AGENDA

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA

June 23, 2026
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).*

To observe and participate in the online video portion of the meeting through your personal computer or device, follow this link:
https://us02web.zoom.us/j/82012644588?pwd=GwdLNir0X6fHkhlgVjAjRUQf1C6yoz.1

Dial in: +1 669 900 9128

Meeting ID: 820 1264 4588
Password: 1913-92220

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 **ROLL CALL**

1.2 **INVOCATION**
Performed by Pastor Eric Wade of Sunrise Church

1.3 **PLEDGE OF ALLEGIANCES AND**

2. AGENDA APPROVAL

2.1 **AGENDA APPROVAL**

3. PRESENTATIONS

3.1 Proclamation - July as Parks and Recreation Month
Recommendation: Proclaim July 2026 as Parks and Recreation Month

4. REPORT ON CLOSED SESSION

Phaedra, Norton, City Attorney

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 PUBLIC COMMENTS

5.2 CORRESPONDENCE

5.3 APPOINTMENTS

Planning Commission Appointment for Position 4, Term Ending January 31, 2027.
Recommendation: Appoint one applicant to fill the Planning Commission vacancy for Position 4,with a term ending January 31, 2027.

5.4 CITY COUNCIL COMMITTEE 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 Consideration and Approval of the Meeting Minutes of the May 26, 2026, Regular City Council Meeting and the June 9, 2026, Closed Session and Workshop City Council Meetings.
Recommendation: Approve the Meeting Minutes of the May 26, 2026, Regular City Council Meeting and the June 9, 2026, Closed Session and Workshop City Council Meetings.

6.2 Receive and File Fire Protective Services Statistics for the Month of May 2026
Recommendation: Receive and file

6.3 Receive and File Police Department Statistics for the Month of May 2026
Recommendation: Receive and file

6.4 Receive and File Code Enforcement Statistics for the Month of May 2026
Recommendation: Receive and file

6.5 Receive and File Animal Control Statistics for the Month of May 2026
Recommendation: Receive and file

6.6
Second Reading of Ordinance No. 1623 (Title 15 Code Amendment)

Recommendation:

Staff recommends the City Council approve the second reading of Ordinance No. 1623.

6.7 Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of the Mountain North Potable Water Reservoir by Tri-Pointe Homes
Recommendation: Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of the Mountain North Potable Water Reservoir by Tri-Pointe Homes

6.8 Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of Highland Home Road North within Tract Map 39262-1
Recommendation: Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of Highland Home Road North within Tract Map 39262-1

6.9 Accept as Complete Various Improvements Related to the Atwell Specific Plan Development and Authorize a 90% Reduction of the Improvement Bonds
Recommendation: City Council accept as complete various improvements related to the Atwell Specific Plan Development and authorize a 90% reductions in the improvements bonds and exoneration of Monumentation Bonds.

6.10 Consideration of Resolution 2026-81, Approving a Three-Year Street Sweeping Services Agreement with Sweeping Corp of America Utilizing Sourceswell Contract #111125-SWEP
Recommendation: Adopt Resolution 2026-81

6.11 Consideration of Resolution 2026-83 for Approving the First Amendment to the Lance, Soll, Lunghard, LLP (LSL) Agreement for Professional Accounting Services and Ratifying Certain Services Performed in Excess of the Agreement Amount.
Recommendation: Adopt Resolution 2026-83

6.12 Consideration of Resolution 2026-91, Confirming the Authority Granted By Resolution No. 2025-79 and Approving Amendment No. 3 to the Services Agreement with Yunex, LLC. for Citywide Traffic Signal Maintenance Services
Recommendation: Adopt Resolution 2026-91

6.13 Consideration of Resolution 2026-93, Providing Authorization for the Execution of the Certification and Assurances and Authorized Agent Forms for the Low Carbon Transit Operations Program (LCTOP) for the Following Project: Free Fare Program in the Amount of $122,249
Recommendation: Adopt Resolution 2026-93

6.14 Consideration of Resolution 2026-94, Adopting Regulations for Candidates for Elective Office Pertaining to the Electorate and the Costs Thereof for the General Municipal Election to be Held in the City on Tuesday, November 3, 2026.
Recommendation: Adopt Resolution 2026-94

6.15 Consider Resolution 2026-95, Approving Amendment No. 2 to the Professional Services Agreement with ALL4, LLC. to Extend the Term of the Agreement through June 30, 2027 and approve the Assignment and Assumption Agreement between City of Banning, VCS Environmental and ALL4 LLC.
Recommendation: Adopt Resolution 2026-95

6.16 Consideration of Resolution 2026-98, Approving Amendment No. 1 to the Professional

Services Agreement with Resource Innovations, Inc. for Solar Photovoltaic and Energy Assessment Services
Recommendation: Adopt Resolution 2026-98

6.17 Consideration of Resolution 2026-99, Approving the Agreement with Riverside County Children and Families Commission Allowing the City of Banning to Provide Swim Lessons Scholarships to Eligible Children Under the Age of Five
Recommendation: Adopt Resolution 2026-99

6.18 Consideration of Resolution 2026-103, Establishing an Appropriations limit for Fiscal Year 2026/27 and Retroactively Approving the Fiscal Year 2025/26, Pursuant to Article XIIIB of the California Constitution.
Recommendation: Adopt Resolution 2026-103

7. PUBLIC HEARINGS

7.1 Ten Year Review of the Development Agreement between Tri Pointe Homes and the City of Banning Regarding the Development of the Atwell Project within the Butterfield Specific Plan.
Recommendation: Receive and file

7.2 Public Hearing and Consideration of Resolution 2026-92, Approving a Report in Connection with the Proposed Collection on the 2026/2027 Riverside County Property Tax Roll of Delinquent Solid Waste Service Charges for Single-Family and Multi-Family Dwelling Accounts and Making a Determination of Exemption under CEQA
Recommendation: Staff recommends that the City Council Adopt Resolution 2026-92:

1. Conduct the Public Hearing and accept public testimony regarding calendar year 2025 single-family and multi-family delinquent accounts to be applied to the Fiscal Year 2026/2027 County of Riverside property tax roll.
2. In the absence of a majority protest, approve the single-family and multi-family solid waste delinquency report from Waste Management of the Inland Empire ("Waste Management") listing calendar year 2025 delinquencies for placement on the Fiscal Year 2026/2027 County of Riverside property tax roll ("County Tax Roll").
3. Authorize the City Manager or designee to decrease the number of delinquent accounts and/or principal balances reported by Waste Management should delinquencies be resolved or reduced prior to final submittal of the delinquencies to the Riverside County Auditor-Controller for collection on the Fiscal Year 2026/2027 County Tax Roll.
4. Authorize the collection of calendar year 2025 single-family and multi-family delinquent solid waste charges on the Fiscal Year 2026/2027 County Tax Roll and direct the City Clerk to file a certified copy of the Resolution and the Solid Waste Delinquency Report with the County of Riverside Auditor-Controller.
5. Find that the proposed collection of delinquent charges on the County Tax Roll is exempt from CEQA.

7.3 Consideration of Resolution 2026-96, Adopting the 2025 Urban Water Management Plan (UWMP) and Consideration of Resolution 2026-97 Adopting the 2025 Water Shortage Contingency Plan (WSCP)
Recommendation: Adopt Resolution 2026-96 and Resolution 2026-97

8. REPORTS OF OFFICERS

9. DISCUSSION ITEMS

9.1 Consideration of Resolution No. 2026-102, Declaring a Fiscal Emergency Due to

Extraordinary Financial Circumstances Threatening the City's Ability to Maintain Essential Municipal Services
Recommendation: Adopt Resolution No. 2026-102 declaring a Fiscal Emergency, which publicly explains the City's fiscal predicament, acknowledges the severity of the crisis, and directs the City Manager to pursue a defined set of actions to immediately stabilize the City's financial condition.

9.2 Consideration of Resolution 2026-71, Approving Amendment No. 2 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Mariposa Landscapes, Inc. of Irwindale, California for Fiscal Year 2026/2027 in the Amount of $92,114.65
Recommendation: Adopt Resolution 2026-71

9.3 Consideration of Resolution 2026-72, Approving Amendment No. 8 to the Professional Services Agreement with Mariposa Landscapes, Inc. for Landscape Maintenance Services at City properties in the Amount of $200,128 for FY 2026/2027
Recommendation: Adopt Resolution 2026-72

9.4 Consideration of Resolution 2026-84, Approving the Fifth Amendment for Contract Services (C00698) for Landscape Maintenance Services for Banning City Parks with Mariposa Landscapes, Inc., not to exceed the amount of $172,734.80 for FY 2026/27.
Recommendation: Adopt Resolution 2026-84

9.5 Lamar Billboard – Approval of Final City Advertisement Rendering Billboard Update
Recommendation:

Staff recommends that the City Council:

1. Approve the final billboard advertisement rendering titled **Billboard Attachment A_3_Final(2026).jpg**; and
2. Authorize staff to coordinate with Lamar Advertising to proceed with final production, printing, and installation of the approved billboard design.

9.6 Consideration of Resolution 2026-101, Authorizing the Appointment of Retired Annuitant Matthew Bassi as Extra Help
Recommendation:

Adopt Resolution 2026-101

10. ITEMS FOR FUTURE AGENDAS

11.1 **NEW ITEMS**
1. Review and discussion of the Censure Policy to ensure conformance with the City of Banning Manual of Procedural Guidelines and the Banning Municipal Code (Flynn) June 2026

11.2 **EXISTING ITEMS**
1. Emergency Preparedness (Barrington) January 2025
2. Streamline Procurement Policy (Flynn) August 2025
3. Sales Tax Agreement Update with Diamond Chevrolet (Flynn) December 2025
4. Cannabis Warehouse Moratorium (New Facilities Only) (Barrington) December 2025
5. Maintenance and replacement of street signs. (Flynn) March 2026
6. Rename the Arthur Welch Community Center back to the National Guard Armory (Flynn) April 2026
7. Smoke Shop Moratorium (Miller) April 2026
8. Landscape Standards Review (Wallace) May 2026

9. Special Event Fee Schedule and Permit Process Review (Miller) May 2026

11. ADJOURNMENT

Next Regular Meeting – July 14, 2026.

Zoom Community Standards for Public Meetings

By participating in this meeting on Zoom, you are agreeing to abide by the City of Banning's Community Standards for Public Meetings. Zoom attendees that fail to adhere to these standards may be removed from the meeting room.

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

Estándares comunitarios de Zoom para Reuniones Públicas

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

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

Vickie Sellers

Vickie Sellers, Elected City Clerk
Secretaria Municipal Electa

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices

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.

Special Assistance/Accessibility Requests

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.

¿Necesita servicios de traducción para participar? Contacto Oficina del Secretario de la Ciudad.

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:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Ralph Wright, Parks and Recreation Director**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Proclamation - July as Parks and Recreation Month**

STAFF RECOMMENDATION:

Proclaim July 2026 as Parks and Recreation Month

BACKGROUND:

For over 40 years, July has been recognized as Parks and Recreation Month. It is an opportunity to celebrate all things Parks and Recreation and the value it provides to a community, State and Country. The Parks and Recreation Department offers programs and events throughout the month of July, such as our Annual July 4th Celebration, Summer Day Camp, Swimming Programs, Senior Activities and much more.

JUSTIFICATION:

Parks and Recreation Services are an integral part of the community that provide lasting memories for everyone in the City of Banning.

FISCAL IMPACT:

There is no Fiscal impact associated with this proclamation.

ATTACHMENTS:

1. Proclamation_Parks and Recreation Month 2026.docx

CITY OF BANNING
OFFICE OF THE MAYOR

Proclamation

WHEREAS parks and recreation programs are an integral part of communities throughout this country, including the City of Banning*;* and

WHEREAS parks and recreation services are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the environmental well-being of our community and the City of Banning offers a variety of parks and recreation opportunities designed for all ages and interests, including popular special events, recreation, athletic programs, and Senior Services; and

WHEREAS the City of Banning Parks and Recreation has planned activities in July such as a July 4th Celebration, Day Camps, Learn to Swim programs, Dive in Movies, Classes and much more!

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS the City of Banning recognizes the benefits derived from parks and recreation resources.

NOW THEREFORE*, the City Council of the City of Banning do hereby proclaim and designate the Month of July 2026, as* ***Parks and Recreation Month!***

THE POWER OF PARKS AND RECREATION

NRPA'S PARK AND RECREATION MONTH

BE IT PROCLAIMED *this 23rd day of June 2026.*

Richard Royce, Mayor

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Sandra Calderon, Deputy City Clerk**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Planning Commission Appointment for Position 4, Term Ending January 31, 2027.**

STAFF RECOMMENDATION:

Appoint one applicant to fill the Planning Commission vacancy for Position 4,with a term ending January 31, 2027.

BACKGROUND:

The Planning Commission's rules and responsibilities are governed by Chapter 2.28 of the Municipal Code. The Commission's two main functions are to review land development applications for compliance with the Zoning Code and to make recommendations to the City Council regarding large projects and changes to the General Plan or Zoning Ordinance.

The Banning Municipal Code Section 2.28.020 requires applications be made available and vacancies announced at least two months prior to the vacancy. The Planning Commission vacancies were advertised on the City's website and across social media platforms starting on May 11 2026. Public Notice was published in the Record Gazette on May 15, 2026. The deadline to submit an application was Friday, June 12, 2026.

JUSTIFICATION:

Eight applications were received for the Planning Commission vacancies and are up for consideration:

- David Garcia
- Edward Espinoza
- Jose Barragan
- Feiloai Neil Lualemaga
- Kaherine Fuentes
- Kimberly Light-Allende
- Maya Anguiano
- Todd Rinks
- Heidie Hillard Garcia

The candidates will be interviewed in a Special Meeting - Workshop on June 23, 2026, beginning at 4:00 p.m. Staff recommends appointing one member to the City's Planning Commission from among these applicants.

FISCAL IMPACT:

Reopening the recruitment and maintaining vacancies on the City's Planning Commission may further

delay projects across the City. There is no fiscal impact on the General Fund to appoint a new Planning Commissioner, as they do not receive compensation for the position.

ATTACHMENTS:

1. Planning Commission Applications_Combined_Redacted.pdf
2. Banning__CA_Code_of_Ordinances_Section_2.28.pdf
3. Proof of Publication_Planninc Commission Vacancy_20260515.pdf

RECEIVED
JUN 11 2026
City of Banning
City Clerk's Office

APPLICATION TO SERVE ON PLANNING COMMISSION

This application is to fill two vacancies on the City of Banning Planning Commission. The term of office will begin upon appointment and will expire on January 31, 2027. The Planning Commission meets monthly on the **First Wednesday** of each month at 5:30 p.m. **Applications are due to the City Clerk's Office no later than Friday, June 12, 2026.**

Name: David Garcia

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Owner Company: 24/7 Cleans

Length of Residency in Banning: 6 months

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I was born and raised in the Inland Empire and graduated from Redlands East Valley High School before earning my Bachelor's Degree in Business Administration from California State University, San Bernardino. While attending college, I started and grew my own business, 24/7 Cleans, a cleaning company that I have continued to grow and operate throughout Southern California.

As a business owner, I have gained experience in budgeting, operations, customer service, human resources, problem-solving, and working with people from many different backgrounds and organizations. Running a business has taught me the importance of making practical decisions that balance growth, opportunity, and long-term sustainability.

I recently became a homeowner in Banning and am excited to raise my family here. As a resident, business owner, and father, I have a strong interest in helping our city grow in a way that creates jobs, supports local businesses, increases property values, and improves quality of life for residents.

I have also volunteered in my community, including with the Boys & Girls Club during my high school years helping support local youth programs, and at Riverside Community Hospital during my sophomore year of college. These experiences reinforced the importance of service, responsibility, and giving back to the community. I am eager to continue serving my community through the Planning Commission and contribute to thoughtful decisions that help shape Banning's future.

2. What types of major issues should the Planning Commission deal with?

The Planning Commision should focus on issues that have a long-term impact on the community, including responsible growth, housing, economic development, traffic and infrastructure, public safety, and preserving the character of Banning. The Commission should carefully review proposed developments to ensure they benefit residents, support local businesses, create quality jobs, and align with the City's long-term vision. It is also important to balance growth with maintaining the quality of life that makes Banning a great place to live and raise a family.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

One of the biggest challenges facing Banning is balancing economic growth with quality of life. As our city grows, we need to ensure that infrastructure, roads, public services, and utilities keep pace with new development while preserving the qualities that make Banning a great place to live and raise a family.

I believe Banning has a tremendous opportunity to attract new businesses, create local jobs, and strengthen the City's financial future. During recent conversations with city leadership, I learned how significant the tax revenue from major employers and industrial development can be in helping fund city services and improvements. Because of that, I support responsible economic development, including warehouses and distribution facilities, when they provide meaningful benefits to the community.

At the same time, I believe growth should be balanced with investments that improve quality of life and support long-term property values. This includes attracting commercial businesses, family-oriented amenities, entertainment opportunities, parks, and housing that serve the needs of residents.

As a homeowner, business owner, and father, I believe Banning's future success depends on finding the right balance between economic opportunity and community investment. By working collaboratively with residents, city staff, business owners, and developers, we can make thoughtful decisions that benefit both current and future generations.

Additional Information about this Position

Per City of Banning Municipal Code Chapter 2.28, proof of residency shall be submitted at time of application to the Commission through voter registration or a utility bill at a physical address within city boundaries. Residency shall be confirmed prior to appointment and maintained throughout the term served. Applicants will be expected to attend a brief orientation session explaining the role of commissioners, the planning process, and the expectations of commissioners that are appointed. Please note that this a volunteer position. Members shall disclose interests in investments, real property, and income derived within the City of Banning or from sources doing business within the City of Banning. Filings are required within ten days of assuming office and on an annual basis. Members shall not work for the "pass" cities, which include Beaumont, Calimesa, and Riverside County in roles, such as economic development, planning, or redevelopment. Planning Commission shall hold no other municipal office in the city. Members may not be employees of the city.

Per City of Banning Resolution 2012-67, you will be required to submit to a criminal background investigation, to include LiveScan fingerprinting, prior to appointment.

Please return to:	City of Banning City Clerk's Office 99 E. Ramsey Street PO Box 998 Banning, CA 92220	**Return by:**	**Friday, June 12, 2026** 5:00 p.m.

Or email to: cityclerks@banningca.gov Remember to sign your application.

Signature 06/11/2026
Date

RECEIVED
JUN 10 2026
City of Banning
City Clerk's Office

APPLICATION TO SERVE ON PLANNING COMMISSION

This application is to fill two vacancies on the City of Banning Planning Commission. The term of office will begin upon appointment and will expire on January 31, 2027. The Planning Commission meets monthly on the **First Wednesday** of each month at 5:30 p.m. **Applications are due to the City Clerk's Office no later than Friday, June 12, 2026.**

Name: Edward Joe Espinosa

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Treasurer Company: Chamber of Commerce

Length of Residency in Banning: 36 years

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I have been volunteering throughout the city of Banning ever since I was a teenager. My volunteer work started when I was in the Boy Scouts of America at the log cabin at Repplier Park which involved doing community work with different organizations throughout the city. The Boy Scouts of America builds a strong character and skills to help survive out in the world whilst learning about our community and what challenges it faces, and it was up to us to at least help with those tasks by volunteering our time.
When I was thirteen, I started volunteering for Carols Kitchen doing various jobs with the non-profit organization and spent years doing so, getting to know different people of all backgrounds and to understand the community. Another organization I volunteered with was the Banning Police Department as a police explorer where I learned discipline, character building, organization, and skills. Joining the explorers was the biggest revelation of what happens around the city and what the department goes through with operations.
I have also been working with a group of citizens cleaning up around the city of Banning and these people are great! Getting to know Banning from an upfront view and looking at what needs to be addressed and submitted to the right departments to fix the issues.
I am currently with the Banning Chamber of Commerce; I have met people from diverse backgrounds and have gotten to be familiar with how organizations operate and what it takes to keep them consistent. The organization itself takes a cooperative group of people to operate the non-profit organization, and it was a bit challenging at first, but it is doing better than expected.
My highest degree of education is high school with trade skills such as operating a commercial vehicle and operating a forklift which I obtained through trade schools.
Lastly my most recent job was working as a BSP with Stagecoach Towing which involved allot of interaction with the San Gorgonio communities and having to troubleshoot and diagnose the members vehicles and having to do that took decision making to ensure the members had gotten home safely while risking my own safety. While I was working my members talked to me about their concerns or compliments about the community they lived in, which gave me an insight into what to look at.

2. What types of major issues should the Planning Commission deal with?

In my opinion I would have to pick zoning as part of any issue to be looked at because the city of Banning is growing and with growth comes development. Future projects are in the works and for them to proceed, careful evaluation needs to take place.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

One of the challenges facing the City of Banning is balancing growth with preserving the quality of life for residents. The city has opportunities to attract new business, retail development, and jobs because of its location, but growth can increase traffic, strain infrastructure, and raise concerns with residents. The challenges can be addressed through planning, public involvement, infrastructure improvements, and ensuring new development benefits the community while preserving Banning's quality of life.

Additional Information about this Position

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Please return to:	City of Banning City Clerk's Office 99 E. Ramsey Street PO Box 998 Banning, CA 92220	**Return by:**	**Friday, June 12, 2026** 5:00 p.m.

Or email to: cityclerks@banningca.gov Remember to sign your application.

Signature 06/10/2026
Date

RECEIVED
JUN 09 2026
City of Banning
City Clerk's Office

APPLICATION TO SERVE ON PLANNING COMMISSION

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Name: Jose J. Barragan

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Program Manager Company: Jamboree Housing

Length of Residency in Banning: Since Dec 2025 (6 months)

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I currently serve as a Program Manager at Jamboree Housing Corporation, overseeing Resident Services and Supportive Services programs across affordable housing communities in Orange and Los Angeles Counties. Prior to Jamboree, I held roles with U.S.VETS, Feeding America, and the Alvord Unified School District. I hold a Bachelor of Arts in Public Administration from California State University, San Bernardino, along with associate degrees from Riverside City College. My civic background includes serving on the Riverside Neighborhood Partnership Board from 2011 to 2013, Vice President of the La Sierra Arlanza Neighborhood Alliance from 2015 to 2018, and appointed Trustee for the Alvord Unified School District Board of Education from 2016 to 2018, where I worked on superintendent hiring, fiscal accountability, and district reform. I moved to Banning in December 2025 after purchasing my first home here. I chose this city because I believe in its potential, and I want to be part of shaping what comes next. I want to be transparent: I work for an affordable housing developer, but that does not define how I would approach this role. I have seen how affordable

2. What types of major issues should the Planning Commission deal with?

The Planning Commission is responsible for making decisions that shape how this city grows and right now, several issues deserve direct attention.

Zoning and land use balance is at the top of that list. Banning has significant undeveloped commercial and industrial acreage, and the question is not whether to develop it but how to do it thoughtfully. Warehouses and distribution facilities are not the enemy as they generate jobs, tax revenue, and signal to the broader development community that Banning is open for business. Projects like Sunset Crossroads are the kind of anchor investments that put a city on the map for future developers. Blocking that category of development outright would be a short-sighted decision at a moment when Banning can least afford it. That said, industrial uses need to be zoned with intention but buffered appropriately, positioned near major roadways with I-10 access, and evaluated for their compatibility with surrounding land uses.

Retail leakage and commercial development is a problem Banning has been trying to solve for over two decades. The city's own General Plan identified over $128 million in annual resident spending that was leaving Banning for other cities. That number hasn't improved on its own. The Commission has a role in creating the zoning conditions that make Banning competitive for commercial investment and give residents reasons to spend their dollars here.

Housing development needs to reflect how households actually look today. Multi-generational families are common, and new development needs to accommodate that reality. More housing at attainable price points raises the median household income over time, and that is the foundation for attracting the retailers and employers Banning needs. Affordable housing has a place in that picture but projects must be well-designed, properly sited, and planned with genuine community input. Poorly executed affordable housing does not serve residents or the city.

Downtown revitalization remains the most visible long-term priority. The city's own General Plan Vision

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

Banning is at an inflection point, and the decisions made in the next few years will determine whether this city captures the growth coming its way or watches it stop at the Beaumont border.

The most immediate challenge is economic. Banning's median household income, based on 2024 Census data, is approximately $61,764. That figure directly affects retail viability, developer interest, and the city's tax base. The path to raising it runs through housing strategy. When you increase the number of households with multiple working adults contributing to a mortgage, which reflects how many families actually live today. Then the median income rises organically, and that makes Banning more attractive to the retailers and employers who evaluate markets based on spending capacity.

Industrial and warehouse zoning is one of the more politically charged issues the city faces, and it deserves an honest conversation. Community resistance is understandable, but for a city still building its economic foundation, turning away industrial investment without a clear alternative plan is not a principled stand. It is an expensive one. The General Plan already supports industrial uses near I-10 with appropriate access. Projects like Sunset Crossroads fit squarely within that framework. The goal should be smart, intentional zoning, not a blanket "No" that sends developers to the next city down the freeway.

Retail leakage remains a long-standing challenge. The outdated General Plan itself identified more than $128 million in annual resident spending leaving the city and that was over twenty years ago. Attracting commercial development requires competitive zoning, an updated inventory of available sites, and proactive developer outreach. That work is overdue.

Additional Information about this Position

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Name Feiloai Neil Lualemaga

Phone [redacted]

Email Address

Address

Are you currently employed? ☐ Yes ☒ No

Position _____ Company _____

Length of Residency in Banning _____

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I am resident of Banning with a background in construction, manufacturing, building materials, and workplace safety. I graduated from Mountain View High School in Santa Ana 2000 with 3.5 GPA.

I worked as a Senior Mold Mechanic for a concrete block manufacturing company, where I built, repaired, and maintained steel molds and production equipment used in the manufacturing of concrete products. This position required troubleshooting equipment, maintaining quality standards, and working closely with production teams.

Throughout my career, I have participated in workplace safety committees and completed OSHA 10,30,500 and 510 training, these experiences have given me practical knowledge of construction, infrastructure, safety and regulatory requirements.

I have also worked in building materials, assisting contractors, homeowners, and customers with construction related projects and products.

Outside of work, I am active in my church as a musician and enjoy giving back to the community. I have supported local families through programs such as Toys for tots and food bank outreach efforts.

Although i have only been a resident of Banning for a short time, I am committed to becoming involved in the community and helping the city grow responsibly. I believe my construction, manufacturing, community service, and OSHA training would bring a practical, hands-on perspective to the Planning Commission.

2. What types of major issues should the Planning Commission deal with?

The planning Commission should focus on responsible growth, infrastructure improvements, public safety, traffic management, housing, and economic development. As Banning continues to grow, it is important to make sure roads, utilities, and public services can support new development. The Commission should also work to attract quality businesses and jobs while protecting the character of existing neighborhoods. Careful planning can help ensure growth benefits both current resident and future generations.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

I believe one of the biggest challenges facing Banning is managing growth in a way that benefits the community. As more homes, businesses, and development come into the area, the city needs to make sure roads, utilities, public safety services, and infrastructure keep up with that growth. Planning ahead can help prevent traffic problems and strain on city services.

I also see an opportunity for Banning to attract more businesses and good-paying jobs. Many residents travel outside the city for work, and bringing in quality businesses could help strengthen the local economy and create opportunities closer to home.

Another opportunity is improving existing commercial areas and encouraging development that makes Banning an attractive place for families, businesses, and visitors. I believe growth should be balanced and should consider the needs of current residents as well as future generations.

These challenges can be addressed by carefully reviewing projects, listening to residents, and making decisions based on long-term benefits for the community. I believe the city should focus on responsible growth, economic development, infrastructure improvements, and public safety while preserving the qualities that make Banning a great place to live.

As a Planning Commissioner, I would approach each project with an open mind, review the facts, listen to community input, and work toward solutions that are in the best interest of the City of Banning.

Additional Information about this Position

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Neil Lualemaga June 9,2026

Signature Date

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Name: Katherine Fuentes

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Director Company: Upwards

Length of Residency in Banning: 1 year

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

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1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I hold a Bachelor's degree in Economics and a Master's degree in Global Economics, which have provided me with a strong foundation in public policy, economic development, budgeting, and data-driven decision-making. Throughout my career, I have focused on applying these principles to improve local government operations, support economic growth, and enhance community outcomes.

I bring more than ten years of municipal government experience, prior to moving to the private sector, I served as Assistant City Manager for the City of Cathedral City. In that role, I worked closely with elected officials, department directors, community stakeholders, regional partners, and residents on a wide range of initiatives ranging from economic development, retail and housing development projects, budgeting, and strategic planning. I regularly prepared and reviewed staff reports, developed policy recommendations, presented before the City Council and various commissions, facilitated public meetings, and helped implement Council priorities. This experience provided me with a comprehensive understanding of local government operations, public engagement, transparency requirements, and the importance of building consensus among diverse stakeholders. My experience working directly with residents, businesses, nonprofit organizations, and community groups has strengthened my ability to listen, collaborate, and develop practical solutions that reflect the needs and values of the community.

The combination of my educational background, municipal leadership experience, and commitment to public service has prepared me to make meaningful contributions to this appointment. I understand the responsibilities of public boards and commissions, the importance of ethical and transparent decision-making, and the value of ensuring community voices are heard throughout the decision-making process.

2. What types of major issues should the Planning Commission deal with?

The Planning Commission should focus on issues that directly impact the City's long-term growth, quality of life, economic vitality, and fiscal sustainability. For the City of Banning, several key issues stand out.

First, managing growth and development is critical. Banning continues to experience residential growth due to its strategic location along the Interstate 10 corridor. The Planning Commission plays an important role in ensuring that new development is balanced with the infrastructure, public services, and amenities needed to support existing and future residents. This includes thoughtful land use planning, transportation improvements, and preserving the character of established neighborhoods.

Second, economic development and job creation should remain a priority. The Commission should support land use policies that attract new businesses, expand employment opportunities, and strengthen the City's tax base. Encouraging commercial, industrial, and mixed-use development can help create local jobs and reduce the need for residents to commute outside the community for employment.

Third, housing availability and affordability continue to be significant challenges throughout California and the region. The Planning Commission should work to ensure that Banning provides a variety of housing options that meet the needs of families, seniors, young professionals, and workforce populations while maintaining high quality development standards.

Fourth, infrastructure and transportation planning must keep pace with growth. As development occurs, the City must ensure adequate roads, public facilities, and connectivity to support residents and businesses. Careful planning today can help avoid costly challenges in the future.

Finally, preserving community character and enhancing quality of life should be central to every planning decision. This includes protecting neighborhoods, promoting attractive and well-designed development, supporting parks and open space, and ensuring that residents have meaningful opportunities to participate in the planning process.

Overall, the Planning Commission should strive to balance responsible growth with economic opportunity, infrastructure capacity, environmental stewardship, and the long-term interests of the community.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

The City of Banning is at a pivotal point in its growth and development. Its location along the Interstate 10 corridor, proximity to major employment centers, and availability of developable land present significant opportunities. However, these advantages also create challenges that require thoughtful planning and a consistent long-term vision.

One of the City's most significant challenges is ensuring that infrastructure keeps pace with growth. Residential development continues to expand rapidly, but roads, traffic circulation, water systems, public safety services, and other public facilities must be able to support that growth. New development must be required to pay its fair share through development impact fees (DIFs) while aggressively pursuing state and federal grant funding for transportation and infrastructure improvements particularly around Highland Springs and Sunset Ave. Long-range capital improvement planning should be closely coordinated with future land use decisions to ensure development occurs in a sustainable manner.

Another challenge is creating a stronger local economy and expanding retail opportunities that compliment neighboring shopping centers. Many residents commute outside the city for work, which limits local economic activity and increases traffic congestion. Banning has a unique opportunity to leverage its Interstate 10 access and available commercial and industrial land to attract logistics, light industrial, healthcare, professional services, and retail development. The City should continue streamlining permitting processes, updating development standards where appropriate, and actively partnering with the business community to attract employers that provide quality jobs for residents.

