	16	1.78
15	EV Rates	3	3	3	2	2	2	2	2	3	22	2.44
16	EV Submetering	1	3	3	2	2	2	3	3	2	21	2.33
17	kVa Reactive Billing	1	3	2	2	2	1	2	3	1	17	1.89
18	Residential Demand Charge	1	3	2	2	1	1	1	2	1	14	1.56
19	Small Commercial Demand Charge	1	3	2	2	1	2	2	2	1	16	1.78
20	Special Rates/Charges (i.e. Wildfire Rate)	2	1	1	3	3	1	3	3	1	18	2.00
21	TOU Rates	2	3	3	3	2	2	3	3	2	23	2.56
22	Transmission Access Charge	1	1	2	3	3	2	3	3	1	19	2.11
23	Unbundled Rates	2	1	1	3	3	2	3	3	3	21	2.33

3	= Desirable
2	= Moderate
1	= Not Desirable

Color Scale	Cumulative Score	Average Score
	14 - 20	1.5 - 2.2
	20 - 23	2.2 - 2.5
	23 +	2.5 +

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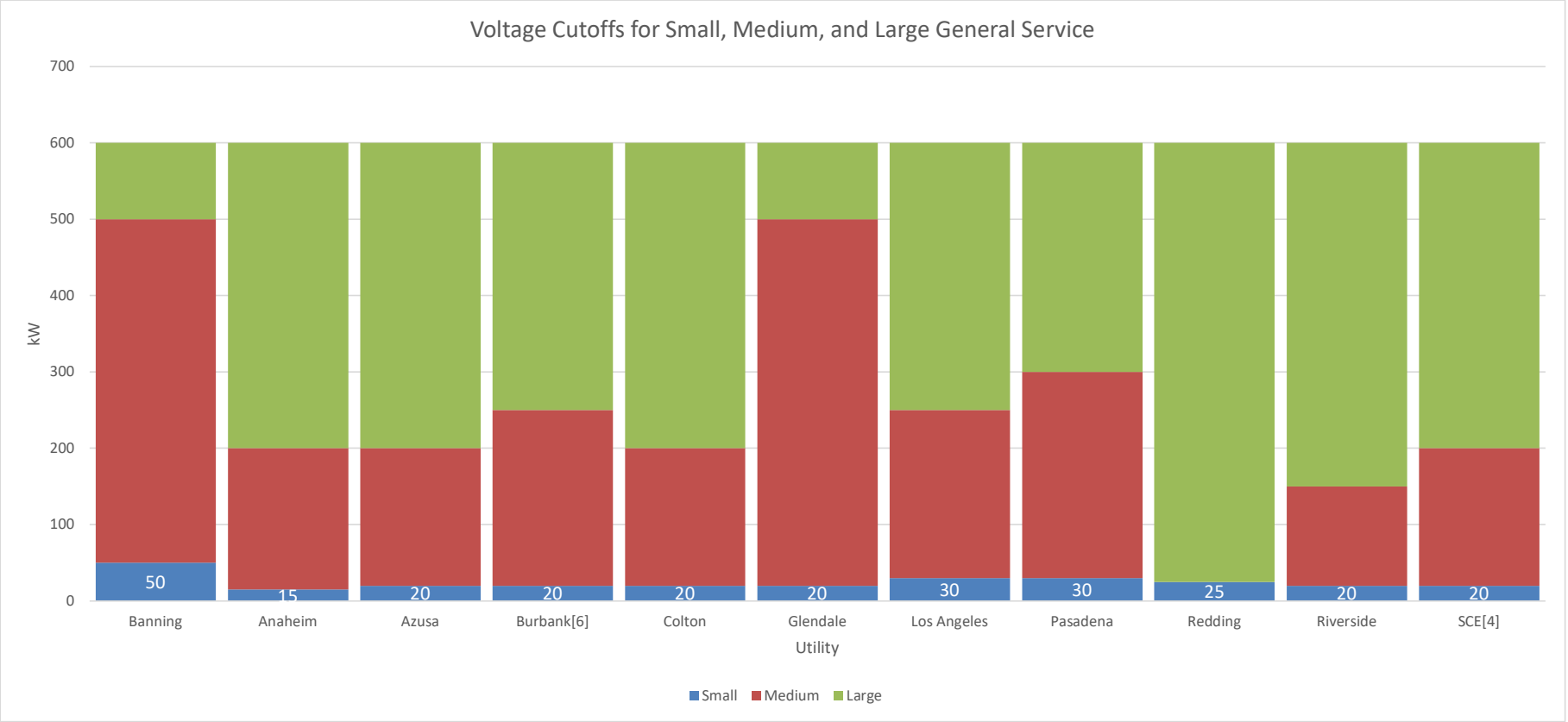
APPENDIX A-3: VOLTAGE CUTOFFS FOR GENERAL SERVICE CLASSES

SEPTEMBER 26, 2025

ELECTRIC RATE TRENDS STUDY

FINAL REPORT

Appendix A-3
Banning Electric Utility
Rate Trends Study
Voltage Cutoffs for General Service Classes



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THANK YOU!

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Banning Cost of Service

Description	Total	Allocation Factor	Residential	Small Commercial	Medium Commercial	General Service	Industrial Service	Well Service	Security Lighting	Street Lighting	Master Metering	Total
Power Supply												
Energy	7,965,203	NEFL	4,138,723	324,455	1,003,786	370,017	1,733,034	188,224	3,142	90,149	113,674	7,965,203
Demand	10,828,514	12 CP	6,818,550	328,783	1,020,729	383,746	1,903,171	131,256	1,852	53,147	187,278	10,828,514
Power Cost Adj.	(1,100,000)	NEFL	(571,561)	(44,807)	(138,624)	(51,100)	(239,333)	(25,994)	(434)	(12,450)	(15,698)	(1,100,000)
Open	-	NA	-	-	-	-	-	-	-	-	-	-
Open	-	NA	-	-	-	-	-	-	-	-	-	-
Open	-	NA	-	-	-	-	-	-	-	-	-	-
Total	17,693,716		10,385,713	608,430	1,885,891	702,663	3,396,872	293,486	4,560	130,846	285,254	17,693,716
	-											
Transmission												
Load Dispatch	864,050	12 CP	544,079	26,235	81,448	30,621	151,862	10,473	148	4,241	14,944	864,050
Substations	-	12 CP	-	-	-	-	-	-	-	-	-	-
Lines	64,804	12 CP	40,806	1,968	6,109	2,297	11,390	786	11	318	1,121	64,804
Demand	7,542,584	12 CP	4,749,450	229,013	710,987	267,298	1,325,651	91,426	1,290	37,020	130,448	7,542,584
Transformers	-	NA	-	-	-	-	-	-	-	-	-	-
Open	-	NA	-	-	-	-	-	-	-	-	-	-
Total	8,471,437		5,334,335	257,216	798,544	300,215	1,488,902	102,685	1,449	41,579	146,513	8,471,437
	-											
Distribution												
Demand Related												
Substations	13,009,578	12 NCP - Primary	7,465,092	526,392	1,226,714	473,675	2,714,361	257,479	4,743	136,087	205,036	13,009,578
OH-Lines	284,395	12 NCP - Primary	163,190	11,507	26,817	10,355	59,337	5,629	104	2,975	4,482	284,395
UG-Lines	698,075	12 NCP - Primary	400,566	28,245	65,824	25,417	145,649	13,816	254	7,302	11,002	698,075
Transformers	371,020	SMD	235,272	14,829	30,245	14,257	62,159	5,176	88	2,532	6,462	371,020
Customer Related												
Meters	86,222	W. Meters x/Lighting	6,159	12,317	12,317	18,476	18,476	12,317	-	-	6,159	86,222
Services	502,041	W. Meters x/Lighting	35,860	71,720	71,720	107,580	107,580	71,720	-	-	35,860	502,041
Lighting	311,860	Lighting NEFL	-	-	-	-	-	-	10,502	301,358	-	311,860
Total	15,263,191		8,306,139	665,011	1,433,637	649,760	3,107,562	366,137	15,691	450,254	269,001	15,263,191
	-											
Customer												
Customer Service	1,307,073	W. Meters x/Lighting	93,362	186,725	186,725	280,087	280,087	186,725	-	-	93,362	1,307,073
Customer Accounting	2,058,358	W. Meters x/Lighting	147,026	294,051	294,051	441,077	441,077	294,051	-	-	147,026	2,058,358
Meters	1,689,288	W. Meters x/Lighting	120,663	241,327	241,327	361,990	361,990	241,327	-	-	120,663	1,689,288
Open	-	NA	-	-	-	-	-	-	-	-	-	-
Total	5,054,718		361,051	722,103	722,103	1,083,154	1,083,154	722,103	-	-	361,051	5,054,718
	-											
Cost of Service	**46,483,063**		**24,387,238**	**2,252,760**	**4,840,174**	**2,735,792**	**9,076,490**	**1,484,411**	**21,700**	**622,679**	**1,061,818**	**46,483,063**
Check	-											
TY Revenues at Current Rates			$19,766,798	$1,246,802	$4,370,598	$1,751,045	$6,707,099	$800,151	$34,039	$224,379	$424,995	$35,325,906
Revenue Increase Needed			23%	81%	11%	56%	35%	86%	-36%	178%	150%	32%
% of Cost of Service			52%	5%	10%	6%	20%	3%	0%	1%	2%	100%

Banning Financial Forecast

Description	Account	Actual FY 24	Amended Budget FY 25	Amended Budget FY 26	Escalation	FY 27	FY 28	FY 29	FY 30	FY 26 - FY 30 Test Year
Expenses										
Purchased Power										
Purchased Power										
SVC-RESALE / CAPACITY	(27-50)	$10,671,458	$10,970,000	$10,400,000	**Purchased Power**	$10,945,135	$11,518,844	$12,122,626	$12,758,055	$11,548,932
SVC-RESALE / TRANSMISSION	(27-70)	$5,134,677	$5,750,000	$6,400,000	**Purchased Power**	$6,735,468	$7,088,520	$7,460,077	$7,851,111	$7,107,035
SVC-RESALE / ENERGY - LOCAL	(27-60)	$5,448,122	$4,800,000	$5,600,000	**Purchased Power**	$5,893,534	$6,202,455	$6,527,568	$6,869,722	$6,218,656
SVC-RESALE / POWER SCHEDULE/DISPATCHN	(27-09)	$628,988	$630,000	$630,000	**Purchased Power**	$663,023	$697,776	$734,351	$772,844	$699,599
SVC-RESALE / STATE POWER CHARGE	(27-08)	$43,733	$45,000	$45,000	**Purchased Power**	$47,359	$49,841	$52,454	$55,203	$49,971
SVC-RESALE / JOINT POLE EXP	(27-11)	$43,732	$45,000	$47,250	**Purchased Power**	$49,727	$52,333	$55,076	$57,963	$52,470
SVC-RESALE / CAP & TRADE	(27-55)	$0	$0	$0	**Purchased Power**	$0	$0	$0	$0	$0
Total Purchased Power		**$21,970,710**	**$22,240,000**	**$23,122,250**		**$24,334,245**	**$25,609,769**	**$26,952,152**	**$28,364,899**	**$25,676,663**
Cost of Goods										
SVC-RESALE / CUSTOMER GENERATION	(27-20)	$102,832	$90,000	$90,000	**Inflation**	$92,160	$94,188	$96,260	$98,377	$94,197
SVC-RESALE / EV CHARGING STATION	(27-75)	$1,841	$2,000	$2,000	**Inflation**	$2,048	$2,093	$2,139	$2,186	$2,093
Total Cost of Goods		**$104,673**	**$92,000**	**$92,000**		**$94,208**	**$96,281**	**$98,399**	**$100,564**	**$96,290**
Total Purchased Power	**Total Purchased Pov**	**$22,075,383**	**$22,332,000**	**$23,214,250**		**$24,428,453**	**$25,706,050**	**$27,050,551**	**$28,465,462**	**$25,772,953**
Check		-	-	-						
Supplies & Services										
Professional Contract Services										
PROFESSIONAL SERVICES	(33-11)	$157,781	$544,641	$63,600	**Inflation**	$65,126	$66,559	$68,023	$69,520	$66,566
LEGAL SERVICES-ENERGY	(33-02)	$61,842	$136,653	$80,000	**Inflation**	$81,920	$83,722	$85,564	$87,447	$83,731
ELECTRICAL CONSULTANT	(33-91)	$0	$5,000	$0	**Inflation**	$0	$0	$0	$0	$0
AUDIT SERVICES	(33-12)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
MEDICAL/PHYSICAL EXAMS	(33-32)	$0	$307	$307	**Inflation**	$314	$321	$328	$336	$321
Total Professional Contract Services	**essional Contrac**	**$219,623**	**$686,601**	**$143,907**		**$147,361**	**$150,603**	**$153,916**	**$157,302**	**$150,618**
Special Utility Costs										
SUBSTATION EXPENSE	(45-05)	$43,495	$199,868	$80,000	**Inflation**	$81,920	$83,722	$85,564	$87,447	$83,731
TOOLS/MISC SUPPLIES	(45-16)	$39,219	$101,886	$35,000	**Inflation**	$35,840	$36,628	$37,434	$38,258	$36,632
ELEC DISTR LINES-MAINT	(45-02)	$122,072	$100,000	$50,000	**Inflation**	$51,200	$52,326	$53,478	$54,654	$52,332
POLES/TOWERS/FIXTURES	(45-01)	$80,109	$100,000	$50,000	**Inflation**	$51,200	$52,326	$53,478	$54,654	$52,332
METERS EXPENSE	(45-11)	$31,924	$25,041	$20,000	**Inflation**	$20,480	$20,931	$21,391	$21,862	$20,933
LINE TRANSFORMER MAINTENC	(45-04)	$68,704	$0	$0	**Inflation**	$0	$0	$0	$0	$0
P C B EXPENSE	(45-03)	$0	$350	$350	**Inflation**	$358	$366	$374	$383	$366
INVENTORY ADJUSTMENTS	(45-99)	-$35,277	$24,559	$24,559	**Inflation**	$25,148	$25,702	$26,267	$26,845	$25,704
Total Special Utility Costs	**l Special Utility C**	**$350,246**	**$551,704**	**$259,909**		**$266,147**	**$272,002**	**$277,986**	**$284,102**	**$272,029**
Contractural Services										
STAFF TRAINING	(23-06)	$65,563	$41,200	$128,000	**Inflation**	$131,072	$133,956	$136,903	$139,914	$133,969
DUES/SUBSCRIPTIONS	(23-03)	$41,584	$87,000	$45,000	**Inflation**	$46,080	$47,094	$48,130	$49,189	$47,098
TRAVEL/CONFERENCES	(23-05)	$31,813	$25,000	$27,500	**Inflation**	$28,160	$28,780	$29,413	$30,060	$28,782
TREE TRIMMING SERVICE	(23-17)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
DISPOSAL FEES	(23-54)	$0	$14,500	$3,700	**Inflation**	$3,789	$3,872	$3,957	$4,044	$3,873
PEST ERADICATION SERVICE	(23-24)	$815	$2,060	$2,060	**Inflation**	$2,109	$2,156	$2,203	$2,252	$2,156