Downtown revitalization presents one of Banning's greatest opportunities. A vibrant downtown can serve as an economic and cultural center that attracts businesses, visitors, and investment. The City should continue efforts to encourage façade improvements, adaptive reuse of existing buildings, pedestrian-friendly development, homeless prevention plan, and events that draw residents and visitors into the downtown area. A vibrant and historic downtown is something that is missing from the area, and that could attract residents from neighboring communities. Strategic public and private investment can transform our downtown into a destination while preserving its historic character.

Finally, maintaining Banning's small-town identity while accommodating growth will be an ongoing challenge. Residents value the community's character, history, and quality of life. Future development decisions should prioritize thoughtful design, public engagement, and compatibility with existing neighborhoods. The Planning Commission plays an important role in ensuring growth enhances rather than diminishes the qualities that make Banning a desirable place to live.

By focusing on infrastructure investment, economic development, housing diversity, downtown revitalization, and preserving community character, Banning can successfully manage growth while creating new opportunities for current and future residents.

Additional Information about this Position

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Signature 6/11/2026
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Name: Kimberly Light-Allende

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Psychologist Company: Dept of State Hospitals-Patton

Length of Residency in Banning: 1.5 yrs

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

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1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I hold a Doctoral Degree in Clinical-Community Psychology and have dedicated my professional career to supporting individuals facing mental health, behavioral. forensic, and life challenges. Through this work, I help individuals develop coping strategies, improve emotional well-being, navigate life transitions, enhance communication and problem solving skills, and achieve personal goals. As time permits, I volunteer with Carol's kitchen and Healing Waters, supporting community through service and engagement, compassion, and creating positive change through direct service. While I do not have formal civic experience at this time, I am eager to learn. I am highly motivated to become more involved in civic initiatives. I value community participation,

2. What types of major issues should the Planning Commission deal with?

The Planning commission will likely need to address several significant issues, as Banning continues to grow, the Commission will need to balance residential, commercial, and industrial development with the preservation of of community character and quality go life. Key challenges include include meeting housing needs, ensuring infrastructure and transportation systems keep pace with growth, managing land-use and zoning decisions, supporting economic development and job creation, and protecting environmental resources. The Commission will also play an important role in reviewing and ensuring that any current development projects align with the city's long-term vision while also addressing the concerns of residents and property owners. Effective public engagement and long-term planning will also be important in addressing these issues.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

I believe that Banning will continue to experience pressure for new housing and commercial growth due to it's location in the Pass area. The Commission will need to carefully consider traffic impacts, public safety, water and utility capacity, economic opportunities, and the compatibility of new development with existing neighborhoods. My goal would be to evaluate each project fairly, based on the City's General plan, Zoning regulations, and the long-term interests of the community. By planning proactively, the city can capitalize on growth opportunities while minimizing potential negative impacts on traffic, infrastructure, and community character.

Additional Information about this Position

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Name: Mayra Anguiano

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Teacher Company: Banning USD

Length of Residency in Banning: 40 years

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

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1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

I was born and raised in Banning and am now raising my own family here, which has given me a deep appreciation for our community and a strong commitment to its future. I care greatly about the quality of life for Banning residents and believe in contributing my time and experience to help our city continue moving in a positive direction.

I earned a Bachelor of Science in Psychology from University of California, San Diego and a Master of Science in Child Life from Loma Linda University. I also recently obtained my Multiple Subject Teaching Credential from University of Redlands. My educational background has provided me with a strong foundation in child development, education, communication, and understanding the needs of diverse populations.

Professionally, I have worked as a Child Life Specialist at Loma Linda University Children's Hospital and Riverside University Health System, where I supported children and families through challenging medical experiences. I have also worked in case management with the Inland Regional Center, helping individuals and families navigate complex systems and access resources. These experiences have strengthened my skills in problem-solving, collaboration, advocacy, and working with people from diverse backgrounds.

My civic involvement includes serving on the Banning Unified School District Board of Education, where I worked collaboratively with fellow board members, district staff, parents, and community stakeholders to make decisions that support students and families. In addition, I have been actively involved in my children's schools through volunteer service and parent engagement.

I am eager to continue serving our community through the Planning Commission. As someone who has lived in Banning my entire life and is now raising a family here, I am invested in thoughtful growth, responsible planning, and decisions that strengthen our city for current and future generations. I believe my experience in education, public service, case management, and community engagement would allow me to contribute a balanced and community-focused perspective. Most importantly, I want to remain involved in helping move our community in the right direction because our residents deserve a city that is well-planned, welcoming, and positioned for long-term success.

2. What types of major issues should the Planning Commission deal with?

The Planning Commission should focus on issues that directly impact the quality of life of residents while ensuring responsible growth and long-term sustainability for the community. One of the most important responsibilities is guiding development in a way that meets the needs of current residents and attracts amenities that enhance daily life.

For Banning, this includes improving access to essential services such as grocery stores, banking institutions, healthcare services, and other businesses that reduce the need for residents to travel outside the city for basic needs. As our community continues to grow, it is important that commercial development keeps pace with residential growth.

The Planning Commission should also prioritize projects that encourage community engagement and healthy lifestyles. This includes expanding and maintaining walking trails, parks, and public spaces where residents can safely gather, exercise, and connect with one another. Well-designed recreational areas contribute to both physical health and a stronger sense of community.

Another important issue is ensuring that Banning remains a family-friendly city. The community would benefit from additional recreational and entertainment opportunities for children, youth, and families, such as family-oriented restaurants, arcades, indoor soccer facilities, skating rinks, kid-focused gyms, and other safe spaces where families can spend time together. These types of amenities not only improve quality of life for residents but also help support local economic growth and make Banning a more attractive place for families to live and invest.

Ultimately, the Planning Commission should strive to balance growth, economic development, public safety, recreation, and community needs while preserving the character of Banning. By planning thoughtfully and listening to residents, the Commission can help create a community that is connected and responsive to the needs of families, businesses, and future generations.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

One of the greatest challenges facing the City's future growth and development is ensuring that projects move forward efficiently while also making certain they are in the best interest of the community. Often times, communities can become stalled by delays, changing priorities, or uncertainty about the long-term impact of development. At the same time, rushing projects without proper planning can create unintended consequences. This is occurring with the Sunset Crossroads project where it was approved but then there were questions raised that has caused its delay.

I believe the City should focus on thoughtful and strategic growth by carefully evaluating projects based on their potential benefits to residents, economic impact, infrastructure needs, and long-term sustainability. This requires balancing caution with innovation. Not every project will be without risk, but the City must be willing to consider well-researched opportunities that can improve quality of life, attract investment, and create amenities that residents need.

As a Planning Commissioner, I would support decisions that are data-driven, fiscally responsible, and aligned with the community's vision. This includes seeking input from residents, collaborating with developers and City staff, and ensuring that projects have clear goals and measurable benefits. While some decisions may involve a level of risk, those risks should be carefully evaluated and managed so they do not negatively impact the City's financial stability or character.

The opportunity for Banning is significant. With continued growth, the City can attract businesses, services, recreational amenities, and family-friendly destinations that residents have long desired. By making thoughtful decisions and following through on projects that benefit the community, Banning can continue to grow into a thriving city that serves both current residents and future generations.

Additional Information about this Position

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Per City of Banning Resolution 2012-67, you will be required to submit to a criminal background investigation, to include LiveScan fingerprinting, prior to appointment.

Please return to:	City of Banning City Clerk's Office 99 E. Ramsey Street PO Box 998 Banning, CA 92220	**Return by:**	**Friday, June 12, 2026** 5:00 p.m.

Or email to: cityclerks@banningca.gov Remember to sign your application.

M Angel 6/11/26

Signature Date

RECEIVED
JUN 11 2026
City of Banning
City Clerk's Office

APPLICATION TO SERVE ON PLANNING COMMISSION

This application is to fill two vacancies on the City of Banning Planning Commission. The term of office will begin upon appointment and will expire on January 31, 2027. The Planning Commission meets monthly on the **First Wednesday** of each month at 5:30 p.m. **Applications are due to the City Clerk's Office no later than Friday, June 12, 2026.**

Name: Todd Rinks

Phone: [redacted]

Email Address: [redacted]

Address: [redacted]

Are you currently employed? ☒ Yes ☐ No

Position: Internet Sales Company: Self

Length of Residency in Banning: 12 Years

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

My wife and I bought our first home in Banning twelve years ago, and we have been proud to call it home ever since. As a homeowner, I have a strong interest in the future of our city and the decisions that affect the people who live here.I am currently self-employed and run an online sales business through eBay and Amazon. Running my own business has taught me how to manage budgets, research information, solve problems, work with customers, and make decisions based on facts and long-term goals.Before starting my business, I worked as an Account Manager for a mortgage company handling foreclosure, repossession, and loan modification accounts. In that role, I worked with homeowners, financial institutions, and government requirements while helping manage complex situations that often affected people's homes and finances.I have completed approximately 50 units of college coursework. Over the years, I have also spent a lot of time learning about local permits, zoning, ADUs, detached garages, and other property improvement projects. Like many homeowners, I have had to research what is allowed, what requires permits, and how city regulations affect property owners.I am interested in serving on the Planning Commission because I care about Banning and want to be involved in helping shape its future. While I do not have a background in urban planning, I believe I can bring the perspective of a homeowner, small business owner, and longtime resident. I am willing to listen, ask questions, learn from others, and make decisions based on what is best for the community as a whole.

2. What types of major issues should the Planning Commission deal with?

I believe the Planning Commission should focus on issues that have a long-term impact on the people who live in Banning. Some of the biggest issues include responsible residential and commercial growth, housing affordability, infrastructure improvements, traffic, public safety, and creating opportunities for local businesses and jobs.My wife and I bought our first home in Banning twelve years ago, and we have enjoyed being part of the community. During that time, I have seen the city grow and change. I think it is important that new development is planned carefully so that roads, utilities, public safety services, and other infrastructure can keep up with growth. At the same time, we need to protect the character of existing neighborhoods and the quality of life that attracts people to Banning in the first place.I also believe there are opportunities for Banning to attract new businesses and create more local jobs. Many residents commute outside the city for work, and I think encouraging business growth could help strengthen the local economy while providing more opportunities closer to home.Overall, I believe the Planning Commission should work to find a balance between growth and preserving what makes Banning a great place to live. Decisions should be made with input from residents and with an eye toward what will benefit the community not just today, but for years to come.

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

Banning has a lot of opportunities, but it also has some challenges as the city continues to grow. One of the biggest challenges is making sure our roads, utilities, public safety services, parks, and other infrastructure can keep up with new development. Growth is important, but it needs to be planned so that it benefits the community and does not put too much strain on existing residents.Housing is another challenge. Home prices and rents have increased over the years, making it harder for some families, young adults, and seniors to find affordable places to live. I think Banning should look at different housing options, including single-family homes and ADUs, while still protecting the character of existing neighborhoods.I also think Banning has a great opportunity to attract more businesses and jobs. Many residents commute out of town for work. Bringing more businesses and retail opportunities to Banning could help strengthen the local economy, create jobs closer to home, and increase revenue for the city.Another advantage Banning has is its location along Interstate 10. The city is in a good position to attract investment and new businesses, but growth should be planned carefully so we do not lose the things that make Banning a great place to live.I believe these challenges can be addressed by listening to residents, working with businesses and developers, and making decisions based on what is best for the city in the long run. Growth is going to happen, and I believe the goal should be to manage it in a way that benefits both current residents and future generations.

Additional Information about this Position

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Or email to: cityclerks@banningca.gov Remember to sign your application.

Todd Rinks
Signature

6/11/26
Date

RECEIVED
JUN 12 2026
City of Banning
City Clerk's Office

APPLICATION TO SERVE ON PLANNING COMMISSION

This application is to fill two vacancies on the City of Banning Planning Commission. The term of office will begin upon appointment and will expire on January 31, 2027. The Planning Commission meets monthly on the **First Wednesday** of each month at 5:30 p.m. **Applications are due to the City Clerk's Office no later than Friday, June 12, 2026.**

Name Neidie Hilliard Garcia

Phone [redacted]

Email Address

Address

Are you currently employed? ☐ Yes ☒ No

Position _____ Company _____

Length of Residency in Banning 47 years

Are you a registered voter? ☒ Yes ☐ No

Are you able to commit to reviewing and evaluating commission staff reports, which are typically lengthy and can be complex? ☒ Yes ☐ No

Are you able to attend commission meetings at the regular meeting date and time, as well as possible special meetings, which occur from time-to-time? ☒ Yes ☐ No

Information requested below will be used by the City Council as a screening process to determine which applicants will be interviewed for the Planning Commission. All applications and/or materials submitted for this purpose become a public record. ***Ample space is provided. Please do not submit supplemental materials.***

1. Tell us about your background, including education, work, and volunteer experience, civic involvement, and other experience relevant to this appointment.

Work experience:
- Starbuck - supervisor/district barista trainer
opening/closing procedures
beverage making, orders, inventory, managing the floor
district volunteers, donations, community projects,
organize events (cal fire, morongo, fire/PD Riv Co S.D)
- BUSD - Principal secretary, payroll/delegate work load,
ASB acct. clerk: acct. payable + receivable, keeping
check funds current, budgets, fundraising, 1099's, credits
Volunteer Experience
2026 - Current - Rotary
- Threads of love outreach (secretary)
2024 - Current - Boys Basketball Booster Club (secretary)
- Kids Cure Foundation - Volunteer
food distribution, assist any families in need
civic involvement - volunteer w/ city parades.

2. What types of major issues should the Planning Commission deal with?

The planning Commission should focus on major issues that affect the city's growth + development. This includes reviewing new housing, business developments, subdivisions, zoning change and land-use plans. They also consider how projects may impact traffic, public service, neighborhoods and their environment.

The Commission helps create + update the city general plan + makes recommendations to the city Council on planning matters. Through public meeting + hearings, they ensure that future development supports the community's needs while maintaining a high quality of life for residents.

planning commission gives Recomendations only!

3. Identify specific challenges and opportunities facing the City's future growth and development. Explain how you feel they may be resolved (be specific):

Check city ordinances + infrastructures so that we will not face infrastructure strain + congestion as population surge as existing networks struggle to keep up.
Provide safe, affordable housing for all in our community. Last but not least look into environmental and health hazards. Keep in contact with developers, city council and our community members.
Be open minded with every situation. One acronym we will always member L.A.T.T.E.
Listen: give the customer your full attention + listen to understand their concern or issue.
Acknowledge Validate the customers feelings + confirm you understand the situation
Take Action fix the problem or resolve the complaint
Thank Thank the customer for bringing the issue to your attention
Explain what went wrong or how it was resolved so the customer feels informed (or alternatively,
Ensure satisfaction. framework to resolve customer complaints to turn negative experiences into positive ones.

Additional Information about this Position

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5:00 p.m.

Or email to: cityclerks@banningca.gov Remember to sign your application.

Signature

5/12/2026
Date

Chapter 2.28 - PLANNING COMMISSION

2.28.010 - Planning commission—Membership requirements.

A. Members of the planning commission shall be residents of the City of Banning who hold no other municipal office in the city. Members may not be employees of the city.

B. Proof of residency shall be submitted at time of application to the commission through voter registration, utility bill at a physical address within the city boundaries. Residency shall be confirmed prior to appointment and maintained throughout the term served.

(Code 1965, § 2-5.)

2.28.020 - Term and vacancies.

A. The planning commission shall consist of five members.

B. Planning commissioners shall serve four-year terms, which shall be staggered every two years concurrent with the city elections. Appointments shall be made by the city council. Applications shall be made available and the closing date announced at least two months prior to the expiration of the commissioner's term to be filled.

C. In order to re-set the terms of office of planning commissioners consistent with paragraph (b) above, commencing January 2021, the city council shall appoint members of the planning commission, whether newly appointed or as reappointed members, to one of the following five numbered positions:

1. Position 1. The term of office for Position 1 will begin February 1, 2021, and expire on January 31, 2025.
2. Position 2. The term of office for Position 2 will begin February 1, 2021, and expire on January 31, 2025.
3. Position 3. The term of office for Position 3 will begin February 1, 2021, and expire on January 31, 2023.
4. Position 4. The term of office for Position 4 will begin February 1, 2021, and expire on January 31, 2023.
5. Position 5. The term of office for Position 5 will begin February 1, 2021, and expire on January 21, 2023.

D. Upon the expiration of each term of office specified in paragraph C, persons appointed or reappointed to the Position shall serve for a succeeding four-year term measured from the expiration of the prior term of that position. In the event the city council has not completed the appointment process by February 1 of each odd number year to fill the terms of positions that

are to commence on February 1 of that year, the predecessor's term of office for that position is automatically extended until the date that the successor has been appointed and sworn into office.

E. Members shall serve at the pleasure of the council and may be removed at any time by a majority vote of the entire council.

F. Any member who is unexcused for two consecutive regular meetings of the commission or six meetings within a twelve-month period, whether the six meetings are excused or not, will be deemed to have forfeited his or her office and the city council may appoint a new member to serve in the commissioner's position for the remainder of their term.

G. To be excused from any such meeting, a member shall notify the planning department, at least forty-eight hours prior to any such meeting that the member will not be in attendance at the upcoming meeting. If a member is unable to attend due to illness, injury or family matters, an oral statement made proving that specific reason by the member at the next regular meeting of the commission shall constitute an excused absence.

(Code 1965, § 2-6.)

(Ord. No. 1569, § 1, 9-22-20)

2.28.030 - Compensation.

A. Members of the planning commission shall not receive compensation; reasonable traveling expenses to and from conferences and/or special field trips and training sessions shall be reimbursed.

B. Upon authorization by the city manager, the planning commission and members of its staff, may attend city planning conferences or meetings, or hearings on city planning legislation, or matters affecting the planning of the city. The reasonable expenses of such attendance shall be charged upon the funds allocated to the commission.

C. All fundings shall be established through the City of Banning budget, which shall be approved by the city council.

(Code 1965, § 2-7.)

2.28.040 - Rules of procedure.

A. A quorum of the planning commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the planning commission to hold a meeting.

B. In the event that only three commissioners are present, any actions recommending amendment to the Municipal Code or general plan must be unanimous; all other actions would require a majority vote of the commission in attendance. A tie vote shall constitute a denial of the matter or request brought before the planning commission.

C. The commission shall adopt rules for the transaction of business and shall keep a record of its transactions, findings, and determinations. The Brown Act and "Robert's Rules in Plain English" by Doris P. Zimmerman (Harper Perennial) shall be incorporated into such rules.

D. The commission shall follow all applicable city fiscal and administrative policies and procedures.

(Code 1965, § 2-8.)

2.28.050 - Duties and responsibilities.

A. The planning commission shall exercise those functions of the planning agency of the city delegated to it in the Banning Municipal Code.

B. At the regular February meeting, the planning commission shall choose a chairperson and a vice-chairperson from among the planning commission members. The chairman and vice-chairman shall serve for one term. Both positions shall rotate every year.

1. The chairperson shall preside at all regular and special meetings and rule on all points of order and procedure during the meetings.
2. The vice-chairperson shall assume all duties of the chairperson in his or her absence.
3. In the event the chairperson and vice-chairperson are both absent, an acting chairperson shall be appointed from the commission for the meeting from those present.

C. The planning commission's scope of responsibility is to:

1. Prepare, review, adopt, and recommend to the city council for its adoption, a long range, comprehensive general plan to guide future physical development and conservation of the city and its adjoining environs based on geographic, social, economic and political characteristics of the community;
2. Prepare, review, adopt and recommend to the city council for its adoption of special area specific plans for identifiable areas, wherein more detailed guidelines are needed to supplement the objectives of the general plan;
3. Review development applications submitted to the city for consistency with adopted plans and ordinances. Approve or deny applications when final authority is granted to the planning commission by the Municipal Code. Make a recommendation on those actions for which the city council is the final reviewing approval body;
4. Act as the appeal body on decisions made by the community development director;
5. Perform such other functions and duties as the city council may from time to time direct and/or provide within the Banning Municipal Code.

D.

The commission may form ad-hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of commission members may not be appointed to serve in a single subcommittee. Before forming a subcommittee, the commission shall establish a specific mission and term for the subcommittee.

E. The planning commission is an important function within the City of Banning, and as such, certain expectations are held by the city council in making the appointment of individuals to the commission. These expectations include the following:

1. Commissioners will attend all regular meetings and special meetings as they arise;
2. Commissioners will communicate expected and unexpected absences to the planning department, prior to the meeting;
3. Commissioners will communicate any potential conflicts of interest on agenda items to the planning department in advance of the hearing to allow confirmation of a quorum;
4. Commissioners will arrive on time to each meeting, fully participate, and remain in attendance until the end of each meeting;
5. Commissioners will prepare themselves for each meeting by reading the agenda, reports and other materials, and visiting the site, as necessary, and communicate any questions to the secretary in advance of the hearing. Pursuant to Resolution 2000-41, if a commissioner visits the site prior to a hearing on the matter, the commissioner shall disclose at the hearing such evidence and observation gathered during the site visit;
6. Commissioners are encouraged to attend the annual planner's institute (Monterey and Southern California) or an equivalent planning training program given by a University of California campus (or approved equivalent) and may attend other planning conferences and or training classes as the need and opportunities arise. The city will also provide regular in-service training and make-up training where attendance is required;
7. New commissioners are expected to become familiar with the city's general plan, the "Planning Commission Handbook" (prepared by the State of California), the relevant Municipal Code sections particularly those relevant to zoning to become familiar with these documents. The "Guide for New Members" distributed by the planning commissioners journal and www.plannersweb.com are other valuable resources for new commissioners;
8. Applicants to the planning commission will be expected to attend a brief orientation session explaining the role of commissioners, the planning process, and the expectations of commissioners that are appointed; and
9. New commissioner members will attend an expanded orientation session with the liaison to the commission and other staff, as deemed necessary, to provide new appointees with a solid understanding immediately upon appointment. The orientation will include an overview of

the planning process, a review of the commission's structure, policies and bylaws, a summary of available documents and resources, and a review of the commission's relationship with citizens, staff, developers, and the governing body.

F. The planning commission may serve on regional boards or commissions as directed by the city council.

G. The planning commission shall participate in annual meetings with the city council to discuss development activity, development doctrine, policies, etc.

(Code 1965, § 2-8.1.)

(Ord. No. 1569, § 2, 9-22-20)

2.28.060 - Conflict of interest requirements.

A. The State of California Political Reform Act requires planning commission members to disclose interests in investments, real property, and income derived within the City of Banning or from sources doing business within the City of Banning. Filings are required within ten days of assuming office and on an annual basis.

B. Members shall not work for the "pass" cities, which include Beaumont, Calimesa, and Riverside County in roles, such as economic development, planning, or redevelopment.

C. If an apparent conflict of interest arises, the member shall inquire of the city attorney or staff prior to the meeting.

(Code 1965, § 2-8.2.)

2.28.070 - Staff liaison.

A. The staff liaison to the planning commission shall be the community development director.

B. The planning commission liaison, supported by the secretary to the planning commission (a staff position), shall be responsible for:

1. Confirming that a quorum will be present prior to each meeting;
2. Receiving and recording all exhibits, petitions, documents, or other material presented to the planning commission in support of, or in opposition to, any issue before the planning commission;
3. Signing all meeting minutes and resolutions upon approval;
4. Preparing and distributing agendas and agenda packets;
5. Facilitating the tape recording of meetings and preparation of minutes; and
6. Responding to all questions from planning commission members regarding agenda items in advance of meetings.

(Code 1965, § 2-8.3.)

2.28.080 - Meeting times and places.

A. The planning commission shall meet on the first Wednesday of each month at 5:30 p.m. at the city council chambers located at 99 E. Ramsey Street, or at such time and place as the commission may designate by resolution.

B. Commissioners will attend special meetings as they arise.

(Code 1965, § 2-8.4.)

(Ord. No. 1427, § 1, 9-14-10; Ord. No. 1594, § 1, 8-22-22)

2.28.090 - Adoption.

A. This document, as adopted and amended by council resolution, shall serve as the bylaws for the commission.

(Code 1965, § 2-9.)

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.)

2026 05 15 Public Notices Planning Commission

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:

May 15, 2026

Executed on: May 15, 2026

At City of Banning, California

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

Kaila Geaman
Signature

PUBLIC NOTICE
CITY OF BANNING
PLANNING COMMISSION

The City of Banning is accepting applications to fill **one immediate vacancy** on the City of Banning Planning Commission. The term of office will begin immediately and run through January 31, 2027.

This is a volunteer position on a Commission that meets on the **first Wednesday of each month** at 5:30 P.M. You must be a registered voter in the City of Banning to qualify. All applicants must successfully complete a background investigation with fingerprinting before appointment. The application and qualifications for this position are available on the City's website at http://banning.ca.us/79/Planning-Commission .

The deadline to submit your application to the City Clerk's Office is **Friday, June 12, 2026 at 5:00 P.M.** Submit to the City Clerk's Office, PO Box 998, Banning, CA 92220 or by emailing your signed application to cityclerks@banningca.gov .

/s/Sandra Calderon, Deputy City Clerk
City of Banning, California

Dated: May 11, 2026
Publish: May 15, 2026
Published
Record Gazette
May 15, 2026

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Sandra Calderon, Deputy City Clerk**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration and Approval of the Meeting Minutes of the May 26, 2026, Regular City Council Meeting and the June 9, 2026, Closed Session and Workshop City Council Meetings.**

STAFF RECOMMENDATION:

Approve the Meeting Minutes of the May 26, 2026, Regular City Council Meeting and the June 9, 2026, Closed Session and Workshop 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

ATTACHMENTS:

1. City Council_Regular Meeting_DRAFT.pdf
2. 2026 06 09_Closed Session_DRAFT.pdf
3. 2026 06 09_Workshop_DRAFT.pdf

MINUTES

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA
MAY 26, 2026 – 5:00 p.m.

DRAFT

1. CALL TO ORDER - 5:03 p.m.

1.1 **ROLL CALL**

COUNCIL MEMBERS PRESENT: Mayor Richard Royce
Mayor Pro Tem Cindy Barrington
Council Member Sheri Flynn
Council Member Leroy Miller
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Phaedra Norton, City Attorney
Elizabeth Gibbs, City Manager
Vickie Sellers, City Clerk
Sandra Calderon, Deputy City Clerk

1.2 **INVOCATION**
Performed by Rev. Bill Dunn of St. Episcopal Church

1.3 **PLEDGE OF ALLEGIANCE**

2. AGENDA APPROVAL

2.1 **AGENDA APPROVAL**

Council Member Miller asked to move item 9.1 before consent items agenda.

Council Member motioned to approve the agenda, seconded by Council Member Miller. Vote passed 5-0.

3. PRESENTATIONS

3.1 Small Business Recognition Month – Recognition of La Villa Burgers and Celebration of New Ownership and Ribbon-Cutting Ceremony for Gus Jr. No. 7
Recommendation: Staff recommends that the City Council:

1.) Award a Certificate of Recognition to La Villa Burgers in recognition of Small Business Recognition Month; and

2.) Recognize the new ownership and recent ribbon-cutting ceremony for Gus Jr. No. 7, celebrating continued local investment and economic growth within the City of Banning.

City Council recognized La Villa Burgers for its long-standing commitment and contributions to the local business community, highlighting its dedicated service, quality food, outstanding customer service, and continued investment.

4. REPORT ON CLOSED SESSION

John Pinkney, City Attorney

No reportable action on closed session items.

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 PUBLIC COMMENTS

- **Inge Schuler** expressed surprise at misleading mailers from the Sunset Crossroads developer, which omitted any mention of warehouses while highlighting a new fire station, local jobs, a new park, and open space. She noted the discrepancy in job numbers between two mailers and questioned the developer for using the city's logo without permission.
- **Kevin Saunders** of the Blue Zones Project provided an update on their initiatives in Banning, thanking the city for its support of healthy focus initiatives. He mentioned successful events like the color run and a hiking event and announced an upcoming farmers market and a mixer on May 29th. He also urged the council to consider stronger policies around smoke shops and liquor stores to protect youth and neighborhood health, suggesting a policy to limit additional retailers and inviting collaboration with city staff.
- **Kathy Aranda** directly addressed what she called "false and misleading public statements" by Mayor Richard Royce regarding data centers and battery energy storage systems (BES) connected to the Sunset Crossroads project. She stated that approved documents, specifically Resolution 2026-29 and the Sunset Crossroads Specific Plan, permit data centers and BES as industrial uses, contradicting the Mayor's claims. She argued that these uses were intentionally added by the city and that projects consistent with the zoning and specific plan can move forward administratively without further council votes.
- **Resident** commented on the misleading glossy mailers, the recent road groundbreaking, and the potential for increased truck traffic on local roads. He also questioned the number of warehouses, noting a perceived increase from an earlier agreement**.**
- **Resident** noted the closure of the "opportunity village" for the homeless and encouraged continued efforts to address homelessness. He also suggested Banning adopt Beaumont's practice of displaying flags along main streets on federal holidays.
- **Scott Reeder** expressed concern about the Sunset Crossroads project, describing it as a "shape-shifting question mark" with no clear definition of its uses. He highlighted that the specific plan acknowledges future leases to third parties with undefined uses, calling it a "blank check." He questioned the city's approval of the project, particularly the inclusion of an electrical substation despite claims of an insufficient power grid for data centers. He urged the council to pause and demand enforceable use restrictions for a more beneficial development.

5.2 CORRESPONDENCE

None

5.3 APPOINTMENTS

5.4 CITY COUNCIL COMMITTEE REPORTS

Council Member Wallace attended a joint Riverside and San Bernardino Cal Cities division meeting where flock cameras were discussed as a beneficial public safety tool. She also

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announced a Veterans Town Hall hosted by Supervisor Gutierrez. Council Member Miller attended the ICSE conference in Las Vegas, and the Mayor also attended, noting increased interest and contacts for Banning. A full report on the ICSE conference will be provided later.

5.5 **ANNOUNCEMENTS OF CITY COUNCIL MEMBERS**
Council Member Wallace announced a Juneteenth celebration on June 19th at Rossville Williams Park, starting at 11:00 AM.

5.6 **CITY TREASURER'S REPORT**
City Treasurer Sue Savage presented the treasurer's report, highlighting the upcoming arrival of Sam's Club and the Sun Lakes Boulevard extension groundbreaking. She addressed the referendum on mega warehouses, stating it only stops those specific warehouses and not Sam's Club or the boulevard extension. Savage challenged the accuracy of a "glossy flyer" claiming a budget deficit, contrasting it with bank statements showing significant funds. She detailed the city's cash and investments, noting a decrease in total cash year- over year but an increase in revenue. She questioned the city's practice of not earning interest on checking accounts and highlighted the removal of funds from an interest-earning account. Savage requested email access to all bank accounts for a full report and noted significant legal fees, including those for employee investigations. She pointed out a pattern of spending exceeding income and reiterated the city treasurer's offer to earn interest on checking account funds, which she stated the city council has failed to respond to.

5.7 **CITY MANAGER'S REPORT**

- 30-day Strategic Plan Update

The City Manager addressed the suggestion for holiday flags, explaining that in Beaumont, this is managed by a service club (Beaumont Lions Club) through donations, and Banning would need a similar nonprofit or volunteer group. She deferred questions about restricted funds and investments to the Finance Director. Regarding data centers and battery storage, she stated she was not prepared to discuss their status with the specific plan but noted that developers have indicated their intent is not for warehouses, though this is not in writing. She then addressed the mailer incident, confirming that the developer used the city logo without permission and that a press release was issued. The developer sent an apology letter, acknowledging ignorance of the city code prohibiting unauthorized use of the city seal. The City Manager stated there is no further follow-up without direction from the City Council.