PRINTING/BINDING	(23-02)	$2,994	$3,616	$2,625	**Inflation**	$2,688	$2,747	$2,808	$2,869	$2,747
ADVERTISING/PUBLISHING	(23-01)	$655	$1,250	$800	**Inflation**	$819	$837	$856	$874	$837
ALARM SERVICE	(23-19)	$434	$1,000	$1,000	**Inflation**	$1,024	$1,047	$1,070	$1,093	$1,047
POSTAGE/MAILING COSTS	(23-04)	$92	$1,000	$1,000	**Inflation**	$1,024	$1,047	$1,070	$1,093	$1,047
RETURNED CHECK/BANK FEES	(23-46)	$5	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Contractural Services	**Contractural Ser**	**$143,955**	**$176,626**	**$211,685**		**$216,765**	**$221,534**	**$226,408**	**$231,389**	**$221,556**
Utility Contract Services										
UTILITIES-BANNING	(26-01)	$47,000	$45,000	$47,500	**Inflation**	$48,640	$49,710	$50,804	$51,921	$49,715
RADIO TRANSMISSION SVCS	(26-07)	$35,148	$30,000	$31,500	**Inflation**	$32,256	$32,966	$33,691	$34,432	$32,969
TELEPHONE SERVICE	(26-05)	$26,645	$30,000	$32,500	**Inflation**	$33,280	$34,012	$34,760	$35,525	$34,016
NATURAL GAS SERVICE	(26-06)	$2,353	$2,250	$2,365	**Inflation**	$2,422	$2,475	$2,529	$2,585	$2,475
SATELLITE TELEVISION	(26-09)	$758	$2,500	$2,625	**Inflation**	$2,688	$2,747	$2,808	$2,869	$2,747
ELECTRICITY-EDISON	(26-04)	$1,106	$2,000	$2,000	**Inflation**	$2,048	$2,093	$2,139	$2,186	$2,093
Total Utility Contract Services	**ltility Contract Se**	**$113,010**	**$111,750**	**$118,490**		**$121,334**	**$124,003**	**$126,731**	**$129,519**	**$124,015**
Rental Contract Services										
LEASE / LEASE/PURCHASE PAYMENTS	(32-06)	$61,027	$67,697	$66,550	**Inflation**	$68,147	$69,646	$71,179	$72,745	$69,653
LEASE / EQUIPMENT LEASE/RENTAL	(32-05)	$4,993	$10,029	$25,000	**Inflation**	$25,600	$26,163	$26,739	$27,327	$26,166
Total Rental Contract Services	**ental Contract S**	**$66,020**	**$77,726**	**$91,550**		**$93,747**	**$95,810**	**$97,917**	**$100,072**	**$95,819**
Non-Capitalized Assets										
COMPUTER HARDWARE	(89-48)	$10,280	$40,037	$15,000	**Inflation**	$15,360	$15,698	$16,043	$16,396	$15,699
COMPUTER SOFTWARE	(89-49)	$44,284	$19,999	$5,000	**Inflation**	$5,120	$5,233	$5,348	$5,465	$5,233
OFF FURN/EQUIP/FIXTURES	(89-46)	$1,769	$22,000	$10,000	**Inflation**	$10,240	$10,465	$10,696	$10,931	$10,466
MACHINERY/EQUIPMENT	(89-56)	$0	$10,000	$0	**Inflation**	$0	$0	$0	$0	$0
VEHICLES	(89-52)	$0	$1,200	$0	**Inflation**	$0	$0	$0	$0	$0
Total Non-Capitalized Assets	**Non-Capitalized A**	**$56,333**	**$93,236**	**$30,000**		**$30,720**	**$31,396**	**$32,087**	**$32,792**	**$31,399**
Special Programs										
SPC PRGRMS / FIRE SAFETY PROGRAMS	(41-29)	$13,529	$40,000	$15,000	**Inflation**	$15,360	$15,698	$16,043	$16,396	$15,699
SPC PRGRMS / MISCELLANEOUS EXPENSE	(42-50)	$71	$1,500	$500	**Inflation**	$512	$523	$535	$547	$523
ELECTRIC/ECONOMIC DEV	(46-00)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
SPC PRGRMS / COMMUNITY PROMOTIONS	(41-46)	$212	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Special Programs	**al Special Progra**	**$13,812**	**$41,500**	**$15,500**		**$15,872**	**$16,221**	**$16,578**	**$16,943**	**$16,223**
Employee Contract Services										
UNIFORM PURCHASE/MAINT	(25-02)	$19,284	$25,013	$25,014	**Inflation**	$25,614	$26,178	$26,754	$27,342	$26,180
VISION ALLOWANCE	(25-10)	$4,967	$3,500	$3,800	**Inflation**	$3,891	$3,977	$4,064	$4,154	$3,977
OVERTIME MEALS	(25-06)	$2,856	$3,000	$3,000	**Inflation**	$3,072	$3,140	$3,209	$3,279	$3,140
TUITION/BOOKS REIMBURSE	(25-09)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
MILEAGE REIMBURSEMENT	(25-05)	$0	$500	$550	**Inflation**	$563	$576	$588	$601	$576
Total Employee Contract Services	**mployee Contract**	**$27,107**	**$32,013**	**$32,364**		**$33,141**	**$33,870**	**$34,615**	**$35,376**	**$33,873**
Departmental Supplies										
DEPARTMENTAL SUPPLIES	(36-00)	$9,251	$17,470	$7,500	**Inflation**	$7,680	$7,849	$8,022	$8,198	$7,850
FOOD/MEALS COST	(36-07)	$22	$1,000	$500	**Inflation**	$512	$523	$535	$547	$523
Total Departmental Supplies	**Departmental Su**	**$9,273**	**$18,470**	**$8,000**		**$8,192**	**$8,372**	**$8,556**	**$8,745**	**$8,373**
Contract Service Repair										
MAINT / REPAIR/MAINT-SOFTWARE	(30-17)	$224,527	$380,156	$465,959	**Inflation**	$477,142	$487,639	$498,367	$509,331	$487,688
MAINT / REPAIR/MAINT-BUILDINGS	(30-02)	$7,020	$8,000	$8,500	**Inflation**	$8,704	$8,895	$9,091	$9,291	$8,896
MAINT / REPAIR/MAINT-ST. LIGHTS	(30-10)	$0	$5,000	$5,000	**Inflation**	$5,120	$5,233	$5,348	$5,465	$5,233
MAINT / REPAIR/MAINT-EQUIPMENT	(30-06)	$3,818	$7,896	$7,875	**Inflation**	$8,064	$8,241	$8,423	$8,608	$8,242

Total Contract Service Repair	**Contract Service**	**$235,365**	**$401,052**	**$487,334**		**$499,030**	**$510,009**	**$521,229**	**$532,696**	**$510,059**
Total Supplies and Services	**Total Supplies and Ser**	**$1,234,744**	**$2,190,678**	**$1,398,739**		**$1,432,309**	**$1,463,820**	**$1,496,024**	**$1,528,936**	**$1,463,965**
Check		1	-	-						
Transfer Out										
Interfund Transfers and Payments										
TRNSFR-ELECTRIC FUND	(56-59)	$3,794,630	$0	$0	**Inflation**	$0	$0	$0	$0	$0
TRNSF-ELEC DBT SVC	(56-94)	$2,416,833	$2,426,619	$2,426,619	**Inflation**	$2,484,858	$2,539,525	$2,595,394	$2,652,493	$2,539,778
TRNSFR - ELEC IMPROV FUND	(56-57)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
TRNSF-EL BOND PROJ FUND	(56-26)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
CRA-LOW/MOD FUND	(56-80)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
TRNSF - PUB BENEFIT FUND	(56-73)	-$675	$0	$0	**Inflation**	$0	$0	$0	$0	$0
INTERFUND SVC-BILL/COLL	(51-75)	$1,379,298	$1,412,401	$1,443,474	**Inflation**	$1,478,117	$1,510,636	$1,543,870	$1,577,835	$1,510,786
INTERFUND SVC-ADMIN COST	(51-74)	$941,614	$964,213	$985,425	**Inflation**	$1,009,076	$1,031,275	$1,053,963	$1,077,150	$1,031,378
INTERFUND SVC-INSURANCE	(51-71)	$665,554	$681,527	$696,521	**Inflation**	$713,237	$728,928	$744,965	$761,354	$729,001
INTERFUND SVC-FINANCIAL	(51-77)	$655,199	$670,924	$685,685	**Inflation**	$702,141	$717,588	$733,375	$749,509	$717,660
INTERFUND SVC-MTR READ SV	(51-76)	$514,648	$527,000	$538,594	**Inflation**	$551,520	$563,654	$576,054	$588,727	$563,710
INTERFUND SVC-COMPUTER	(51-78)	$401,643	$411,282	$420,331	**Inflation**	$430,418	$439,888	$449,565	$459,456	$439,931
INTFD SVC-BLDG JANIT/MANT	(50-32)	$205,928	$210,870	$215,509	**Inflation**	$220,681	$225,536	$230,498	$235,569	$225,559
INTERFUND SVC-FLEET MAINT	(51-73)	$179,604	$183,915	$187,961	**Inflation**	$192,472	$196,706	$201,034	$205,456	$196,726
INTERFUND SVC-PURCH & A/P	(51-72)	$168,845	$172,897	$176,701	**Inflation**	$180,942	$184,922	$188,991	$193,148	$184,941
INTERFUND SVC-PERSONNEL	(50-13)	$91,937	$94,144	$96,215	**Inflation**	$98,524	$100,692	$102,907	$105,171	$100,702
INTERFUND SVC-C/ATTORNEY	(50-18)	$32,421	$33,199	$33,929	**Inflation**	$34,744	$35,508	$36,289	$37,088	$35,512
Total Interfund Transfers and Payments	**und Transfers an**	**$11,447,479**	**$7,788,991**	**$7,906,963**		**$8,096,730**	**$8,274,858**	**$8,456,905**	**$8,642,957**	**$8,275,682**
Total Transfer Out		**$11,447,479**	**$7,788,991**	**$7,906,963**		**$8,096,730**	**$8,274,858**	**$8,456,905**	**$8,642,957**	**$8,275,682**
Check		-	-	-						
Labor										
Salaries and Wages										
PAYROLL-REGULAR	(10-10)	$4,280,221	$4,441,978	$4,486,416	**Inflation**	$4,594,090	$4,695,160	$4,798,453	$4,904,019	$4,695,628
OVERTIME	(10-30)	$599,457	$173,886	$173,886	**Inflation**	$178,059	$181,977	$185,980	$190,072	$181,995
INCENTIVE PAY	(10-51)	$139,723	$57,919	$57,919	**Inflation**	$59,309	$60,614	$61,947	$63,310	$60,620
STANDBY PAY	(10-55)	$90,666	$67,231	$67,231	**Inflation**	$68,845	$70,359	$71,907	$73,489	$70,366
SICK LEAVE PAYOFF	(10-72)	$71,796	$47,233	$47,777	**Inflation**	$48,924	$50,000	$51,100	$52,224	$50,005
VACATION PAYOFF	(10-71)	$58,268	$42,530	$43,196	**Inflation**	$44,233	$45,206	$46,200	$47,217	$45,210
HOLIDAY PAYOFF	(10-73)	$27,171	$42,320	$42,747	**Inflation**	$43,773	$44,736	$45,720	$46,726	$44,740
COMP TIME PAYOFF	(10-70)	$39,171	$23,665	$24,092	**Inflation**	$24,670	$25,213	$25,768	$26,335	$25,215
ESSENTIAL WKR PREMIUM PAY	(10-60)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
WORKING OUT OF CLASS	(10-56)	$22,257	$6,902	$6,902	**Inflation**	$7,068	$7,223	$7,382	$7,544	$7,224
JURY DUTY REIMBURSEMENT	(10-82)	-$15	-$15	-$15	**Inflation**	-$15	-$16	-$16	-$16	-$16
WORKERS COMP-REIMBURSEMNT	(10-80)	-$12,491	$0	$0	**Inflation**	$0	$0	$0	$0	$0
CAPITALIZED WAGES	(10-90)	-$885,697	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Salaries and Wages	**l Salaries and W**	**$4,430,527**	**$4,903,649**	**$4,950,151**		**$5,068,955**	**$5,180,472**	**$5,294,442**	**$5,410,920**	**$5,180,988**
Fringe Benefits										
PERS	(15-15)	$1,072,843	$1,364,208	$1,377,659	**Inflation**	$1,410,723	$1,441,759	$1,473,477	$1,505,894	$1,441,902
BENEFIT ALLOWANCE	(15-80)	$607,210	$652,600	$656,800	**Inflation**	$672,563	$687,360	$702,482	$717,936	$687,428
FICA	(15-10)	$383,765	$324,510	$325,256	**Inflation**	$333,062	$340,390	$347,878	$355,531	$340,423
WORKERS COMP	(15-20)	$147,833	$155,748	$159,379	**Inflation**	$163,204	$166,795	$170,464	$174,214	$166,811
VEHICLE ALLOWANCE	(15-84)	$27,478	$29,790	$30,840	**Inflation**	$31,580	$32,275	$32,985	$33,711	$32,278
UNEMPLOYMENT INSURANCE	(15-30)	$26,516	$26,840	$27,111	**Inflation**	$27,762	$28,372	$28,997	$29,635	$28,375
UTILITY CREDIT	(15-70)	$25,043	$23,400	$23,400	**Inflation**	$23,962	$24,489	$25,028	$25,578	$24,491