Finance Director's Report on Restricted Funds

Finance Director Jennifer Terry explained that the total cash listed in the treasurer's report ($60.2 million) is spread across dozens of funds, most of which are restricted for specific purposes, such as grant revenue, gas tax, developer impact fees for projects like the Sun Lakes Boulevard extension, and other allocated funds. She clarified that the total amount is not solely from the general fund.

5.8 **CITY ATTORNEY'S REPORT**
The City Attorney reviewed Resolution 2026-58, the City of Banning Manual Procedural Guidelines, Decorum, and Order, specifically Article 9.

9.1 Consideration of Motion for Censure Initiated by Council Member Flynn against Council Member Wallace.
Recommendation: None

DRAFT

The City Attorney confirmed she would lead the staff report on item 9.1, the public censure of a council member. She explained that Council Member Flynn initiated the process against Council Member Wallace. The hearing will be conducted in open session, starting with a reading of the charges by the charging member, followed by a statement and rebuttal from the member charged. Witnesses may be presented, and closing statements will be made by both parties, with the charged member speaking last. The public will then have an opportunity to speak, followed by comments and a vote from the remaining council members. The Mayor then deferred to Council Member Flynn to present her opening charges.

Censure Procedures and Opening Statements

The meeting facilitator outlines the procedure for the censure process. The member being charged will have the opportunity to make a closing statement and will speak last. Following this, members of the public will be invited to speak either in favor or in opposition to the charges. Finally, the remaining council members will deliberate and vote on the matter. Council Member Flynn is then asked to present her opening charges.

Council Member Flynn read the charges against Council Member Wallace, alleging violations of the Banning Manual Procedure Guidelines (BMPG) and Municipal Code (BMC) regarding public censure.

Key Allegations

- Improperly filed complaint with HR instead of the City Manager or Attorney.
- Failure to follow administrative policies AP-14 sections 3, 4, 5, and 6.
- Caused an unnecessary outside investigation.
- Allegations included name-calling, questioning travel expenses, and preventing the Pledge of Allegiance.
- Procedural violations, not the content of the original complaint, are the basis for censure.

Council Member Wallace's Response

Council Member Wallace stated she followed procedures and did not intend to censor Council Member Flynn, citing a desire for respect due to alleged cursing, threats, and confrontational behavior from Council Member Flynn.

- She claimed not to have received the November 19th email about proper procedures.
- Mentioned Council Member Flynn's alleged prior expense to the city regarding SCAG.
- Asserted state procedures overrule local ones and that her actions were a response to disrespect.

Witness Testimony in Support of Council Member Wallace

- **Karina Moreno (Council Member, Palm Desert):** Described Wallace as a dedicated advocate who fights for her community and has a strong focus on economic development.
- **Daniela Andrade (Former Mayor):** Expressed opposition to the censure, noting similar past attempts were voted down.
- **Jeff Platt:** Emphasized the importance of consistent governmental standards, fairness, due process, and equal treatment for all.

Council Member Wallace's Final Remarks

Council Member Wallace maintained she followed procedures, that state law overrules local, and reiterated her call for respect. She again alleged Mayor Flynn used profanity and name-calling, claiming to have witnesses and video evidence. She also stated that HR indicated Flynn refused mediation, while she had agreed.

Council Discussion and Conclusion

- Council Members discussed their options, noting that a motion for censure would require a unanimous vote.
- A Council Member suggested the current situation was "dirty laundry" and that censure might be counterproductive given the understanding of proper protocols.
- The Mayor acknowledged procedures may not have been followed but emphasized moving forward with new HR and legal staff and procedures in place.
- Seeing no motion to censure, the Mayor declared the hearing closed.

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 Consideration and Approval of the meeting minutes of the May 12, 2026, Closed Session and Workshop City Council meetings.

6.3 Receive and File Code Enforcement Statistics for the Month of April 2026
Recommendation: Receive and file

6.4 Receive and File Police Department Statistics for the Month of April 2026
Recommendation: Receive and file.

6.5 Receive and File Animal Control Statistics for the Month of April 2026
Recommendation: Receive and file

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

6.7 Accept a Right of Way Dedication for Road and Utility Purposes on APN 541-133-014 (245 N Evans Street).
Recommendation: Accept the Right of Way Dedication for Road and Utility Purposes

6.8 Accept an Easement for Public Drainage, Storm Drain, and Maintenance Purposes for APN 537-090-038 (near 3610 Ramsey Street).
Recommendation: Accept an easement for Public Drainage, Storm Drain, and Maintenance Purposes

6.9 Consideration for Amendment No. 1 to Professional Services Agreement (C01231) for Homeless Encampment Clean Up, Illegal Dumping Abatement, and Graffiti Removal Services by and between City of Banning and Clean Harbors Environmental Services, Inc.
Recommendation: Adopt Resolution 2026-74

6.10 Receive and file Accounts Payable and Payroll Warrants issued for the months of January through March 2026.
Recommendation: Receive and file

DRAFT

6.11 Consideration of Resolution 2026-77, Approving the Professional Services Agreement with Cornerstone Utility Engineering
Recommendation: Adopt Resolution 2026-77

Council Member Miller left at 7:00 p.m. due to illness.

Mayor Royce opened public comment on consent calendar

- **Ingle Schuler** expressed disappointment with code enforcement, citing long-standing issues with a boat parked on Westwood Avenue and multiple eighteen wheelers parked behind a property. Concerns were raised about potential contaminants and the lack of action despite numerous complaints.
- **Frank Connelly** commented on the extensive accounts payable and payroll warrants, emphasizing the need for thorough review during budget season.

Council member Wallace motioned to accept consent items 6.1 through 6.11, Seconded by Mayor Pro Tem Barrington – Motion passed 4-0-1 - Miller absent.

7. PUBLIC HEARINGS

7.1 City Initiated Code Amendment to add Section 15.12.055 to Chapter 15.12 of Title 15 (Building and Construction) Regarding Refunds
Recommendation: Introduce by title and waive further reading of Ordinance.

Matt Wise, the Building Official, presented Ordinance 1623, which proposes adding a section to the Banning Municipal Code to establish policies for refunding permit fees. This ordinance aims to ensure transparency and consistency in the refund process, aligning with the California Building Code.

Mayor Royce opened public hearing at 7:10 p.m.
No public comments
Mayor Royce closed public hearing at 7:10 p.m.

Council Member Wallace motioned to introduce by title and waive further reading of Ordinance, Seconded by Mayor Pro Tem Barrington – Motion passed 4-0-1 - Miller absent.

8. REPORTS OF OFFICERS

None

9. DISCUSSION/ACTION ITEMS

9.2 Consideration of Resolution 2026-75, Approving the 2025 Engineering and Traffic Survey and Adopting Updated Speed Limits for 70 Specified Streets Within the City of Banning.
Recommendation: Adopt Resolution 2026-75

Nate Smith, Deputy Director of Public Works, presented Resolution 2026-75, which adopts the findings of the 2025 Engineering and Traffic Survey. This survey recommends updating speed limits on 70 roadway segments throughout the city. The resolution also directs staff to install new speed limit signs and to draft an ordinance establishing a 25-mph speed limit on all local residential streets.

- **Rationale:** California Vehicle Code requires regular traffic surveys to justify speed limits for enforcement.
- **Impact of AB 43:** Provides more flexibility for lowering speed limits.

The survey evaluated 70 locations, considering crash data, roadway conditions, and observed speeds. Roads with speed limit reductions were highlighted in green, while those with increases were yellow.

- Key Reductions: Significant drops on 22nd Street and Ramsey Street.
- Key Increases: Williams Street between Sunset and Sunrise (25 mph to 35 mph).
- Wilson Street: Speed limit reduced from 45 mph to 40 mph in some sections.

Residents and council members raised concerns about specific street speed limits, particularly on Wilson Street due to safety issues and speeding. Discussions also touched upon the feasibility of speed bumps versus speed cushions and the impact of truck traffic on road stress.

- Wilson Street Safety: Concerns about fatalities and blind spots due to a hill.
- Hargrave Street: Proposed speed increase questioned due to residential and park usage.
- Wesley Street: Appreciation for the speed limit reduction but concerns about persistent speeding.
- Truck Traffic: The impact of heavy truck loads on road infrastructure was discussed.

Council member Wallace motioned to adopt Resolution 2026-75, approve the traffic survey, and direct staff to update speed limit signs, Seconded by Mayor Pro Tem Barrington – Motion passed 4-0-1 - Miller absent.

9.3 Consideration of Resolution 2026-76, Approving the Short-Range Transit Plan for Fiscal Year 2026/2027-2028/2029 and Authorizing the Submittal of the FY 2026/2027 Funding Claims
Recommendation: Adopt Resolution 2026-76

Art Vela, Public Works Director, presented the Short-Range Transit Plan for fiscal years 2026-2029. The plan outlines transit operations, capital improvements, and funding needs. The Banning Connect Transit System, established in 1973, currently operates two fixed routes and a dial-a-ride service, covering Banning and Cabazon, with stops in Morongo Casino and Beaumont.

- Fleet: 7 fixed-route buses and 4 dial-a-ride vehicles.
- New CNG Station: Completed and generating revenue, contributing to Farebox recovery.
- Ridership: Near pre-pandemic levels, aided by a free fare program.

The SRTP details funding sources, including the Local Transportation Fund (LTF), State Transit Assistance Program, State of Good Repair program, and Low Carbon Transit Operations Program (LCTOP). The city is requesting approximately $2.7 million in LTF funds, with a total operating budget of $3.1 million. Revenue from CNG fuel sales and transit advertising is helping to meet the 10% Farebox recovery requirement, reducing reliance on general funds.

- Total Operating Budget: $3.1 million.
- Farebox Recovery Goal: 10% ($313,300).
- Revenue Supplements: CNG fuel sales and transit advertising.

Proposed service improvements include removing a bus stop at Sun Lakes Village Drive due to concerns about loitering and activity related to correctional facility releases. The stop is used by a small percentage of riders. The council discussed whether to remove the city's stop and request RTA to remove theirs, or to remove only the RTA stop initially.

- Sun Lakes Village Drive Stop: Low ridership (1.6% of total) and community concerns.
- Proposed Action: Remove the RTA stop and monitor the impact on Banning Connect ridership.
- Alternative Transfer Point: Walmart.

No public comments

Council Member Wallace motioned to adopt Resolution 2026-76, approve the Short-Range Plan, and direct staff to remove the RTA stop from Sun Lakes Village Drive and conduct a 30-day study of

Banning Connect ridership at that location, Seconded by Mayor Pro Tem Barrington – Motion passed 4-0-1 - Miller absent.

10. ITEMS FOR FUTURE AGENDAS

11.1 **NEW ITEMS**

1. Landscape Standards Review (Wallace) May 2026
2. Special Event Fee Schedule and Permit Process Review (Miller) May 2026

11.2 **EXISTING ITEMS**

1. Emergency Preparedness (Barrington) January 2025
2. Streamline Procurement Policy (Flynn) August 2025
3. Sales Tax Agreement Update with Diamond Chevrolet (Flynn) December 2025
4. Cannabis Warehouse Moratorium (New Facilities Only) (Barrington) December 2025
5. Continue Food Truck Festival (Barrington) January 2026
6. Maintenance and replacement of street signs. (Flynn) March 2026
7. Rename the Arthur Welch Community Center back to the National Guard Armory (Flynn) April 2026
8. Smoke Shop Moratorium (Miller) April 2026

11. ADJOURNMENT

Council Member Wallace motioned to adjourn, Seconded by Mayor Pro Tem Barrington – Motion passed 4-0-1 Miller absent

The meeting adjourned at 8:07 p.m.

Minutes prepared by:

Sandra B. Calderon
Deputy 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/320?view_id=1&redirect=true

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MINUTES

CITY COUNCIL - SPECIAL MEETING (CLOSED SESSION)
JUNE 9, 2026 – 3:00 p.m.

1. CALL TO ORDER – 3:02 p.m.

COUNCIL MEMBERS PRESENT: Mayor Richard Royce
Mayor Pro Tem Cindy Barrington
Council Member Sheri Flynn
Council Member Leroy Miller
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Elizabeth Gibbs, City Manager
Art Vela, Director of Public Works
John Pinkney, City Attorney
Vickie Sellers, City Clerk
Sandra Calderon, Deputy City Clerk

2. PUBLIC COMMENTS - ***Agenda Items Only***

There were no public comments

3. CLOSED SESSION

3.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8.
Property: Banning Municipal Airport consisting of approximately 232.41 acres comprised of APNs 541-240 -009; 541-250 -009; 541-140-003; 532-150-002; 532-150-003; 532-150- 004; 532- 130 - 012; 532-130-018; 532-130-011; 532-180- 034.
Agency Negotiator: City Manager Elizabeth Gibbs or her designee.
Negotiating Parties: City of Banning as potential Lessor and Industrial Enterprises, LLC as potential Lessee.
Under Negotiations: Price and Terms of proposed ground lease.

3.2 CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION –
Pursuant to Government Code Section 54956.9(d)(2) and/or (3) One (1) Potential Case

3.3 CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION Deciding Whether to Initiate Litigation
Pursuant to Government Code Section 54956.9(d)(4)
Number of Cases: One (1)

3.4 CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency Designated Representative Elizabeth Gibbs or her designee
Employee Organizations: International Brotherhood of Electrical Workers- General unit. International Brotherhood of Electrical Workers – Utilities. Teamsters. Banning Police Officers Association. Banning police management association. Unrepresented Employees: Non-Management Confidential Employees Group; Management Confidential Employees Group as defined in Council Resolution 2024-137.

Council Members recessed to Closed Session at 3:04 p.m. to discuss the items listed.

The City Council reconvened in open session with no reportable action taken.

4. ADJOURNMENT

Council Member Miller motioned to adjourn, seconded by Mayor Pro Tem Barrington.

The question was called by roll call vote and the motion carried unanimously.
The meeting adjourned at 4:39 p.m.

Minutes prepared by:

Sandra B. Calderon
Deputy 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:
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MINUTES

CITY COUNCIL - SPECIAL MEETING (WORKSHOP)
JUNE 9, 2026 – 4:00 p.m.

1. CALL TO ORDER– 4:40 p.m.

COUNCIL MEMBERS PRESENT: Mayor Richard Royce
Mayor Pro Tem Cindy Barrington
Council Member Sheri Flynn
Council Member Leroy Miller
Council Member Colleen Wallace

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Elizabeth Gibbs, City Manager
Art Vela, Director of Public Works
John Pinkney, City Attorney
Vickie Sellers, City Clerk
Sandra Calderon, Deputy City Clerk

2. WORKSHOP

2.1 Wastewater Treatment Plant and Recycled Water Upgrades Project Update and Next Steps

Recommendation: It is recommended that the City Council:

- Receive a presentation and update on the Wastewater Treatment Plant and Recycled Water Upgrades Project;
- Review the work completed to date, current project cost estimates, and available options for moving the project forward; and
- Provide direction to staff to proceed with Option B.3: Terminate the current Progressive Design- Build Contract and develop/implement a funding strategy for the original scope of work split into two phases: Phase I - Conventional Wastewater Treatment Plant Improvements; and Phase II - Reverse Osmosis and Brine Management.

Staff's Recommended Option: B3

Option B3 offers the best balance between compliance, reliability, financial responsibility, and recycled water goals.

- Off-ramps current progressive design-build contract.

While recommended, Option B3 has associated risks:

- Increased Costs: Delays can escalate project costs.
- Grant Eligibility: Needs active management.

- Existing Infrastructure: Continued reliance on the aging plant during transition.
- Rate Impacts: Must be understood and managed.
- Beaumont Basin Requirements: Still need to be addressed in Phase 2.
- Mitigation: Grant coordination, updated rate analysis, funding strategy development, interim maintenance, and evaluation of brine management/blending options.

Proposed Next Steps (Upon Council Support for B3)

- Initiate off-ramp process for the current PDB contract.
- Continue grant coordination with the Bureau of Reclamation.
- Initiate updated water and wastewater rate study.
- Complete plans for a traditional design-bid-build delivery.
- Continue seeking additional funding, evaluating phase two options, and the environmental process.

.

3. PUBLIC COMMENTS - *Agenda Items Only*

There were no public comments

4. ADJOURNMENT

Council Member Wallace made a motion to proceed with Option B3, seconded by Mayor Pro Tem Barrington.

The question was called by roll call vote and the motion carried unanimously.
The meeting adjourned at 5:14 p.m.

Minutes prepared by:

Sandra B. Calderon
Deputy 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/322?view_id=1&redirect=true

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Sandra Calderon, Deputy City Clerk** **Todd Hopkins, CalFire Division Chief**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Receive and File Fire Protective Services Statistics for the Month of May 2026**

STAFF RECOMMENDATION:

Receive and file

BACKGROUND:

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

JUSTIFICATION:

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

FISCAL IMPACT:

None

ATTACHMENTS:

1. jurisreport_banning.pdf

Riverside County Fire Department/ CAL FIRE

Jurisdiction Summary for City of Banning

Robert Fish

Fire Chief

5/1/2026 to 5/31/2026

Incident Response Activity

***At least 1 Resource Dispatched**

Incident Type	#
	2
False Alarm	25
Medical	392
Other Fire	4
Other Misc	2
Public Service Assist	31
Ringing Alarm	2
Traffic Collision	11
Vehicle Fire	1
Wildland Fire	3
Incident Total	**473**

Average Enroute to On-Scene Time

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

<5 Minutes	275
+5 Minutes	56
+10 Minutes	9
+20 Minutes	2
Average Min	4.35
% 0 to 5 Min	80.41

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

Transport

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

	0
Total:	**0**

Mutual Aid

***Unit responses**

Jurisdiction Units Responses

Engine	179
Total:	**179**

Mutual Aid Given

Engine	197
Total:	**197**

Mutual Aid Received

Brush	23
Chief	1
Engine	323
MRF	27
Nurse	4
Patrol	8
Squad	22
Total:	**408**

Truck Report

recorded 0 responses in from 5/1/2026 1:40:10 PM to 5/31/2026 1:40:10 PM

Significant Incidents

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Brandon Smith, Lieutenant** **Vincent Avila, Chief of Police**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Receive and File Police Department Statistics for the Month of May 2026**

STAFF RECOMMENDATION:

Receive and file

BACKGROUND:

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

JUSTIFICATION:

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

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Group A Offense Report May 2026.pdf
2. Police Stats May 2026.pdf

Group A Offense Report

Beginning Date: 05/01/2026 **Ending Date: 05/31/2026**

Agency: BANNING PD

Offense	Reported in 2026	Reported in 2025	Percent Change	Offenses Cleared	Percent Cleared	Percent Of Category	Rate Per 100,000*
Murder	0	0	NA	0	0.00%	0.00%	0.00
Negligent Manslaughter	1	0	NA	0	0.00%	3.13%	3.13
Justifiable Homicide	0	0	NA	0	0.00%	0.00%	0.00
Non-consensual Sex Offenses:							
Rape	0	2	-100.00%	0	0.00%	0.00%	0.00
Sodomy	0	0	NA	0	0.00%	0.00%	0.00
Sexual Assault with Object	0	0	NA	0	0.00%	0.00%	0.00
Fondling	0	0	NA	0	0.00%	0.00%	0.00
Aggravated Assault	14	6	133.33%	6	42.86%	43.75%	43.75
Simple Assault	13	13	0.00%	6	46.15%	40.63%	40.63
Intimidation	2	0	NA	0	0.00%	6.25%	6.25
Kidnapping/Abduction	2	2	0.00%	2	100.00%	6.25%	6.25
Consensual Sex Offenses:							
Incest	0	0	NA	0	0.00%	0.00%	0.00
Statutory Rape	0	0	NA	0	0.00%	0.00%	0.00
Human Trafficking, Commercial Sex Acts	0	0	NA	0	0.00%	0.00%	0.00
Human Trafficking, Involuntary Servitude	0	0	NA	0	0.00%	0.00%	0.00
Crimes Against Persons Total	**32**	**23**	**39.13%**	**14**	**43.75%**	**27.59%**	**100**
Robbery	0	0	NA	0	0.00%	0.00%	0.00
Burglary/Breaking & Entering	1	5	-80.00%	0	0.00%	2.00%	3.13
Larceny/Theft Offenses	22	16	37.50%	4	18.18%	44.00%	68.75
Motor Vehicle Theft	9	7	28.57%	0	0.00%	18.00%	28.13
Arson	2	0	NA	2	100.00%	4.00%	6.25
Destruction Of Property	13	6	116.67%	2	15.38%	26.00%	40.63
Counterfeiting/Forgery	1	2	-50.00%	0	0.00%	2.00%	3.13
Fraud Offense	2	1	100.00%	0	0.00%	4.00%	6.25
Embezzlement	0	0	NA	0	0.00%	0.00%	0.00
Extortion/Blackmail	0	0	NA	0	0.00%	0.00%	0.00
Bribery	0	0	NA	0	0.00%	0.00%	0.00
Stolen Property Offenses	0	2	-100.00%	0	0.00%	0.00%	0.00
Crimes Against Property Total	**50**	**39**	**28.21%**	**8**	**16%**	**43.1%**	**156.25**
Drug/Narcotic Violations	16	7	128.57%	16	100.00%	47.06%	50.00
Drug Equipment Violations	12	4	200.00%	12	100.00%	35.29%	37.50
Gambling Offenses	0	0	NA	0	0.00%	0.00%	0.00
Pornography/Obscene Material	0	0	NA	0	0.00%	0.00%	0.00
Prostitution	0	0	NA	0	0.00%	0.00%	0.00
Weapons Law Violation	6	2	200.00%	3	50.00%	17.65%	18.75
Animal Cruelty	0	0	NA	0	0.00%	0.00%	0.00
Crimes Against Society Total	**34**	**13**	**161.54%**	**31**	**91.18%**	**29.31%**	**106.25**
Total Group "A" Offenses	**116**	**75**	**54.67%**	**53**	**45.69%**	**100%**	**362.5**

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

* Adjusted population base: 32,000

BANNING POLICE DEPARTMENT
MAY, 2026

CRIME	May-26	May-25	% CHGE	YTD-26	YTD-25	% CHGE
PART 1 CRIMES						
Homicide	0	2	-100%	0	3	-100%
Rape	0	1	-100%	2	2	0%
Robbery	0	0	0%	6	3	100%
Assaults Agg/Simp	27	18	50%	71	66	8%
Burglary	1	2	-50%	3	38	-92%
Vehicle Theft	9	2	350%	26	25	4%
Larceny	22	10	120%	83	56	48%
OTHER						
Narcotics	16	3	433%	41	38	8%
DUI	3	2	50%	12	8	50%
T/C Non-Injury	24	2	1100%	109	42	160%
T/C Injury	1	4	-75%	11	21	-48%
T/C Fatal	0	0	0%	1	0	100%
Transient Calls	141	166	-15%	682	632	8%
Unattended Death	5	7	-29%	26	35	-26%
246PC	2	1	100%	4	11	-64%
Citations	152	56	171%	613	282	117%
Total Incidents	3138	2852	10%	15927	14195	12%

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Kristine Gutierrez, Community Development Operations Manager** **Vincent Avila, Chief of Police**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Receive and File Code Enforcement Statistics for the Month of May 2026**

STAFF RECOMMENDATION:

Receive and file

BACKGROUND:

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

JUSTIFICATION:

Statistics provide details on the types of code enforcement related calls the City responds to. Statistics show increases and decreases in particular areas of Code Enforcement over time.

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Code Stats May 2026.pdf

BANNING POLICE DEPARTMENT
MAY, 2026

Code Enforcement	May-26	May-25	% CHGE	YTD-26	YTD-25	% CHGE
New Cases Opened	57	49	16%	449	160	181%
Total Cases Open (Active)	245	398	-38%	1260	1990	-37%
Notice of Violations Issued	183	119	54%	1231	491	151%
Violations Resolved	255	113	126%	1238	553	124%
Citations Issued	40	7	471%	156	37	322%
Inspections Completed	176	97	81%	1191	477	150%
Collected Fee's (Citations)	$ 4,985.00	$ -	498500%	$ 13,495.00	$ 1,946.67	593%
Red Tagged Properties	0	3	-100%	9	15	-40%
AVA Program Vehicles Abated	0	0	0%	4	0	400%
Weed Abatement Cost Recovery	$ 6,945.90	$ -	694590%	$ 23,686.40	$ 90,935.03	-74%
72 Hour Parking (NOV) CVC 22651 K	4	0	400%	81	3	2600%
Unhoused Encampments Tagged (PC602)	24	3	700%	91	3	2933%
Calls For Service	137	1	13600%	744	5	14780%

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Yvette Vaca, Administrative Sergeant** **Vincent Avila, Chief of Police**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Receive and File Animal Control Statistics for the Month of May 2026**

STAFF RECOMMENDATION:

Receive and file

BACKGROUND:

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

JUSTIFICATION:

Statistics tell a city how many Animal Control Officers need to be on the street, the types of calls they handle, and the need for additional services. Statistics show increases and decreases in particular areas of Animal Control Services over time.

FISCAL IMPACT:

None.

ATTACHMENTS:

1. ACO Stats 2026 May.pdf

BANNING POLICE DEPARTMENT
MAY, 2026

ANIMAL CONTROL	May-26	May-25	% CHGE	YTD-26	YTD-25	% CHGE
Calls for Service	130	120	8%	664	498	33%
Animals Impounded	29	3	867%	116	9	1189%
Animals Euthanized	8	0	800%	15	3	400%
Bite Reports	6	5	20%	14	15	-7%
Citations Issued	2	0	200%	11	0	1100%
Expenses	$ 714.00	$ 4,241.48	-83%	$ 11,345.95	$ 8,039.86	41%
Revenue	$ 14.66	$ 972.00	-98%	$ 1,696.56	$ 4,650.00	-64%

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Matt Weise, Building Official** **Matthew Bassi**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Second Reading of Ordinance No. 1623 (Title 15 Code Amendment)**

STAFF RECOMMENDATION:

Staff recommends the City Council approve the second reading of Ordinance No. 1623.

BACKGROUND:

The City Council reviewed and approved the first reading of Ordinance No. 1623 at its Council meeting of May 26, 2026. It would be appropriate at this time for City Council to adopt the 2nd reading of Ordinance No. 1623. If approved, Ordinance No. 1623 will become effective on July 23, 2026 (30 days after 2nd reading).

JUSTIFICATION:

The City enforces the State-adopted model building standards for the purpose of regulating the design, construction, and quality of structures in order to protect life, health, safety, and property. Within the administrative provisions of these codes, Section 109.6 of the California Building Code (CBC) authorizes the Building Official to establish policies governing the refund of building permit fees. The proposed ordinance amends Title 15 of the Banning Municipal Code to provide clear and express authorization for the Building Official to administer and issue refunds associated with building permits, consistent with the California Building Code. For reference, the Building and Safety Division issues approximately 6 to 12 refunds annually to residents and contractors operating or residing within the City. The value of these refunds is typically less than $500.00 per refund after staff costs are considered.

This amendment is intended to ensure transparency, consistency, and equitable treatment in the administration of permit fee refunds, while formally establishing the City's policy that monetary refunds are only issued for the remaining balance of the permit fee collected, once portions of staff services related to the administration, processing, plan review, or inspection of permit applications have been rendered. The California Building Code Section 109.6 authorizes the Building Official to establish a refund policy for building permit fees. Hence, the proposed code amendment request.

Upon review of the existing Banning Municipal Code, staff has determined that it does not currently

contain clear and concise provisions establishing a citywide building permit refund policy. The absence of a formally adopted policy creates the potential for inconsistent application of refunds, which may give rise to public perception of inequity, preferential treatment, or favoritism between industry professionals and owner-builder applicants. Such inconsistency undermines transparency and public trust in the permitting process. Accordingly, the establishment of a standardized refund policy is necessary to ensure that all applicants are treated in a fair, impartial, and uniform manner. This policy will provide clear guidance for the administration of refunds related to building permits, regardless of an applicant's level of experience, knowledge, or resources, and will promote consistency, accountability, and confidence in the City's regulatory processes.

FISCAL IMPACT:

There is no direct fiscal impact associated with this action.

ATTACHMENTS:

1. Refund_Policy_Ordinance_1623_PAN_MDW_Final.docx

ORDINANCE 1623

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, ADDING SECTION 15.12.055 TO CHAPTER 15.12 (PERMITS) OF TITLE 15 (BUILDING AND CONSTRUCTION) OF THE BANNING MUNICIPAL CODE TO AUTHORIZE THE BUILDING OFFICIAL TO ISSUE REFUNDS OF PERMIT FEES.

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Banning is authorized to adopt and enforce ordinances and regulations not in conflict with the general laws to protect the public health, safety, and welfare; and

WHEREAS, the City of Banning is authorized to adopt and enforce building regulations pursuant to the California Building Code (CBC), as adopted and amended by the City; and

WHEREAS, Chapter 15.12 of Title 15 (Building and Construction) of the Banning Municipal Code regulates building permits within the City; and

WHEREAS, the collection of building permit, plan review, and inspection fees is necessary to recover the City's cost of providing such services; and

WHEREAS, the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act (CEQA) and finds that the proposed amendment is not subject to CEQA pursuant to Section 15060(c)(2) and (c)(3) of the CEQA Guidelines, as the amendment will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project" as defined in Section 15378 of the CEQA Guidelines.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING, RIVERSIDE COUNTY, STATE OF CALIFORNIA AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS.

The recitals reflected above are true and correct and incorporated herein by this reference as the cause, purpose, and foundation for the action taken by the City Council through this Ordinance.

SECTION 2. ENVIRONMENTAL DETERMINATION.

The City Council finds that adoption of this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and (c)(3) of the CEQA Guidelines because the adoption of Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project" as defined in Section 15378 of the CEQA Guidelines

SECTION 3. SEVERABILITY.

The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences, or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the Ordinance enforced.

SECTION 4. PROSECUTION OF PRIOR ORDINANCES.

Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the City of Beaumont Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 4. FINDINGS.

The City Council of the City of Banning finds as follows:

A. That establishing a standardized refund policy promotes fairness, transparency, and consistency in the administration of such fees.

B. The City Council finds that the proposed amendment is consistent with the goals and policies of the City of Banning General Plan, including Housing Element Goal 1.0, which promotes the maintenance and preservation of the City's existing housing stock; and

SECTION 5. AMENDMENT TO THE BANNING MUNCICPAL CODE.

Chapter 15.12 - Permits, is amended to add Section 15.12.055 – Refunds, to read as follows:

Section 15.12.055 - Refunds.

A. The Building Official may issue a refund if the applicant meets the following eligibility requirements:

1. If the applicant withdraws its application prior to the initiation of the plan review process, a refund of up to eighty percent (80%) of the permit fee may be refunded if no plan review has been performed.
2. If the Plan review process has been initiated but not completed, up to fifty percent (50%) of the plan review fee may be refunded, as determined by the Building

Official based upon the percentage of plan review work completed. In no event will the refund exceed fifty percent (50%) of the plan review fee.

3. If the plan review has been completed but a permit has not been issued, a refund of the plan review fees is not authorized and will not be granted. A full refund of the permit Inspection fees may be refunded if the permit has not been issued.
4. If the permit has been issued but no inspections have been performed up to eighty percent (80%) of the inspection fee may be refunded.
5. If the permit has been issued and inspections performed, a refund of the permit inspection fees is not authorized and will not be granted.

B. The following fees are not eligible for refund:

1. Permits that have expired due to inactivity or abandonment.
2. Permits that have been finaled or closed.
3. Administrative and processing fees.
4. State-mandated fees (including, but not limited to, seismic and fire-related surcharges).
5. Third-party consultant or contract service fees.