BOOT ALLOWANCE	(15-88)	$7,150	$6,900	$6,900	**Inflation**	$7,066	$7,221	$7,380	$7,542	$7,222
LIFE INSURANCE	(15-40)	$1,888	$2,060	$2,132	**Inflation**	$2,183	$2,231	$2,280	$2,330	$2,231
HEALTH INSURANCE	(15-50)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
DENTAL INSURANCE	(15-60)	$37	$0	$0	**Inflation**	$0	$0	$0	$0	$0
VISION COVERAGE	(15-65)	$13	$0	$0	**Inflation**	$0	$0	$0	$0	$0
UNIFORM ALLOWANCE	(15-82)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
FICA REIMB-BENEFIT ALLOW	(15-95)	-$4,281	-$5,015	-$5,015	**Inflation**	-$5,135	-$5,248	-$5,364	-$5,482	-$5,249
CAPTLZED FRINGE BENEFITS	(15-90)	-$234,149	-$208,314	-$208,314	**Inflation**	-$213,314	-$218,006	-$222,803	-$227,704	-$218,028
Total Fringe Benefits	**ɪtal Fringe Benefi**	**$2,061,346**	**$2,372,727**	**$2,396,148**		**$2,453,656**	**$2,507,636**	**$2,562,804**	**$2,619,186**	**$2,507,886**
Total Labor		**$6,491,873**	**$7,276,376**	**$7,346,299**		**$7,522,610**	**$7,688,108**	**$7,857,246**	**$8,030,105**	**$7,688,874**
Check		-	-	-						
Other Expenses (Revenues)										
STREET LIGHTING POWER	(26-03)	$155,699	$194,287	$194,287	**Inflation**	$198,950	$203,327	$207,800	$212,372	$203,347
FEES/PENALTIES	(23-42)	$6,426	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Other Expenses (Revenues)		**$162,125**	**$194,287**	**$194,287**		**$198,950**	**$203,327**	**$207,800**	**$212,372**	**$203,347**
Contra Expenditure (Revenues)										
OPEB EXPENSE	(99-75)	$234,548	$0	$0	**Inflation**	$0	$0	$0	$0	$0
PENSION EXPENSE	(99-50)	$678,789	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Contra Expenditure		**$913,337**	**$0**	**$0**		**$0**	**$0**	**$0**	**$0**	**$0**
Total Other Expenses (Revenues)		**$1,075,462**	**$194,287**	**$194,287**		**$198,950**	**$203,327**	**$207,800**	**$212,372**	**$203,347**
Check		-	-	-						
Total Expenses		**$42,324,941**	**$39,782,332**	**$40,060,538**		**$41,679,052**	**$43,336,162**	**$45,068,525**	**$46,879,832**	**$43,404,822**
Check		1	-	-						
Revenues										
Sales and Service Charges										
METERED SALES	(356.38-01)	$27,047,120	$31,329,155	$36,414,876	**Calculated Revenues**	$44,749,212	$49,969,990	$52,702,904	$55,586,253	$47,884,647
REC SALES	(366.44-60)	$2,480,000	$3,500,000	$1,000,000	**No Escalation**	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
CAP & TRADE	(366.44-55)	$1,375,779	$1,450,000	$1,500,000	**No Escalation**	$1,500,000	$1,500,000	$1,500,000	$1,500,000	$1,500,000
TRANSMISSION SALES-CAISO	(356.38-20)	$1,045,790	$1,000,000	$1,000,000	**No Escalation**	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
POWER COST ADJUSTMENT	(356.38-18)	$1,021,065	$1,100,000	$1,100,000	**No Escalation**	$1,100,000	$1,100,000	$1,100,000	$1,100,000	$1,100,000
BULK ENERGY SALES	(356.38-10)	$410,116	$400,000	$400,000	**No Escalation**	$400,000	$400,000	$400,000	$400,000	$400,000
MISCELLANEOUS REVENUES	(356.38-12)	$253,317	$200,000	$200,000	**No Escalation**	$200,000	$200,000	$200,000	$200,000	$200,000
CRR REVENUE - CAISO	(356.38-17)	$137,915	$150,000	$150,000	**No Escalation**	$150,000	$150,000	$150,000	$150,000	$150,000
STREET LIGHTING	(356.38-05)	$0	$322,340	$322,340	**No Escalation**	$322,340	$322,340	$322,340	$322,340	$322,340
TURN ON CHARGES	(356.38-06)	$71,205	$75,000	$75,000	**No Escalation**	$75,000	$75,000	$75,000	$75,000	$75,000
DELINQ. RECONNECT FEE	(356.38-08)	$130	$15,000	$15,000	**No Escalation**	$15,000	$15,000	$15,000	$15,000	$15,000
MEDICAL DISCOUNT	(357.38-10)	-$142,107	-$140,763	-$140,763	**No Escalation**	-$140,763	-$140,763	-$140,763	-$140,763	-$140,763
Total Sales and Service Charges		**$33,700,330**	**$39,400,732**	**$42,036,453**		**$50,370,789**	**$55,591,567**	**$58,324,481**	**$61,207,830**	**$53,506,224**
Miscellaneous & Other Income										
IN AID OF CONSTRUCTION	(366.44-07)	$5,315,000	$125,000	$4,918,750	**Inflation**	$1,175,000	$0	$2,200,000	$1,000,000	$1,858,750
RESERVE CANCELLATIONS-OP	(369.99-98)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
SPC PRGRMS / RESTITUTION/SUBROGATION	(361.41-53)	$22,267	$10,000	$10,000	**Inflation**	$10,240	$10,465	$10,696	$10,931	$10,466
ELECT JOINT POLES	(331.27-02)	$15,263	$15,875	$15,875	**Inflation**	$16,256	$16,614	$16,979	$17,353	$16,615
SPC PRGRMS / SALE OF SURPLUS PROPERT	(361.41-24)	$5,501	$20,000	$20,000	**Inflation**	$20,480	$20,931	$21,391	$21,862	$20,933

SPC PRGRMS / GAIN ON SALE OF ASSET	(361.41-27)	$41,281	$0	$0	**Inflation**	$0	$0	$0	$0	$0
SPC PRGRMS / MISC. RECEIPTS/REVENUE	(361.41-61)	$0	$1,804	$1,804	**Inflation**	$1,847	$1,888	$1,929	$1,972	$1,888
PLAN CHECK FEES	(366.44-09)	$840	$1,180	$1,180	**Inflation**	$1,208	$1,235	$1,262	$1,290	$1,235
TEMP POLE CONNECTION	(331.27-01)	$704	$1,000	$1,000	**Inflation**	$1,024	$1,047	$1,070	$1,093	$1,047
EV CHARGING STATION	(356.38-25)	$93	$200	$200	**Inflation**	$205	$209	$214	$219	$209
CAPITAL CONTRIBUTIONS	(331.25-20)	$466,561	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Miscellaneous & Other Income		**$5,867,510**	**$175,059**	**$4,968,809**		**$1,226,260**	**$52,388**	**$2,253,541**	**$1,054,719**	**$1,911,143**
Use of Money and Property										
INVESTMENT INTEREST	(331.20-01)	$58,075	$40,000	$40,000	**Inflation**	$40,960	$41,861	$42,782	$43,723	$41,865
INT. EARNED-FISCAL AGENT	(331.20-03)	$5,568	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Use of Money and Property		**$63,643**	**$40,000**	**$40,000**		**$40,960**	**$41,861**	**$42,782**	**$43,723**	**$41,865**
Intergovenmental, Licenses and Permits										
CA DPT OF COMM SVCS & DEV	(341.31-13)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
METER INSTALLATION & CONN	(366.44-03)	$5,830	$13,515	$13,515	**Inflation**	$13,839	$14,144	$14,455	$14,773	$14,145
CONSTRUCTION PLAN CK FEE	(351.35-16)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Intergovernmental, Licenses and Permits		**$5,830**	**$13,515**	**$13,515**		**$13,839**	**$14,144**	**$14,455**	**$14,773**	**$14,145**
Interfund Transfers In										
TRNSFR-ELECTRIC IMPROV FD	(381.56-61)	$3,794,630	$0	$0	**Inflation**	$0	$0	$0	$0	$0
TRANSFER-ELECTRIC FUND	(381.56-59)	$2,416,833	$2,426,619	$2,426,619	**Inflation**	$2,484,858	$2,539,525	$2,595,394	$2,652,493	$2,539,778
TRNSFR-GAS TAX STREET FD	(381.56-04)	$338,270	$350,000	$350,000	**Inflation**	$358,400	$366,285	$374,343	$382,579	$366,321
(222) ARPA FUND	(381.56-22)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
TRNSF - PUB BENEFIT FUND	(381.56-74)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Interfund Transfer In		**$6,549,733**	**$2,776,619**	**$2,776,619**		**$2,843,258**	**$2,905,810**	**$2,969,737**	**$3,035,072**	**$2,906,099**
Total Revenues		**$46,187,046**	**$42,405,925**	**$49,835,396**		**$54,495,107**	**$58,605,769**	**$63,604,996**	**$65,356,116**	**$58,379,477**
Check		**1**	-	-						
Revenues Less Expenses		**$3,862,105**	**$2,623,593**	**$9,774,858**		**$12,816,055**	**$15,269,608**	**$18,536,471**	**$18,476,284**	**$14,974,655**
Debt Service										
INTEREST - 2015 REV BONDS	(62-18)	$1,017,210	$1,023,044	$1,023,044	**Debt Service**	$802,294	$721,294	$668,013	$610,975	$765,124
PRIN - 2015 REV BONDS	(61-18)	$0	$1,400,000	$1,400,000	**Debt Service**	$1,620,000	$1,705,000	$1,755,000	$1,740,000	$1,644,000
ROUA AMORTIZATION-SBITA	(66-19)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
INTEREST EXPENSE-LEASE	(62-01)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
SBITA	(32-19)	$0	$0	$0	**Inflation**	$0	$0	$0	$0	$0
BOND PAYING AGENT FEES	(65-08)	$2,750	$2,475	$2,475	**Inflation**	$2,534	$2,590	$2,647	$2,705	$2,590
AMORT-DEBT DISCT/EXP	(65-07)	-$35,189	-$35,189	-$35,189	**Inflation**	-$36,034	-$36,826	-$37,636	-$38,464	-$36,830
BAD DEBT EXPENSE	(49-01)	$256,476	$0	$0	**Inflation**	$0	$0	$0	$0	$0
Total Debt Service	**Total Debt Servic**	**$1,241,247**	**$2,390,330**	**$2,390,330**		**$2,388,795**	**$2,392,058**	**$2,388,023**	**$2,315,216**	**$2,374,884**
Check		-	-	-						

Banning Cash Flow

Description	Amended Budget FY 25	Amended Budget FY 26	FY 27	FY 28	FY 29	FY 30	FY 26 - FY 30 Test Year
Key Performance Indicators							
Debt Service Coverage	1.32	1.21	1.32	1.70	1.72	2.07	1.60
Debt Service Coverage Target	1.20	1.20	1.20	1.20	1.20	1.20	1.20
Days Cash on Hand (Funds 670 and 672)	48	-6	38	94	100	106	66
Day Cash on Hand Target (Policy)	90	90	90	90	90	90	90
Electric Utility Fund (Collective) YE Balance	-$10,460,989	-$10,383,413	-$4,391,111	$4,310,704	$14,646,008	$24,488,712	$5,734,180
Fund Policy Target Rounded (30% of O&M and DS)	$11,924,000	$12,007,000	$12,475,000	$12,957,000	$13,458,000	$13,963,000	$12,972,000
YE Balance Meeting Fund Target (Yes/No)	NO	NO	NO	NO	YES	YES	
Operating Revenues							
Metered Sales	$32,030,343	$36,414,876	$44,250,098	$50,020,113	$53,224,832	$55,650,024	$47,911,989
REC Sales	$3,500,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Other Sales and Service Charges	$4,300,000	$4,350,000	$4,350,000	$4,350,000	$4,350,000	$4,350,000	$4,350,000
Total Operating Revenues	**$39,830,343**	**$41,764,876**	**$49,600,098**	**$55,370,113**	**$58,574,832**	**$61,000,024**	**$53,261,989**
Check	-	-	-	-	-	-	-
Operating Expenses							
Purchased Power	$22,332,000	$23,214,250	$24,428,453	$25,706,050	$27,050,551	$28,465,462	$25,772,953
Supplies and Services	$2,190,678	$1,398,739	$1,432,309	$1,463,820	$1,496,024	$1,528,936	$1,463,965
Labor Expenses	$7,276,376	$7,346,299	$7,522,610	$7,688,108	$7,857,246	$8,030,105	$7,688,874
Interfund Services	$5,362,372	$5,480,344	$5,611,872	$5,735,333	$5,861,511	$5,990,464	$5,735,905
Other Expenses (Revenues)	$194,287	$194,287	$198,950	$203,327	$207,800	$212,372	$203,347
Contra Expenditure	$0	$0	$0	$0	$0	$0	$0
Total Operating Expenses	**$37,355,713**	**$37,633,919**	**$39,194,194**	**$40,796,637**	**$42,473,131**	**$44,227,339**	**$40,865,044**
Check	-	-	(0)	-	(0)	(0)	0
Other Income (Expenses)							
Miscellaneous Income	$30,059	$30,059	$30,780	$31,458	$32,150	$32,857	$31,461
Interest Income	$40,000	$40,000	$40,960	$41,861	$42,782	$43,723	$41,865
Connection Fees	$13,515	$13,515	$13,839	$14,144	$14,455	$14,773	$14,145
Contribution to Electric Operations Fund		-$425,000	-$2,125,000	-$2,500,000	$0	$0	-$1,010,000
Contribution to Rate Stability Fund		-$400,000	-$2,125,000	-$2,500,000	$0	$0	-$1,005,000
Contribution to Electric Improvement Fund		-$400,000	-$3,000,000	-$5,500,000	-$12,000,000	-$12,000,000	-$6,580,000
Contrbution to Electric Revenue Bond Debt Service Fund		$0	$0	$0	$0	$0	$0
Contribution to Working Capital Reserve		-$451,927	-$451,927	-$451,927	-$451,927	-$451,927	-$451,927
Capital from Cash	-$25,000	$0	$0	$0	$0	$0	$0
Transfers In	$350,000	$350,000	$358,400	$366,285	$374,343	$382,579	$366,321
Total Other Income (Expenses)	**$408,574**	**-$1,243,353**	**-$7,257,948**	**-$10,498,180**	**-$11,988,198**	**-$11,977,995**	**-$8,593,135**
Balance Available for Debt Service	$2,883,204	$2,887,604	$3,147,956	$4,075,296	$4,113,504	$4,794,689	$3,803,810

Debt Service							
Outstanding Debt	$2,390,330	$2,390,330	$2,388,795	$2,392,058	$2,388,023	$2,315,216	$2,374,884
Debt Refunding (Savings)	$0	$0	$0	$0	$0	$0	$0
Proposed Debt	$0	$0	$0	$0	$0	$0	$0
Total Debt Service	**$2,390,330**	**$2,390,330**	**$2,388,795**	**$2,392,058**	**$2,388,023**	**$2,315,216**	**$2,374,884**
Debt Service Coverage Ratio	1.21	1.21	1.32	1.70	1.72	2.07	1.60
DSC Ratio Required	1.20	1.20	1.20	1.20	1.20	1.20	1.20
Balance Available for Retained Earnings	**$492,874**	**$497,274**	**$759,162**	**$1,683,238**	**$1,725,480**	**$2,479,474**	**$1,428,926**
Capital Expenditures							
Sources - Debt	$0	$0	$0	$0	$0	$0	$0
Sources - Aid in Construction	$125,000	$4,918,750	$1,175,000	$0	$2,200,000	$1,000,000	$1,858,750
Sources - Unfunded	$25,000	$0	$0	$0	$0	$0	$0
Sources - Reserves	$995,000	$2,096,626	$2,468,787	$3,933,350	$4,268,150	$6,372,694	$3,827,921
Uses	$1,145,000	$7,015,376	$3,643,787	$3,933,350	$6,468,150	$7,372,694	$5,686,671
Check	-	$0	$0	$0	$0	$0	
Funds							
Electric Operations (670)							
Beginning Balance	-$2,461,331	-$1,968,457	-$1,046,183	$1,837,979	$6,021,217	$7,746,697	$2,518,251
Deposits from Rate Revenue	$0	$425,000	$2,125,000	$2,500,000	$0	$0	$1,010,000
Over / (Under) Recovery	$492,874	$497,274	$759,162	$1,683,238	$1,725,480	$2,479,474	$1,428,926
Interest Income	$0	$0	$0	$0	$0	$0	$0
Withdrawals to 673	$0	$0	$0	$0	$0	$0	$0
Ending Balance	-$1,968,457	-$1,046,183	$1,837,979	$6,021,217	$7,746,697	$10,226,171	$4,957,176
Rate Stability Fund (672)							
Beginning Balance	$6,800,667	$6,903,678	$400,000	$2,525,000	$5,025,000	$5,025,000	$3,975,736
Deposits from Rate Revenue	$0	$400,000	$2,125,000	$2,500,000	$0	$0	$1,005,000
Over / (Under) Recovery	$0	$0	$0	$0	$0	$0	$0
Interest Income	$103,011	$0	$0	$0	$0	$0	$0
Withdrawals to 673	$0	-$6,903,678	$0	$0	$0	$0	-$1,380,736
Ending Balance	$6,903,678	$400,000	$2,525,000	$5,025,000	$5,025,000	$5,025,000	$3,600,000
Combined 670 & 672 Funds							
Beginning Balance	$4,339,336	$4,935,221	-$646,183	$4,362,979	$11,046,217	$12,345,651	$6,408,777
Deposits from Rate Revenue	$0	$825,000	$4,250,000	$5,000,000	$0	$0	$2,015,000
Over / (Under) Recovery	$492,874	$497,274	$759,162	$1,683,238	$1,725,480	$2,479,474	$1,428,926
Interest Income	$103,011	$0	$0	$0	$0	$0	$0
Withdrawals to 673 after DCOH Target		$0	$0	$0	-$426,046	-$1,283,997	-$342,009
Withdrawals to 673 from 672	$0	-$6,903,678	$0	$0	$0	$0	-$1,380,736
Ending Balance	$4,935,221	-$646,183	$4,362,979	$11,046,217	$12,345,651	$13,541,128	$8,129,959
Days Cash on Hand	45	(6)	38	94	100	106	67
Days Cash on Hand Target (Proposed)	90	90	90	90	90	90	90