C. Exceptions:

The Building Official, in his or her sole discretion, may authorize exceptions where a fee was collected in error or where extraordinary circumstances justify deviation from this policy.

SECTION 7. CERTIFICATION AND PUBLICATION.

The Mayor shall sign and 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 8. EFFECTIVE DATE.

This Ordinance will become final and effective thirty (30) days following its passage and adoption by the City Council.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Banning, California, held on the 26th day of May 2026, by the following roll call vote:

AYES: Barrington, Flynn, Royce, Wallace

NOES: None

ABSENT: Miller

ABSTAIN: None

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, held on the 23rd of June 2026.

AYES:

NOES:

ABSENT:

ABSTAIN:

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that Ordinance 1623 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 26th of May 2026, and was duly adopted at a regular meeting of said City Council on the 23rd day of June 2026, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Sandra Calderon, Deputy City Clerk
City of Banning, California

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of the Mountain North Potable Water Reservoir by Tri-Pointe Homes**

STAFF RECOMMENDATION:

Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of the Mountain North Potable Water Reservoir by Tri-Pointe Homes

BACKGROUND:

A condition of approval for the Atwell Specific Plan is the construction of a potable water reservoir for the planned Mountain North pressure zone. This pressure zone is unique to the Atwell project, and the improvement is necessary to provide water pressure and storage necessary for fire protection for structures in the Mountain North pressure zone. This pressure zone is roughly north of the Southern California Edison Easement and south of the future extension of Highland Home Road as it curves to the west to meet Highland Springs Avenue.

A Subdivision Improvement Agreement is a binding agreement that protects the City of Banning when private development constructs what will be public facilities. A stipulation in the agreement is that the developed provides Payment Bonds and Faithful Performance Bonds that ensure if there is a work stoppage by the developer at a critical phase of construction, the City can call on the bonds to ensure that suppliers are paid for the materials supplied, and/or labor costs to complete the improvements.

The Subdivision Improvement Agreement identifies when a project will be accepted by the City of Banning for public maintenance and operation. Upon satisfactory completion of the work as approved by the City Engineer, an acceptance and bond reduction will be brought to City Council for consideration. From that point, there will be a 12-month warranty period where any defects will be corrected by the developer. After the 12-month warranty period, and upon satisfactory condition approved by the City Engineer, the remaining bond amounts would be exonerated by staff.

JUSTIFICATION:

The Subdivision Improvement Agreement and required bonds are standard practice by the City of Banning where public improvements are being constructed by private developers as a measure to protect the City of Banning if the improvements were left incomplete or present a hazard to the public.

FISCAL IMPACT:

None

ATTACHMENTS:

1. SIA MNZ Reservoir.pdf
2. MNZ Bonds.pdf

CITY OF BANNING

SUBDIVISION IMPROVEMENT AGREEMENT

* * * * * * SUBDIVISION REFERENCE DATA * * * * * *

[ ] FINAL TRACT MAP NO. 39262 ("Final Map" herein)

[ ] PARCEL MAP NO. _____("Parcel Map" herein)

NAME OR TRACT NUMBER OF SUBDIVISION ("Subdivision" herein):	ATWELL – TR 39262 MNZ Reservoir
NAME AND ADDRESS OF SUBDIVIDER(S):	TRI POINTE HOMES, IE-SD 1250 CORONA POINTE CT, #600 CORONA, CA 92879
CITY COUNCIL RESOLUTION OF APPROVAL NO.	_____ ("Resolution of Approval" herein)

DATE(S) THAT IMPROVEMENT PLANS WERE APPROVED BY THE CITY ENGINEER: See below

IMPROVEMENT/PLAN NO.:	MNZ Reservoir Paving, Grading and Drainage Improvement Plan #LD25-0024 MNZ Reservoir Mechanical, Electrical and Plumbing Improvement Plan #LD25-0024 _____ _____

ESTIMATED TOTAL COSTS:	IMPROVEMENTS	$ 5,213,000.00
	GRADING	$_____
	MONUMENTATION	$_____
	TOTAL:	$ 5,213,000.00

FORM OF IMPROVEMENT SECURITY: [X AAA Corporate surety bonds

[ ] Deposit of money

NAME AND ADDRESS OF CORPORATE SURETY (if applicable):

The Continental Insurance Company
(Name of Corporate Entity)

2 Park Plaza, Suite 400
(Street Address)

Irvine, CA 92614
(City) (State) (Zip)

SURETY BOND NUMBERS (if applicable):

Bond #30270661

Bond #30270662

EFFECTIVE DATE OF AGREEMENT:

(to be inserted by City)

COMPLETION PERIOD: All improvements of Tract 39262 (~~including the complete water and sewer system in _____ Street) with the exception of the roadway (street) improvements on _____ Street,~~ shall be completed within two years from the Effective Date of the Agreement. ~~_____ Street roadway (street) construction (so that _____ Street is a continuous route from _____ to _____) shall be constructed prior to the Certificate of Occupancy for development of lots ____ and ____ of Tract _____.~~

* *

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between the City of Banning, a municipal corporation ("City"), and the Subdivider whose name and address is set forth above in the Subdivision Reference Data.

RECITALS

A. Subdivider has presented to the City for approval and recordation a Final Map, identified above in the Subdivision Reference Data, of a proposed subdivision pursuant to the Subdivision Map Act of the State of California and the City's ordinances and regulations as such ordinances and regulations are vested under the development agreement recorded in the official records of the County of Riverside on July 17, 2012 as Document No. 2012-0332888 ("Development Agreement") relating to the filing, approval and recordation of subdivision maps (collectively referred to herein as the "Subdivision Laws").

B. A tentative map of the Subdivision was previously approved by City, subject to the Subdivision Laws and to the City's standard requirements as vested under the Development Agreement and conditions of approval contained in the City Council's Resolution of Approval, a copy of which is on file in the Office of the City Clerk and which is incorporated herein by this reference.

C. The Subdivision Laws establish, as a condition precedent to the approval of a Final Map, that the Subdivider comply with the City Council's Resolution of Approval and either (i) complete, in compliance with applicable City standards, all of the improvements and land development work required by the Subdivision Laws and the City Council's Resolution of Approval; or (ii) enter into a secured agreement with the City to complete the improvements and land development work within a period of time specified by the City.

D. In consideration of approval of the Final Map for the Subdivision by the City Council, Subdivider desires to enter into this Agreement whereby Subdivider promises to install and complete, at its sole expense, except as otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, all public improvement work required by the City as set forth on the Improvement Plans (as defined below) for the proposed Subdivision. Subdivider has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City. In any conflict between the terms in this Agreement and the Development Agreement, the Development Agreement shall be the controlling document.

E. Improvement Plans, and related specifications, numbered as designated above in the Subdivision Reference Data, for the construction, installation and completion of the Improvements identified in Schedule A hereto, have been prepared by the Subdivider, approved by the City Engineer, and are on file in the office of the City Engineer. Said Improvement Plans, and related specifications, subsequently modified by the mutual written agreement of the parties, are hereby referred to as the "Improvement Plans" and are incorporated herein by this reference.

Any improvement to be constructed pursuant to the Improvement Plan is hereby referred to individually as an "**Improvement**" and collectively as the "**Improvements**".

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the Final Map of the Subdivision, Subdivider and City agree as follows:

1. SUBDIVIDER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, and in compliance with the provisions of the Subdivision Laws, the Improvement Plans, conditions of approval of the Tentative Map, and all applicable City standards and fees, and in a good and workmanlike fashion, furnish, construct, install and guarantee (as set forth in Section 3) the Improvements, Grading, and Monumentation described on the tentative map and in the City Council's Resolution of Approval relating thereto (collectively, the "Improvements").

B. To the extent necessary to construct the Improvements, as determined by the City Engineer, the Subdivider shall acquire and dedicate, or pay the reasonable, documented cost of acquisition by City of, all rights-of-way, easements and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. If the Subdivider is unable to acquire such rights-of-way, easements and other interests in real property by negotiation, then Subdivider shall, within 120 days of Final Map approval, enter into a condemnation agreement with City pursuant to Government Code Section 66462.5, by which the City will commence the process for the acquisition of the rights-of-way, easements or other real property.

C. Subject to any time extensions granted in accordance with Section 4, Subdivider shall complete all Improvements within its respective "Completion Period" specified in the Subdivision Reference Data; provided, however, that if the City Engineer reasonably determines in good faith that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, the City Engineer shall give Subdivider not less than fifteen (15) business days' prior written notice to commence or accelerate installation and construction of such Improvements, or any portion thereof. The notice shall be in writing, and shall describe the work to be done by Subdivider, the time within which the work will commence, the period within which the work will be completed and identify the reasons that such early commencement is essential in order to protect the public health, welfare and safety. All or any portions of said Improvements may be required to be constructed or completed at a specified time, providing the foregoing criteria is met. If the Subdivider objects to the commencement or acceleration of the Improvements as specified by the City Engineer, Subdivider may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within 10 days after receipt by Subdivider of the written notice from the City Engineer.

D. If the Improvements to be constructed by Subdivider include monumentation, such monumentation shall be installed not later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein,

"monumentation" shall mean the setting of survey monuments and tie points in accordance with the Subdivision Laws, and the delivery to the City Engineer of tie notes for said points.

E. Subdivider shall , at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, replace or repair all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work performed by Subdivider under this Agreement during or after the Completion Period. Any such replacement or repair shall be subject to the approval of the City Engineer.

F. In addition to, and separate from, the indemnity obligations contained in Section 9 of this Agreement, and without limiting the City's remedies under general construction defect law, Subdivider shall be responsible for the care, repair and maintenance of the applicable portion of the Improvements until the latter of the following time periods: (i) the Improvements or applicable portion thereof is accepted in writing by the City; or (ii) the expiration of the required one-year guarantee and warranty period as specified herein; or (iii) the expiration of any applicable period of time requiring the care, repair and maintenance of the applicable Improvement specified in the Development Agreement (not including the term of any Development Agreement). Neither City, nor its officers, agents and employees, shall have any liability for any accident, loss or damage to the Improvements and that may result from the construction of the Improvements prior to their completion and written acceptance by the City

G. In addition to, and separate from: (1) the indemnity obligations contained in Section 7 of this Agreement, (2) the care, repair and maintenance provisions under paragraph E of this Section 1 of this Agreement; and (3) the warranty and guarantee provisions of Section 3 of this Agreement, Subdivider shall repair and correct, or be liable to the City for any cost to repair and correct, any defect in the construction of the Improvements that is identified by City within in accordance with general construction defect law ten (10) years after City's acceptance of the Improvement, provided the City provides written notice to Subdivider of the existence of the defect within that the time period under law, and the defect is caused directly or indirectly by the design, construction, functionality, installation, assembly or workmanship of Subdivider. Nothing contained in this paragraph is intended to limit or otherwise waive any right or cause of action under applicable construction defect law that City may assert against Subdivider.

H. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all applicable fees required by City ordinance or resolution and all taxes required by law.

I. Not less than seven (7) days prior to commencement of work on the Improvements, Subdivider shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

J. SUBDIVIDER shall pay all applicable City fees and costs stipulated in the latest fee resolution as adopted by the City Council from time to time as required for the development of the SUBDIVISION including but not limited to the following:

1. Building Permit Fees --- to be paid at the time of building permit issuance;

2. Final Map Plan Check Fees --- to be paid at time of submittal of final map for plan check and resubmittal of revised final map for plan check;

3. Final Map Moratorium Fees --- to be paid from cash deposit established at time of filing final map;

4. Plan Check and Review Fees --- to be paid from cash deposit established at time of filing improvement plans for plan check;

5. Encroachment Permit Fees --- to be paid at time of application for encroachment permit;

6. Inspection Fees --- to be paid from cash deposit established at time of construction permit issuance; and

7. Grading Permit Fee --- to be paid from cash deposit established at time of grading permit issuance.

K. Subdivider shall provide City with final Record Drawings of all plans developed for the Subdivision, showing all changes and as built conditions as specified in the Tentative Tract Map Conditions of Approval, and shall provide electronic image files of those final Record Drawings consistent with electronic image file size and type specifications of the City prior to the acceptance of improvements and release of bonds or other security.

2. INSPECTION OF WORK AND FINAL ACCEPTANCE

A. Subdivider shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer and other City personnel and inspection consultants.

B. Upon completion of the work on all or any category of the Improvements, the Subdivider may request a final inspection by the City Engineer. Within forty-five (45) days of receipt of the written letter request, the City Engineer shall inspect the Improvements and provide written notice to Subdivider of the list of items which have been found to be incomplete and the list of items which have been found to be complete. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall acknowledge that determination in a report to the City Council. If the Improvements that are completed are to be dedicated to or owned by the City (Improvements within City right of way and property for public use), the City Engineer's determination shall be

submitted to the City Council for final acceptance by the City, unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. If the Improvements that are completed are to be dedicated to or owned by a public entity other than the City, the Subdivider's written request shall be submitted to the applicable public entity or other owner, for final acceptance. Subdivider shall bear all costs of inspection and determination of completeness in accordance with City's formally adopted and applicable fees and rates.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements pursuant to subparagraph B above. The City Council shall act upon the City Engineer's recommendation that such public Improvements have been completed unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. Acceptance by the City or by the governing body of the entity that is to accept dedication or ownership of the public improvements shall not constitute a waiver by the City or such other public entity of any defects in the public Improvements.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. If, within a period of one year following acceptance by the City of the applicable Improvements specified in Schedule A, any Improvements or part of any Improvements specified in Section A furnished, installed or constructed by the Subdivider, or any of the work performed under this Agreement by Subdivider, fails to comply with any requirements of this Agreement, or the Subdivision Laws, or the Improvement Plans and related specifications, the Subdivider shall, without delay and without cost to the City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Subdivider's obligations hereunder shall include the repair, replacement or reconstruction of all irrigation systems and all trees, shrubs, ground cover and landscaping for such one year.

B. Should the Subdivider fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement, or reconstruction to be undertaken before the Subdivider can be notified and can perform the necessary work, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction and draw upon the Subdivider's improvement security to reimburse itself for the costs incurred. If the Subdivider's improvement security does not cover the total cost of such repair, replacement, or reconstruction, the Subdivider shall reimburse the City for any excess costs incurred.

C. The security furnished for the faithful performance of the Subdivider's obligation to construct and install the Improvements described herein shall include the Subdivider's liability and obligation hereunder to provide the one-year guarantee and warranty of the Improvements.

4. TIME EXTENSIONS

A. Upon a showing by the Subdivider of good cause therefor, the duration of the Completion Period for the Improvements (or any of them) may be extended by the City Engineer in writing. As used herein, "good cause" may include, without limitation, delay resulting from, arising out of or relating to an act of the City; acts of God or force majeure, strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work; findings made by a governmental entity that the site of a particular Improvement is of archeological significance or requires further permitting and approval; and/or actions or failure to act of native American monitor(s); and, the order of any court.

B. A time extension may be granted without notice to any surety or sureties of the Subdivider and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for herein, the City Engineer, may require the Subdivider to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount as necessary to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

A. Prior to City's execution of this Agreement, Subdivider shall provide as security to the City:

1. For Performance and Guarantee: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider assures faithful performance under this Agreement and guarantees the Improvements for one year after the completion and acceptance of the applicable portion of such Improvements, against any defective workmanship or materials or any unsatisfactory performance, pursuant to Section 3 hereof.

2. For Payment: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider guarantees payment to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to them or to the Subdivider.

B. If the improvement security is a corporate surety bond and, in the opinion of the City, any surety or sureties thereon become insufficient, because (i) the surety becomes

insolvent; (ii) the surety's bond rating is downgraded; (iii) the surety declares bankruptcy; or (iv) the surety is no longer deemed to be an admitted surety in California by the California Department of Insurance, or (v) the form of the surety or the amount is found by City to be in error or materially insufficient, the Subdivider shall renew or replace any such surety bond with good and sufficient surety or sureties within thirty (30) days after receiving from City written demand therefor.

C. The amount of security for performance, payment and warranty obligations provided by this section shall not include the cost of monumentation, as required by Government Code Section 66497 so long as a separate cash deposit or security acceptable to the City Engineer for the estimated cost of monumentation has been submitted to the City.

D. Improvement security consisting of corporate surety bonds, in a form accepted by the City Attorney, shall be filed with the City Engineer and then kept on file with the City Clerk. If a corporate surety bond is replaced by another approved bond, the replacement shall be submitted to the City Engineer and, upon filing with the City Clerk, shall be deemed to have been made a part of and incorporated into this Agreement. Upon submission to the City Engineer and then filing with the City Clerk of a replacement bond, the former improvement security shall be released following written approval of the City Engineer.

E. Modifications of the Improvement Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of the Improvements, shall not relieve or release any improvement security furnished by Subdivider pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, Subdivider shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred percent (100%) of the revised Estimated Total Cost of the Improvements.

F. Subject to any time extensions granted in accordance with Section 4 herein, the Subdivider shall be in default if the Subdivider has not completed all improvements within two years from the Execution Date of the Agreement and has not repaired any defects in the completed Improvements within the one-year guarantee and warranty period.

Alternatively, in the event of a default by the Subdivider pursuant to Section 10, and after written notice to Subdivider and reasonable opportunity to cure, City, at its sole option, shall have the right, without limiting any other rights and/or remedies available to City at law or in equity, to draw upon or utilize the improvement security furnished herewith to construct and install the Improvements itself. If City exercises this right, the release of any unused portion of such improvement security shall be in accordance with the procedures outlined in Section 6 herein, including any retention necessary for the one-year guarantee period.

6. <u>REDUCTION OR RELEASE OF IMPROVEMENT SECURITY</u>

A. All public Improvements (Improvements that are to be owned or dedicated to the City or other public entity as distinguished from those owned by a private community

association) shall be first completed, deemed completed by the City Engineer and then accepted as complete by the City prior to release of sureties. All private Improvements (Improvements that are to be owned by a private community association and not dedicated or owned by the City or other public entity) shall be first completed and then accepted as complete in writing by the City Engineer.

B. Partial releases or reductions in the Subdivider's improvement (performance) security may be authorized prior to the City's acceptance of all Improvements required hereunder, as follows:

1. At the time that the Subdivider believes that the obligation to perform the work for which security was required is complete, the Subdivider may notify the City in writing of the completed work, including a list of work completed. Upon receipt of the written notice, the City shall review and comment or approve the completion of the required work within forty-five (45) days. If the City does not agree that all work has been completed in accordance with the plans and specifications for the Improvements, it shall supply a list of all remaining work to be completed within this 45-day period.

2. Within forty-five (45) days of receipt of the list of remaining work from the local agency, the Subdivider may then provide cost estimates for all remaining work for review and approval by the City. Upon receipt of the cost estimates, the City shall then have forty-five (45) days to review, comment, and approve, modify, or disapprove those cost estimates. The City shall not be required to engage in this process of partial release more than once between the start of work and completion and acceptance of all work; however, nothing in this section prohibits the City from allowing for multiple and phased partial releases as it otherwise deems appropriate.

3. If the City approves the cost estimate, the City shall release all performance security except for security in an amount up to two hundred percent (200%) of the cost estimate of the remaining work. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed twenty percent (20%) of the total original performance security unless the City allows for a release at an earlier time. Substitute bonds or other security may be used as a replacement for the performance security, subject to the approval of the City. If substitute bonds or other security is used as a replacement for the performance security released, the release shall not be effective unless and until the City receives and approves that form of replacement security. A reduction in the performance security, authorized under this section, is not, and shall not be deemed to be, an acceptance by the City of the completed improvements in and of itself, and the risk of loss or damage to the Improvements and the obligation to maintain the Improvements shall remain the sole responsibility of the Subdivider until the applicable required public Improvements have been accepted by the City in writing and all other required improvements have been fully completed in accordance with the plans and specifications for the improvements.

4. The Subdivider shall complete the works of Improvement until all remaining items are accepted by the City.

5. Upon the completion of the Improvements, the Subdivider, or his or her assigns, shall be notified in writing by the City within forty-five (45) days.

6. Within sixty (60) days of the issuance of the notification by the City Engineer, any remaining performance security, except ten percent (10%) of the original amount of the security to guarantee and warrant the Improvements for the one-year guarantee and warranty period, shall be released within sixty (60) days of the issuance of the written statement of completion.

C. Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all stop notice claimants for whom stop notices have been filed with the City, and if no claims have been filed, the security shall be released in full.

D. The partial release provisions of this Section 6 shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees. Security furnished to guarantee and warrant the Improvements against any defective work or labor done or defective materials furnished, shall be released within thirty (30) days after the completion of the one-year period following completion and acceptance of all Improvements.

E. If Subdivider's obligations relating to any Improvements are subject to the approval of another governmental agency, the City shall not release the improvement (performance) security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have sixty (60) days after receipt of written notice from the Subdivider of the Subdivider's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Subdivider's performance of the obligation was done to its satisfaction, and such improvement security shall be promptly released.

F. In the event the time periods for action by the City specified in this Section conflict with a shorter or longer time period for such actions as provided in Government Code Section 66499.7, the time periods in Government Code Section 66499.7 shall control.

7. <u>INDEMNIFICATION OF CITY BY SUBDIVIDER</u>

A. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss or damage to either property or person attributable to or arising out of the defective design, construction, functionality, installation assembly or improper

maintenance including, without limitation, the use of defective methods, materials or workmanship (collectively "Subdivider's Faults") of the Improvements by Subdivider, its officers, employees and agents. Subdivider shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including attorneys' fees, arising directly or indirectly out of or attributable to Subdivider's Faults.

B. Subdivider's obligations under this Section 7 are not conditioned or dependent upon whether the City, or its officers, agents and employees, prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Subdivision or the Improvements, or has insurance or other indemnification covering any of these matters.

C. Subdivider's obligation to indemnify, hold harmless and defend the City under this Section 7 shall extend to injuries to persons and damages to or alleged taking of property resulting from the Subdivider's Faults, and the Improvements required herein, and shall likewise extend to claims asserted by adjacent property owners based upon the diversion of waters caused by the Subdivider's defective design or defective construction of public drainage systems, streets, and other public facilities or improvements. Except for a City Directive as defined below, the City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Subdivision or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Map, regardless of any act or omission by the City in approving the Improvement Plans or the Final Map, unless the particular Improvement design was required by the City over the written objection of the Subdivider, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design (a "City Directive"). After City's acceptance of the Improvements, the Subdivider shall remain obligated to correct or eliminate all dangerous conditions created by defects in design, construction or Subdivider's Faults (other than those required by a City Directive); provided, however, that Subdivider shall not be responsible for routine maintenance as specified in Section 1(F) of this Agreement. Subdivider's indemnity obligations hereunder shall remain in effect for ten (10) years following acceptance of the respective Improvement(s) by the City Council. Subdivider acknowledges and agrees that Subdivider shall be responsible and liable for the Subdivider's Faults with respect to the Improvements and other work done pursuant to this Agreement, unless same is due to a City Directive. City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements, unless same is due to a City Directive. The Subdivider's improvement security shall not be required to secure the Subdivider's obligations under this subparagraph C beyond the one-year guarantee and warranty period, unless the City Engineer provides notice to Subdivider prior to the expiration of the one-year period of the existence of, or continued existence of, defects in the improvements, in which case the portion of the improvement security to guarantee and warranty the improvements against defective work shall not be released and shall remain in place until the City Engineer provides written confirmation that the defects have been cured and corrected. The indemnity shall be effective retroactively to the earliest recordation date of the Final Map.

D. Subdivider shall pay and satisfy any judgment, award or decree that may be rendered against City, its officers, officials, employees, agents, representatives and volunteers (collectively hereinafter "City and City Personnel") to the extent of the indemnity provided above, in any such suit, action, or other legal proceeding, provided City gives Subdivider prompt written notice of such claim and allows Subdivider to undertake the defense thereof, and provided further that City cooperates in any such suit, action, or other legal proceeding, but shall retain its right to reject a settlement that the City deems, in its sole and absolute discretion, to be contrary to the interests of the City.

E. Subdivider's obligation to indemnify shall not be restricted to Insurance proceeds, if any, received by the City and City Personnel.

F. Subdivider, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against City and City Personnel to the extent of the indemnity above provided.

8. INSURANCE

The following coverages will be provided by Subdivider and maintained on behalf of City and in accordance with the requirements set forth herein. If Subdivider performs construction activities through a general contractor, some or all of these insurance requirements for the period of construction may be satisfied by the general contractor's insurance coverages. In such case, Subdivider shall maintain during this same construction period, and after the construction period, the coverages shown below as "Insurance After Construction." In addition, Subdivider may elect to obtain, for all or any portion of the Project, an "Owner-Controlled Wrap Up" insurance policy in satisfaction of the insurance requirements for general contractors and subcontractors provided it satisfies all of the insurance requirements below for general contractors and subcontractors. Throughout these specifications, the word "Subdivider" refers to the Party responsible to provide the coverages as specified and, depending on context, may refer either to Subdivider or to a separate General Contractor.

A. Insurance During Construction. Subdivider shall provide the following insurance during construction of the Improvements. Insurance requirements may be met through insurance provided by Subdivider's General Contractor:

1. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL Form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO Form CG 20 10 11 85 or other revision of the CG 20 10 form if available from the insurer and reasonably acceptable to the City, not limiting coverage for the additional insured to "ongoing operations" or in any way excluding coverage for completed operations. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation or other endorsement limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

2. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting date no later than and an ending date no earlier than those of the underlying coverages. The Named Insured (Subdivider or General Contractor as appropriate) may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits and complies with all other requirements listed here.

3. Business Auto Coverage. Business Auto Coverage shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

4. Workers' Compensation/Employer's Liability. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars ($1,000,000) per accident or disease. Employer's liability coverage shall be scheduled under the umbrella or excess liability policy described above. This policy shall be endorsed to waive any right of subrogation with respect to City, its officers, employees or agents.

5. Builder's Risk Insurance. Builder's Risk Insurance covering all real and personal property for "all risks" of loss or "comprehensive perils" coverage including but not limited to the perils of earth movement, including earthquake (if required by Subdivider's lender or if available at commercially reasonable rates) and flood for all Improvements.

B. Insurance After Construction. Upon completion of construction of the Improvements, and for the required one-year guarantee and warranty period for Improvements and the required 10-year indemnification period, Subdivider at Subdivider's expense shall maintain or cause to be maintained the following insurance:

1. Commercial Property Insurance. Commercial Property Insurance covering the Improvements. Coverage shall be at least as broad as the Insurance Services Offices broad causes of loss form CP 10 20, and reasonably approved of in writing by the City. Coverage shall be sufficient to insure 100% of the replacement value and there shall be no coinsurance provisions. The policy shall include an inflation guard endorsement, 100% rents coverage, contents coverage, coverage for personal property of others, ordinance or law and increased cost of construction coverage. Subdivider also agrees to provide builder's all-risk insurance using an inland marine form during the period of any major alteration or improvement, using the broadest form available.

The insurance coverage for the peril of earthquake required for this project is subject to availability on the open market at commercially reasonable premium cost, as determined by mutual agreement between Subdivider and City. If such earthquake insurance coverage should, after diligent effort by Subdivider, be unobtainable at such mutually determined commercially reasonable premium cost, then Subdivider shall obtain the maximum insurance reasonably obtainable at commercially reasonable premium cost (if any) and give notice to City of the extent of Subdivider's inability to obtain, in full, the required insurance, and in such event, Subdivider's obligation to procure and maintain such insurance may be excused, subject to City's verification of inability to obtain the required insurance. Subdivider and City agree that a premium cost of earthquake insurance coverage of up to 150% of the premium cost paid by Subdivider for such coverage on the Effective Date (to be adjusted over time based on the Consumer Price Index,) shall constitute a commercially reasonable premium cost. Non-availability at commercially reasonable premium cost must be documented by a letter from Subdivider's insurance broker or agent indicating a good faith effort to place the required insurance and showing, at a minimum, the names of the insurance carriers and the declinations or quotations received from each.

2. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO form CG 20 10 or equivalent if available from the insurer and reasonably acceptable to the City. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City until the warranty period specified in this Agreement expires.

3. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting

date no later than and an ending date no earlier than those of the underlying coverages. Subdivider may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits.

4. Workers Compensation Insurance. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella or excess liability policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its employees or agents.

5. Business Auto Coverage. Business Auto Coverage for vehicles owned, operated or maintained in any way connected with the project, shall be written on ISO Business Auto Coverage form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella or excess liability policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

C. Provisions Pertaining to Insurance Provided by Subdivider

1. All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

2. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any Party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

3. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Subdivider, and Subdivider's employees, or agents, from waiving the right of subrogation prior to a loss. Subdivider waives its right of subrogation against City.

4. None of the policies required herein shall be in compliance with these requirements if they include any limiting endorsement that has not been first submitted to City and approved in writing by the City.

5. Unless otherwise approved by City, Subdivider's insurance and insurance provided by any contractor or subcontractor relating to the construction of the Improvements shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of at least "A-:VII." Self-insurance will not comply with these insurance specifications unless expressly approved in writing by the City.

6. In the event any policy of insurance required under this Agreement does not comply with these requirements and Subdivider does not cure the non-compliance within thirty (30) days after written notice from City (or Subdivider does not provide reasonable evidence of such cure within such period), or if the insurance is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any reasonable premium paid by City will be promptly reimbursed by Subdivider.

7. Subdivider agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Subdivider's general liability and umbrella liability policies using ISO Form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage and policies are to have a "cancellation endorsement" to the same effect. Subdivider agrees to provide copies of any endorsements modifying coverage in any way upon request from City.

8. Subdivider shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage.

9. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

10. Subdivider agrees to require all subcontractors or other parties (but not including a general contractor) hired for this project to construct the Improvements to purchase and maintain insurance for general liability (minimum limit $1,000,000 per occurrence), automobile liability ($1,000,000 per accident) and workers' compensation (statutory benefits). Prior to the issuance of the Certificate of Completion for each Phase, Subdivider shall, upon request by City, provide the City with copies of all insurance policies, certificates and endorsements related to such Phase.

11. Subdivider agrees to monitor and review all coverage required by this Section and assumes all responsibility for ensuring that such coverage is provided as required here. Subdivider agrees to obtain certificates evidencing such coverage. Subdivider agrees that upon request, all agreements with subcontractors or others with whom Subdivider contracts with on behalf of City, and all certificates of insurance

obtained in compliance with this paragraph will be submitted to City for review upon request by City. Failure of City to request copies of such documents will not impose any liability on City, or its employees.

12. Subdivider agrees to require that no contract used by any general contractor or subcontractor in connection with construction of the Improvements, or contracts Subdivider enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement.

13. Where appropriate (such as in the case of automobile insurance coverages), coverage will not be limited to the specific location designated as the Property.

14. Subdivider agrees to provide notice to City of any claim or loss against Subdivider that includes City as a defendant promptly after Subdivider receives written notice or obtains knowledge thereof. 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. City agrees to provide similar notice to Subdivider of any such claims it is notified of respecting the Property.

15. Subdivider agrees not to attempt to avoid its defense and indemnity obligations to City, and its officers, employees, agents by using as a defense Subdivider's statutory immunity under workers' compensation and similar statutes.

16. Subdivider agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Subdivider and City or between City and any other insured or Named Insured under the policy, or between City and any Party associated with City or its employees.

17. If Subdivider or any contractor or subcontractor is a Limited Liability Company, general liability coverage must apply so that the Limited Liability Company and its Managers, Members, Affiliates, and their employees are insureds.

18. Subdivider shall require General Contractor to maintain commercial general liability, and if necessary, commercial umbrella liability insurance with a limit of not less than $15,000,000 for each occurrence, until the warranty period specified in this Agreement expires.

19. Subdivider agrees to obtain and provide to City evidence of professional liability coverage for Architects, Engineers or other design professionals working on the Improvements. The limit of liability required is subject to City approval, but in no event to be less than $1,000,000 per claim and in the aggregate, and Subdivider shall use reasonable efforts to require and cause such professionals to maintain coverage with respect to each occurrence for at least three years following substantial completion of the work and, in the event Subdivider is unable to do so, Subdivider shall promptly inform the City of the scope of such efforts and the reasons that it was unable to do so. If

Subdivider requests that the City approve a lower limit for any particular design professional Subdivider seeks to employ on the Improvements, City will evaluate each such request based on City's perception of liability exposure associated with the work that would be performed by that design professional.

20. To the extent a particular coverage or policy form or specification is not reasonably available from Subdivider's insurer or would result in an additional premium that is extraordinary or unreasonably disproportionate to the premium for the policy as a whole, then Subdivider shall provide substantially similar coverage reasonably acceptable to City for which the cost is not extraordinary or unreasonably disproportionate.

9. OWNERSHIP OF THE IMPROVEMENTS

A. Ownership of all or any category of the Improvements constructed and installed by the Subdivider pursuant to this Agreement and shown on the Map to be dedicated to the public shall vest, as applicable, in the City (or other specified governmental agency) upon acceptance of said Improvements by the City. The acceptance of the Improvements shall either be shown by a certificate on the Final Map or by subsequent resolution accepting the Improvements adopted by the City pursuant to Government Code Section 66477.2 and recorded with the County Recorder or by other writing.

B. The Subdivider shall at all times prior to the acceptance of the Improvements by the City, give good and adequate warning to the public of each and every dangerous and defective condition caused by the construction of the Improvements and shall take all steps reasonably necessary to protect the public from such dangerous or defective conditions. The Subdivider agrees and understands that until acceptance of the Improvements by the City in writing, each Improvement and Improvement area that is offered for dedication shall be under the charge of the Subdivider, and the Subdivider may close all or a portion of any street or area whenever necessary to protect the public during the construction of the Improvements.

10. PREPARATION AND RECORDATION OF CC&RS.

A. The Subdivider shall establish a Homeowners Association for the residential areas of the Final Map owned by Subdivider, and to pay all costs associated with the creation of the associations.

B. The Subdivider shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) which obligate each homeowners association to provide for maintenance of the shared facilities, improvements, and landscaping within the boundaries of the associations in perpetuity in accordance with the Development Agreement and conditions of approval. The CC&Rs shall describe the homeowners association and the City's responsibilities and rights, and shall be subject to the approval of the City prior to recordation.

C. The Subdivider shall implement applicable provisions of the Mitigation Monitoring and Reporting Program.

11. DEFAULT AND BREACH BY THE SUBDIVIDER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the Subdivider shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to complete construction and installation of the Improvements or any of them by the completion date set forth above in the Subdivision Reference Data;

2. Failure to promptly correct or cure any defect in the Improvements or any of them (other than a City Directive) during the one-year guarantee and warranty period as required by Section 3.A or failure to commence correction or cure of any such defect or failure to diligently prosecute same to completion, in each instance following receipt by Subdivider of written notice that such defect exists;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work of the Improvements or any of them, after commencement of work on same, for a period of thirty (30) days after Subdivider's receipt of written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance by the Subdivider in lieu or in avoidance of foreclosure, within thirty (30) days after receipt by Subdivider of written notice thereof from the City; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within thirty (30) days after receipt by Subdivider of written notice thereof from the City.

B. City reserves to itself all remedies available to it at law or in equity for any breach of Subdivider's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, after written notice to Subdivider and a reasonable opportunity for Subdivider to cure any such alleged default, to draw upon or utilize any improvement security furnished hereunder to complete the Improvements or otherwise mitigate City's damages in the event of Subdivider's default.

C. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may serve written notice of any such default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that said surety take over and complete the Improvements herein specified. If such surety, within thirty (30) days after service of such notice of default, does not give the City

written notice of its intention to perform this Agreement, or does not commence such performance within thirty (30) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by any other method the City deems advisable, for the account and at the expense of the Subdivider and its surety.

D. Subdivider acknowledges that the Estimated Total Costs and Improvement Security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and, consequently, City's damages for Subdivider's default shall be measured by the actual cost of completing the required Improvements. If the damages incurred by the City in taking over and completing the Improvements exceeds the principal amount of the improvement security, then the Subdivider shall reimburse the City in the amount of such excess damages.

E. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, City may, without liability for so doing, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for the performance of the work. Subdivider hereby consents to such entry by the City and its representatives, including contractors, following written notice to Subdivider upon the real property in the Subdivision owned by Subdivider and necessary for City to enter or access under this Agreement, in the event the City elects to maintain or complete the work on the Improvements following Subdivider's default.

F. Subdivider acknowledges and agrees that approval of the Final Map for the Subdivision conferred substantial rights upon the Subdivider, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon Subdivider's failure to perform its obligations under this Agreement, which failure is not promptly remedied by sureties or by Subdivider.

G. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Subdivider.

H. If City sues to compel Subdivider's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, and is the prevailing party, Subdivider agrees to pay all reasonable attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if Subdivider subsequently resumes and completes the work.

12. RELATIONSHIP OF THE PARTIES

Neither Subdivider, nor any of Subdivider's contractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of Subdivider's obligations under this Agreement.

13. ASSIGNMENT

A. Subdivider shall not assign this Agreement, or any portion thereof without the prior written consent of the City in accordance with the Development Agreement. Any attempted or purported assignment in violation of this subparagraph A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Subdivision shall not relieve Subdivider of its obligations hereunder. If Subdivider intends to sell the Subdivision, or any portion thereof (except for the sale of individual lots with homes to individual purchasers), to any other person or entity, the Subdivider may request an assignment or novation of this Agreement and a substitution of improvement security. Upon the City's approval of the assignment or novation and substitution of improvement security, the Subdivider may request a release or reduction of the improvement security furnished pursuant to this Agreement.

14. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Art Vela Director of Public Works/City Engineer City of Banning 99 E. Ramsey Drive Banning, California 92220
If to the Subdivider:	To the address set forth above in the Subdivision Reference Data, or to such other address as may subsequently be designated in written notice to the City.

Notice shall be effective on the date that it is delivered in person, or, if mailed, three (3) days after the date of deposit in the United States Mail.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer.

16. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

17. INCORPORATION OF SUBDIVISION REFERENCE DATA AND RECITALS

The Subdivision Reference Data and the Recitals are incorporated into this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

19. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the Subdivider shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Subdivision Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the Subdivider.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the dates set forth below their respective signatures.

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a Corporation, the signatures of two Corporate officers are required, unless a resolution of the Corporation's Board of Directors is provided indicating that the signature of the one signatory is sufficient to bind the Corporation.]

SUBDIVIDER

By: _____
Print Name: Michael C. Taylor
Title: Division President

Date: 5.15.26

CITY

CITY OF BANNING

_____
MAYOR

ATTEST:

_____ (SEAL)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 5/15/2026 before me, Ryan Hinton / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

RYAN HINTON
Notary Public - California
Riverside County
Commission # 2514118
My Comm. Expires Mar 11, 2029

Signature Ryan Hinton (Seal)

CITY CLERK

Approved as to form:

_____

CITY ATTORNEY

[This page for acknowledgments.]

Bond No. 30270661
Premium: included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262 MNZ Reservoir Paving, Grading and Drainage Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262 MNZ Reservoir Paving, Grading and Drainage Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Eight Hundred Eighty Thousand and no/100 Dollars ($880,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 5·15·26

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 5/15/2026 before me, Ryan Hinton / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

RYAN HINTON
Notary Public - California
Riverside County
Commission # 2514118
My Comm. Expires Mar 11, 2029

Signature Ryan Hinton (Seal)

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine, CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: May 14, 2026

APPROVED:

City Attorney

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On MAY 14 2026 before me, Marina Tapia, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

MARINA TAPIA
Notary Public - California
Los Angeles County
Commission # 2500058
My Comm. Expires Oct 7, 2028

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Marina Tapia, Janina Monroe, Michelle Haase, Timothy J Noonan, Edward C Spector, Aidan Smock, Jaren A Marx, Erin Brown, Charles R Teter III, Simone Gerhard, B Aleman, K D Wapato, Rachel A Mullen, D Garcia, Sandra Corona, Jennifer Ochs, Ethan Spector, Sarah Campbell , Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the Authorizing By-Laws and Resolutions printed at the bottom of this page, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 2nd day of March, 2026.

The Continental Insurance Company

Larry Kasten — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 2nd day of March, 2026, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

K. WALSH
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires December 4, 2031

K. Walsh — Notary Public

CERTIFICATE

I, Paula Kolsrud, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance company printed below this certificate are still in force. In testimony whereof I have hereun[illegible]e and affixed the seal of the said insurance company this 14th day of May, 2026.

The Continental Insurance Company

Paula Kolsrud — Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Bond No. 30270661
Premium: $3,256 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262 MNZ Reservoir Paving, Grading and Drainage Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262 MNZ Reservoir Paving, Grading and Drainage Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of Eight Hundred Eighty Thousand and no/100 Dollars ($880,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 5·15·26

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 5/15/2026 before me, Ryan Hinton / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

RYAN HINTON
Notary Public - California
Riverside County
Commission # 2514118
My Comm. Expires Mar 11, 2029

Signature Ryan Hinton (Seal)

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine, CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: May 14, 2026

APPROVED:

City Attorney

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On MAY 1 4 2026 before me, Marina Tapia, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

MARINA TAPIA
Notary Public - California
Los Angeles County
Commission # 2500058
My Comm. Expires Oct 7, 2028

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

_____
(Title or description of attached document)

_____
(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Marina Tapia, Janina Monroe, Michelle Haase, Timothy J Noonan, Edward C Spector, Aidan Smock, Jaren A Marx, Erin Brown, Charles R Teter III, Simone Gerhard, B Aleman, K D Wapato, Rachel A Mullen, D Garcia, Sandra Corona, Jennifer Ochs, Ethan Spector, Sarah Campbell , Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the Authorizing By-Laws and Resolutions printed at the bottom of this page, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 2nd day of March, 2026.

The Continental Insurance Company

Larry Kasten — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 2nd day of March, 2026, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

K. WALSH
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires December 4, 2031

K. Walsh — Notary Public

CERTIFICATE

I, Paula Kolsrud, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance company printed below this certificate are still in force. In testimony whereof I have hereun[illegible]e and affixed the seal of the said insurance company this 14th day of May, 2026.

The Continental Insurance Company

Paula Kolsrud — Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Bond No. 30270662
Premium: is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262 Reservoir Mechanical, Electrical and Plumbing Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262 MNZ Reservoir Mechanical, Electrical and Plumbing Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of Four Million Three Hundred Thirty-Three Thousand and no/100 Dollars ($4,333,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 5·15·26

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 5/15/2026 before me, Ryan Hinton / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

RYAN HINTON
Notary Public - California
Riverside County
Commission # 2514118
My Comm. Expires Mar 11, 2029

Signature Ryan Hinton (Seal)

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine, CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: May 14, 2026

APPROVED:

City Attorney

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On MAY 1 4 2026 before me, Marina Tapia, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

MARINA TAPIA
Notary Public - California
Los Angeles County
Commission # 2500058
My Comm. Expires Oct 7, 2028

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Marina Tapia, Janina Monroe, Michelle Haase, Timothy J Noonan, Edward C Spector, Aidan Smock, Jaren A Marx, Erin Brown, Charles R Teter III, Simone Gerhard, B Aleman, K D Wapato, Rachel A Mullen, D Garcia, Sandra Corona, Jennifer Ochs, Ethan Spector, Sarah Campbell , Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the Authorizing By-Laws and Resolutions printed at the bottom of this page, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 2nd day of March, 2026.

The Continental Insurance Company

Larry Kasten — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 2nd day of March, 2026, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

K. WALSH
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires December 4, 2031

K. Walsh — Notary Public

CERTIFICATE

I, Paula Kolsrud, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance company printed below this certificate are still in force. In testimony whereof I have hereun[illegible]e and affixed the seal of the said insurance company this 14th day of May, 2026.

The Continental Insurance Company

Paula Kolsrud — Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Bond No. 30270662
Premium: $16,032 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262 MNZ Reservoir Mechanical, Electrical and Plumbing Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262 MNZ Reservoir Mechanical, Electrical and Plumbing Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of Four Million Three Hundred Thirty-Three Thousand and no/100 Dollars ($4,333,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 5.15.26

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 5/15/2026 before me, Ryan Hinton / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

RYAN HINTON
Notary Public - California
Riverside County
Commission # 2514118
My Comm. Expires Mar 11, 2029

Signature Ryan Hinton (Seal)

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine, CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: May 14, 2026

APPROVED:

City Attorney

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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State of California }

County of Orange }

On MAY 1 4 2026 before me, Marina Tapia, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

MARINA TAPIA
Notary Public - California
Los Angeles County
Commission # 2500058
My Comm. Expires Oct 7, 2028

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

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- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
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- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Marina Tapia, Janina Monroe, Michelle Haase, Timothy J Noonan, Edward C Spector, Aidan Smock, Jaren A Marx, Erin Brown, Charles R Teter III, Simone Gerhard, B Aleman, K D Wapato, Rachel A Mullen, D Garcia, Sandra Corona, Jennifer Ochs, Ethan Spector, Sarah Campbell , Individually

of Irvine, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the Authorizing By-Laws and Resolutions printed at the bottom of this page, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 2nd day of March, 2026.

The Continental Insurance Company

Larry Kasten — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 2nd day of March, 2026, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

K. WALSH
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires December 4, 2031

K. Walsh — Notary Public

CERTIFICATE

I, Paula Kolsrud, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance company printed below this certificate are still in force. In testimony whereof I have hereun[illegible]e and affixed the seal of the said insurance company this 14th day of May, 2026.

The Continental Insurance Company

Paula Kolsrud — Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

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This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

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Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

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Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of Highland Home Road North within Tract Map 39262-1**

STAFF RECOMMENDATION:

Accept a Subdivision Improvement Agreement, Payment Bond, and Faithful Performance Bond for the Construction of Highland Home Road North within Tract Map 39262-1

BACKGROUND:

A condition of approval for the Atwell Specific Plan is the construction of necessary backbone roadway improvements that include Highland Home Road. The portion of Highland Home Road covered by this agreement is roughly from the Southern California Edison easement northerly within the limits of Tract Map 39262-1.

A Subdivision Improvement Agreement is a binding agreement that protects the City of Banning when private development constructs what will be public facilities. A stipulation in the agreement is that the developed provides Payment Bonds and Faithful Performance Bonds that ensure if there is a work stoppage by the developer at a critical phase of construction, the City can call on the bonds to ensure that suppliers are paid for the materials supplied, and/or labor costs to complete the improvements.

The Subdivision Improvement Agreement identifies when a project will be accepted by the City of Banning for public maintenance and operation. Upon satisfactory completion of the work as approved by the City Engineer, an acceptance and bond reduction will be brought to City Council for consideration. From that point, there will be a 12-month warranty period where any defects will be corrected by the developer. After the 12-month warranty period, and upon satisfactory condition approved by the City Engineer, the remaining bond amounts would be exonerated by staff.

JUSTIFICATION:

The Subdivision Improvement Agreement and required bonds are standard practice by the City of Banning where public improvements are being constructed by private developers as a measure to protect the City of Banning if the improvements were left incomplete or present a hazard to the public.

FISCAL IMPACT:

None

ATTACHMENTS:

1. SIA HHR North.pdf

2. HHR North Bonds

CITY OF BANNING

SUBDIVISION IMPROVEMENT AGREEMENT

* * * * * * SUBDIVISION REFERENCE DATA * * * * * *

[ ] FINAL TRACT MAP NO. 39262-1 ("Final Map" herein)

[ ] PARCEL MAP NO. _____("Parcel Map" herein)

NAME OR TRACT NUMBER OF SUBDIVISION ("Subdivision" herein): ATWELL – TR 39262-1 Highland Home Road North

NAME AND ADDRESS OF SUBDIVIDER(S): TRI POINTE HOMES, IE-SD
1250 CORONA POINTE CT, #600

CORONA, CA 92879

CITY COUNCIL RESOLUTION OF APPROVAL NO. _____ ("Resolution of Approval" herein)

DATE(S) THAT IMPROVEMENT PLANS WERE APPROVED BY THE CITY ENGINEER: See below

IMPROVEMENT/PLAN NO.:
Street Imp Plan – LD25-0016
Storm Drain Imp Plan – LD25-0016
Non Potable Water Imp Plan – LD25-0016
Potable Water Imp Plan – LD25-0016

Sewer Imp Plan – LD25-0016

ESTIMATED TOTAL COSTS:

IMPROVEMENTS	$ 4,090,500.00
GRADING	$_____
MONUMENTATION	$_____
TOTAL:	$ 4,090,500.00

FORM OF IMPROVEMENT SECURITY: [X AAA Corporate surety bonds

[ ] Deposit of money

NAME AND ADDRESS OF CORPORATE SURETY (if applicable):

Philadelphia Indemnity Insurance Company
(Name of Corporate Entity)

283 S. Lake Avenue, Suite 160
(Street Address)

Pasadena CA 91101
(City) (State) (Zip)

SURETY BOND NUMBERS (if applicable):

PB03010410998

P03010410999

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EFFECTIVE DATE OF AGREEMENT:

_____
(to be inserted by City)

COMPLETION PERIOD: All improvements of Tract 39262-1 (~~including the complete water and sewer system in _____ Street) with the exception of the roadway (street) improvements on _____ Street,~~ shall be completed within two years from the Effective Date of the Agreement. ~~_____ Street roadway (street) construction (so that _____ Street is a continuous route from _____ to _____) shall be constructed prior to the Certificate of Occupancy for development of lots ____ and ____ of Tract _____.~~

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between the City of Banning, a municipal corporation ("City"), and the Subdivider whose name and address is set forth above in the Subdivision Reference Data.

RECITALS

A. Subdivider has presented to the City for approval and recordation a Final Map, identified above in the Subdivision Reference Data, of a proposed subdivision pursuant to the Subdivision Map Act of the State of California and the City's ordinances and regulations as such ordinances and regulations are vested under the development agreement recorded in the official records of the County of Riverside on July 17, 2012 as Document No. 2012-0332888 ("Development Agreement") relating to the filing, approval and recordation of subdivision maps (collectively referred to herein as the "Subdivision Laws").

B. A tentative map of the Subdivision was previously approved by City, subject to the Subdivision Laws and to the City's standard requirements as vested under the Development Agreement and conditions of approval contained in the City Council's Resolution of Approval, a copy of which is on file in the Office of the City Clerk and which is incorporated herein by this reference.

C. The Subdivision Laws establish, as a condition precedent to the approval of a Final Map, that the Subdivider comply with the City Council's Resolution of Approval and either (i) complete, in compliance with applicable City standards, all of the improvements and land development work required by the Subdivision Laws and the City Council's Resolution of Approval; or (ii) enter into a secured agreement with the City to complete the improvements and land development work within a period of time specified by the City.

D. In consideration of approval of the Final Map for the Subdivision by the City Council, Subdivider desires to enter into this Agreement whereby Subdivider promises to install and complete, at its sole expense, except as otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, all public improvement work required by the City as set forth on the Improvement Plans (as defined below) for the proposed Subdivision. Subdivider has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City. In any conflict between the terms in this Agreement and the Development Agreement, the Development Agreement shall be the controlling document.

E. Improvement Plans, and related specifications, numbered as designated above in the Subdivision Reference Data, for the construction, installation and completion of the Improvements identified in Schedule A hereto, have been prepared by the Subdivider, approved by the City Engineer, and are on file in the office of the City Engineer. Said Improvement Plans, and related specifications, subsequently modified by the mutual written agreement of the parties, are hereby referred to as the "Improvement Plans" and are incorporated herein by this reference.

Any improvement to be constructed pursuant to the Improvement Plan is hereby referred to individually as an **"Improvement"** and collectively as the **"Improvements"**.

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the Final Map of the Subdivision, Subdivider and City agree as follows:

1. SUBDIVIDER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, and in compliance with the provisions of the Subdivision Laws, the Improvement Plans, conditions of approval of the Tentative Map, and all applicable City standards and fees, and in a good and workmanlike fashion, furnish, construct, install and guarantee (as set forth in Section 3) the Improvements, Grading, and Monumentation described on the tentative map and in the City Council's Resolution of Approval relating thereto (collectively, the "Improvements").

B. To the extent necessary to construct the Improvements, as determined by the City Engineer, the Subdivider shall acquire and dedicate, or pay the reasonable, documented cost of acquisition by City of, all rights-of-way, easements and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. If the Subdivider is unable to acquire such rights-of-way, easements and other interests in real property by negotiation, then Subdivider shall, within 120 days of Final Map approval, enter into a condemnation agreement with City pursuant to Government Code Section 66462.5, by which the City will commence the process for the acquisition of the rights-of-way, easements or other real property.

C. Subject to any time extensions granted in accordance with Section 4, Subdivider shall complete all Improvements within its respective "Completion Period" specified in the Subdivision Reference Data; provided, however, that if the City Engineer reasonably determines in good faith that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, the City Engineer shall give Subdivider not less than fifteen (15) business days' prior written notice to commence or accelerate installation and construction of such Improvements, or any portion thereof. The notice shall be in writing, and shall describe the work to be done by Subdivider, the time within which the work will commence, the period within which the work will be completed and identify the reasons that such early commencement is essential in order to protect the public health, welfare and safety. All or any portions of said Improvements may be required to be constructed or completed at a specified time, providing the foregoing criteria is met. If the Subdivider objects to the commencement or acceleration of the Improvements as specified by the City Engineer, Subdivider may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within 10 days after receipt by Subdivider of the written notice from the City Engineer.

D. If the Improvements to be constructed by Subdivider include monumentation, such monumentation shall be installed not later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein,

"monumentation" shall mean the setting of survey monuments and tie points in accordance with the Subdivision Laws, and the delivery to the City Engineer of tie notes for said points.

E. Subdivider shall , at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, replace or repair all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work performed by Subdivider under this Agreement during or after the Completion Period. Any such replacement or repair shall be subject to the approval of the City Engineer.

F. In addition to, and separate from, the indemnity obligations contained in Section 9 of this Agreement, and without limiting the City's remedies under general construction defect law, Subdivider shall be responsible for the care, repair and maintenance of the applicable portion of the Improvements until the latter of the following time periods: (i) the Improvements or applicable portion thereof is accepted in writing by the City; or (ii) the expiration of the required one-year guarantee and warranty period as specified herein; or (iii) the expiration of any applicable period of time requiring the care, repair and maintenance of the applicable Improvement specified in the Development Agreement (not including the term of any Development Agreement). Neither City, nor its officers, agents and employees, shall have any liability for any accident, loss or damage to the Improvements and that may result from the construction of the Improvements prior to their completion and written acceptance by the City

G. In addition to, and separate from: (1) the indemnity obligations contained in Section 7 of this Agreement, (2) the care, repair and maintenance provisions under paragraph E of this Section 1 of this Agreement; and (3) the warranty and guarantee provisions of Section 3 of this Agreement, Subdivider shall repair and correct, or be liable to the City for any cost to repair and correct, any defect in the construction of the Improvements that is identified by City within in accordance with general construction defect law ten (10) years after City's acceptance of the Improvement, provided the City provides written notice to Subdivider of the existence of the defect within that the time period under law, and the defect is caused directly or indirectly by the design, construction, functionality, installation, assembly or workmanship of Subdivider. Nothing contained in this paragraph is intended to limit or otherwise waive any right or cause of action under applicable construction defect law that City may assert against Subdivider.

H. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all applicable fees required by City ordinance or resolution and all taxes required by law.

I. Not less than seven (7) days prior to commencement of work on the Improvements, Subdivider shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

J. SUBDIVIDER shall pay all applicable City fees and costs stipulated in the latest fee resolution as adopted by the City Council from time to time as required for the development of the SUBDIVISION including but not limited to the following:

1. Building Permit Fees --- to be paid at the time of building permit issuance;

2. Final Map Plan Check Fees --- to be paid at time of submittal of final map for plan check and resubmittal of revised final map for plan check;

3. Final Map Moratorium Fees --- to be paid from cash deposit established at time of filing final map;

4. Plan Check and Review Fees --- to be paid from cash deposit established at time of filing improvement plans for plan check;

5. Encroachment Permit Fees --- to be paid at time of application for encroachment permit;

6. Inspection Fees --- to be paid from cash deposit established at time of construction permit issuance; and

7. Grading Permit Fee --- to be paid from cash deposit established at time of grading permit issuance.

K. Subdivider shall provide City with final Record Drawings of all plans developed for the Subdivision, showing all changes and as built conditions as specified in the Tentative Tract Map Conditions of Approval, and shall provide electronic image files of those final Record Drawings consistent with electronic image file size and type specifications of the City prior to the acceptance of improvements and release of bonds or other security.

2. <u>INSPECTION OF WORK AND FINAL ACCEPTANCE</u>

A. Subdivider shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer and other City personnel and inspection consultants.

B. Upon completion of the work on all or any category of the Improvements, the Subdivider may request a final inspection by the City Engineer. Within forty-five (45) days of receipt of the written letter request, the City Engineer shall inspect the Improvements and provide written notice to Subdivider of the list of items which have been found to be incomplete and the list of items which have been found to be complete. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall acknowledge that determination in a report to the City Council. If the Improvements that are completed are to be dedicated to or owned by the City (Improvements within City right of way and property for public use), the City Engineer's determination shall be

submitted to the City Council for final acceptance by the City, unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. If the Improvements that are completed are to be dedicated to or owned by a public entity other than the City, the Subdivider's written request shall be submitted to the applicable public entity or other owner, for final acceptance. Subdivider shall bear all costs of inspection and determination of completeness in accordance with City's formally adopted and applicable fees and rates.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements pursuant to subparagraph B above. The City Council shall act upon the City Engineer's recommendation that such public Improvements have been completed unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. Acceptance by the City or by the governing body of the entity that is to accept dedication or ownership of the public improvements shall not constitute a waiver by the City or such other public entity of any defects in the public Improvements.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. If, within a period of one year following acceptance by the City of the applicable Improvements specified in Schedule A, any Improvements or part of any Improvements specified in Section A furnished, installed or constructed by the Subdivider, or any of the work performed under this Agreement by Subdivider, fails to comply with any requirements of this Agreement, or the Subdivision Laws, or the Improvement Plans and related specifications, the Subdivider shall, without delay and without cost to the City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Subdivider's obligations hereunder shall include the repair, replacement or reconstruction of all irrigation systems and all trees, shrubs, ground cover and landscaping for such one year.

B. Should the Subdivider fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement, or reconstruction to be undertaken before the Subdivider can be notified and can perform the necessary work, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction and draw upon the Subdivider's improvement security to reimburse itself for the costs incurred. If the Subdivider's improvement security does not cover the total cost of such repair, replacement, or reconstruction, the Subdivider shall reimburse the City for any excess costs incurred.

C. The security furnished for the faithful performance of the Subdivider's obligation to construct and install the Improvements described herein shall include the Subdivider's liability and obligation hereunder to provide the one-year guarantee and warranty of the Improvements.

4. TIME EXTENSIONS

A. Upon a showing by the Subdivider of good cause therefor, the duration of the Completion Period for the Improvements (or any of them) may be extended by the City Engineer in writing. As used herein, "good cause" may include, without limitation, delay resulting from, arising out of or relating to an act of the City; acts of God or force majeure, strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work; findings made by a governmental entity that the site of a particular Improvement is of archeological significance or requires further permitting and approval; and/or actions or failure to act of native American monitor(s); and, the order of any court.

B. A time extension may be granted without notice to any surety or sureties of the Subdivider and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for herein, the City Engineer, may require the Subdivider to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount as necessary to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

A. Prior to City's execution of this Agreement, Subdivider shall provide as security to the City:

1. For Performance and Guarantee: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider assures faithful performance under this Agreement and guarantees the Improvements for one year after the completion and acceptance of the applicable portion of such Improvements, against any defective workmanship or materials or any unsatisfactory performance, pursuant to Section 3 hereof.

2. For Payment: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider guarantees payment to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to them or to the Subdivider.

B. If the improvement security is a corporate surety bond and, in the opinion of the City, any surety or sureties thereon become insufficient, because (i) the surety becomes

insolvent; (ii) the surety's bond rating is downgraded; (iii) the surety declares bankruptcy; or (iv) the surety is no longer deemed to be an admitted surety in California by the California Department of Insurance, or (v) the form of the surety or the amount is found by City to be in error or materially insufficient, the Subdivider shall renew or replace any such surety bond with good and sufficient surety or sureties within thirty (30) days after receiving from City written demand therefor.

C. The amount of security for performance, payment and warranty obligations provided by this section shall not include the cost of monumentation, as required by Government Code Section 66497 so long as a separate cash deposit or security acceptable to the City Engineer for the estimated cost of monumentation has been submitted to the City.

D. Improvement security consisting of corporate surety bonds, in a form accepted by the City Attorney, shall be filed with the City Engineer and then kept on file with the City Clerk. If a corporate surety bond is replaced by another approved bond, the replacement shall be submitted to the City Engineer and, upon filing with the City Clerk, shall be deemed to have been made a part of and incorporated into this Agreement. Upon submission to the City Engineer and then filing with the City Clerk of a replacement bond, the former improvement security shall be released following written approval of the City Engineer.

E. Modifications of the Improvement Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of the Improvements, shall not relieve or release any improvement security furnished by Subdivider pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, Subdivider shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred percent (100%) of the revised Estimated Total Cost of the Improvements.

F. Subject to any time extensions granted in accordance with Section 4 herein, the Subdivider shall be in default if the Subdivider has not completed all improvements within two years from the Execution Date of the Agreement and has not repaired any defects in the completed Improvements within the one-year guarantee and warranty period.

Alternatively, in the event of a default by the Subdivider pursuant to Section 10, and after written notice to Subdivider and reasonable opportunity to cure, City, at its sole option, shall have the right, without limiting any other rights and/or remedies available to City at law or in equity, to draw upon or utilize the improvement security furnished herewith to construct and install the Improvements itself. If City exercises this right, the release of any unused portion of such improvement security shall be in accordance with the procedures outlined in Section 6 herein, including any retention necessary for the one-year guarantee period.

6. <u>REDUCTION OR RELEASE OF IMPROVEMENT SECURITY</u>

A. All public Improvements (Improvements that are to be owned or dedicated to the City or other public entity as distinguished from those owned by a private community

association) shall be first completed, deemed completed by the City Engineer and then accepted as complete by the City prior to release of sureties. All private Improvements (Improvements that are to be owned by a private community association and not dedicated or owned by the City or other public entity) shall be first completed and then accepted as complete in writing by the City Engineer.

B. Partial releases or reductions in the Subdivider's improvement (performance) security may be authorized prior to the City's acceptance of all Improvements required hereunder, as follows:

1. At the time that the Subdivider believes that the obligation to perform the work for which security was required is complete, the Subdivider may notify the City in writing of the completed work, including a list of work completed. Upon receipt of the written notice, the City shall review and comment or approve the completion of the required work within forty-five (45) days. If the City does not agree that all work has been completed in accordance with the plans and specifications for the Improvements, it shall supply a list of all remaining work to be completed within this 45-day period.

2. Within forty-five (45) days of receipt of the list of remaining work from the local agency, the Subdivider may then provide cost estimates for all remaining work for review and approval by the City. Upon receipt of the cost estimates, the City shall then have forty-five (45) days to review, comment, and approve, modify, or disapprove those cost estimates. The City shall not be required to engage in this process of partial release more than once between the start of work and completion and acceptance of all work; however, nothing in this section prohibits the City from allowing for multiple and phased partial releases as it otherwise deems appropriate.