Cash Target for DCOH Target	9,800,394	9,868,993	10,253,340	10,620,171	11,061,654	11,476,246	10,656,081
Cash Needed for DCOH Target	4,865,173	10,515,176	5,890,361	(426,046)	(1,283,997)	(2,064,882)	2,526,122
Electric Improvement Fund (673)							
Beginning Balance	-$15,086,772	-$16,081,772	-$10,874,720	-$10,343,507	-$8,776,857	-$618,961	-$9,339,163
Deposits - Rate Stability Fund (672)	$0	$6,903,678	$0	$0	$0	$0	$1,380,736
Deposits - Rate Revenue	$0	$400,000	$3,000,000	$5,500,000	$12,000,000	$12,000,000	$6,580,000
Deposits - Electric Operations (670)	$0	$0	$0	$0	$426,046	$1,283,997	$342,009
Over / (Under) Recovery	$0	$0	$0	$0	$0	$0	$0
Interest Income	$0	$0	$0	$0	$0	$0	$0
Capital from Reserves	-$995,000	-$2,096,626	-$2,468,787	-$3,933,350	-$4,268,150	-$6,372,694	-$3,827,921
Ending Balance	-$16,081,772	-$10,874,720	-$10,343,507	-$8,776,857	-$618,961	$6,292,342	-$4,864,340
Electric Rev Bond Project Fund (674)							
Beginning Balance	$696,123	$696,123	$696,123	$696,123	$696,123	$696,123	$696,123
Deposits	$0	$0	$0	$0	$0	$0	$0
Interest Income	$0	$0	$0	$0	$0	$0	$0
Withdrawals	$0	$0	$0	$0	$0	$0	$0
Ending Balance	$696,123	$696,123	$696,123	$696,123	$696,123	$696,123	$696,123
Electric Rev Bond DS Fund (678)							
Beginning Balance	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561
Deposits	$0	$0	$0	$0	$0	$0	$0
Interest Income	$0	$0	$0	$0	$0	$0	$0
Withdrawals	$0	$0	$0	$0	$0	$0	$0
Ending Balance	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561	-$10,561
Proposed Working Capital Reserve Fund							
Beginning Balance	$0	$0	$451,927	$903,855	$1,355,782	$1,807,709	$903,855
Deposits from Rate Revenue	$0	$451,927	$451,927	$451,927	$451,927	$451,927	$451,927
Withdrawals	$0	$0	$0	$0	$0	$0	$0
Ending Balance	$0	$451,927	$903,855	$1,355,782	$1,807,709	$2,259,637	$1,355,782
Proposed Working Capital Reserve Fund	$0	$451,927	$903,855	$1,355,782	$1,807,709	$2,259,637	$1,355,782
Proposed Working Capital Reserve Fund Target (1/8th O&M e›	$1,877,964	$1,802,459	$1,845,718	$1,886,323	$1,927,823	$1,970,235	$1,886,511
Total Fund Balance							
Beginning Balance	-$10,061,874	-$10,460,989	-$10,383,413	-$4,391,111	$4,310,704	$14,646,008	-$1,255,760
Deposits from Rate Revenue	$0	$1,676,927	$7,701,927	$10,951,927	$12,451,927	$12,451,927	$9,046,927
Deposits from Existing Funds to Fund 673	$0	$6,903,678	$0	$0	$426,046	$1,283,997	$1,722,744
Over/ (Under) Recovery	$492,874	$497,274	$759,162	$1,683,238	$1,725,480	$2,479,474	$1,428,926
Interest Income	$103,011	$0	$0	$0	$0	$0	$0
Withdrawals	$0	-$6,903,678	$0	$0	$0	$0	-$1,380,736
Capital from Reserves (Fund 673)	-$995,000	-$2,096,626	-$2,468,787	-$3,933,350	-$4,268,150	-$6,372,694	-$3,827,921
Additional Funding	$0	$0	$0	$0	$0	$0	$0
All Funds Ending Balance	-$10,460,989	-$10,383,413	-$4,391,111	$4,310,704	$14,646,008	$24,488,712	$5,734,180

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Art Vela, Interim City Manager**
MEETING DATE:	**October 14, 2025**
SUBJECT:	**Consideration of Resolution 2025-149, Approving a Professional Services Agreement with LSL, LLP in the Amount of $310,000 for Professional Municipal Accounting Services Aimed at Updating the City's Financial Records**

RECOMMENDATION:

Adopt Resolution 2025-149

BACKGROUND:

The City Council has been made aware of the significant lack of current and reliable financial information for Fiscal Year 2024-25. This information gap directly affects day-to-day operations and the City's ability to accurately assess its overall financial position. The underlying challenges began early in Fiscal Year 2024-25 with the departure of several key employees from the Finance Department, resulting in a loss of institutional knowledge and continuity.

Since that time, the City has relied on interim personnel and contracted temporary staff to maintain operations and work toward financial reconciliation. Despite these efforts, including the dedication of the Interim Finance Director (CalPERS retired annuitant), the scope and complexity of the challenge exceed the capacity currently available within the Finance Department. Most recently, the resignation of tenured Chief Procurement Officer and Senior Accountant further exacerbated the Finance Department's resource limitations.

To stabilize operations and accelerate progress, staff determined that a coordinated team from a single accounting firm would be necessary. An initial on-site presence will allow the firm to evaluate existing records, identify key information sources, and develop a structured work plan. Once this foundation is established, the firm can transition to a primarily remote service model, thereby reducing travel and lodging costs and improving efficiency.

Consistent with Section 13 (Emergency Purchases) of the City's Purchasing Rules and Procedures, staff informally solicited and interviewed two qualified Certified Public Accounting firms with demonstrated experience in assisting municipalities to reconcile and restore financial records. Due to the urgent need to bring the City's accounting activities current, there was insufficient time to conduct a formal Request for Proposals (RFP) process, and staff determined that such a process would not likely yield better results given the immediate circumstances.

Following the interviews, staff selected LSL, LLP, an accounting and consulting firm with a strong presence in California and extensive experience supporting cities with similar financial recovery efforts. LSL also brings valuable familiarity with Banning's financial systems and practices, having previously

served as the City's independent auditor.

In addition to contracting with LSL, the City will onboard a new former Banning Finance Director Bonnie Johnson as an Extra Help retiree annuitant. Ms. Johnson has since served as Finance Director and City Manager for other Inland Empire cities and will provide additional high-level guidance as the current Interim Finance Director approaches her CalPERS 960-hour limit in December.

The City is also preparing to enter its next budget development cycle, which typically begins at the start of the calendar year. To prepare a sound and realistic spending plan for Fiscal Year 2025-26, it is essential to have accurate and up-to-date financial data for both the prior and current fiscal years. This information will also serve as the foundation for developing a long-term fiscal forecast to guide City Council policy decisions and ensure the City's ongoing financial sustainability.

Between the two firms considered—Baker Tilly and LSL, LLP—staff recommends LSL due to their extensive California municipal experience, their proposed hourly rates being approximately 30% lower than Baker Tilly's, and their responsiveness and understanding of the City's needs.

Engaging LSL will provide the additional capacity and expertise necessary to bring the City's financial records current. This recommendation in no way reflects negatively on the current Interim Finance Director, whose efforts and leadership have been instrumental in maintaining operations under difficult circumstances.

JUSTIFICATION:

The City requires professional accounting support to bring its financial records current following significant turnover and vacancies within the Finance Department. Despite the dedication of existing staff, the scope and complexity of the backlog exceed the Finance Department's current capacity, making outside expertise essential to ensure timely and reliable financial information for upcoming budget and audit processes.

LSL, LLP was selected based on its extensive experience assisting California municipalities with similar accounting recovery efforts, its prior familiarity with the City's financial systems as a former independent auditor, and its competitive price proposal. Their team offers the technical expertise and capacity needed to stabilize the City's financial operations.

FISCAL IMPACT:

The total cost of services is estimated to range between $215,000 and $310,000, depending on the level of effort required once LSL, LLP begins work and fully assesses the City's accounting records. The final cost will be determined based on actual time and materials needed to complete the scope of work and bring the City's financial records current.

An appropriation in the amount of $310,000 to Account 001-1910-412-33.11 to cover the "not-to-exceed" amount.

ALTERNATIVES:

1. Do not approve and remain at status quo, which would rely on current limited staff to complete the work, which may not happen in time or at all to complete the upcoming budget process and to inform the City Council on the City's financial position.
2. Direct staff to procure the required services following a formal RFP process. This would take up to 3-4 months to commence the required services resulting in not completing the services on time for the City to make will informed decisions on the upcoming budgeting process.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2025-149.docx
2. LSL Consulting Proposal - City of Banning 10.09.2025.pdf
3. AGREEMENT FOR PROFESSIONAL SERVICES - LSL LLP w bd edits.docx

RESOLUTION 2025-149

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH LSL, LLP IN THE AMOUNT OF $310,000 FOR PROFESSIONAL MUNICIPAL ACCOUNTING SERVICES AIMED AT UPDATING THE CITY'S FINANCIAL RECORDS

WHEREAS, the City is faced with a significant lack of current and reliable financial information for Fiscal Year 2024-25, which affects day-to-day operations and the City's ability to accurately assess its overall financial position; and

WHEREAS, this condition originated with the departure of several key Finance Department employees in Fiscal Year 2024-25, resulting in the loss of institutional knowledge and continuity essential to maintaining accurate and timely financial records; and

WHEREAS, despite the dedication of the Interim Finance Director, who will soon near the maximum hours allowed for a CalPERS retired annuitant, and the use of interim and temporary staffing resources, the complexity and magnitude of the backlog exceed the current capacity of the Finance Department; and

WHEREAS, consistent with Section 13 (Emergency Purchases) of the City's Purchasing Rules and Procedures, staff informally solicited and interviewed two qualified Certified Public Accounting firms experienced in municipal accounting recovery to address this urgent need; and

WHEREAS, following this process, staff selected LSL, LLP, an accounting and consulting firm with extensive experience assisting California cities with financial reconciliation and prior familiarity with Banning's accounting systems and practices, as the most qualified and cost-effective option; and

WHEREAS, engaging LSL, LLP, along with onboarding of a new Interim Finance Director as an Extra Help retiree annuitant, will provide the additional capacity, expertise, and leadership necessary to bring the City's financial records current and ensure accurate data for the upcoming budget cycle and long-term fiscal planning; and

WHEREAS, an appropriation in the amount of $310,000 is required from the General Fund to Account 001-1910-412-33.11.

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

SECTION 1. The City Council approves the Professional Services Agreement with LSL, LLP in the amount of $310,000 for Professional Municipal Accounting Services.

SECTION 2. The City Council authorizes the City Manager, or their designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Professional Services Agreement with LSL, LLP.

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 October 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative
City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-149, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of October 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement with LSL, LLP

PREPARED BY
LSL, LLP
Certified Public Accountants
License Number 2584

Proposal Presented to the City of Banning

Accounting and Consulting Services

Date of Submission: October 8, 2025
Valid for 90 Days

Authorized by
Kelly Telford, CPA, Partner
500 Technology Drive, Suite 350
Irvine, CA 92618
(949) 829-8299

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LETTER OF TRANSMITTAL

October 8, 2025

Bob Deis
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Dear Mr. Deis,

LSL, LLP (“LSL”) is pleased to present our proposal for accounting and consulting services. We value the opportunity to present our professional qualifications to the City of Banning and demonstrate why our services are second to none.

LSL has a well-established history of delivering outstanding services to government entities. We provide auditing, accounting, and consulting services to more than 100 municipal clients across the country, such as cities, counties, water and electric utilities, and special-purpose government agencies. Our proposal highlights our firm’s strength and stability, along with our demonstrated experience, knowledge, passion, and creative problem-solving capabilities as a leader in the field of governmental accounting and auditing. Our dynamic team is comprised of top talent within the industry, and with our comprehensive government experience, and our dedication to providing personalized experiences for each of our clients, we believe you will find that LSL is one of the best-qualified accounting firms to provide these services.

SCOPE OF SERVICES AND DELIVERABLES

We understand you are seeking a qualified firm to provide consulting and accounting services. LSL has a structured, well-tested approach to providing accounting services. Our goal is not to replace your team but become a part of it. Our team is willing and ready to provide assistance in strategic areas that allow your team to focus on the day-to-day while allowing us to take care of more complex tasks that cannot be done by other team members. The City can benefit from various services, including year-end and month-end close, as well as special projects like financial analysis for internal service funds. LSL can handle tasks typically managed by the finance department so your team can focus on daily operations. Details on LSL's services are in Appendix A, which can be prioritized with City staff to address key items within budget.

QUALIFICATIONS AND PERSONNEL

Our dedicated team of professionals have over 100 years of expertise working in and with government agencies. Key members of our team and their requisite experience is listed below. Detailed resumes of our management team are included below. Additional information regarding the other members of the team are available upon request.



Kelly Telford, CPA, Partner

Kelly is a respected leader in public finance and is known for being a change agent and thought leader in organizational strategy. She has developed her expertise in accounting and auditing, financial forecasting, budget development, public utilities, investment management, grant management, human resources, and information technology, including ERP implementations. She has taught classes for GFOA and CSMFO and has presented at annual conferences for GFOA, CSMFO and GFOAA.

Kelly has a wealth of experience in both public accounting and local government. She has previously served as Finance Director for the cities of Costa Mesa and Seal Beach as well as the Los Angeles Community Development Agency.

Kelly has a proven track record of helping agencies identify operating inefficiencies assisted in departmental reorganizations, identify internal control challenges, completing year-end close procedures, and serving as an outsourced Finance Director. Her practical recommendations are instrumental in helping our team and our clients achieve a high-quality and efficient audit while providing valuable feedback for organizational improvements.



Noah Daniels, CPA, CPFO, Director

Noah has extensive experience in municipal finance departments, gained through both his work as an auditor and his work in local government agencies. As a director, he combines his strategic problem-solving approach with firsthand knowledge of our client's operations, allowing him to understand their needs and serve as a trusted partner and extension of their departments. Noah's expertise has been instrumental in helping government agencies maximize the use of their existing resources to meet a broader range of priorities.

As the Finance Director for the City of Rancho Cucamonga, Noah's strategic leadership was instrumental in replacing an outdated financial system (Workday), enhancing efficiency and accuracy. He was responsible for designing fiscal policies, including debt management, special district funding, and reserve policies, to ensure efficiency, compliance, and adherence to government regulations.



Aaron Rios, CPA, Senior Manager

With more than two decades of experience, Aaron brings deep expertise, passion, and a steady hand to the LSL team. Specializing in governmental agencies, he helps clients navigate with confidence in their audits, reporting, internal controls, and compliance. Previously a partner at a top 25 regional firm and assurance director at a top 10 national firm - Aaron has worked with both large and small organizations across the country. His experience in internal control improvements has helped him become a top advisor for his clients. His practical recommendations are instrumental in helping our team and our clients achieve a high-quality and efficient audits while providing valuable feedback for organizational improvements.



Hiram Zavala, Supervisor

With more than a decade of experience in municipal accounting and finance, Hiram Zavala brings strong technical expertise and practical experience to the LSL team. Before joining LSL, he held key finance roles with the County of San Bernardino and the cities of Ontario and Rancho Cucamonga. Hiram has performed a variety of tasks in those roles, including capital asset accounting, accounts payable, budgeting, assembling cost allocation plan and indirect cost rate calculations, and improving financial reporting processes. His analytical and collaborative approach makes him a valuable contributor to complex accounting and implementation projects supporting LSL's government clients.



Cara Clifton, Senior Accountant

With more than 22 years of experience in municipal accounting, Cara brings extensive knowledge of fund accounting, bank reconciliations, capital assets, and utility billing. Before joining LSL, Cara spent 16 years with the City of Longview, Texas where she rose to the role of Utilities Accounting Supervisor. Her responsibilities included capital asset accounting, grant management, multiple bank reconciliations, and oversight of utility revenue internal controls.

She has supported numerous cities and special districts in their year-end close processes, including bank reconciliation, capital assets, pensions, OPEB, leases, and IT subscriptions. Cara's hands-on approach and familiarity with municipal systems make her a trusted resource for complex reconciliations and year-end close support.

In addition to our key team members, our team includes seniors, supervisors, and managers with extensive experience working in and with local governments. All assigned staff have significant expertise in providing auditing and accounting services for cities, counties, and special-purpose government agencies. This ensures that your team does not need to train ours. All our team members are supervised by the LSL management team, guaranteeing that the deliverables we provide to our clients are of high quality and accuracy.

As you can see, LSL is uniquely positioned to assist our clients as our team is comprised of government industry experts who have worked in local governments themselves. Our team understands the complexities of government accounting and can ensure your accounting is accurate and well maintained. In addition, our team has worked in various ERP systems as both consultants and as members of local government which allows us to adapt quickly to *your* financial environment.

Also, having a team that has worked in local government, we can assist with other projects you may need such as training and support of finance department staff, evaluations of efficiencies in the department and assessments to help determine where staff capacity exists, and serving as a backup for day-to-day transaction processing such as utility billing, accounts payable and payroll.

The LSL team is comprised of top talent within the industry with comprehensive experience beyond governmental audit, accounting, and advisory services. When you partner with LSL, you gain access to the experience, knowledge, and resources of our entire team, including our consulting and technology teams. We are committed to helping finance departments thrive by providing the guidance, tools, and services that foster lifelong success for your finance team. We encourage our clients to tap into our full professional team of industry and product experts for your full-service consulting, staffing, and financial report automation solutions.



Financial & Compliance Audits



Consulting, Staffing & Training



ERP & Other Technologies

COST PROPOSAL AND PAYMENT TERMS

Our professional fee for the services outlined in Appendix A – Scope and Deliverables will be at the firm's standard rates plus out of pocket expenses. Our fees are based on the time required by the individuals assigned to the engagement, the complexity of the work to be performed, as well as any out-of-pocket expenses. Due to the nature of these services, LSL recommends an hourly contract be established to allow for as little or as much assistance as necessary. Estimates are preliminary and subject to change based on the complexity of the work, the extent of procedures required, and the condition of the City's accounting records to be evaluated while onsite and throughout the project. Any significant deviations from these estimates will be reviewed and discussed with City management prior to proceeding.

Task 1 – Assist with FY 2024–25 Year End Close	$145,000 to $195,000
Task 2 – Review FY 2025–26 Adopted Budget for Reasonableness	$25,000 to $50,000
Task 3 – Collaborate with ISF Program Managers and Develop an Allocation Plan	$35,000 to $50,000
Task 4 – Develop Implementation Plan for ISF Allocation Plan	$10,000 to $15,000
Task 5 – Support for Year-End and Ongoing Accounting Services	To be determined

Our standard hourly rates are as follows:

LSL 2025 Hourly Rates	
Title	**Rates**
Group Training	$450
Partner	$390
Director	$320
Senior Manager	$290
Manager	$250
Supervisor	$210
Senior Accountant	$190
Experienced Staff	$160
Staff Accountant	$140
Clerical	$120

Additional circumstances may arise that could impact the total cost including, but not limited to, increase in scope, issues encountered with the timely delivery, availability, quality, or completeness of the information you provide to us, changes in your personnel or operations that impact our services or other unanticipated items that arise during our engagement and that require additional time to complete the agreed-upon services. You agree that you will deliver all records requested and respond to all inquiries made by our staff to complete this engagement on a timely basis. You agree to pay all fees and expenses incurred whether or not we issue deliverable(s). Should these circumstances exist, our team will communicate with staff prior to time being incurred.

Any non-personnel-related costs, including travel-related costs, will be billed and reimbursed as they are incurred, if necessary. Progress bills will be sent monthly on the basis of hours of work completed during the course of the engagement plus out-of-pocket expenses incurred in accordance with the firm's proposal.

The rates above are effective through December 31, 2025. Rates increase annually on January 1 based upon market rates for similar services and generally range between 3% to 7%.

ADAPTING TO A REMOTE WORKING RELATIONSHIP

LSL is fully equipped with software and communication tools to support a remote process. We leverage Microsoft Teams to easily connect over a video call in a face-to-face setting, giving us the ability to share screens and information in real-time. Additionally, having the customizable *LSL CaseWare Cloud Portal* makes the exchange of secure information easy and painless. LSL is also accustomed to working in our client's financial software solutions in a remote environment, taking advantage of VPN connections and remote desktops. In an effort to reduce costs for our clients, our team has become accustomed to working remotely using remote desktop technology. It is anticipated that the work would be performed on-site and remotely.

CONCLUSION

Our collective experience in local government accounting backed by our comprehensive understanding of all facets of municipal government operations has resulted in our development of efficient procedures and a streamlined work plan approach, which we believe makes LSL one of the best-qualified teams to perform this engagement.

Our proposal is a firm and irrevocable offer for **90 days** following the closing date for the receipt of proposals. For this proposal, Kelly Telford, CPA, Partner, is authorized to make representations for our firm. She can be reached by phone at (714) 458-5292 or by email at Kelly.Telford@lslcpas.com.

Very truly yours,

LSL, LLP

LSL PROFILE

LSL provides auditing, accounting, and consulting services to over 100 municipal clients, including cities, counties, water and electric utilities, and special-purpose government agencies. Generally, our government sector services break down into the following major classifications: attestation, compliance, consulting, outsourced accounting and reporting, year-end close assistance, interim staffing, strategic planning, and tax services.

Our extensive experience in local government accounting has led to the development of efficient procedures and a comprehensive understanding of all finance department operations, including federal and state grant programs. Our work plan approach takes full advantage of accumulated experiences, which we believe sets LSL apart.

Our dynamic team of industry experts holds extensive experience providing services to a full range of government entities. We lead seminars and training courses on introductory government accounting, preliminary views on financial reporting, internal control risk assessments, and all GASB updates and best practices.

HISTORY AND SIZE

LSL is a limited liability partnership and is not a wholly owned subsidiary of a parent company. LSL was established in 1929 and has grown as a leader in the government sector. Our full-service accounting firm is headquartered in Irvine, California, with a dynamic team of 15 partners, 2 principals, and 150 employees.



Ranked #17 on the Orange County Business Journal's CPA Firm Book of Lists

Established in 1929

15 Partners

150 employees (and growing!)

LOCATION

LSL is a multi-location firm with formidable resources that provides a personal feel and hands-on client experience.

Our Offices

Irvine, CA - Headquarters

500 Technology Drive, Suite 350
Irvine, CA 92618
Phone: (949) 829-8299

Sacramento, CA

2151 River Plaza Dr., Suite 150
Sacramento, CA 95833
Phone: (916) 503-9691

The Woodlands, TX

21 Waterway Avenue, Suite 30089
The Woodlands, TX 77380
Phone: (936) 828-4587

ACCOUNTING TODAY REGIONAL LEADER

LSL has again been recognized as an Accounting Today Regional Leader in 2025. The list ranks the top CPA firms that have shown exceptional growth, embraced technology, and who 'think outside the box' when providing solutions.



INSIDE PUBLIC ACCOUNTING (IPA) AWARD

LSL is honored to be recognized among the Top 300 accounting firms in the nation by INSIDE Public Accounting! Each year, IPA ranks CPA firms based on net revenue, and LSL proudly advanced from #220 in 2024 to #201 in 2025. Our fantastic team and the trust of our valued clients are the driving force behind this upward momentum and continued growth.

OUR CORE VALUES

As we continue to grow and evolve, we recognized our core values needed to grow and change with us. Our values weren't decided on by management and handed down, every member of the LSL team worked together to share what values matter most to us. From there, we came up with the following five core values that embody how we approach each other, our work, and our clients.



PURSUE EXCELLENCE | LOVE WHAT YOU DO | LEAD WITH INTEGRITY | ACCOMPLISH MORE TOGETHER | FORWARD THINKING

BEST OF ACCOUNTING AWARD

LSL has consistently secured the ClearlyRated *Best of Accounting* award since 2019. This exclusive program awards accounting firms who demonstrate high-level service of excellence within the accounting industry and solely leverages statistically validated survey responses from our clients.

4.7 based on 646 ratings

TRAINING AND SEMINARS

LSL regularly leads seminars and training courses on introductory governmental accounting, preliminary views on financial reporting, internal control risk assessments, and all GASB updates and best practices, which are made available to our clients for additional information and continued support. For upcoming webinars, please visit https://lslcpas.com/webinars/.

LICENSE TO PRACTICE

LSL is a limited liability partnership and is not a wholly owned subsidiary of a parent company. LSL is a public accounting firm licensed by the State of California, Department of Consumer Affairs, as a Public Accounting Partnership. Under Section 901.461 of the State of Texas Public Accountancy Act, LSL is authorized to practice in the State of Texas as an out-of-state firm. We are also members of the American Institute of Certified Public Accountants. All key staff to be assigned to this engagement are or will be licensed by the State of California to practice as Certified Public Accountants and are pending approval for licensure in the State of Texas.

DESK REVIEWS AND DISCIPLINARY ACTION

There have been no disciplinary actions against our organization since its inception. There have been no litigations against our firm in the past three years. Our Single Audit reports are desk reviewed either by the federal cognizant agency or the State Controller's Office acting as the Oversight Agency. We have never had a report rejected by any of these agencies, which demonstrates our thorough understanding of federal grant programs. LSL is highly regarded and recognized by the staff of the State Controller's Office for top-quality reports.

PEER REVIEW

Our firm has participated in the AICPA Peer Review Program since its inception. All our peer reviews have covered governmental engagements and have received *pass* ratings. Our most recent peer review, conducted by Spafford and Landry CPAs, is provided in Appendix C.

QUALIFICATIONS & EXPERIENCE

CONTINUING EDUCATION

As a firm policy, all professional government staff meet the requirement of 40 hours of continuing education every year, with at least 24 hours in governmental accounting and auditing in a two-year period. Our educational programs include training from CalCPA, AICPA, Government Audit Quality Center, and GFOA.

RECENT EXPERIENCE

As a firm, we have extensive experience with municipalities including cities, counties, water and electric utilities, special districts, joint powers authorities and compliance with OMB Uniform Guidance. We are familiar with all federal and state grant programs typically awarded to municipalities. Generally, our government sector services break down into the following major classifications: attestation, compliance, consulting, interim staffing, strategic planning, and tax services. A list of current government clients can be provided upon request.

As a part of our consulting services, we also provide accounting services that include outsourced accounting services, year-end close assistance, audit preparation, bank reconciliation, training, accounting software implementation, and GASB implementation services. Our team is well-versed in using most accounting software solutions, including Workday, Tyler Munis, One Solution, PeopleSoft, and Tyler Incode.

Our collective experience in local government accounting, backed by our comprehensive understanding of all federal and state grant programs awarded to municipalities, has refined our development of efficient procedures and streamlined work plan approach, which we believe makes LSL one of the best-qualified teams to perform these services.