3. If the City approves the cost estimate, the City shall release all performance security except for security in an amount up to two hundred percent (200%) of the cost estimate of the remaining work. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed twenty percent (20%) of the total original performance security unless the City allows for a release at an earlier time. Substitute bonds or other security may be used as a replacement for the performance security, subject to the approval of the City. If substitute bonds or other security is used as a replacement for the performance security released, the release shall not be effective unless and until the City receives and approves that form of replacement security. A reduction in the performance security, authorized under this section, is not, and shall not be deemed to be, an acceptance by the City of the completed improvements in and of itself, and the risk of loss or damage to the Improvements and the obligation to maintain the Improvements shall remain the sole responsibility of the Subdivider until the applicable required public Improvements have been accepted by the City in writing and all other required improvements have been fully completed in accordance with the plans and specifications for the improvements.

4. The Subdivider shall complete the works of Improvement until all remaining items are accepted by the City.

5. Upon the completion of the Improvements, the Subdivider, or his or her assigns, shall be notified in writing by the City within forty-five (45) days.

6. Within sixty (60) days of the issuance of the notification by the City Engineer, any remaining performance security, except ten percent (10%) of the original amount of the security to guarantee and warrant the Improvements for the one-year guarantee and warranty period, shall be released within sixty (60) days of the issuance of the written statement of completion.

C. Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all stop notice claimants for whom stop notices have been filed with the City, and if no claims have been filed, the security shall be released in full.

D. The partial release provisions of this Section 6 shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees. Security furnished to guarantee and warrant the Improvements against any defective work or labor done or defective materials furnished, shall be released within thirty (30) days after the completion of the one-year period following completion and acceptance of all Improvements.

E. If Subdivider's obligations relating to any Improvements are subject to the approval of another governmental agency, the City shall not release the improvement (performance) security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have sixty (60) days after receipt of written notice from the Subdivider of the Subdivider's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Subdivider's performance of the obligation was done to its satisfaction, and such improvement security shall be promptly released.

F. In the event the time periods for action by the City specified in this Section conflict with a shorter or longer time period for such actions as provided in Government Code Section 66499.7, the time periods in Government Code Section 66499.7 shall control.

7. <u>INDEMNIFICATION OF CITY BY SUBDIVIDER</u>

A. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss or damage to either property or person attributable to or arising out of the defective design, construction, functionality, installation assembly or improper

maintenance including, without limitation, the use of defective methods, materials or workmanship (collectively "Subdivider's Faults") of the Improvements by Subdivider, its officers, employees and agents. Subdivider shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including attorneys' fees, arising directly or indirectly out of or attributable to Subdivider's Faults.

B. Subdivider's obligations under this Section 7 are not conditioned or dependent upon whether the City, or its officers, agents and employees, prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Subdivision or the Improvements, or has insurance or other indemnification covering any of these matters.

C. Subdivider's obligation to indemnify, hold harmless and defend the City under this Section 7 shall extend to injuries to persons and damages to or alleged taking of property resulting from the Subdivider's Faults, and the Improvements required herein, and shall likewise extend to claims asserted by adjacent property owners based upon the diversion of waters caused by the Subdivider's defective design or defective construction of public drainage systems, streets, and other public facilities or improvements. Except for a City Directive as defined below, the City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Subdivision or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Map, regardless of any act or omission by the City in approving the Improvement Plans or the Final Map, unless the particular Improvement design was required by the City over the written objection of the Subdivider, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design (a "City Directive"). After City's acceptance of the Improvements, the Subdivider shall remain obligated to correct or eliminate all dangerous conditions created by defects in design, construction or Subdivider's Faults (other than those required by a City Directive); provided, however, that Subdivider shall not be responsible for routine maintenance as specified in Section 1(F) of this Agreement. Subdivider's indemnity obligations hereunder shall remain in effect for ten (10) years following acceptance of the respective Improvement(s) by the City Council. Subdivider acknowledges and agrees that Subdivider shall be responsible and liable for the Subdivider's Faults with respect to the Improvements and other work done pursuant to this Agreement, unless same is due to a City Directive. City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements, unless same is due to a City Directive. The Subdivider's improvement security shall not be required to secure the Subdivider's obligations under this subparagraph C beyond the one-year guarantee and warranty period, unless the City Engineer provides notice to Subdivider prior to the expiration of the one-year period of the existence of, or continued existence of, defects in the improvements, in which case the portion of the improvement security to guarantee and warranty the improvements against defective work shall not be released and shall remain in place until the City Engineer provides written confirmation that the defects have been cured and corrected. The indemnity shall be effective retroactively to the earliest recordation date of the Final Map.

D. Subdivider shall pay and satisfy any judgment, award or decree that may be rendered against City, its officers, officials, employees, agents, representatives and volunteers (collectively hereinafter "City and City Personnel") to the extent of the indemnity provided above, in any such suit, action, or other legal proceeding, provided City gives Subdivider prompt written notice of such claim and allows Subdivider to undertake the defense thereof, and provided further that City cooperates in any such suit, action, or other legal proceeding, but shall retain its right to reject a settlement that the City deems, in its sole and absolute discretion, to be contrary to the interests of the City.

E. Subdivider's obligation to indemnify shall not be restricted to Insurance proceeds, if any, received by the City and City Personnel.

F. Subdivider, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against City and City Personnel to the extent of the indemnity above provided.

8. INSURANCE

The following coverages will be provided by Subdivider and maintained on behalf of City and in accordance with the requirements set forth herein. If Subdivider performs construction activities through a general contractor, some or all of these insurance requirements for the period of construction may be satisfied by the general contractor's insurance coverages. In such case, Subdivider shall maintain during this same construction period, and after the construction period, the coverages shown below as "Insurance After Construction." In addition, Subdivider may elect to obtain, for all or any portion of the Project, an "Owner-Controlled Wrap Up" insurance policy in satisfaction of the insurance requirements for general contractors and subcontractors provided it satisfies all of the insurance requirements below for general contractors and subcontractors. Throughout these specifications, the word "Subdivider" refers to the Party responsible to provide the coverages as specified and, depending on context, may refer either to Subdivider or to a separate General Contractor.

A. Insurance During Construction. Subdivider shall provide the following insurance during construction of the Improvements. Insurance requirements may be met through insurance provided by Subdivider's General Contractor:

1. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL Form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO Form CG 20 10 11 85 or other revision of the CG 20 10 form if available from the insurer and reasonably acceptable to the City, not limiting coverage for the additional insured to "ongoing operations" or in any way excluding coverage for completed operations. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation or other endorsement limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

2. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting date no later than and an ending date no earlier than those of the underlying coverages. The Named Insured (Subdivider or General Contractor as appropriate) may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits and complies with all other requirements listed here.

3. Business Auto Coverage. Business Auto Coverage shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

4. Workers' Compensation/Employer's Liability. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars ($1,000,000) per accident or disease. Employer's liability coverage shall be scheduled under the umbrella or excess liability policy described above. This policy shall be endorsed to waive any right of subrogation with respect to City, its officers, employees or agents.

5. Builder's Risk Insurance. Builder's Risk Insurance covering all real and personal property for "all risks" of loss or "comprehensive perils" coverage including but not limited to the perils of earth movement, including earthquake (if required by Subdivider's lender or if available at commercially reasonable rates) and flood for all Improvements.

B. Insurance After Construction. Upon completion of construction of the Improvements, and for the required one-year guarantee and warranty period for Improvements and the required 10-year indemnification period, Subdivider at Subdivider's expense shall maintain or cause to be maintained the following insurance:

1. Commercial Property Insurance. Commercial Property Insurance covering the Improvements. Coverage shall be at least as broad as the Insurance Services Offices broad causes of loss form CP 10 20, and reasonably approved of in writing by the City. Coverage shall be sufficient to insure 100% of the replacement value and there shall be no coinsurance provisions. The policy shall include an inflation guard endorsement, 100% rents coverage, contents coverage, coverage for personal property of others, ordinance or law and increased cost of construction coverage. Subdivider also agrees to provide builder's all-risk insurance using an inland marine form during the period of any major alteration or improvement, using the broadest form available.

The insurance coverage for the peril of earthquake required for this project is subject to availability on the open market at commercially reasonable premium cost, as determined by mutual agreement between Subdivider and City. If such earthquake insurance coverage should, after diligent effort by Subdivider, be unobtainable at such mutually determined commercially reasonable premium cost, then Subdivider shall obtain the maximum insurance reasonably obtainable at commercially reasonable premium cost (if any) and give notice to City of the extent of Subdivider's inability to obtain, in full, the required insurance, and in such event, Subdivider's obligation to procure and maintain such insurance may be excused, subject to City's verification of inability to obtain the required insurance. Subdivider and City agree that a premium cost of earthquake insurance coverage of up to 150% of the premium cost paid by Subdivider for such coverage on the Effective Date (to be adjusted over time based on the Consumer Price Index,) shall constitute a commercially reasonable premium cost. Non-availability at commercially reasonable premium cost must be documented by a letter from Subdivider's insurance broker or agent indicating a good faith effort to place the required insurance and showing, at a minimum, the names of the insurance carriers and the declinations or quotations received from each.

2. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO form CG 20 10 or equivalent if available from the insurer and reasonably acceptable to the City. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City until the warranty period specified in this Agreement expires.

3. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting

date no later than and an ending date no earlier than those of the underlying coverages. Subdivider may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits.

4. Workers Compensation Insurance. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella or excess liability policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its employees or agents.

5. Business Auto Coverage. Business Auto Coverage for vehicles owned, operated or maintained in any way connected with the project, shall be written on ISO Business Auto Coverage form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella or excess liability policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

C. Provisions Pertaining to Insurance Provided by Subdivider

1. All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

2. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any Party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

3. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Subdivider, and Subdivider's employees, or agents, from waiving the right of subrogation prior to a loss. Subdivider waives its right of subrogation against City.

4. None of the policies required herein shall be in compliance with these requirements if they include any limiting endorsement that has not been first submitted to City and approved in writing by the City.

5. Unless otherwise approved by City, Subdivider's insurance and insurance provided by any contractor or subcontractor relating to the construction of the Improvements shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of at least "A-:VII." Self-insurance will not comply with these insurance specifications unless expressly approved in writing by the City.

6. In the event any policy of insurance required under this Agreement does not comply with these requirements and Subdivider does not cure the non-compliance within thirty (30) days after written notice from City (or Subdivider does not provide reasonable evidence of such cure within such period), or if the insurance is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any reasonable premium paid by City will be promptly reimbursed by Subdivider.

7. Subdivider agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Subdivider's general liability and umbrella liability policies using ISO Form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage and policies are to have a "cancellation endorsement" to the same effect. Subdivider agrees to provide copies of any endorsements modifying coverage in any way upon request from City.

8. Subdivider shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage.

9. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

10. Subdivider agrees to require all subcontractors or other parties (but not including a general contractor) hired for this project to construct the Improvements to purchase and maintain insurance for general liability (minimum limit $1,000,000 per occurrence), automobile liability ($1,000,000 per accident) and workers' compensation (statutory benefits). Prior to the issuance of the Certificate of Completion for each Phase, Subdivider shall, upon request by City, provide the City with copies of all insurance policies, certificates and endorsements related to such Phase.

11. Subdivider agrees to monitor and review all coverage required by this Section and assumes all responsibility for ensuring that such coverage is provided as required here. Subdivider agrees to obtain certificates evidencing such coverage. Subdivider agrees that upon request, all agreements with subcontractors or others with whom Subdivider contracts with on behalf of City, and all certificates of insurance

obtained in compliance with this paragraph will be submitted to City for review upon request by City. Failure of City to request copies of such documents will not impose any liability on City, or its employees.

12. Subdivider agrees to require that no contract used by any general contractor or subcontractor in connection with construction of the Improvements, or contracts Subdivider enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement.

13. Where appropriate (such as in the case of automobile insurance coverages), coverage will not be limited to the specific location designated as the Property.

14. Subdivider agrees to provide notice to City of any claim or loss against Subdivider that includes City as a defendant promptly after Subdivider receives written notice or obtains knowledge thereof. 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. City agrees to provide similar notice to Subdivider of any such claims it is notified of respecting the Property.

15. Subdivider agrees not to attempt to avoid its defense and indemnity obligations to City, and its officers, employees, agents by using as a defense Subdivider's statutory immunity under workers' compensation and similar statutes.

16. Subdivider agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Subdivider and City or between City and any other insured or Named Insured under the policy, or between City and any Party associated with City or its employees.

17. If Subdivider or any contractor or subcontractor is a Limited Liability Company, general liability coverage must apply so that the Limited Liability Company and its Managers, Members, Affiliates, and their employees are insureds.

18. Subdivider shall require General Contractor to maintain commercial general liability, and if necessary, commercial umbrella liability insurance with a limit of not less than $15,000,000 for each occurrence, until the warranty period specified in this Agreement expires.

19. Subdivider agrees to obtain and provide to City evidence of professional liability coverage for Architects, Engineers or other design professionals working on the Improvements. The limit of liability required is subject to City approval, but in no event to be less than $1,000,000 per claim and in the aggregate, and Subdivider shall use reasonable efforts to require and cause such professionals to maintain coverage with respect to each occurrence for at least three years following substantial completion of the work and, in the event Subdivider is unable to do so, Subdivider shall promptly inform the City of the scope of such efforts and the reasons that it was unable to do so. If

Subdivider requests that the City approve a lower limit for any particular design professional Subdivider seeks to employ on the Improvements, City will evaluate each such request based on City's perception of liability exposure associated with the work that would be performed by that design professional.

20. To the extent a particular coverage or policy form or specification is not reasonably available from Subdivider's insurer or would result in an additional premium that is extraordinary or unreasonably disproportionate to the premium for the policy as a whole, then Subdivider shall provide substantially similar coverage reasonably acceptable to City for which the cost is not extraordinary or unreasonably disproportionate.

9. OWNERSHIP OF THE IMPROVEMENTS

A. Ownership of all or any category of the Improvements constructed and installed by the Subdivider pursuant to this Agreement and shown on the Map to be dedicated to the public shall vest, as applicable, in the City (or other specified governmental agency) upon acceptance of said Improvements by the City. The acceptance of the Improvements shall either be shown by a certificate on the Final Map or by subsequent resolution accepting the Improvements adopted by the City pursuant to Government Code Section 66477.2 and recorded with the County Recorder or by other writing.

B. The Subdivider shall at all times prior to the acceptance of the Improvements by the City, give good and adequate warning to the public of each and every dangerous and defective condition caused by the construction of the Improvements and shall take all steps reasonably necessary to protect the public from such dangerous or defective conditions. The Subdivider agrees and understands that until acceptance of the Improvements by the City in writing, each Improvement and Improvement area that is offered for dedication shall be under the charge of the Subdivider, and the Subdivider may close all or a portion of any street or area whenever necessary to protect the public during the construction of the Improvements.

10. PREPARATION AND RECORDATION OF CC&RS.

A. The Subdivider shall establish a Homeowners Association for the residential areas of the Final Map owned by Subdivider, and to pay all costs associated with the creation of the associations.

B. The Subdivider shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) which obligate each homeowners association to provide for maintenance of the shared facilities, improvements, and landscaping within the boundaries of the associations in perpetuity in accordance with the Development Agreement and conditions of approval. The CC&Rs shall describe the homeowners association and the City's responsibilities and rights, and shall be subject to the approval of the City prior to recordation.

C. The Subdivider shall implement applicable provisions of the Mitigation Monitoring and Reporting Program.

11. DEFAULT AND BREACH BY THE SUBDIVIDER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the Subdivider shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to complete construction and installation of the Improvements or any of them by the completion date set forth above in the Subdivision Reference Data;

2. Failure to promptly correct or cure any defect in the Improvements or any of them (other than a City Directive) during the one-year guarantee and warranty period as required by Section 3.A or failure to commence correction or cure of any such defect or failure to diligently prosecute same to completion, in each instance following receipt by Subdivider of written notice that such defect exists;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work of the Improvements or any of them, after commencement of work on same, for a period of thirty (30) days after Subdivider's receipt of written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance by the Subdivider in lieu or in avoidance of foreclosure, within thirty (30) days after receipt by Subdivider of written notice thereof from the City; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within thirty (30) days after receipt by Subdivider of written notice thereof from the City.

B. City reserves to itself all remedies available to it at law or in equity for any breach of Subdivider's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, after written notice to Subdivider and a reasonable opportunity for Subdivider to cure any such alleged default, to draw upon or utilize any improvement security furnished hereunder to complete the Improvements or otherwise mitigate City's damages in the event of Subdivider's default.

C. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may serve written notice of any such default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that said surety take over and complete the Improvements herein specified. If such surety, within thirty (30) days after service of such notice of default, does not give the City

written notice of its intention to perform this Agreement, or does not commence such performance within thirty (30) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by any other method the City deems advisable, for the account and at the expense of the Subdivider and its surety.

D. Subdivider acknowledges that the Estimated Total Costs and Improvement Security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and, consequently, City's damages for Subdivider's default shall be measured by the actual cost of completing the required Improvements. If the damages incurred by the City in taking over and completing the Improvements exceeds the principal amount of the improvement security, then the Subdivider shall reimburse the City in the amount of such excess damages.

E. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, City may, without liability for so doing, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for the performance of the work. Subdivider hereby consents to such entry by the City and its representatives, including contractors, following written notice to Subdivider upon the real property in the Subdivision owned by Subdivider and necessary for City to enter or access under this Agreement, in the event the City elects to maintain or complete the work on the Improvements following Subdivider's default.

F. Subdivider acknowledges and agrees that approval of the Final Map for the Subdivision conferred substantial rights upon the Subdivider, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon Subdivider's failure to perform its obligations under this Agreement, which failure is not promptly remedied by sureties or by Subdivider.

G. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Subdivider.

H. If City sues to compel Subdivider's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, and is the prevailing party, Subdivider agrees to pay all reasonable attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if Subdivider subsequently resumes and completes the work.

12. RELATIONSHIP OF THE PARTIES

Neither Subdivider, nor any of Subdivider's contractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of Subdivider's obligations under this Agreement.

13. ASSIGNMENT

A. Subdivider shall not assign this Agreement, or any portion thereof without the prior written consent of the City in accordance with the Development Agreement. Any attempted or purported assignment in violation of this subparagraph A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Subdivision shall not relieve Subdivider of its obligations hereunder. If Subdivider intends to sell the Subdivision, or any portion thereof (except for the sale of individual lots with homes to individual purchasers), to any other person or entity, the Subdivider may request an assignment or novation of this Agreement and a substitution of improvement security. Upon the City's approval of the assignment or novation and substitution of improvement security, the Subdivider may request a release or reduction of the improvement security furnished pursuant to this Agreement.

14. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Art Vela Director of Public Works/City Engineer City of Banning 99 E. Ramsey Drive Banning, California 92220
If to the Subdivider:	To the address set forth above in the Subdivision Reference Data, or to such other address as may subsequently be designated in written notice to the City.

Notice shall be effective on the date that it is delivered in person, or, if mailed, three (3) days after the date of deposit in the United States Mail.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer.

16. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

17. INCORPORATION OF SUBDIVISION REFERENCE DATA AND RECITALS

The Subdivision Reference Data and the Recitals are incorporated into this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

19. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the Subdivider shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Subdivision Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the Subdivider.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the dates set forth below their respective signatures.

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a Corporation, the signatures of two Corporate officers are required, unless a resolution of the Corporation's Board of Directors is provided indicating that the signature of the one signatory is sufficient to bind the Corporation.]

SUBDIVIDER

By: _____
Print Name: Michael C. Taylor
Title: Division President

Date: 4.17.26

CITY

CITY OF BANNING

_____
MAYOR

ATTEST:

_____ (SEAL)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

CITY CLERK

Approved as to form:

_____

CITY ATTORNEY

[This page for acknowledgments.]

BOND NO.: PB03010410998
PREMIUM: SEE PERFORMANCE BOND

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262-1 Highland Home Road North Storm Drain Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Storm Drain Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of One million sixty one thousand five hundred Dollars ($1,061,500.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4.17.26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

(Street Address)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of LOS ANGELES

On APR 16 2026 (Date) before me, ETHAN SPECTOR, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared SARAH CAMPBELL (Name(s) of Signer(s)),

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010410998
PREMIUM: $3,981.00/PER ANNUM

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262-1 Highland Home Road North Storm Drain Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc. (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Storm Drain Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held and firmly bound unto the City in the penal sum of One million sixty one thousand five hundred Dollars ($1,061,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4.17.26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160
(Street Address)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of LOS ANGELES

On APR 16 2026 (*Date*) before me, ETHAN SPECTOR, NOTARY PUBLIC (*Here Insert Name and Title of the Officer*),

personally appeared SARAH CAMPBELL (*Name(s) of Signer(s)*),

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

Place Notary Seal and/or Stamp Above

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company, that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1197866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026.

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010410999
PREMIUM: $6,043.00/PER ANNUM

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262-1 Highland Home Road North Street Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc. (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Street Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held and firmly bound unto the City in the penal sum of One million six hundred eleven thousand five hundred Dollars ($1,611,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4.17.24

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160
(Street Address)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of LOS ANGELES

On APR 16 2026 *Date* before me, ETHAN SPECTOR, NOTARY PUBLIC, *Here Insert Name and Title of the Officer*

personally appeared SARAH CAMPBELL *Name(s) of Signer(s)*

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010410999
PREMIUM: SEE PERFORMANCE BOND

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262-1 Highland Home Road North Street Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Street Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of One million six hundred eleven thousand five hundred Dollars ($1,611,500.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4-17-26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

(Street Address)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of LOS ANGELES

On APR 16 2026 (Date) before me, ETHAN SPECTOR, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared SARAH CAMPBELL (Name(s) of Signer(s))

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411000
PREMIUM: $3,810.00/PER ANNUM

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262-1 Highland Home Road North Potable Water Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc. (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Potable Water Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held and firmly bound unto the City in the penal sum of One million sixteen thousand Dollars ($1,016,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4.17.24

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160
(Street Address)

11303-0014\2299407v5.doc

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales **(Seal)**

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

11303-0014\2299407v5.doc

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of LOS ANGELES

On APR 16 2026 *Date* before me, ETHAN SPECTOR, NOTARY PUBLIC *Here Insert Name and Title of the Officer*,

personally appeared SARAH CAMPBELL *Name(s) of Signer(s)*,

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

Place Notary Seal and/or Stamp Above

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026.

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411000
PREMIUM: SEE PERFORMANCE BOND

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262-1 Highland Home Road North Potable Water Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Potable Water Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of One million sixteen thousand Dollars ($1,016,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4·17·26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

(Street Address)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of LOS ANGELES

On APR 16 2026 (Date) before me, ETHAN SPECTOR, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared SARAH CAMPBELL (Name(s) of Signer(s))

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

Place Notary Seal and/or Stamp Above

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

OPTIONAL

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Document Date: _____ Number of Pages: _____

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Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allbands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company, that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026.

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411001
PREMIUM: $1,288.00/PER ANNUM

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262-1 Highland Home Road North Non Potable Water Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc. (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Non Potable Water Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held and firmly bound unto the City in the penal sum of three hundred forty three thousand five hundred Dollars ($343,500.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4·17·26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160
(Street Address)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of LOS ANGELES

On APR 16 2026 (Date) before me, ETHAN SPECTOR, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared SARAH CAMPBELL (Name(s) of Signer(s))

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**, that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1195866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411001
PREMIUM: SEE PERFORMANCE BOND

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262-1 Highland Home Road North Non Potable Water Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Non Potable Water Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of three hundred forty three thousand five hundred Dollars ($343,500.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4·17·26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

(Street Address)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of LOS ANGELES

On APR 16 2026 *Date* before me, ETHAN SPECTOR, NOTARY PUBLIC, *Here Insert Name and Title of the Officer*

personally appeared SARAH CAMPBELL *Name(s) of Signer(s)*

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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

Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**, that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026.

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411002
PREMIUM: $218.00/PER ANNUM

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell TR 39262-1 Highland Home Road North Sewer Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc. (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Sewer Improvements; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held and firmly bound unto the City in the penal sum of Fifty eight thousand Dollars ($58,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court Suite 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4.17.26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160
(Street Address)

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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State of California
County of LOS ANGELES

On APR 16 2026 (Date) before me, ETHAN SPECTOR, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared SARAH CAMPBELL (Name(s) of Signer(s)),

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

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Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

©2019 National Notary Association

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1197866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026.

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

BOND NO.: PB03010411002
PREMIUM: SEE PERFORMANCE BOND

CITY OF BANNING

PAYMENT BOND

Atwell TR 39262-1 Highland Home Road North Sewer Improvements
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc., (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell TR 39262-1 Highland Home Road North Sewer Improvements; and

WHEREAS, said Agreement is dated _____, 20__ and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of fifty eight thousand Dollars ($58,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc.
(Type name of Principal)

1250 Corona Pointe Court, STE 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor Division President
(Title of officer)

Date: 4·17·26

"SURETY"

PHILADELPHIA INDEMNITY INSURANCE COMPANY
(Type name of Surety)

283 S. LAKE AVENUE, SUITE 160

ACKNOWLEDGMENT

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

State of California
County of Riverside)

On 04/17/2026 before me, Edelmira Gonzales / Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

Signature Edelmira Gonzales (Seal)

(Street Address)

PASADENA, CA 91101
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

SARAH CAMPBELL, ATTORNEY-IN-FACT
(Title of officer)

Date: APRIL 16, 2026

APPROVED:

_____
City Attorney

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of LOS ANGELES

On APR 16 2026 *Date* before me, ETHAN SPECTOR, NOTARY PUBLIC *Here Insert Name and Title of the Officer*

personally appeared SARAH CAMPBELL *Name(s) of Signer(s)*

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

ETHAN SPECTOR
Notary Public - California
Los Angeles County
Commission # 2466163
My Comm. Expires Oct 11, 2027

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 _____
Signature of Notary Public
ETHAN SPECTOR, NOTARY PUBLIC

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

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PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jennifer Ochs, Charles R. Teter III, B. Aleman, Erin Brown, D. Garcia, Simone Gerhard, Edward C. Spector, Ethan Spector, Marina Tapia, KD Wapato, Sarah Campbell, Aidan Smock, Sandra Corona, MB Neely, Chase Seyforth, Yesica Perez, Maegen I. Allhands, and D-Ann Kleidosty of Lockton Companies Inc.**, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances, consents of surety and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in t
he nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 21ST DAY OF AUGUST 2025.

(Seal)

John Glomb, President & CEO

Philadelphia Indemnity Insurance Company

On this 21st day of August, 2025, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**, that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:

Commonwealth of Pennsylvania - Notary Seal
PAULA LARE - Notary Public
Montgomery County
My Commission Expires October 15, 2026
Commission Number 1193866

residing at: Bala Cynwyd

My commission expires: October 15, 2026

I, Angelique Cooper, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 21st day of August, 2025 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 16TH day of APRIL, 2026

Angelique Cooper, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

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

MEETING DATE: **June 23, 2026**

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

STAFF RECOMMENDATION:

City Council accept as complete various improvements related to the Atwell Specific Plan Development and authorize a 90% reductions in the improvements bonds and exoneration of Monumentation Bonds.

BACKGROUND:

On September 13, 2022, City Council adopted Resolution 2022-122 approving Final Map 37389-1, authorizing staff to sign the map and subdivision improvement agreements, release the map for recordation, and accept the performance and labor and material bonds for public improvements. This map included requirements for the construction of Apex Street and Meadowline Way within the map boundary.

As conditions of approval for the Atwell Specific Plan development, Tri Pointe Homes was required to sign subdivision improvement agreements and to submit bonds to assure the City that the required public improvements are constructed according to City standards and specifications. These public improvements include onsite street, sewer, water, and non-potable water.