APPENDIX A – SCOPE AND DELIVERABLES

DESCRIPTION OF SERVICES AND DELIVERABLE	PLAN AND OUTCOME
On boarding, including: • Configure system access and review available financial records, including the general ledger, budget system (e.g., Naviline or OpenGov), and supporting documentation • Coordinate the transition of accounting information to understand existing processes, reconciliations completed to date, and areas requiring immediate attention • Review prior-year financial statements and trial balances • Meet with accounting and management staff to confirm responsibilities, establish communication protocols, and define a reporting cadence • Schedule and coordinate onsite visits based on project milestones and staff availability	Onboarding to occur within one week of contract execution and will include in-person and remote resources
Task 1 – Assist with FY 2024–25 Year End Close: • Perform year-end close procedures, including reconciliation of key fund-level balance sheet accounts such as receivables, payables, interfund balances, and accrued liabilities • Prepare and reconcile capital asset • Review and calculate accrued liabilities (e.g., compensated absences, pension and OPEB balances, leases, and claims payable) as determined during onboarding; LSL can assist with the necessary calculations and implementation of GASB 101 for compensated absences • Review revenue and expenditure activity for completeness, accuracy, and proper period recognition • Reconcile interfund transactions to ensure all entries are balanced across funds • Evaluate beginning fund balances to determine if there are General Fund subsidies that will be required to clear negative balances in other funds • Collaborate with City staff to ensure the completeness and accuracy of accounting activities to provide a reliable foundation for year-end close City responsibilities will include: • Complete FY 2024-25 bank reconciliations by interim and City staff • Accounts payable accruals and reconciliations utilizing the City's ERP system • Assist LSL in locating and providing supporting documentation and records as available	Plan: Two-week onsite review followed by remote work as needed. Estimated 500 to 700 hours, depending on reliability of beginning balances, completeness of prior year end closes, and availability of information (additional onsite weeks can be accommodated, as needed) In an effort to reduce the estimated hours, LSL will work with City staff to determine areas where work can be performed in-house and incorporated into the year-end close Outcome: At the end of this task, LSL will provide estimated unaudited fund balance for the General Fund and Internal Service Funds to assist management in making financial decisions

DESCRIPTION OF SERVICES AND DELIVERABLE	PLAN AND OUTCOME
Task 2 – Review FY 2025–26 Adopted Budget for Reasonableness: • Analyze the adopted FY 2025-26 budget in relation to FY 2024-25 actual and pacing through December 31, 2025 (mid-year analysis) • Review key revenue and expenditure assumptions against supporting documentation and known financial activity • Perform variance analysis to identify any material deviations and necessary budget amendments • Prepare a memorandum summarizing findings and recommended revisions for City management City responsibilities will include: • Provide the adopted FY 2025–26 budget files, schedules, and supporting documentation, including labor-related calculations • Ensure all FY 2025-26 accounting, including bank reconciliation, is maintained and up-to-date to ensure reliability of general ledger actuals • Make key staff available to discuss departmental budgets and assumptions discussed during analysis	Plan: Upon completion of Task 1; estimated 100 to 200 hours Outcome: Communicate recommended revisions to the FY 2025-26 budget with an executive summary of key areas of concern
Task 3 – Collaborate with Internal Service Funds (ISF) Program Managers and Develop an Allocation Plan: • Develop an allocation plan for ISF services using measurable cost drivers (e.g., staff hours, usage, or service levels) and include a true-up to actuals at the end of each year • Identify cost centers, establish allocation methodologies, and design a chargeback model • Prepare calculation templates using FY 2025–26 budget figures • Prepare a summary memorandum detailing the methodology and implementation recommendations • Recommend policy, procedural, and accounting updates to support implementation City responsibilities will include: • Access to departmental budgets, staffing and operational data and information (e.g., vehicle inventory, user counts, or claims data) necessary to evaluate cost drivers	Plan: Begin during Task 1 once records are reasonably accurate. Estimated 140 to 200 hours, depending on information accessibility and staff availability Outcome: Develop new ISF fund allocation plans that prevents the continued depletion of fund resources and instruct on future implementation plan Communication of recommendations to management for evaluation and implementation

Task 4 – Develop Implementation Plan for ISF Allocation Plan: • Develop a transition plan to move from the current cost allocation model to the new ISF allocation plan established in Task 3 • Propose adjustments to financial reporting and budget practices to align with the revised ISF Allocation Plan • Identify opportunities to eliminate structural deficits that have built up in previous years and replenish reserves in these funds City responsibilities will include: • Review and provide feedback on the proposed transition plan and implementation schedule • Coordinate internal review and approval of policy and procedural updates	Plan: Upon completion of Task 3; estimated 40 to 60 hours, depending on the methodology prescribed in Task 3 Outcome: Summary documentation and presentation materials for internal review and adoption
Task 5 –Support for year-end and ongoing accounting services, including: • Assistance with facilitating the FY 2024-25 annual audit, including preparation of audit request and representation with the auditors • Review of financial statements and preparation of additional items included in the annual financial statements • Additional assistance, as needed	Plan: Provided, as needed, and coordinated between LSL and the City based on the scope of the additional request

APPENDIX B – CLIENT REFERENCES

City of Palos Verdes Estates, CA	
Contact	Kerry Kallman, City Manager
Telephone	(310) 378-0383
Email Address	kkallman@pvestates.org
Scope of Work	The LSL Team provides year-end close process by providing comprehensive services, including capital asset analysis, balance sheet account reconciliations, income statement fluctuation analysis, and audit-related reviews and representation with the auditors. The role includes coordination of the financial statements, performing review and tie-out procedures, ensuring accuracy throughout the entire audit process. In addition, LSL provides assistance with the development of the annual budget and midyear budget review. This assistance was provided both in-person and remotely.

City of Beaumont, CA	
Contact	Jennifer Ustation, Finance Director
Telephone	(951) 572-3236
Email Address	justation@beaumontca.gov
Scope of Work	LSL provided assistance with reconciling monthly trustee statements for numerous Community Facilities District (CFD) accounts, ensuring all accounts were accurately reconciled and properly posted to the general ledger. In addition, LSL supported the City in reconciling CFD special tax receipts, debt service payments, operational expenditures, and other transactions, helping to confirm the accuracy of general ledger activity across multiple years.

City of Livingston, CA	
Contact	Happy Bains, Finance Director/Assistance City Manager
Telephone	(209) 394-8041
Email Address	hbains@livingstonca.gov
Scope of Work	LSL provided both in-person and remote support for the implementaiton of new GASB standards, year-end close procedures and audit readiness. Including guidance and technical support for GASB 68 (Pension), GASB 75 (OPEB), GASB 87 (Leases), and GASB 96 (Subscription-Based IT Arrangements) through analysis and preparation of required journal entries.

APPENDIX C – PEER REVIEW

SPAFFORD AND LANDRY CPAs
HERE TO MAKE THE COMPLEX SIMPLE.

Patrick D. Spafford, CPA
Todd C. Landry, CPA

Licensed by the California Board of Accountancy
Member: American Institute of Certified Public Accountants

Report on the Firm's System of Quality Control

To Lance, Soll & Lunghard, LLP
and the Peer Review Committee of the California Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Lance, Soll & Lunghard, LLP (the firm) in effect for the year ended May 31, 2022. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a system review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported on in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing and complying with a system of quality control to provide the firm with reasonable assurance of performing and reporting in conformity with the requirements of applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported on in conformity with the requirements of the applicable professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design and compliance with the firm's system of quality control based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and employee benefit plan audits.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

1849 W. Redlands Blvd., #102, Redlands, CA 92373 · P.O. Box 8847 Redlands, CA 92375 • Tel 909-792-1852 · Fax 909-792-2015

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Lance, Soll & Lunghard, LLP in effect for the year ended May 31, 2022, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of pass, *pass with deficiency (ies)*, or *fail*. Lance, Soll & Lunghard, LLP has received a peer review rating of *pass*.



March 30, 2023

LSL
www.lslcpas.com

AGREEMENT FOR PROFESSIONAL SERVICES
BY INDEPENDENT CONTRACTOR

THIS AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the October 14, 2025 by and between the **CITY OF BANNING**, a California municipal corporation ("City") whose address is 99 East Ramsey Street, Banning, California 92220, and LSL, LLP, a California limited liability partnership whose address is 500 Technology Drive, Suite 350 Irvine, California 92618 ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "party" and hereinafter collectively referred to as the "parties."

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Agreement:

A. City desires to engage Contractor to provide the following services: accounting and finance consulting support; and

B. Contractor has made a proposal ("Proposal") to the City to provide such professional services, which Proposal is attached hereto as **Exhibit "A"** and incorporated herein by this reference; and

C. Contractor agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement, and represents and warrants to City that Contractor possesses the necessary skills, licenses, certifications, qualifications, personnel and equipment to provide such services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, City and Contractor agree as follows:

1. Term of Agreement. This Agreement is effective as of the date first above written and shall continue until terminated as provided for herein. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate after eighteen months, unless extended by the parties with the approval of the City Council of the City.

2. Services to be Performed. Contractor agrees to provide the services ("Services") as follows: accounting and consulting in accordance with Exhibit "A". All Services shall be

performed in the manner and according to the timeframe set forth in the Proposal. Contractor designates Kelly Telford, CPA, Partner as Contractor's Representative responsible for overseeing the Services provided by Contractor ("Contractor's Representative"). City designates the City Manager, or his or her designee, to act as the Project Manager ("Project Manager") in connection with the delivery of Services under this Agreement. Contractor shall supply, at its sole expense, all equipment, tools, materials, and supplies necessary to perform Services. In the event that the Proposal contains terms that are in addition to or in conflict with this Agreement, other than the price for Services, such terms shall not be valid and shall be of no force or effect.

3. Associates and Subcontractors. Contractor may, at Contractor's sole cost and expense, employ such competent and qualified independent associates, subcontractors and consultants as Contractor deems necessary to perform the Services; provided, however, that Contractor shall not subcontract any of the Services without the prior written consent of City.

4. Compensation.

4.01 Contractor shall be paid at the rates set forth in the Proposal and shall not increase any rate without the prior written consent of the City. Notwithstanding anything in this Agreement to the contrary, total fees and charges paid by City to Contractor under this Agreement shall not exceed the amount of Three-Hundred and Ten-Thousand Dollars and Zero Cents ($310,000).

4.02 Contractor shall not be compensated for any Services rendered nor reimbursed for any expenses incurred in excess of those authorized unless approved in advance by the City, in writing.

4.03 Contractor shall submit to City, on or before the fifteenth (15th) of each month, itemized invoices for the Services rendered in the previous month. The City shall not be obligated to pay any invoice that is submitted more than sixty (60) days after the due date of such invoice. City shall have the right to review and audit all invoices prior to or after payment to Contractor. This review and audit may include, but not be limited to City's:

a. Determination that any hourly fee charged is consistent with this Agreement's approved hourly rate schedule;

b. Verification that the hours billed, when multiplied by the approved hourly rates, result in the correct total;

c. Determination that each item charged is the usual, customary, and reasonable charge for the particular item. If City determines an item charged is greater than usual,

customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, City shall either return the bill to Contractor with a request for explanation or adjust the payment accordingly and give notice to Contractor of the adjustment.

4.04 If the work is satisfactorily completed, City shall pay such invoice within thirty (30) days of its receipt. Should City dispute any portion of any invoice, City shall pay the undisputed portion within the time stated above, and at the same time advise Contractor in writing of the disputed portion.

5. Obligations of Contractor.

5.01 Contractor agrees to perform all Services in accordance with the terms and conditions of this Agreement and the Proposal. In the event that the terms of the Proposal shall conflict with the terms of this Agreement or contain additional terms that purport to bind the City other than the Services to be rendered and the hourly rate for the Services, the terms of this Agreement shall govern and said additional or conflicting terms shall be of no force or effect.

5.02 Except as otherwise agreed by the parties, Contractor will supply all personnel, materials and equipment required to perform the Services. Contractor shall provide its own offices, telephones, vehicles and computers. Contractor will determine the method, details, and means of performing the Services under this Agreement.

5.03 Contractor shall keep City informed as to the progress of the Services by means of regular and frequent consultations. Additionally, when requested by City, Contractor shall prepare written status reports.

5.04 Contractor is responsible for paying, when due, all income and other taxes, fees, and withholding, including withholding state and federal taxes, social security, unemployment and worker's compensation, incurred as a result of the compensation paid under this Agreement. Contractor agrees to indemnify, defend, and hold harmless City for any claims, costs, losses, fees, penalties, interest, or damages suffered by City resulting from Contractor's failure to comply with this provision.

5.05 In the event Contractor is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished in conformance with local, state and federal laws, rules and regulations.

5.06 Contractor represents that it possesses all required licenses necessary or applicable to the performance of Services under this Agreement and the Proposal and shall obtain and keep in full force and effect all permits and approvals required to perform the Services herein.

In the event City is required to obtain an approval or permit from another governmental entity, Contractor shall provide all necessary supporting documents to be filed with such entity.

5.07 Contractor shall be solely responsible for obtaining Employment Eligibility Verification information from Contractor's employees, in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a), and shall ensure that Contractor's employees are eligible to work in the United States.

5.08 In the event that Contractor employs, contracts with, or otherwise utilizes any CalPERS retirees in completing any of the Services performed hereunder, such instances shall be disclosed in advance to the City and shall be subject to the City's advance written approval.

5.09 Drug-free Workplace Certification. By signing this Agreement, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace.

5.10 Contractor shall comply with all applicable local, state and federal laws, rules, regulations, entitlements and/or permits applicable to, or governing the Services authorized hereunder including, but not limited to California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act, related to their scope of work and operations. In case of conflict, the most stringent shall apply.

5.11 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.

5.12 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 conditions, circumstances, 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 facts and shall not proceed except at Contractor's sole risk until written instructions are received from the Project Manager.

Contractor warrants all Services under the Agreement to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Services, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at Contractor's sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Services (or work of other contractors) damaged by Contractor's defective Services or which becomes damaged in the course of repairing or replacing defective Services. For any Services so corrected, Contractor's obligation hereunder to correct defective Services shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected Services. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor.

In the event that Contractor fails to fulfil its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Services and any work damaged by such services or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

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

5.13 Time is of the essence in the performance of this Agreement.

6. Insurance. Contractor hereby agrees to be solely responsible for the health and safety of its employees and agents in performing the Services under this Agreement and shall comply with all laws applicable to worker safety including but not limited to Cal-OSHA. Therefore, throughout the duration of this Agreement, Contractor hereby covenants and agrees to maintain insurance in conformance with the requirements set forth below. Attached hereto as **Exhibit "B"** are copies of Certificates of Insurance and endorsements as required by Section 7.02. If existing coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall provide the following types and amounts of insurance:

6.01 Commercial general liability insurance in an amount of not less than $2,000,000 per occurrence and $4,000,000 in the aggregate; Contractor agrees to have its insurer

endorse the general liability coverage required herein to include as additional insured's City, its officials, employees and agents. Contractor also agrees to require all contractors and subcontractors to provide the same coverage required under this Section 6.

6.02 Business Auto Coverage in an amount no less than $1 million per accident. If Contractor or Contractor's employees will use personal autos in performance of the Services hereunder, Contractor shall provide evidence of personal auto liability coverage for each such person.

6.03 Workers' Compensation insurance for any of Contractor's employees that will be providing any Services hereunder. Contractor will have a state-approved policy form providing statutory benefits as required by California law. The provisions of any Workers' Compensation insurance will not limit the obligations of Contractor under this Agreement. Contractor expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents. Sole proprietors with no employees, LLCs, or partnerships using the services of members or partners who do not carry Workers' Compensation insurance acknowledge that they are not subject to the Workers' Compensation Act of the State of California and agree to complete a signed workers compensation exemption form.

6.04 Optional Insurance Coverage. Choose and check one: Required [X] /Not Required __; Errors and omissions insurance in a minimum amount of $2 million per occurrence to cover any negligent acts or omissions committed by Contractor, its employees and/or agents in the performance of any Services for City.

6.05 Cyber Liability Insurance REQUIRED IF CHECKED HERE ONLY [X] (Technology Professional Liability – Errors and Omissions), with limits not less than $2,000,000 per occurrence or claim, and $2,000,000 aggregate or the full per occurrence limits of the policies available, whichever is greater. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Contractor will file with City, before beginning professional services, certificates of insurance (Acord Form 25 or equivalent) satisfactory to City evidencing.

6.06 If Claims Made Policies (applies only to professional liability and cyber liability policies):

i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

ii. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

iii. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the contract work.

7. General Conditions pertaining to Insurance Coverage.

7.01 No liability insurance coverage provided shall prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor waives all rights of subrogation against City regardless of the applicability of insurance proceeds and shall require all contractors and subcontractors to do the same.

7.02 Prior to beginning the Services under this Agreement, Contractor shall furnish City with certificates of insurance, endorsements, and upon request, complete copies of all policies, including complete copies of all endorsements. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

7.03 All required policies shall be issued by a highly rated insurer with a minimum A.M. Best rating of "A:VII". The insurer(s) shall be admitted and licensed to do business in California. The certificates of insurance hereunder shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to CITY.

7.04 Self-insurance does not comply with these insurance specifications. Contractor acknowledges and agrees that that all insurance coverage required to be provided by Contractor or any subcontractor, shall apply first and on a primary, non-contributing basis in relation to any other insurance, indemnity or self-insurance available to City.

7.05 All coverage types and limits required are subject to approval, modification and additional requirements by City, as the need arises. Contractor shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.

7.06 Contractor agrees to provide immediate notice to City of any claim or loss against Contractor or arising out of the Services performed under this Agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

7.07 The coverage shall contain no special limitations on the scope of protection afforded to City, its directors, officers, employees, or authorized volunteers. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

8. Indemnification.

8.01 Contractor and City agree that City, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs or any other costs arising out of or in any way related to the performance of this Agreement by Contractor or any subcontractor or agent of either as set forth herein. Accordingly, the provisions of this indemnity are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to City. Contractor acknowledges that City would not enter into this Agreement in the absence of the commitment of Contractor to defend, indemnify, and protect City as set forth herein.

a. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, injuries, expenses, damages or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by City, court costs, interest, defense costs, including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of, or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this Agreement. Contractor's obligation to defend, indemnify, and hold harmless shall include any and all claims, suits, and proceedings in which Contractor (and/or Contractor's agents and/or employees) is alleged to be an employee of City. All obligations under this provision are to be paid by Contractor as they are incurred by City.

b. Without affecting the rights of City under any provision of this Agreement or this Section, Contractor shall not be required to indemnify and hold harmless City

as set forth above for liability attributable solely to the fault of City, provided such fault is determined by agreement between the parties or the findings of a court of competent jurisdiction.

8A Indemnification Design Professionals. In the event that Contractor is a design professional under California Civil Code Section 2782.8 this Section 8A shall apply instead of Section 8. To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, Contractor shall defend, indemnify, and hold harmless the City, its officers, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action including, but not limited to those for, injury to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligence, recklessness, or willful misconduct of Contractor, its directors, officials, officers, employees and consultants arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement. This indemnity excludes liability caused by the negligence or willful misconduct of any of the Indemnified Parties. The cost to indemnify, hold harmless, and defend charged to Contractor shall not exceed Contractor's proportionate percentage of fault.

9. Additional Services, Changes and Deletions.

9.01. In the event Contractor performs additional or different services than those described herein without the prior written approval of the City Manager and/or City Council of City, Contractor shall not be compensated for such services. Contractor expressly waives any right to be compensated for services and materials not covered by the scope of this Agreement or authorized by the City in writing.

9.02 Contractor shall promptly advise the City Manager and Finance Director of City as soon as reasonably practicable upon gaining knowledge of a condition, event or accumulation of events which may affect the scope and/or cost of Services. All proposed changes, modifications, deletions and/or requests for additional services shall be reduced to writing for review and approval by the City and/or City Council.

10. Termination of Agreement.

10.01. Notwithstanding any other provision of this Agreement, City or Contractor, at its sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving twenty (20) days' written notice to Contractor.

10.02 In the event of termination, the payment of monies due Contractor for undisputed Services performed prior to the effective date of such termination shall be paid within thirty (30) business days after receipt of an invoice as provided in this Agreement. Immediately upon termination, Contractor agrees to promptly provide and deliver to City all original documents, reports, studies, plans, specifications and the like which are in the possession or control of Contractor and pertain to City.

11. Status of Contractor.

11.01 Contractor shall perform the Services in Contractor's own way as an independent contractor, and in pursuit of Contractor's independent calling, and not as an employee of City. However, Contractor shall regularly confer with City's City Manager or Project Manager as provided for in this Agreement.

11.02 Contractor agrees that it is not entitled to the rights and benefits afforded to City's employees, including disability or unemployment insurance, Workers' Compensation, retirement, CalPERS, medical insurance, sick leave, or any other employment benefit. Contractor is responsible for providing, at its own expense, disability, unemployment, Workers' Compensation and other insurance, training, permits, and licenses for itself and its employees and subcontractors.

11.03 Contractor hereby specifically represents and warrants to City that it possesses the qualifications and skills necessary to perform the Services under this Agreement in a competent, professional manner, without the advice or direction of City and that the Services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional rendering the same or similar services in the same geographic area where the City is located. Further, Contractor represents and warrants that the individual signing this Agreement on behalf of Contractor has the full authority to bind Contractor to this Agreement.

12. Ownership of Documents; Audit.

12.01 All draft and final reports, plans, drawings, studies, maps, photographs, specifications, data, notes, manuals, warranties, and all other documents of any kind or nature prepared, developed, or obtained by Contractor in connection with the performance of Services performed for the City shall become the sole property of City, and Contractor shall promptly deliver all such materials to City upon request. At the City's sole discretion, Contractor may be permitted to retain original documents, and furnish reproductions to City upon request, at no cost to City.

12.02 Subject to applicable federal and state laws, rules and regulations, City shall hold all intellectual property rights to any materials developed pursuant to this Agreement. Contractor shall not use such data or documents for purposes other than the performance of this Agreement, nor shall Contractor release, reproduce, distribute, publish, adapt for future use or any other purposes, or otherwise use, any data or other materials first produced in the performance of this Agreement, nor authorize others to do so, without the prior written consent of City.

12.03 Contractor shall retain and maintain, for a period not less than four years following termination of this Agreement, all-time records, accounting records and vouchers and all other records with respect to all matters concerning Services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as City may deem necessary, Contractor shall make available to City's agents for examination all of such records and shall permit City's agents to audit, examine and reproduce such records.

13. Miscellaneous Provisions.

13.01 This Agreement, which includes all attached exhibits, supersedes any and all previous agreements, either oral or written, between the parties hereto with respect to the rendering of Services by Contractor for City and contains all of the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

13.02 Contractor shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of City. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

13.03 Contractor shall timely file FPPC Form 700 Conflict of Interest Statements with City if required by California law and/or the City's conflict of interest policy.

13.04 If any legal action or proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled.

13.05 This Agreement is made, entered into and shall be performed in the County of Riverside in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California. The parties agree that venue in any litigation between them shall be in Riverside County, California.

13.06 Contractor covenants that neither it nor any officer or principal of its firm has any interest, nor shall they acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of their Services hereunder. Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed by it as an officer, employee, agent, or subcontractor.

13.07 Contractor has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflicts of interest of public officers and employees. Contractor agrees that they are unaware of any financial or economic interest of any public officer or employee of the City relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the City may immediately terminate this Agreement by giving notice thereof. Contractor shall comply with the requirements of Government Code section 87100 et seq. and section 1090 in the performance of and during the term of this Agreement.

13.08 Improper Consideration. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the City in an attempt to secure favorable treatment regarding this Agreement or any contract awarded by City. The City, by notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding sentence was offered to any officer, employee or agent of the City with respect to the proposal and award process of this Agreement or any City contract. This prohibition shall apply to any amendment, extension or evaluation process once this Agreement or any City contract has been awarded. Contractor shall immediately report any attempt by any City officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor.

13.09 Severability. If any portion, section, sentence, provision or paragraph of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Agreement not so affected shall remain in full force and effect.

13.10 Prevailing Wages. Contractor shall be responsible to comply with applicable prevailing wages laws. As a condition of payment, if applicable Contractor shall show proof of payment of wages under applicable state and federal laws and regulations relating to prevailing wages in accordance with the "General Wage Determination Made By the Director of Industrial Relations Pursuant To California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1", for Riverside County and/or 40 U.S.C. Section 276a, et. seq. Such wage rates shall conform with those posted at City offices and the project site. In the event that the Contractor fails to pay the prevailing wages, the Contractor shall be solely liable for penalties and for the

shortfall in wages and shall indemnify, defend and hold harmless City under Section 8.01 against any of the same. The following Labor Code sections are hereby referenced and made a part of this Agreement:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
2. Section 1777.4 - Apprenticeship Requirements.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1776 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

13.11 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 ensure that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

13.12 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 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.

13.13 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.

13.14 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 purpose of this Agreement.

13.15 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.

13.16 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 reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified neither party shall be responsible for the service of the other.

13.17 The recitals set forth in the preamble of this Agreement are hereby incorporated into and made a substantive part of this Agreement as if fully set forth herein.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereby have made and executed this Agreement to be effective as of the day and year first above written.

CITY:	**CONTRACTOR:**
CITY OF BANNING	LSL, LLP
By:_____	By:_____
Print Name: _____	Print Name: _____
Date: _____	Date: _____

EXHIBIT “A”
PROPOSAL

EXHIBIT “B”
CERTIFICATES OF INSURANCE

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NewGen Strategies & Solutions

225 Union Boulevard
Suite 450
Lakewood, CO 80228
Phone: (720) 633-9514

October 6, 2025
via email

Arturo Vela
Acting City Manager
Banning Electric Utility
99 East Ramsey Street
Banning, CA 92220

Subject: Banning Electric Utility Letter Report

Dear Mr. Vela:

In December 2024, the City of Banning (City) and the Banning Electric Utility (BEU) retained NewGen Strategies and Solutions, LLC (NewGen) to develop a detailed Cost of Service (COS) and Rate Study (Study) for its electric operations. The purpose of the Study was to analyze appropriate changes to BEU's current retail electric rate revenues to recover projected operating and non-operating expenses and improve its financial position. The Study resulted in recommended electric rate changes that are designed to ensure the financial integrity of the electric utility as an independent enterprise fund within the City.

The purpose of this report is to provide a summary of the Study's methodology, analysis, and findings. This includes a summary of the projected capital expenses, current and projected utility fund balances, ongoing operational expenses, and recommended rate changes. The Study utilized a future period, beginning in Fiscal Year (FY) 2026 (July 1, 2026) and concluding FY 2030 (June 30, 2030), which is referred to as the rate plan, Study period, or Test Year (TY). The methodology utilized in this Study was based on the industry accepted methodologies for developing COS and retail rate design for electric utility operations, supported by the American Public Power Association (APPA). This approach involved the development of an annual projected revenue requirement on a cash basis, which includes operations and maintenance (O&M) expenses, fuel costs, existing debt service, labor costs and other costs. Additionally, the City allocates expenses shared by various departments related to administrative, legal, and other costs through an internal process referred to as the City-wide Cost Allocation Plan (CAP). BEU's allocation of the CAP-related expenses were included on a historical and projected basis through the Study period.

BEU's other non-operating expenses include those necessary to fund future capital and replenish its financial reserve accounts. As indicated herein, no new debt was assumed to be issued by BEU to support future utility operations or capital improvements over the Study period. The projected net revenue requirement is the sum of the operating and non-operating expenses over the Study period, less revenue received from non-rate-related sources (including interest, market power sales, and others). The projected net cash revenue requirement determines the total cash to be recovered in retail rates, as recommended herein. A driving need for the rate changes identified during this Study is BEU's existing financial cash position related to its reserve funds.

Banning Electric Utility's Financial Position

BEU utilizes multiple unrestricted cash reserve funds for its financial operations. These include the Electric Operations Fund, the Rate Stability Fund, the Electric Improvement Fund, the Electric Revenue Bond

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Project Fund, and the Electric Revenue Bond Debt Service Fund. At the end of FY 2025 (July 1, 2025), the collective fund balance of these funds was estimated to be approximately negative $11 million.

One goal of this Study was to analyze and propose retail electric rates to address financial cash position of BEU's financial reserve funds. In coordination with BEU staff and the City's Budget and Finance Committee, a series of financial goals for improving BEU's fund balances were determined. The primary financial goal is to increase the revenues from electric rates so that the collective total fund balance of the utility is projected to be positive by the end of FY 2028. The estimated individual reserve fund balances for FY 2025 and the projected fund balances for FY 2026 through FY 2030, based on the proposed rate increases in this Study, are shown in Table 1 below.

Table 1
Projected Fund Balances

($000)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Electric Operations Fund	($1,968)	($1,046)	$1,838	$6,021	$7,747	$10,226
Rate Stability Fund	$6,904	$400	$2,525	$5,025	$5,025	$5,025
Electric Improvement Fund	($16,082)	($10,875)	($10,344)	($8,777)	($619)	$6,292
Electric Revenue Bond Project Fund	$696	$696	$696	$696	$696	$696
Electric Revenue Bond DS Fund	($11)	($11)	($11)	($11)	($11)	($11)
Proposed Working Capital Reserve (1)	$-	$452	$904	$1,356	$1,808	$2,260
Total Funds Balance (1)	**($10,461)**	**($10,383)**	**($4,391)**	**$4,311**	**$14,646**	**$24,489**

(1) BEU proposes developing a new Working Capital Reserve fund (see text).
(2) Numbers may not add due to rounding.

Based on the recommended rate changes developed for this Study, the total fund balance is projected to be positive at the end of FY 2028 and will continue to increase in FY 2029 and FY 2030. To reach a positive balance by FY 2028, the recommended rate changes are higher in the first two years than the last three years of the five-year rate plan. It is critical that the City and BEU continue to review the fund balance, the proposed electric rates, and projected revenues on an annual basis to ensure that they are on track to meet target goals established by this Study. Based on the values shown in Table 1, BEU's total fund balance is projected to be $24 million in FY 2030, which may exceed BEU's financial targets. City and BEU staff may need to adjust the recommended rate increases in the latter years of the five-year rate plan based on the actual rate revenues and the City's financial objectives.

The City proposes to develop a Working Capital Reserve fund to provide more financial stability for the utility. The Working Capital Reserve fund is proposed to be built up throughout the Study period to meet a balance equal to 1/8th of the projected annual non-fuel O&M expenses by the end of FY 2030. A Working Capital Reserve fund equal to 1/8th of annual non-fuel O&M expenses is a common electric utility practice for municipal electric utilities to address unforeseen and unplanned increases to O&M expenses.

The City also proposes to set a Days Cash on Hand (DCOH) minimum of 90 days relative to a portion of its reserve fund balances. DCOH is a common metric used in the utility industry to track a utility's short-term financial stability. A minimum DCOH of 90 days is a typical minimum target in the electric utility industry. The DCOH is calculated by dividing the available cash by the daily operating expenses for non-cash items to determine the total number of days cash that is available. The available cash proposed to be used in

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this metric is from BEU's Electric Operations and Rate Stability Funds. The proposed rates in this Study are estimated to meet the BEU's proposed 90 DCOH minimum by the end of FY 2028.

Revenue Requirement Forecast

BEU provides electrical service to retail customers in the City. The projected annual electric revenue requirement for the average of FY 2026 through FY 2030 (the TY), was estimated to be approximately $46.5 million (see Table 2). One purpose of this Study was to determine the rate changes needed to recover future operational costs, while addressing BEU's financial reserve cash position. Operational expenses for the electric utility operations include those for electric administration, O&M, and cash required for capital and existing debt service (as noted, no additional debt is proposed to be issued for BEU over the Study period). Operational expenses were assumed to increase annually based on estimated inflation rates for labor and non-labor costs and other estimates provided by BEU for specific cost items. The projected annual revenue requirement was estimated to increase from approximately $35.9 million in FY 2026 to approximately $53.2 million in FY 2030. Table 2 below shows the revenue requirement forecast for BEU for each year of the Study period, as well as the TY (average).