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 reduction for the following bonds:

Bond #	Bond Amount	Improvements
30164648	$171,729.50	Apex Street NP Water Improvements
30164649	$1,003421.23	Apex Street Improvements
30164650	$283,820.00	Apex Street Water Improvements
30164659	$255,909.50	Meadowline Way NP Water Improvements
30164660	$108,859.00	Meadowline Way Sewer Improvements
30164661	$1,358,057.54	Meadowline Way Street Improvements

30164662	$597,136.35	Meadowline Way Water Improvements

The remaining 10% of the bond amounts will remain for a period of 12 months (maintenance period) at which point the 10% balance will be released and the improvements will become City owned and maintained improvements.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

1. Apex Street Non-Potable, Water and Street Bonds.pdf
2. Apex Street Improvements Exhibit.pdf
3. Meadowline Way Non-Potable, Water, Sewer and Street Bonds.pdf
4. Meadowline Way Improvements Exhibit.pdf
5. Atwell TR#37389-1, 37389-2, 37389-3, 37389-5 Subdivision Improvement Agreement.pdf

Bond No. 30164648
Premium: $635 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Non-Potable Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Non-Potable Apex Street; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of One Hundred Seventy-One Thousand Seven Hundred Twenty-Nine and 50/100 Dollars ($171,729.50), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023
Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164648
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Non-Potable Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Non-Potable Apex Street; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($ 171,729.50), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

One Hundred Seventy-One Thousand Seven Hundred Twenty-Nine and 50/100

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc

(Type name of Principal)

1250 Corona Pointe Court, Ste 600

(Street Address)

Corona CA 92879

(City) (State) (Zip)

By: _____

(Signature of authorized officer)

Michael C. Taylor, Division President

(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company

(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

_____
City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023
Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Non-potable Apex Street

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
NON-POTABLE WATER IMPROVEMENTS				
8" DIP Main w/ Poly Encasement & R.J.	LF	2,113	$ 60.00	$ 126,780.00
Remove Blow-off and Join Water	Each	1	$ 500.00	$ 500.00
1" Air Vacuum Valve Assembly	Each	1	$ 5,000.00	$ 5,000.00
4" Blow-off Assembly	Each	2	$ 2,500.00	$ 5,000.00
8" Fitting	Each	2	$ 250.00	$ 500.00
2" Service with 2" Meter	Each	2	$ 1,500.00	$ 3,000.00
2" Reduced Pressure Backflow	Each	2	$ 1,500.00	$ 3,000.00
Adjust Water Valve to Grade	Each	2	$ 250.00	$ 500.00
8-inch Gate Valve	Each	2	$ 2,000.00	$ 4,000.00
Non-potable Water Signage	Each	7	$ 150.00	$ 1,050.00
SUBTOTAL				**$ 149,330.00**
15% Contingency				**$ 22,399.50**
TOTAL				**$ 171,729.50**
			Faithful Performance (100%)	$ 171,729.50
			Labor & Material (100%)	$ 171,729.50

Bond No. 30164649
Premium: $3,713 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Street Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Street Apex Street; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of One Million Three Thousand Four Hundred Twenty-One and 23/100 Dollars ($ 1,003,421.23), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

THE CONTINENTAL INSURANCE COMPANY

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164649
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Street Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Street Apex Street; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($ 1,003,421.23), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

TGJ1

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

WESTERN SURETY COMPANY CORPORATE SEAL SOUTH DAKOTA

Western Surety Company

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

CONTINENTAL CASUALTY COMPANY CORPORATE SEAL 1897

Continental Casualty Company

NATIONAL FIRE INSURANCE COMPANY OF HARTFORD

National Fire Insurance Company of Hartford

AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA INCORPORATED JULY 31, 1902

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Street Apex Street

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
STREET IMPROVEMENTS				
4" Asphalt Concrete (123,382 SF)	Ton	2,961	$ 80.00	$ 236,880.00
6" Aggregate Base Class II (123,382 SF)	Ton	4,442	$ 60.00	$ 266,520.00
8" Curb and Gutter	LF	3,408	$ 27.00	$ 92,016.00
8" Curb Only	LF	441	$ 14.00	$ 6,174.00
6" Curb Only	LF	133	$ 25.00	$ 3,325.00
Concrete Cross Gutter & Spandrels	SF	4,518	$ 4.50	$ 20,331.00
Curb Ramp	Each	4	$ 3,000.00	$ 12,000.00
Concrete Sidewalk (4" thick)	SF	20,665	$ 5.00	$ 103,325.00
Decomposed Granite Trail	SF	8,772	$ 3.00	$ 26,316.00
LED Solar Street Light (Dual Fixture)	Each	11	$ 5,000.00	$ 55,000.00
Adjust Water Valve to Grade (2nd Adjust.)	Each	17	$ 250.00	$ 4,250.00
Remove 2" X 4" Redwood Header	LF	60	$ 2.00	$ 120.00
Remove Barricade	Each	1	$ 500.00	$ 500.00
8" Thick Residential Driveway Approach	SF	504	$ 4.50	$ 2,268.00
Remove Existing AC pavement	SF	120	$ 1.45	$ 174.00
0.1' Min AC Grind and overlay	SF	120	$ 3.00	$ 360.00
Barricade	LF	86	$ 100.00	$ 8,600.00
2" x 4" Redwood Header	LF	78	$ 2.00	$ 156.00
6" Asphalt Concrete Curb	LF	18	$ 10.00	$ 180.00
8" Asphalt Concrete Curb	LF	60	$ 15.00	$ 900.00
Pipe Swing Gate	Each	1	$ 1,000.00	$ 1,000.00
6" Asphalt Concrete Wedge Curb	LF	36	$ 15.00	$ 540.00
Sign Post	Each	9	$ 150.00	$ 1,350.00
Traffic Sign	Each	31	$ 400.00	$ 12,400.00
Double Yellow Thermoplastic Stripe	LF	5,687	$ 0.90	$ 5,118.30
6" Thermoplastic Traffic Stripe	LF	6,395	$ 0.90	$ 5,755.50
8" Thermoplastic Traffic Stripe	LF	901	$ 1.40	$ 1,261.40
Traffic Markings	LF	35	$ 100.00	$ 3,500.00
12" Thermoplastic Traffic Stripe	LF	560	$ 2.00	$ 1,120.00
Blue-reflective Fire Hydrant Marker	Each	8	$ 100.00	$ 800.00

Street Name Sign	Each	1	$ 300.00	$ 300.00
SUBTOTAL				**$ 872,540.20**
15% Contingency				**$ 130,881.03**
TOTAL				**$ 1,003,421.23**

Faithful Performance (100%)	$ 1,003,421.23
Labor & Material (100%)	$ 1,003,421.23

Bond No. 30164650
Premium: $1,050 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Water Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Water Apex Street; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of Two Hundred Eighty-Three Thousand Eight Hundred Twenty and no/100 Dollars ($283,820.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164650
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Water Apex Street
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Water Apex Street; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($ 283,820.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

Two Hundred Eighty-Three Thousand Eight Hundred Twenty and no/100

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc

(Type name of Principal)

1250 Corona Pointe Court, Ste 600

(Street Address)

Corona CA 92879

(City) (State) (Zip)

By: _____

(Signature of authorized officer)

Michael C. Taylor, Division President

(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company

(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

_____
City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

TGJ1 ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023 TGJ1

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Water Apex Street

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
WATER IMPROVEMENTS				
12" DIP Main w/ Poly Encasement & R.J.	LF	1,969	$ 80.00	$ 157,520.00
8" DIP Main w/ Poly Encasement & R.J.	LF	288	$ 60.00	$ 17,280.00
Remove Blind Flange & Join Water	Each	2	$ 250.00	$ 500.00
12" Fitting	Each	2	$ 500.00	$ 1,000.00
8" Gate Valve	Each	4	$ 2,000.00	$ 8,000.00
12" Butterfly Valve	Each	4	$ 2,500.00	$ 10,000.00
Adjust Water Valve to Grade	Each	16	$ 250.00	$ 4,000.00
Residential Fire Hydrant	Each	8	$ 5,000.00	$ 40,000.00
8" Fitting	Each	4	$ 250.00	$ 1,000.00
1" Air Vacuum Valve Assembly	Each	1	$ 5,000.00	$ 5,000.00
4" Blow-off Aassembly	Each	1	$ 2,500.00	$ 2,500.00
SUBTOTAL				**$ 246,800.00**
15% Contingency				**$ 37,020.00**
TOTAL				**$ 283,820.00**
			Faithful Performance (100%)	$ 283,820.00
			Labor & Material (100%)	$ 283,820.00

PHASE 2A-2, APEX STREET EXHIBIT

Bond No. 30164661
Premium: $5,025 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Street Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Street Meadowline Way; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of One Million Three Hundred Fifty-Eight Thousand Fifty-Seven and 54/100 Dollars ($1,358,057.54), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

TGJ1 ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023 TGJ1

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164661
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Street Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Street Meadowline Way; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($1,358,057.54), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

One Million Three Hundred Fifty-Eight Thousand Fifty-Seven and 54/100

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc

(Type name of Principal)

1250 Corona Pointe Court, Ste 600

(Street Address)

Corona CA 92879

(City) (State) (Zip)

By: _____

(Signature of authorized officer)

Michael C. Taylor, Division President

(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company

(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING

MAY 24 2022

PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Street Meadowline Way

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
STREET IMPROVEMENTS				
4" Asphalt Concrete (169,374SF)	Ton	4,024	$ 80.00	$ 321,920.00
6" Aggregate Base Class II (169,374 SF)	Ton	6,097	$ 60.00	$ 365,820.00
8" Curb Only	LF	110	$ 14.00	$ 1,540.00
8" Curb and Gutter	LF	5,466	$ 27.00	$ 147,582.00
6" Curb Only	LF	67	$ 12.00	$ 804.00
Concrete Cross Gutter & Spandrels	SF	2,254	$ 4.50	$ 10,143.00
Curb Ramp	Each	6	$ 3,000.00	$ 18,000.00
Concrete Sidewalk (4" Thick)	SF	28,190	$ 5.00	$ 140,950.00
Decomposed Granite Trail	SF	10,999	$ 3.00	$ 32,997.00
LED Solar Street Light (Dual Fixture)	Each	14	$ 5,000.00	$ 70,000.00
Adjust Water Valve to Grade (2nd Adjust)	Each	26	$ 250.00	$ 6,500.00
Remove 2"x 4" Redwood Header	LF	60	$ 2.00	$ 120.00
Remove Barricade	Each	1	$ 500.00	$ 500.00
8" Thick Residential Driveway Approach	SF	621	$ 4.50	$ 2,794.50
Adjust Gas Valve to Grade (2nd Adjust.)	Each	3	$ 250.00	$ 750.00
Remove Existing AC Pavement & Base	SF	120	$ 1.45	$ 174.00
0.1' Min AC Grind and Overlay	SF	120	$ 3.00	$ 360.00
Barricade	LF	124	$ 100.00	$ 12,400.00
2"x4" Redwood Header	LF	96	$ 2.00	$ 192.00
Adjust Sewer Manhole to Grade (2nd Adjust.)	Each	4	$ 500.00	$ 2,000.00
Adjust SD Manhole to Grade (2nd Adjust.)	Each	1	$ 500.00	$ 500.00
8" Asphalt Concrete Curb	LF	60	$ 12.00	$ 720.00
6" Asphalt Concrete Curb	LF	36	$ 10.00	$ 360.00
Sign Post	Each	18	$ 150.00	$ 2,700.00
Traffic Sign	Each	43	$ 400.00	$ 17,200.00
Street Name Sign	Each	1	$ 300.00	$ 300.00
12" Thermoplastic Traffic Stripe	LF	845	$ 2.00	$ 1,690.00
Traffic Markings	Each	31	$ 100.00	$ 3,100.00
Blue-reflective Fire Hydrant Marker	Each	10	$ 100.00	$ 1,000.00
Double Yellow Thermoplastic Stripe	LF	8,968	$ 0.90	$ 8,071.20

8" Thermoplastic Traffic Stripe	LF	210	$ 1.40	$ 294.00
6" Thermoplastic Traffic Stripe	LF	10,431	$ 0.90	$ 9,387.90
Remove Existing Markings		1	$ 50.00	$ 50.00
SUBTOTAL				**$ 1,180,919.60**
15% Contingency				**$ 177,137.94**
TOTAL				**$ 1,358,057.54**

Faithful Performance (100%) $ 1,358,057.54

Labor & Material (100%) $ 1,358,057.54

Bond No. 30164660
Premium: $403 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Sewer Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Sewer Meadowline Way; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of One Hundred Eight Thousand Eight Hundred Fifty-Nine and no/100 Dollars ($108,859.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
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- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

TGJ1 ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023 TGJ1

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164660
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Sewer Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Sewer Meadowline Way; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($108,859.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

TGJ1 ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023
Seal TGJ1

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Sewer Meadowline Way

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
SEWER IMPROVEMENTS				
12" Sewer Main	LF	952	$ 80.00	$ 76,160.00
48" Dia. Manhole	Each	4	$ 4,000.00	$ 16,000.00
Adjust Manhole to Grade	Each	4	$ 500.00	$ 2,000.00
Sewer Plug	Each	2	$ 250.00	$ 500.00
TOTAL				**$ 94,660.00**
15% Contingency				**$ 14,199.00**
GRAND TOTAL				**$ 108,859.00**
			Faithful Performance (100%)	$ 108,859.00
			Labor & Material (100%)	$ 108,859.00

Bond No. 30164659
Premium: $947 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Non-Potable Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Non-Potable Meadowline Way; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of Two Hundred Fifty-Five Thousand Nine Hundred Nine and 50/100 Dollars ($255,909.50), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

Seal

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

TGJ1

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Notary Public Signature

(Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164659
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Non-Potable Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Non-Potable Meadowline Way; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($255,909.50), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

Two Hundred Fifty-Five Thousand Nine Hundred Nine and 50/100

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Non-potable Meadowline Way

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
NON-POTABLE WATER IMPROVEMENTS				
8" DIP Main w/ Poly Encasement & R.J.	LF	2,858	$ 60.00	$ 171,480.00
Remove Blow-off and Join Water	Each	1	$ 500.00	$ 500.00
1" Air Vacuum Assembly	Each	2	$ 5,000.00	$ 10,000.00
3" Reduced Pressure Backflow Assembly	Each	1	$ 2,500.00	$ 2,500.00
8" Fitting	Each	8	$ 250.00	$ 2,000.00
8" Gate Valve	Each	8	$ 2,000.00	$ 16,000.00
Adjust Water Valve to Grade (1st Adjust)	Each	10	$ 250.00	$ 2,500.00
4" Blow-off Assembly	Each	1	$ 2,500.00	$ 2,500.00
3" Service with 3" Meter	Each	1	$ 2,000.00	$ 2,000.00
2" Service with 2" Meter	Each	2	$ 1,500.00	$ 3,000.00
2" Service with 1.5" Meter	Each	2	$ 1,500.00	$ 3,000.00
2" Reduced Pressure Backflow	Each	4	$ 1,500.00	$ 6,000.00
Non-potable Water Signage	Each	7	$ 150.00	$ 1,050.00
SUBTOTAL				**$ 222,530.00**
15% Contingency				**$ 33,379.50**
TOTAL				**$ 255,909.50**
			Faithful Performance (100%)	$ 255,909.50
			Labor & Material (100%)	$ 255,909.50

Bond No. 30164662
Premium: $2,209 / Annually

CITY OF BANNING

FAITHFUL PERFORMANCE BOND

Atwell - 37389-1 On-Site Water Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install, complete and guarantee for one year after acceptance thereof, certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Water Meadowline Way; and

WHEREAS, said Agreement is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a corporate surety bond or other approved improvement security to guarantee the faithful performance of said Agreement;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held and firmly bound unto the City in the penal sum of Five Hundred Ninety-Seven Thousand One Hundred Thirty-Six and 35/100 Dollars ($597,136.35), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep and perform the covenants, conditions and provisions in said Agreement and any modification thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated; then this obligation shall become void; otherwise, this obligation shall be and remain in full force and effect.

As a part of the obligation secured hereby, and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred by the City in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, the work to be performed thereunder, or the Improvement Plans and related specifications accompanying the Agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Agreement, the work, or the Improvement Plans and related specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc
(Type name of Principal)

1250 Corona Pointe Court, Ste 600
(Street Address)

Corona CA 92879
(City) (State) (Zip)

By: _____
(Signature of authorized officer)

Michael C. Taylor, Division President
(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company
(Type name of Surety)

2 Park Plaza, Suite 400
(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____ (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

THE CONTINENTAL INSURANCE COMPANY

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

Bond No. 30164662
Premium is included in Performance Bond.

CITY OF BANNING

PAYMENT BOND

Atwell - 37389-1 On-Site Water Meadowline Way
(Name or Tract Number of Subdivision)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Tri Pointe Homes IE-SD, Inc, (hereinafter designated as "Principal") has executed a Subdivision Improvement Agreement ("Agreement" herein) with the City of Banning, a municipal corporation of the State of California ("City" herein), whereby Principal agrees to construct, install and complete certain designated public improvements generally identified as follows: Atwell - 37389-1 On-Site Water Meadowline Way; and

WHEREAS, said Agreement is dated June 16, 2022 and is incorporated herein by this reference; and

WHEREAS, said Principal is required under the terms of said Agreement, before entering upon the performance of the work, to file with the City a good and sufficient payment bond, or other approved security, to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code and in Government Code Section 66497;

NOW, THEREFORE, the Principal designated above, and The Continental Insurance Company, as Surety, are held firmly bound unto the City and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of said Agreement and referred to in the above-referenced Civil Code and Government Code in the sum of *** Dollars ($ 597,136.35), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor; that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth; and in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

Five Hundred Ninety-Seven Thousand One Hundred Thirty-Six and 35/100

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, and under Government Code Section 66497, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said Agreement or the Improvement Plans or related specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the above-named Principal and Surety as of the date or dates set forth below the signatures of their authorized officers.

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment.

"PRINCIPAL"

Tri Pointe Homes IE-SD, Inc

(Type name of Principal)

1250 Corona Pointe Court, Ste 600

(Street Address)

Corona CA 92879

(City) (State) (Zip)

By: _____

(Signature of authorized officer)

Michael C. Taylor, Division President

(Title of officer)

Date: 6/16/22

"SURETY"

The Continental Insurance Company

(Type name of Surety)

2 Park Plaza, Suite 400

(Street Address)

Irvine CA 92614
(City) (State) (Zip)

By: Michelle Haase
(Signature of authorized officer)

Michelle Haase, Attorney-in-Fact
(Title of officer)

Date: June 15, 2022

APPROVED:

City Attorney

California All-Purpose Certificate of Acknowledgment

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

State of California

County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

Seal

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

© 2009-2015 Notary Learning Center - All Rights Reserved You can purchase copies of this form from our web site at www.TheNotarysStore.com

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JUN 1 5 2022 before me, Janina Monroe, Notary Public,
(Here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JANINA MONROE
Notary Public - California
Orange County
Commission # 2244611
My Comm. Expires Jun 25, 2022

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date_____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  _____
  (Title)
- ☐ Partner(s)
- ☒ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Janina Monroe, Tom McCall, Jennifer Ochs, Martha Barreras, Michelle Haase, Adriana Valenzuela, Lisa Marie Saumur, Charles R Teter III, K D Wapato, Marina Tapia, Edward C Spector, Ethan Spector, B Aleman, Aidan Smock, Simone Gerhard, Erin Brown, D Garcia, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 15th day of February, 2022.

The Continental Insurance Company

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of February, 2022, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this 15TH day of JUNE, 2022.

The Continental Insurance Company

D. Johnson — Assistant Secretary

Form F6850-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company at a meeting held on May 10, 1995.

> "RESOLVED: That any Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Group Vice President to the Secretary of the Company prior to such execution becoming effective.

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execution power of attorneys on behalf of The Continental Insurance Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012.

> "Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and
>
> Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"), Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

CNA SURETY

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as "CNA Surety").

The use of an electronic image of the corporate seal of any CNA Surety company (the "Digital Seal") and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee's representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original "wet" signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.

Rosemary Quinn
Vice President and Surety General Counsel on behalf of

Western Surety Company

The Continental Insurance Company

Continental Casualty Company

National Fire Insurance Company of Hartford

American Casualty Company of Reading, Pennsylvania

APPROVED BY
CITY OF BANNING
MAY 24 2022
PUBLIC WORKS DEPT

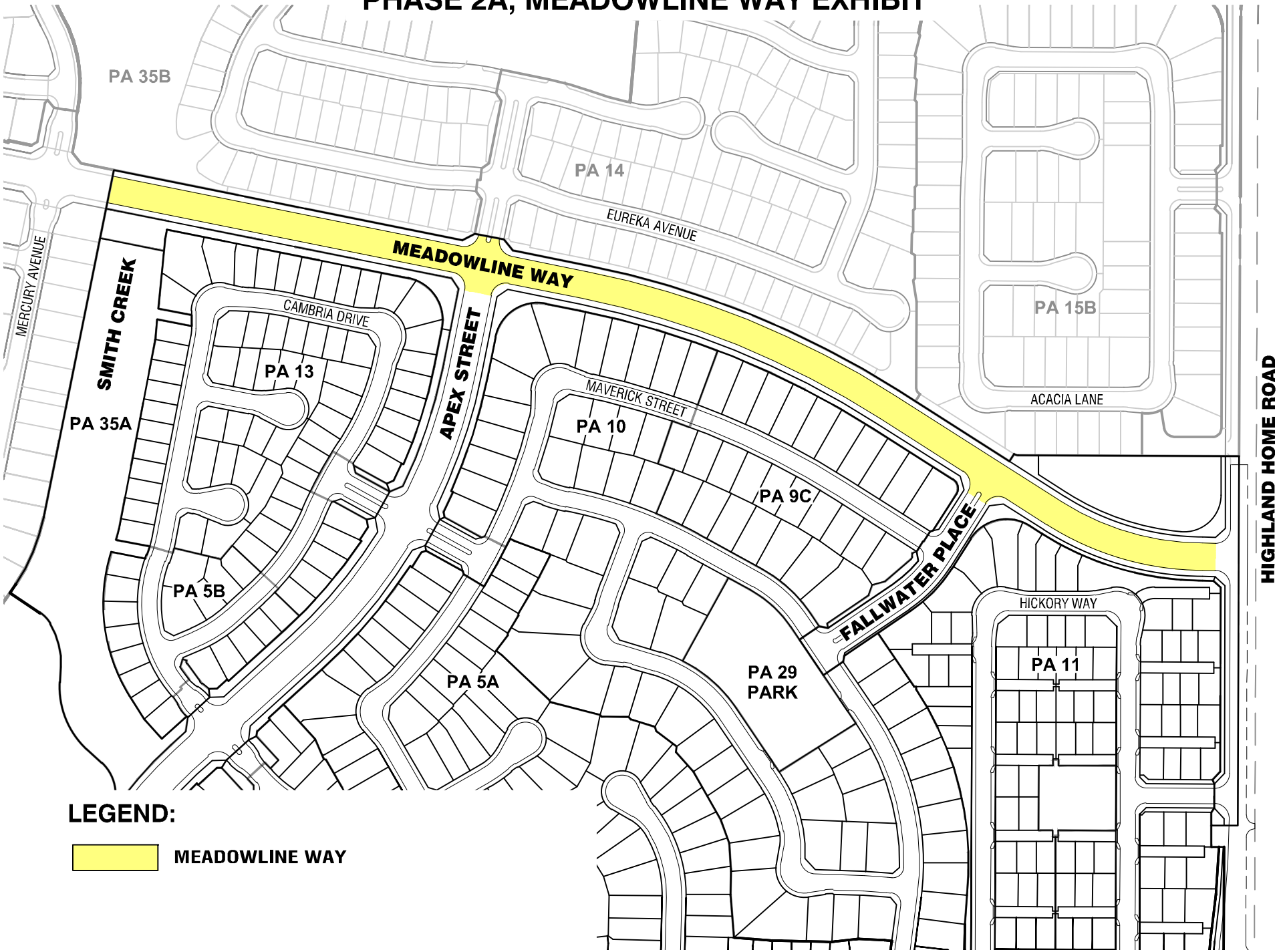
Prepared By:	MDS Consulting
Date Prepared:	5/18/2022
Approved By:	
Date Approved:	
Tract No.:	37389-1, On-site Water Meadowline Way

City of Banning Engineering Division
Construction Cost Estimate for Bonding, Plan Check & Inspection Fees
(Subdivisions/Public Works/Commercial Projects)

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL
WATER IMPROVEMENTS - Phase 1 (Interim)				
12" DIP Main w/ Poly Encasement & R.J.	LF	2,821	$ 80.00	$ 225,680.00
12" Butterfly Valve	Each	10	$ 2,500.00	$ 25,000.00
12" Fitting	Each	27	$ 500.00	$ 13,500.00
4" Blowoff	Each	3	$ 2,500.00	$ 7,500.00
2" Air & Vaccum Release Valve	Each	3	$ 6,000.00	$ 18,000.00
6" Fitting	Each	7	$ 200.00	$ 1,400.00
6" Gate Valve	Each	7	$ 1,250.00	$ 8,750.00
Adjust Water Valve to Grade	Each	21	$ 250.00	$ 5,250.00
Remove Blind Flange & Join Water	Each	1	$ 250.00	$ 250.00
18" Butterfly Valve	Each	2	$ 4,000.00	$ 8,000.00
18" Fitting	Each	3	$ 750.00	$ 2,250.00
24" Steel Casing	LF	26	$ 250.00	$ 6,500.00
Pipe Bollards	Each	4	$ 300.00	$ 1,200.00
SUBTOTAL Phase 1				**$ 323,280.00**

WATER IMPROVEMENTS - Phase 2 (Ultimate)				
Remove Phase-1 12" DIP Pipe and Fittings	LF	286	$ 140.00	$ 40,040.00
12" DIP Main w/ Poly Encasement & R.J.	LF	861	$ 80.00	$ 68,880.00
Remove 4" Blowoff	Each	3	$ 500.00	$ 1,500.00
Remove 2" Air & Vaccum Release Valve	Each	3	$ 500.00	$ 1,500.00
4" Blowoff	Each	2	$ 2,500.00	$ 5,000.00
Residential Fire Hydrant	Each	11	$ 4,000.00	$ 44,000.00
Adjust Water Valve to Grade (1st adjustment)	Each	24	$ 250.00	$ 6,000.00
8" Fitting	Each	5	$ 500.00	$ 2,500.00
Remove Blind Flange & Join Water	Each	4	$ 500.00	$ 2,000.00
12" Fitting	Each	8	$ 500.00	$ 4,000.00
8" DIP Main w/ Poly Encasement & R.J.	LF	147	$ 60.00	$ 8,820.00
2" Air & Vaccum Release Valve	Each	1	$ 6,000.00	$ 6,000.00
Remove Existing Pipe Bollards	Each	1	$ 500.00	$ 500.00
Abandon Water Main & Slurry Fill	LF	747	$ 7.00	$ 5,229.00
1" Air & Vaccum Release Valve	Each	1	$ 5,000.00	$ 5,000.00
SUBTOTAL Phase 2				**$ 195,969.00**
SUBTOTAL				**$ 519,249.00**
15% Contingency				**$ 77,887.35**
TOTAL				**$ 597,136.35**
			Faithful Performance (100%)	$ 597,136.35
			Labor & Material (100%)	$ 597,136.35

PHASE 2A, MEADOWLINE WAY EXHIBIT



344

tri pointe HOMES

LETTER OF TRANSMITTAL

To: City Of Banning

99 East Ramsey Street

Banning, CA 92220

Attn: Public Works Department

Date: June 21, 2022

Project: ATWELL

Transmitted as checked below:

- ☐ For your information/use
- ☐ For your action
- ☐
- ☒ For your file
- ☐ As requested
- ☐
- ☐ By MDS
- ☐ By Mail
- ☐ By Fax
- ☐ By Federal Express
- ☐ By Courier
- ☐

QTY	Description: **City of Banning – Atwell TR#37389-1, 37389-2, 37389-3 and 37389-5**
1	City Agreement for 37389-1
1	Storm Drain 37389-1, 37389-2, 37389-3 and 37389-5 Bond No. 30164664

RECEIVED
JUN 24 2022
BY:

Comments:

Copies:

Tri Pointe Homes Inland Empire

By: Michael Heishman

1250 Corona Pointe Court, Suite 600 Corona, California 92789 (951) 428-4400 fax: (951) 428-4410

CITY OF BANNING

SUBDIVISION IMPROVEMENT AGREEMENT

* * * * * * SUBDIVISION REFERENCE DATA * * * * * *

[ ] FINAL TRACT MAP NO. **37389-1, 37389-2, 37389-3 & 37389-5 Storm Drain**

("Final Map" herein)

[ ] PARCEL MAP NO. _____("Parcel Map" herein)

NAME OR TRACT NUMBER OF SUBDIVISION ("Subdivision" herein):	ATWELL – **37389-1, 37389-2, 37389-3 & 37389-5 Storm Drain**
NAME AND ADDRESS OF SUBDIVIDER(S):	TRI POINTE HOMES, IE-SD 1250 CORONA POINTE CT, #600 CORONA, CA 92879
CITY COUNCIL RESOLUTION OF APPROVAL NO.	_____ ("Resolution of Approval" herein)

DATE(S) THAT IMPROVEMENT PLANS WERE APPROVED BY THE CITY ENGINEER: _____

IMPROVEMENT/PLAN NO.:	Storm Drain TR# 37389-1, 37389-2, 37389-3 & 37389-5	
ESTIMATED TOTAL COSTS:	IMPROVEMENTS	$ 1,223,864.50
	GRADING	$_____
	MONUMENTATION	$_____
	TOTAL:	$ 1,223,864.50

FORM OF IMPROVEMENT SECURITY:

[ ] AAA Corporate surety bonds

[ ] Deposit of money

NAME AND ADDRESS OF CORPORATE SURETY (if applicable):	The Continental Insurance Company (Name of Corporate Entity) 2 Park Plaza, Suite 400 (Street Address) Irvine, CA 92614 (City) (State) (Zip)
SURETY BOND NUMBERS (if applicable):	Storm Drain 37389-1, 37389-2, 37389-3 & 37389-5 Bond#30164664
EFFECTIVE DATE OF AGREEMENT:	_____ (to be inserted by City)

COMPLETION PERIOD: All public improvements (e.g. water, non-potable water, wastewater, streets, storm drain, etc.) of Tract Map No. 37398-1, 37389-2, 37389-3 & 37389-5 shown on the approved plans for said tract map shall be completed within two years from the Effective Date of the Agreement.

* *

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between the City of Banning, a municipal corporation ("City"), and the Subdivider whose name and address is set forth above in the Subdivision Reference Data.

RECITALS

A. Subdivider has presented to the City for approval and recordation a Final Map, identified above in the Subdivision Reference Data, of a proposed subdivision pursuant to the Subdivision Map Act of the State of California and the City's ordinances and regulations as such ordinances and regulations are vested under the development agreement recorded in the official records of the County of Riverside on July 17, 2012 as Document No. 2012-0332888 ("Development Agreement") relating to the filing, approval and recordation of subdivision maps (collectively referred to herein as the "Subdivision Laws").

B. A tentative map of the Subdivision was previously approved by City, subject to the Subdivision Laws and to the City's standard requirements as vested under the Development Agreement and conditions of approval contained in the City Council's Resolution of Approval, a copy of which is on file in the Office of the City Clerk and which is incorporated herein by this reference.

C. The Subdivision Laws establish, as a condition precedent to the approval of a Final Map, that the Subdivider comply with the City Council's Resolution of Approval and either (i) complete, in compliance with applicable City standards, all of the improvements and land development work required by the Subdivision Laws and the City Council's Resolution of Approval; or (ii) enter into a secured agreement with the City to complete the improvements and land development work within a period of time specified by the City.

D. In consideration of approval of the Final Map for the Subdivision by the City Council, Subdivider desires to enter into this Agreement whereby Subdivider promises to install and complete, at its sole expense, except as otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, all public improvement work required by the City as set forth on the Improvement Plans (as defined below) for the proposed Subdivision. Subdivider has secured this Agreement by improvement security required by the Subdivision Laws and approved by the City. In any conflict between the terms in this Agreement and the Development Agreement, the Development Agreement shall be the controlling document.

E. Improvement Plans, and related specifications, numbered as designated above in the Subdivision Reference Data, for the construction, installation and completion of the Improvements identified in Schedule A hereto, have been prepared by the Subdivider, approved by the City Engineer, and are on file in the office of the City Engineer. Said Improvement Plans, and related specifications, subsequently modified by the mutual written agreement of the parties, are hereby referred to as the "Improvement Plans" and are incorporated herein by this reference.

Any improvement to be constructed pursuant to the Improvement Plan is hereby referred to individually as an "**Improvement**" and collectively as the "**Improvements**".

NOW, THEREFORE, in consideration of the approval and recordation by the City Council of the Final Map of the Subdivision, Subdivider and City agree as follows:

1. SUBDIVIDER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, and in compliance with the provisions of the Subdivision Laws, the Improvement Plans, conditions of approval of the Tentative Map, and all applicable City standards and fees, and in a good and workmanlike fashion, furnish, construct, install and guarantee (as set forth in Section 3) the Improvements, Grading, and Monumentation described on the tentative map and in the City Council's Resolution of Approval relating thereto (collectively, the "Improvements").

B. To the extent necessary to construct the Improvements, as determined by the City Engineer, the Subdivider shall acquire and dedicate, or pay the reasonable, documented cost of acquisition by City of, all rights-of-way, easements and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. If the Subdivider is unable to acquire such rights-of-way, easements and other interests in real property by negotiation, then Subdivider shall, within 120 days of Final Map approval, enter into a condemnation agreement with City pursuant to Government Code Section 66462.5, by which the City will commence the process for the acquisition of the rights-of-way, easements or other real property.

C. Subject to any time extensions granted in accordance with Section 4, Subdivider shall complete all Improvements within its respective "Completion Period" specified in the Subdivision Reference Data; provided, however, that if the City Engineer reasonably determines in good faith that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, the City Engineer shall give Subdivider not less than fifteen (15) business days' prior written notice to commence or accelerate installation and construction of such Improvements, or any portion thereof. The notice shall be in writing, and shall describe the work to be done by Subdivider, the time within which the work will commence, the period within which the work will be completed and identify the reasons that such early commencement is essential in order to protect the public health, welfare and safety. All or any portions of said Improvements may be required to be constructed or completed at a specified time, providing the foregoing criteria is met. If the Subdivider objects to the commencement or acceleration of the Improvements as specified by the City Engineer, Subdivider may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within 10 days after receipt by Subdivider of the written notice from the City Engineer.

D. If the Improvements to be constructed by Subdivider include monumentation, such monumentation shall be installed not later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein,

"monumentation" shall mean the setting of survey monuments and tie points in accordance with the Subdivision Laws, and the delivery to the City Engineer of tie notes for said points.

E. Subdivider shall , at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, replace or repair all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work performed by Subdivider under this Agreement during or after the Completion Period. Any such replacement or repair shall be subject to the approval of the City Engineer.

F. In addition to, and separate from, the indemnity obligations contained in Section 9 of this Agreement, and without limiting the City's remedies under general construction defect law, Subdivider shall be responsible for the care, repair and maintenance of the applicable portion of the Improvements until the latter of the following time periods: (i) the Improvements or applicable portion thereof is accepted in writing by the City; or (ii) the expiration of the required one-year guarantee and warranty period as specified herein; or (iii) the expiration of any applicable period of time requiring the care, repair and maintenance of the applicable Improvement specified in the Development Agreement (not including the term of any Development Agreement). Neither City, nor its officers, agents and employees, shall have any liability for any accident, loss or damage to the Improvements and that may result from the construction of the Improvements prior to their completion and written acceptance by the City

G. In addition to, and separate from: (1) the indemnity obligations contained in Section 7 of this Agreement, (2) the care, repair and maintenance provisions under paragraph E of this Section 1 of this Agreement; and (3) the warranty and guarantee provisions of Section 3 of this Agreement, Subdivider shall repair and correct, or be liable to the City for any cost to repair and correct, any defect in the construction of the Improvements that is identified by City within in accordance with general construction defect law ten (10) years after City's acceptance of the Improvement, provided the City provides written notice to Subdivider of the existence of the defect within that the time period under law, and the defect is caused directly or indirectly by the design, construction, functionality, installation, assembly or workmanship of Subdivider. Nothing contained in this paragraph is intended to limit or otherwise waive any right or cause of action under applicable construction defect law that City may assert against Subdivider.