Table 2
BEU Projected Annual Revenue Requirement

($000)	Year 1 FY 2026	Year 2 FY 2027	Year 3 FY 2028	Year 4 FY 2029	Year 5 FY 2030	Test Year
Operating Expenses						
Purchased Power	$23,214	$24,428	$25,706	$27,051	$28,465	**$25,773**
Supplies and Services	$1,399	$1,432	$1,464	$1,496	$1,529	**$1,464**
Labor Expenses	$7,346	$7,523	$7,688	$7,857	$8,030	**$7,689**
Interfund Services	$5,480	$5,612	$5,735	$5,862	$5,990	**$5,736**
Other Expenses (Revenues)	$194	$199	$203	$208	$212	**$203**
Other						
Other Income	($5,784)	($5,794)	($5,804)	($5,814)	($5,824)	**($5,804)**
Contributions to Funds	$1,677	$7,702	$10,952	$12,452	$12,452	**$9,047**
Debt Service (2)	$2,390	$2,389	$2,392	$2,388	$2,315	**$2,375**
Total Revenue Requirement (1)	$35,918	$43,491	$48,338	$51,501	$53,174	**$46,483**

(1) Numbers may not add due to rounding.
(2) No additional debt service included in this Study.

Cost of Service Allocations

The next step in the COS process was to allocate the costs included in the revenue requirement to the various customer classes. Allocation factors were determined using BEU's specific customer class characteristic and usage data and industry standard practices. The allocation factors used in this Study can be categorized as energy-related, demand-related, or customer-related. Energy-related allocation factors were used to allocate energy-related costs or costs that vary directly with the amount of energy

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(kilowatt-hours [kWh]) used by each customer class. Demand-related allocation factors were used for fixed costs that do not vary in nature, including debt service payments, fixed costs for the transmission and distribution systems, and other fixed costs. The demand-related allocation factors used in this Study were based on apportionment of each customer class to total system load during peak times. Customer-related allocation factors were calculated based on the number of customers in a customer class. Customer-related costs included items such as customer billing, meter reading, customer installations, and customer-related accounting. Using the various allocation factors, the system's revenue requirement was allocated to each customer class to provide each class's individual revenue requirement.

Cost of Service Results

The fully allocated COS analysis determined the system-level COS and each customer class COS. The projected revenues needed to meet each class COS were compared to the projected revenue by class based on existing rates. The COS results served as a guide to BEU when designing the proposed retail rates herein. Table 3 shows the COS results by class (total dollars in thousands) and compared to the projected revenues at current rates for the average year (TY) developed for this Study.

Table 3
Cost of Service Results by Class

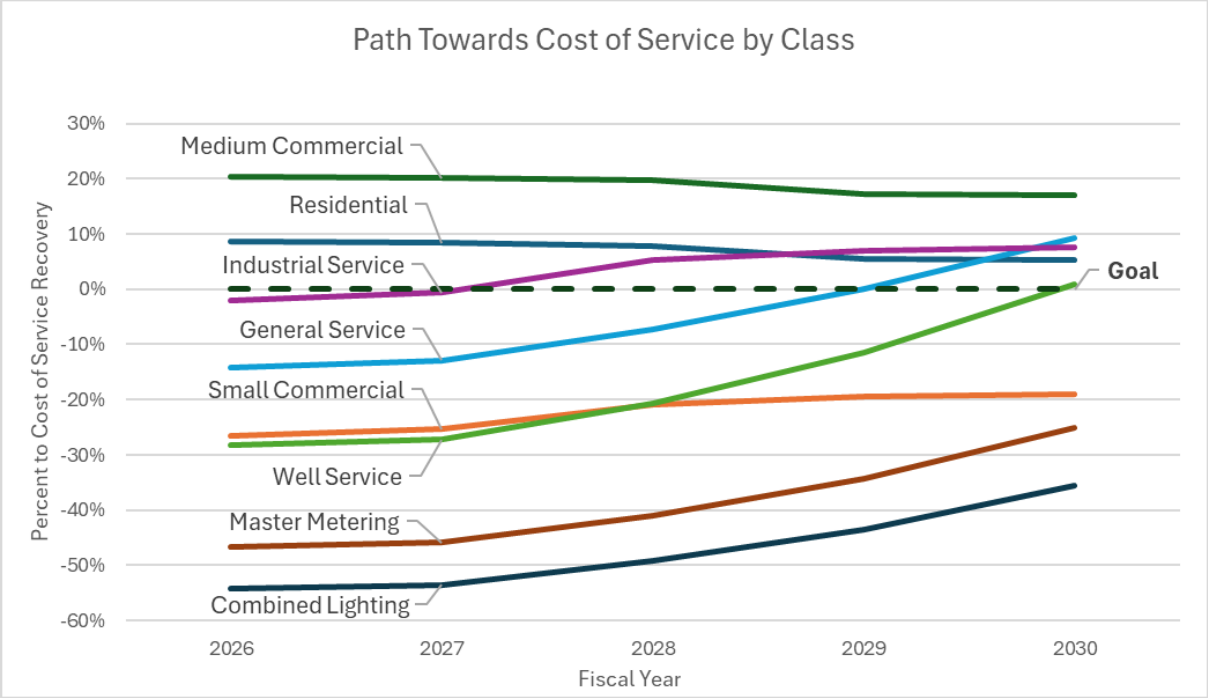
Rate Class	Test Year Cost of Service ($000)	Test Year Revenue at Current Rates ($000)	% Revenue Change Needed
Residential	$24,387	$19,767	23%
Small Commercial	$2,253	$1,247	81%
Medium Commercial	$4,840	$4,371	11%
General Service	$2,736	$1,751	56%
Industrial Service	$9,076	$6,707	35%
Well Service	$1,484	$800	86%
Master Metering	$1,062	$452	150%
Street & Security Lighting	$644	$258	149%
Total System	**$46,483**	**$35,326**	**32%**

Note: Totals may not add due to rounding.

As shown in Table 3, the total system revenues are projected to require a 32% increase to recover the projected revenue requirement for the TY period based on current rates. Some customer classes need higher revenue increases than others to meet their individual class COS. The proposed rate design in this Study is to bring each customer class closer to its individual COS over the five-year period, while attempting to avoid undue rate shock to the customers within each class. However, the overriding concern of this Study is to address BEU's cash reserve position, while moving each class closer to its COS over the five-year rate plan period. Figure 1 below shows each customer class's projected revenues as a percentage of their TY COS for each year of the five-year rate plan proposed herein.

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Figure 1 – Projected Revenues by Class as a Percent of Test Year Cost of Service



As previously mentioned, it is critical that the City and BEU continue to review the actual and projected annual rate revenues by class. To meet a positive reserve fund cash balance by the end of FY 2028, large rate increases are needed in the first three years of the five-year rate plan. The City and BEU have the ability and responsibility to adjust rate changes included in the five-year rate plan if actual revenues are determined to be higher than projected for this Study.

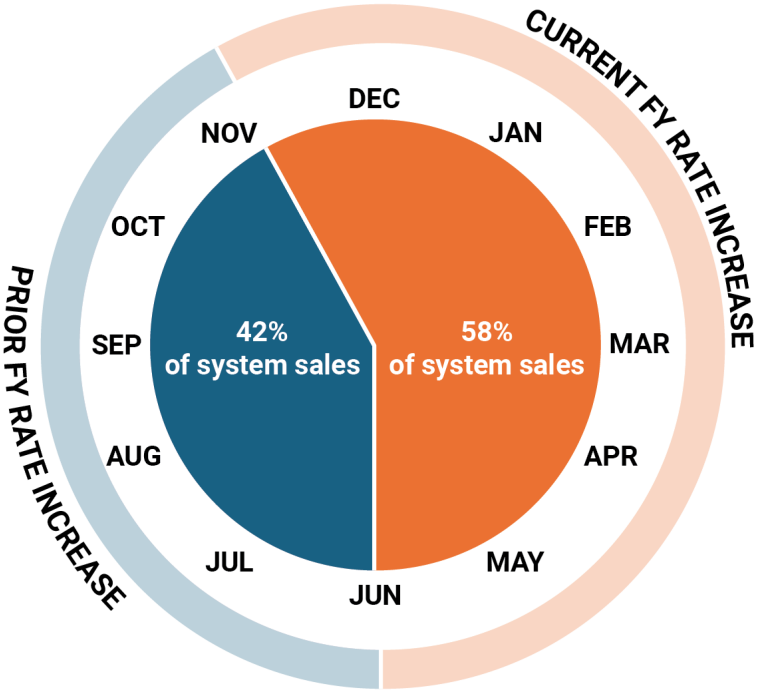
Proposed Electric Rates

To meet the annual projected cash needs for BEU's utility operations, NewGen proposes to increase rates for all customer classes for each year of the five-year rate plan. The cash needs for the electric utility operations are anticipated to exceed those provided by current rates in FY 2025. These rate changes were assumed to occur on November 1 of each year, based on direction provided by BEU.

As indicated previously, the FY begins on July 1 of each year, which means each FY of this Study will have two sets of rates. The previous FY's rates will be in effect until October 31, and the current FY rates will be in effect for the remainder of the FY (November 1 through June 30). Figure 2 below provides a graphic of the timing of the proposed FY rate increases compared to the system usage during the rate periods. It is important to note that almost half of the system usage occurs in the first four months of the FY, and the resulting percentage rate increase will be larger than the targeted revenue increase for each class.

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Figure 2 – Proposed Rate Increase Timing Compared to Fiscal Year



The average revenue change for all the customer classes is proposed to be approximately 20% in FY 2026 and FY 2027. Afterward, the average revenue change for each class varies, as the goal of the rate revenue is to move each class closer to its COS, as discussed above. Table 4 below shows these proposed rate changes for each rate component, for each rate class, for each year of the five-year rate plan.

It is important to note that the proposed rate changes do not include a projection of the existing Power Cost Adjustment Factor (PCAF) charge. The PCAF charge is designed to recover a portion of the power supply costs incurred by BEU to serve customers, which varies by month based on wholesale power purchases. The PCAF charge has a separate process by which the value is adjusted based on actual and projected costs as determined by BEU, which is excluded from the base rate analysis developed for this Study.

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Table 4
Proposed Base Rate Changes by Class

Rate Class / Base Rate	Current	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Residential						
Basic Service Charge ($/month)	$34.00	$43.00	$43.00	$43.00	$43.00	$43.00
Energy ($/kWh)	$0.1619	$0.1878	$0.2366	$0.2413	$0.2461	$0.2461
Small Commercial						
Basic Service Charge ($/month)	$67.00	$80.00	$80.00	$80.00	$80.00	$80.00
Energy ($/kWh)	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572
Multi-Phase Service Charge ($/month)	$4.52	$4.52	$4.52	$4.52	$4.52	$4.52
General Service						
Basic Service Charge ($/month)	$67.00	$80.00	$80.00	$80.00	$80.00	$80.00
Energy ($/kWh)	$0.1369	$0.1636	$0.2078	$0.2473	$0.2572	$0.2572
Medium Commercial						
Basic Service Charge ($/month)	$228.00	$290.00	$290.00	$290.00	$290.00	$290.00
Energy ($/kWh)	$0.1259	$0.1574	$0.1968	$0.1988	$0.2048	$0.2048
Demand Charge ($/kW)	$19.42	$20.00	$21.00	$22.00	$23.00	$23.00
Industrial Service						
Basic Service Charge ($/month)	$456.00	$525.00	$525.00	$525.00	$525.00	$525.00
Energy ($/kWh)	$0.1150	$0.1380	$0.1615	$0.1809	$0.1845	$0.1845
Demand Charge ($/kW)	$16.52	$20.00	$23.50	$26.00	$26.50	$26.50
Well Service						
Basic Service Charge ($/month)	$342.00	$400.00	$400.00	$400.00	$400.00	$400.00
Energy ($/kWh)	$0.1198	$0.1438	$0.1697	$0.1952	$0.2147	$0.2362
Demand Charge ($/kW)	$15.38	$18.50	$21.50	$24.50	$27.00	$29.50
Master Metering						
Basic Service Charge ($/month)	$34.00	$43.00	$43.00	$43.00	$43.00	$43.00
Energy ($/kWh)	$0.1619	$0.1935	$0.2245	$0.2660	$0.2953	$0.3248

Notes: Proposed rate components are rounded to four decimal places for energy and two decimal places for the Basic Service Charge and Demand Charge, as applicable. Excludes PCAF (see text).

Revenue Recovery from Proposed Base Rates

The projected revenues from the proposed base rates were estimated to be sufficient to meet the net revenue requirements of BEU's electrical operations for the Study period, as well as to produce a positive electric fund balance by the end of FY 2028 (as provided in Table 1).

Residential Bill Comparisons

BEU requested a review of the potential impacts from the recommended utility base rate changes. Table 5 below provides a comparison of the current and future monthly electric utility bills for an average

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residential BEU customer. The current bill includes an estimated PCAF charge of $0.0075/kWh for all years, while the actual PCAF will change according to BEU's policy. The total current bill for this residential customer was estimated based on an assumption of 511 kWh of energy per month, which equates to approximately $118.00. As indicated herein, the rates for electric services are proposed to increase on November 1, 2025, resulting in a monthly total bill increase of approximately $15.00. The proposed changes for residential electric services in November 2026 would increase that portion of the bill by approximately $26.00 per month (based on the estimated usage). As noted herein, the subsequent rate changes are relatively modest, however, the impact of the November 1 rate change is evident in the percentage increases shown for the estimated residential customer monthly bill impact in Table 5.

Table 5
Estimated Residential Customer Monthly Bill Impact

Bill Component	Current	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Energy Use (kWh) (1)	$117.66	$132.56	$159.08	$177.91	$183.24	$188.73
Difference ($)	N/A	$14.89	$26.53	$18.82	$5.34	$5.49
Difference (%)	N/A	13%	20%	12%	3%	3%

(1) Assuming 511 kWh monthly energy consumption, based on average BEU residential customer.

Recommendations

Based on the analysis developed in coordination with the City and BEU for this Study, NewGen recommends the following:

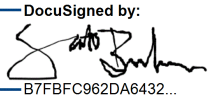
- The City and BEU should adopt the recommended rate changes proposed herein to address the immediate cash reserve needs of the utility.
- The City and BEU should monitor the performance of its new rates on an annual basis to ensure that revenues are sufficient to meet its cash reserve needs and related policy objectives.
- The City and BEU should establish a Working Capital Reserve fund that is equal to 1/8th of its estimated annual O&M expenses (excluding fuel costs) by 2030.
- The City and BEU should establish a policy for a minimum 90 DCOH. This DCOH policy should be calculated using the total fund balance of the Electric Operations and Rate Stability Funds, as discussed herein.

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We greatly appreciate the assistance of the City and BEU staff throughout the development of this Study. If you have any questions regarding our methodology, analysis, and recommended rates, please contact me directly at (720) 259-1762 or sburnham@newgenstrategies.net.

Sincerely,

NewGen Strategies and Solutions, LLC

DocuSigned by:

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Scott Burnham
Partner