H. Subdivider shall, at its sole expense, unless otherwise provided in a credit/reimbursement agreement as provided for in the Development Agreement, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all applicable fees required by City ordinance or resolution and all taxes required by law.

I. Not less than seven (7) days prior to commencement of work on the Improvements, Subdivider shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

J. SUBDIVIDER shall pay all applicable City fees and costs stipulated in the latest fee resolution as adopted by the City Council from time to time as required for the development of the SUBDIVISION including but not limited to the following:

1. Building Permit Fees --- to be paid at the time of building permit issuance;

2. Final Map Plan Check Fees --- to be paid at time of submittal of final map for plan check and resubmittal of revised final map for plan check;

3. Final Map Moratorium Fees --- to be paid from cash deposit established at time of filing final map;

4. Plan Check and Review Fees --- to be paid from cash deposit established at time of filing improvement plans for plan check;

5. Encroachment Permit Fees --- to be paid at time of application for encroachment permit;

6. Inspection Fees --- to be paid from cash deposit established at time of construction permit issuance; and

7. Grading Permit Fee --- to be paid from cash deposit established at time of grading permit issuance.

K. Subdivider shall provide City with final Record Drawings of all plans developed for the Subdivision, showing all changes and as built conditions as specified in the Tentative Tract Map Conditions of Approval, and shall provide electronic image files of those final Record Drawings consistent with electronic image file size and type specifications of the City prior to the acceptance of improvements and release of bonds or other security.

2. <u>INSPECTION OF WORK AND FINAL ACCEPTANCE</u>

A. Subdivider shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer and other City personnel and inspection consultants.

B. Upon completion of the work on all or any category of the Improvements, the Subdivider may request a final inspection by the City Engineer. Within forty-five (45) days of receipt of the written letter request, the City Engineer shall inspect the Improvements and provide written notice to Subdivider of the list of items which have been found to be incomplete and the list of items which have been found to be complete. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall acknowledge that determination in a report to the City Council. If the Improvements that are completed are to be dedicated to or owned by the City (Improvements within City right of way and property for public use), the City Engineer's determination shall be

submitted to the City Council for final acceptance by the City, unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. If the Improvements that are completed are to be dedicated to or owned by a public entity other than the City, the Subdivider's written request shall be submitted to the applicable public entity or other owner, for final acceptance. Subdivider shall bear all costs of inspection and determination of completeness in accordance with City's formally adopted and applicable fees and rates.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements pursuant to subparagraph B above. The City Council shall act upon the City Engineer's recommendation that such public Improvements have been completed unless such power to accept has been delegated by the City Council to the City Engineer or some other officer of the City, in which case the final acceptance shall be subject to the approval of that specified official. Acceptance by the City or by the governing body of the entity that is to accept dedication or ownership of the public improvements shall not constitute a waiver by the City or such other public entity of any defects in the public Improvements.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. If, within a period of one year following acceptance by the City of the applicable Improvements specified in Schedule A, any Improvements or part of any Improvements specified in Section A furnished, installed or constructed by the Subdivider, or any of the work performed under this Agreement by Subdivider, fails to comply with any requirements of this Agreement, or the Subdivision Laws, or the Improvement Plans and related specifications, the Subdivider shall, without delay and without cost to the City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. Subdivider's obligations hereunder shall include the repair, replacement or reconstruction of all irrigation systems and all trees, shrubs, ground cover and landscaping for such one year.

B. Should the Subdivider fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement, or reconstruction to be undertaken before the Subdivider can be notified and can perform the necessary work, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction and draw upon the Subdivider's improvement security to reimburse itself for the costs incurred. If the Subdivider's improvement security does not cover the total cost of such repair, replacement, or reconstruction, the Subdivider shall reimburse the City for any excess costs incurred.

C. The security furnished for the faithful performance of the Subdivider's obligation to construct and install the Improvements described herein shall include the Subdivider's liability and obligation hereunder to provide the one-year guarantee and warranty of the Improvements.

4. TIME EXTENSIONS

A. Upon a showing by the Subdivider of good cause therefor, the duration of the Completion Period for the Improvements (or any of them) may be extended by the City Engineer in writing. As used herein, "good cause" may include, without limitation, delay resulting from, arising out of or relating to an act of the City; acts of God or force majeure, strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work; findings made by a governmental entity that the site of a particular Improvement is of archeological significance or requires further permitting and approval; and/or actions or failure to act of native American monitor(s); and, the order of any court.

B. A time extension may be granted without notice to any surety or sureties of the Subdivider and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for herein, the City Engineer, may require the Subdivider to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount as necessary to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

A. Prior to City's execution of this Agreement, Subdivider shall provide as security to the City:

1. For Performance and Guarantee: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider assures faithful performance under this Agreement and guarantees the Improvements for one year after the completion and acceptance of the applicable portion of such Improvements, against any defective workmanship or materials or any unsatisfactory performance, pursuant to Section 3 hereof.

2. For Payment: Security in an amount equal to one hundred percent (100%) of the Estimated Total Cost of the Improvements, excluding Grading, as set forth above in the Subdivision Reference Data. The security shall be issued by a bonding company licensed to issue bonds in the State of California and having a Best rating of AAA or better. With this security, the form of which shall be subject to City Attorney's prior approval, the Subdivider guarantees payment to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to them or to the Subdivider.

B. If the improvement security is a corporate surety bond and, in the opinion of the City, any surety or sureties thereon become insufficient, because (i) the surety becomes

insolvent; (ii) the surety's bond rating is downgraded; (iii) the surety declares bankruptcy; or (iv) the surety is no longer deemed to be an admitted surety in California by the California Department of Insurance, or (v) the form of the surety or the amount is found by City to be in error or materially insufficient, the Subdivider shall renew or replace any such surety bond with good and sufficient surety or sureties within thirty (30) days after receiving from City written demand therefor.

C. The amount of security for performance, payment and warranty obligations provided by this section shall not include the cost of monumentation, as required by Government Code Section 66497 so long as a separate cash deposit or security acceptable to the City Engineer for the estimated cost of monumentation has been submitted to the City.

D. Improvement security consisting of corporate surety bonds, in a form accepted by the City Attorney, shall be filed with the City Engineer and then kept on file with the City Clerk. If a corporate surety bond is replaced by another approved bond, the replacement shall be submitted to the City Engineer and, upon filing with the City Clerk, shall be deemed to have been made a part of and incorporated into this Agreement. Upon submission to the City Engineer and then filing with the City Clerk of a replacement bond, the former improvement security shall be released following written approval of the City Engineer.

E. Modifications of the Improvement Plans and related specifications, and modifications of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of the Improvements, shall not relieve or release any improvement security furnished by Subdivider pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, Subdivider shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred percent (100%) of the revised Estimated Total Cost of the Improvements.

F. Subject to any time extensions granted in accordance with Section 4 herein, the Subdivider shall be in default if the Subdivider has not completed all improvements within two years from the Execution Date of the Agreement and has not repaired any defects in the completed Improvements within the one-year guarantee and warranty period.

Alternatively, in the event of a default by the Subdivider pursuant to Section 10, and after written notice to Subdivider and reasonable opportunity to cure, City, at its sole option, shall have the right, without limiting any other rights and/or remedies available to City at law or in equity, to draw upon or utilize the improvement security furnished herewith to construct and install the Improvements itself. If City exercises this right, the release of any unused portion of such improvement security shall be in accordance with the procedures outlined in Section 6 herein, including any retention necessary for the one-year guarantee period.

6. <u>REDUCTION OR RELEASE OF IMPROVEMENT SECURITY</u>

A. All public Improvements (Improvements that are to be owned or dedicated to the City or other public entity as distinguished from those owned by a private community

association) shall be first completed, deemed completed by the City Engineer and then accepted as complete by the City prior to release of sureties. All private Improvements (Improvements that are to be owned by a private community association and not dedicated or owned by the City or other public entity) shall be first completed and then accepted as complete in writing by the City Engineer.

B. Partial releases or reductions in the Subdivider's improvement (performance) security may be authorized prior to the City's acceptance of all Improvements required hereunder, as follows:

1. At the time that the Subdivider believes that the obligation to perform the work for which security was required is complete, the Subdivider may notify the City in writing of the completed work, including a list of work completed. Upon receipt of the written notice, the City shall review and comment or approve the completion of the required work within forty-five (45) days. If the City does not agree that all work has been completed in accordance with the plans and specifications for the Improvements, it shall supply a list of all remaining work to be completed within this 45-day period.

2. Within forty-five (45) days of receipt of the list of remaining work from the local agency, the Subdivider may then provide cost estimates for all remaining work for review and approval by the City. Upon receipt of the cost estimates, the City shall then have forty-five (45) days to review, comment, and approve, modify, or disapprove those cost estimates. The City shall not be required to engage in this process of partial release more than once between the start of work and completion and acceptance of all work; however, nothing in this section prohibits the City from allowing for multiple and phased partial releases as it otherwise deems appropriate.

3. If the City approves the cost estimate, the City shall release all performance security except for security in an amount up to two hundred percent (200%) of the cost estimate of the remaining work. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed twenty percent (20%) of the total original performance security unless the City allows for a release at an earlier time. Substitute bonds or other security may be used as a replacement for the performance security, subject to the approval of the City. If substitute bonds or other security is used as a replacement for the performance security released, the release shall not be effective unless and until the City receives and approves that form of replacement security. A reduction in the performance security, authorized under this section, is not, and shall not be deemed to be, an acceptance by the City of the completed improvements in and of itself, and the risk of loss or damage to the Improvements and the obligation to maintain the Improvements shall remain the sole responsibility of the Subdivider until the applicable required public Improvements have been accepted by the City in writing and all other required improvements have been fully completed in accordance with the plans and specifications for the improvements.

4. The Subdivider shall complete the works of Improvement until all remaining items are accepted by the City.

5. Upon the completion of the Improvements, the Subdivider, or his or her assigns, shall be notified in writing by the City within forty-five (45) days.

6. Within sixty (60) days of the issuance of the notification by the City Engineer, any remaining performance security, except ten percent (10%) of the original amount of the security to guarantee and warrant the Improvements for the one-year guarantee and warranty period, shall be released within sixty (60) days of the issuance of the written statement of completion.

C. Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all stop notice claimants for whom stop notices have been filed with the City, and if no claims have been filed, the security shall be released in full.

D. The partial release provisions of this Section 6 shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees. Security furnished to guarantee and warrant the Improvements against any defective work or labor done or defective materials furnished, shall be released within thirty (30) days after the completion of the one-year period following completion and acceptance of all Improvements.

E. If Subdivider's obligations relating to any Improvements are subject to the approval of another governmental agency, the City shall not release the improvement (performance) security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have sixty (60) days after receipt of written notice from the Subdivider of the Subdivider's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Subdivider's performance of the obligation was done to its satisfaction, and such improvement security shall be promptly released.

F. In the event the time periods for action by the City specified in this Section conflict with a shorter or longer time period for such actions as provided in Government Code Section 66499.7, the time periods in Government Code Section 66499.7 shall control.

7. <u>INDEMNIFICATION OF CITY BY SUBDIVIDER</u>

A. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss or damage to either property or person attributable to or arising out of the defective design, construction, functionality, installation assembly or improper

maintenance including, without limitation, the use of defective methods, materials or workmanship (collectively "Subdivider's Faults") of the Improvements by Subdivider, its officers, employees and agents. Subdivider shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including attorneys' fees, arising directly or indirectly out of or attributable to Subdivider's Faults.

B. Subdivider's obligations under this Section 7 are not conditioned or dependent upon whether the City, or its officers, agents and employees, prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Subdivision or the Improvements, or has insurance or other indemnification covering any of these matters.

C. Subdivider's obligation to indemnify, hold harmless and defend the City under this Section 7 shall extend to injuries to persons and damages to or alleged taking of property resulting from the Subdivider's Faults, and the Improvements required herein, and shall likewise extend to claims asserted by adjacent property owners based upon the diversion of waters caused by the Subdivider's defective design or defective construction of public drainage systems, streets, and other public facilities or improvements. Except for a City Directive as defined below, the City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Subdivision or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Map, regardless of any act or omission by the City in approving the Improvement Plans or the Final Map, unless the particular Improvement design was required by the City over the written objection of the Subdivider, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design (a "City Directive"). After City's acceptance of the Improvements, the Subdivider shall remain obligated to correct or eliminate all dangerous conditions created by defects in design, construction or Subdivider's Faults (other than those required by a City Directive); provided, however, that Subdivider shall not be responsible for routine maintenance as specified in Section 1(F) of this Agreement. Subdivider's indemnity obligations hereunder shall remain in effect for ten (10) years following acceptance of the respective Improvement(s) by the City Council. Subdivider acknowledges and agrees that Subdivider shall be responsible and liable for the Subdivider's Faults with respect to the Improvements and other work done pursuant to this Agreement, unless same is due to a City Directive. City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting or modifying any Improvement Plans or related specifications, or in inspecting, reviewing or approving any work or construction of Improvements, unless same is due to a City Directive. The Subdivider's improvement security shall not be required to secure the Subdivider's obligations under this subparagraph C beyond the one-year guarantee and warranty period, unless the City Engineer provides notice to Subdivider prior to the expiration of the one-year period of the existence of, or continued existence of, defects in the improvements, in which case the portion of the improvement security to guarantee and warranty the improvements against defective work shall not be released and shall remain in place until the City Engineer provides written confirmation that the defects have been cured and corrected. The indemnity shall be effective retroactively to the earliest recordation date of the Final Map.

D. Subdivider shall pay and satisfy any judgment, award or decree that may be rendered against City, its officers, officials, employees, agents, representatives and volunteers (collectively hereinafter "City and City Personnel") to the extent of the indemnity provided above, in any such suit, action, or other legal proceeding, provided City gives Subdivider prompt written notice of such claim and allows Subdivider to undertake the defense thereof, and provided further that City cooperates in any such suit, action, or other legal proceeding, but shall retain its right to reject a settlement that the City deems, in its sole and absolute discretion, to be contrary to the interests of the City.

E. Subdivider's obligation to indemnify shall not be restricted to Insurance proceeds, if any, received by the City and City Personnel.

F. Subdivider, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against City and City Personnel to the extent of the indemnity above provided.

8. INSURANCE

The following coverages will be provided by Subdivider and maintained on behalf of City and in accordance with the requirements set forth herein. If Subdivider performs construction activities through a general contractor, some or all of these insurance requirements for the period of construction may be satisfied by the general contractor's insurance coverages. In such case, Subdivider shall maintain during this same construction period, and after the construction period, the coverages shown below as "Insurance After Construction." In addition, Subdivider may elect to obtain, for all or any portion of the Project, an "Owner-Controlled Wrap Up" insurance policy in satisfaction of the insurance requirements for general contractors and subcontractors provided it satisfies all of the insurance requirements below for general contractors and subcontractors. Throughout these specifications, the word "Subdivider" refers to the Party responsible to provide the coverages as specified and, depending on context, may refer either to Subdivider or to a separate General Contractor.

A. Insurance During Construction. Subdivider shall provide the following insurance during construction of the Improvements. Insurance requirements may be met through insurance provided by Subdivider's General Contractor:

1. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL Form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO Form CG 20 10 11 85 or other revision of the CG 20 10 form if available from the insurer and reasonably acceptable to the City, not limiting coverage for the additional insured to "ongoing operations" or in any way excluding coverage for completed operations. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation or other endorsement limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

2. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting date no later than and an ending date no earlier than those of the underlying coverages. The Named Insured (Subdivider or General Contractor as appropriate) may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits and complies with all other requirements listed here.

3. Business Auto Coverage. Business Auto Coverage shall be written on ISO Business Auto Coverage Form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

4. Workers' Compensation/Employer's Liability. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars ($1,000,000) per accident or disease. Employer's liability coverage shall be scheduled under the umbrella or excess liability policy described above. This policy shall be endorsed to waive any right of subrogation with respect to City, its officers, employees or agents.

5. Builder's Risk Insurance. Builder's Risk Insurance covering all real and personal property for "all risks" of loss or "comprehensive perils" coverage including but not limited to the perils of earth movement, including earthquake (if required by Subdivider's lender or if available at commercially reasonable rates) and flood for all Improvements.

B. Insurance After Construction. Upon completion of construction of the Improvements, and for the required one-year guarantee and warranty period for Improvements and the required 10-year indemnification period, Subdivider at Subdivider's expense shall maintain or cause to be maintained the following insurance:

1. Commercial Property Insurance. Commercial Property Insurance covering the Improvements. Coverage shall be at least as broad as the Insurance Services Offices broad causes of loss form CP 10 20, and reasonably approved of in writing by the City. Coverage shall be sufficient to insure 100% of the replacement value and there shall be no coinsurance provisions. The policy shall include an inflation guard endorsement, 100% rents coverage, contents coverage, coverage for personal property of others, ordinance or law and increased cost of construction coverage. Subdivider also agrees to provide builder's all-risk insurance using an inland marine form during the period of any major alteration or improvement, using the broadest form available.

The insurance coverage for the peril of earthquake required for this project is subject to availability on the open market at commercially reasonable premium cost, as determined by mutual agreement between Subdivider and City. If such earthquake insurance coverage should, after diligent effort by Subdivider, be unobtainable at such mutually determined commercially reasonable premium cost, then Subdivider shall obtain the maximum insurance reasonably obtainable at commercially reasonable premium cost (if any) and give notice to City of the extent of Subdivider's inability to obtain, in full, the required insurance, and in such event, Subdivider's obligation to procure and maintain such insurance may be excused, subject to City's verification of inability to obtain the required insurance. Subdivider and City agree that a premium cost of earthquake insurance coverage of up to 150% of the premium cost paid by Subdivider for such coverage on the Effective Date (to be adjusted over time based on the Consumer Price Index,) shall constitute a commercially reasonable premium cost. Non-availability at commercially reasonable premium cost must be documented by a letter from Subdivider's insurance broker or agent indicating a good faith effort to place the required insurance and showing, at a minimum, the names of the insurance carriers and the declinations or quotations received from each.

2. Commercial General Liability Insurance. Commercial General Liability Insurance (primary) shall be provided on ISO-CGL form No. CG 00 01 or equivalent coverage, including provisions for defense of additional insureds. Policy limits shall be no less than two million dollars ($2,000,000) per occurrence for all coverages and five million dollars ($5,000,000) general aggregate. City and its officers, employees and agents shall be added as additional insureds using ISO form CG 20 10 or equivalent if available from the insurer and reasonably acceptable to the City. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to City or any officer, employee or agent of City until the warranty period specified in this Agreement expires.

3. Umbrella Liability Insurance. Umbrella Liability Insurance (or, at Subdivider's election, Excess Liability Insurance) (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum. Coverage shall be at least as broad as any underlying coverage. Coverage shall be provided on a "pay on behalf" basis. There shall be no cross liability exclusion. Policy limits shall be not less than five million dollars ($5,000,000) per occurrence and in the aggregate, including any limits required in the underlying policies. The policy shall have a starting

date no later than and an ending date no earlier than those of the underlying coverages. Subdivider may determine the layering of primary and excess liability insurance provided that if such layering differs from that described here, the actual coverage program meets the minimum total required limits.

4. Workers Compensation Insurance. Workers' Compensation/Employer's Liability shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella or excess liability policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its employees or agents.

5. Business Auto Coverage. Business Auto Coverage for vehicles owned, operated or maintained in any way connected with the project, shall be written on ISO Business Auto Coverage form CA 00 01 or the equivalent, including symbol (1) (any Auto). If Subdivider (or Contractor) does not own any vehicles, this requirement may be satisfied by a non-owned vehicle endorsement to the general and umbrella liability policies. Limits shall be no less than one million dollars ($1,000,000) per accident. This policy shall be scheduled as underlying insurance to the umbrella or excess liability policy required above for a total limit of no less than five million dollars ($5,000,000) each accident.

C. Provisions Pertaining to Insurance Provided by Subdivider

1. All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

2. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any Party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

3. All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Subdivider, and Subdivider's employees, or agents, from waiving the right of subrogation prior to a loss. Subdivider waives its right of subrogation against City.

4. None of the policies required herein shall be in compliance with these requirements if they include any limiting endorsement that has not been first submitted to City and approved in writing by the City.

5. Unless otherwise approved by City, Subdivider's insurance and insurance provided by any contractor or subcontractor relating to the construction of the Improvements shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of at least "A-:VII." Self-insurance will not comply with these insurance specifications unless expressly approved in writing by the City.

6. In the event any policy of insurance required under this Agreement does not comply with these requirements and Subdivider does not cure the non-compliance within thirty (30) days after written notice from City (or Subdivider does not provide reasonable evidence of such cure within such period), or if the insurance is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any reasonable premium paid by City will be promptly reimbursed by Subdivider.

7. Subdivider agrees to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Subdivider's general liability and umbrella liability policies using ISO Form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage and policies are to have a "cancellation endorsement" to the same effect. Subdivider agrees to provide copies of any endorsements modifying coverage in any way upon request from City.

8. Subdivider shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage.

9. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

10. Subdivider agrees to require all subcontractors or other parties (but not including a general contractor) hired for this project to construct the Improvements to purchase and maintain insurance for general liability (minimum limit $1,000,000 per occurrence), automobile liability ($1,000,000 per accident) and workers' compensation (statutory benefits). Prior to the issuance of the Certificate of Completion for each Phase, Subdivider shall, upon request by City, provide the City with copies of all insurance policies, certificates and endorsements related to such Phase.

11. Subdivider agrees to monitor and review all coverage required by this Section and assumes all responsibility for ensuring that such coverage is provided as required here. Subdivider agrees to obtain certificates evidencing such coverage. Subdivider agrees that upon request, all agreements with subcontractors or others with whom Subdivider contracts with on behalf of City, and all certificates of insurance

obtained in compliance with this paragraph will be submitted to City for review upon request by City. Failure of City to request copies of such documents will not impose any liability on City, or its employees.

12. Subdivider agrees to require that no contract used by any general contractor or subcontractor in connection with construction of the Improvements, or contracts Subdivider enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement.

13. Where appropriate (such as in the case of automobile insurance coverages), coverage will not be limited to the specific location designated as the Property.

14. Subdivider agrees to provide notice to City of any claim or loss against Subdivider that includes City as a defendant promptly after Subdivider receives written notice or obtains knowledge thereof. 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. City agrees to provide similar notice to Subdivider of any such claims it is notified of respecting the Property.

15. Subdivider agrees not to attempt to avoid its defense and indemnity obligations to City, and its officers, employees, agents by using as a defense Subdivider's statutory immunity under workers' compensation and similar statutes.

16. Subdivider agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Subdivider and City or between City and any other insured or Named Insured under the policy, or between City and any Party associated with City or its employees.

17. If Subdivider or any contractor or subcontractor is a Limited Liability Company, general liability coverage must apply so that the Limited Liability Company and its Managers, Members, Affiliates, and their employees are insureds.

18. Subdivider shall require General Contractor to maintain commercial general liability, and if necessary, commercial umbrella liability insurance with a limit of not less than $15,000,000 for each occurrence, until the warranty period specified in this Agreement expires.

19. Subdivider agrees to obtain and provide to City evidence of professional liability coverage for Architects, Engineers or other design professionals working on the Improvements. The limit of liability required is subject to City approval, but in no event to be less than $1,000,000 per claim and in the aggregate, and Subdivider shall use reasonable efforts to require and cause such professionals to maintain coverage with respect to each occurrence for at least three years following substantial completion of the work and, in the event Subdivider is unable to do so, Subdivider shall promptly inform the City of the scope of such efforts and the reasons that it was unable to do so. If

Subdivider requests that the City approve a lower limit for any particular design professional Subdivider seeks to employ on the Improvements, City will evaluate each such request based on City's perception of liability exposure associated with the work that would be performed by that design professional.

20. To the extent a particular coverage or policy form or specification is not reasonably available from Subdivider's insurer or would result in an additional premium that is extraordinary or unreasonably disproportionate to the premium for the policy as a whole, then Subdivider shall provide substantially similar coverage reasonably acceptable to City for which the cost is not extraordinary or unreasonably disproportionate.

9. OWNERSHIP OF THE IMPROVEMENTS

A. Ownership of all or any category of the Improvements constructed and installed by the Subdivider pursuant to this Agreement and shown on the Map to be dedicated to the public shall vest, as applicable, in the City (or other specified governmental agency) upon acceptance of said Improvements by the City. The acceptance of the Improvements shall either be shown by a certificate on the Final Map or by subsequent resolution accepting the Improvements adopted by the City pursuant to Government Code Section 66477.2 and recorded with the County Recorder or by other writing.

B. The Subdivider shall at all times prior to the acceptance of the Improvements by the City, give good and adequate warning to the public of each and every dangerous and defective condition caused by the construction of the Improvements and shall take all steps reasonably necessary to protect the public from such dangerous or defective conditions. The Subdivider agrees and understands that until acceptance of the Improvements by the City in writing, each Improvement and Improvement area that is offered for dedication shall be under the charge of the Subdivider, and the Subdivider may close all or a portion of any street or area whenever necessary to protect the public during the construction of the Improvements.

10. PREPARATION AND RECORDATION OF CC&RS.

A. The Subdivider shall establish a Homeowners Association for the residential areas of the Final Map owned by Subdivider, and to pay all costs associated with the creation of the associations.

B. The Subdivider shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) which obligate each homeowners association to provide for maintenance of the shared facilities, improvements, and landscaping within the boundaries of the associations in perpetuity in accordance with the Development Agreement and conditions of approval. The CC&Rs shall describe the homeowners association and the City's responsibilities and rights, and shall be subject to the approval of the City prior to recordation.

C. The Subdivider shall implement applicable provisions of the Mitigation Monitoring and Reporting Program.

11. DEFAULT AND BREACH BY THE SUBDIVIDER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the Subdivider shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to complete construction and installation of the Improvements or any of them by the completion date set forth above in the Subdivision Reference Data;

2. Failure to promptly correct or cure any defect in the Improvements or any of them (other than a City Directive) during the one-year guarantee and warranty period as required by Section 3.A or failure to commence correction or cure of any such defect or failure to diligently prosecute same to completion, in each instance following receipt by Subdivider of written notice that such defect exists;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work of the Improvements or any of them, after commencement of work on same, for a period of thirty (30) days after Subdivider's receipt of written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance by the Subdivider in lieu or in avoidance of foreclosure, within thirty (30) days after receipt by Subdivider of written notice thereof from the City; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within thirty (30) days after receipt by Subdivider of written notice thereof from the City.

B. City reserves to itself all remedies available to it at law or in equity for any breach of Subdivider's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, after written notice to Subdivider and a reasonable opportunity for Subdivider to cure any such alleged default, to draw upon or utilize any improvement security furnished hereunder to complete the Improvements or otherwise mitigate City's damages in the event of Subdivider's default.

C. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may serve written notice of any such default upon the surety on any corporate surety bond furnished as improvement security hereunder, and request that said surety take over and complete the Improvements herein specified. If such surety, within thirty (30) days after service of such notice of default, does not give the City

written notice of its intention to perform this Agreement, or does not commence such performance within thirty (30) days after notice to the City of such intention to perform, the City may take over the work and prosecute the same to completion, by contract or by any other method the City deems advisable, for the account and at the expense of the Subdivider and its surety.

D. Subdivider acknowledges that the Estimated Total Costs and Improvement Security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and, consequently, City's damages for Subdivider's default shall be measured by the actual cost of completing the required Improvements. If the damages incurred by the City in taking over and completing the Improvements exceeds the principal amount of the improvement security, then the Subdivider shall reimburse the City in the amount of such excess damages.

E. Following Subdivider's receipt of written notice of alleged default and failure by Subdivider to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, City may, without liability for so doing, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to Subdivider as may be on the site of the work and necessary for the performance of the work. Subdivider hereby consents to such entry by the City and its representatives, including contractors, following written notice to Subdivider upon the real property in the Subdivision owned by Subdivider and necessary for City to enter or access under this Agreement, in the event the City elects to maintain or complete the work on the Improvements following Subdivider's default.

F. Subdivider acknowledges and agrees that approval of the Final Map for the Subdivision conferred substantial rights upon the Subdivider, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon Subdivider's failure to perform its obligations under this Agreement, which failure is not promptly remedied by sureties or by Subdivider.

G. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Subdivider.

H. If City sues to compel Subdivider's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, and is the prevailing party, Subdivider agrees to pay all reasonable attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if Subdivider subsequently resumes and completes the work.

12. RELATIONSHIP OF THE PARTIES

Neither Subdivider, nor any of Subdivider's contractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of Subdivider's obligations under this Agreement.

13. ASSIGNMENT

A. Subdivider shall not assign this Agreement, or any portion thereof without the prior written consent of the City in accordance with the Development Agreement. Any attempted or purported assignment in violation of this subparagraph A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Subdivision shall not relieve Subdivider of its obligations hereunder. If Subdivider intends to sell the Subdivision, or any portion thereof (except for the sale of individual lots with homes to individual purchasers), to any other person or entity, the Subdivider may request an assignment or novation of this Agreement and a substitution of improvement security. Upon the City's approval of the assignment or novation and substitution of improvement security, the Subdivider may request a release or reduction of the improvement security furnished pursuant to this Agreement.

14. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Art Vela Director of Public Works/City Engineer City of Banning 99 E. Ramsey Drive Banning, California 92220
If to the Subdivider:	To the address set forth above in the Subdivision Reference Data, or to such other address as may subsequently be designated in written notice to the City.

Notice shall be effective on the date that it is delivered in person, or, if mailed, three (3) days after the date of deposit in the United States Mail.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer.

16. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

17. INCORPORATION OF SUBDIVISION REFERENCE DATA AND RECITALS

The Subdivision Reference Data and the Recitals are incorporated into this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

19. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the Subdivider shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Subdivision Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the Subdivider.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the dates set forth below their respective signatures.

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a Corporation, the signatures of two Corporate officers are required, unless a resolution of the Corporation's Board of Directors is provided indicating that the signature of the one signatory is sufficient to bind the Corporation.]

SUBDIVIDER

By: _____
Print Name: Michael C. Taylor
Title: Division President

Date: June 16, 2022

CITY

CITY OF BANNING

_____
MAYOR

ATTEST:

_____ (SEAL)

California All-Purpose Certificate of Acknowledgment

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

State of California
County of Riverside } s.s.

On June 16, 2022 before me, Ana E. Chavez Perez, Notary Public,
Name of Notary Public, Title

personally appeared Michael C. Taylor
Name of Signer (1)

Name of Signer (2)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

ANA E. CHAVEZ PEREZ
NOTARY PUBLIC - CALIFORNIA
COMMISSION # 2286015
RIVERSIDE COUNTY
My Comm. Exp. April 22, 2023

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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Approved as to form:

_____

CITY ATTORNEY

[This page for acknowledgments.]

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Arturo Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-81, Approving a Three-Year Street Sweeping Services Agreement with Sweeping Corp of America Utilizing Sourceswell Contract #111125-SWEP**

STAFF RECOMMENDATION:

Adopt Resolution 2026-81

BACKGROUND:

Since 2020, the City has contracted street sweeping services with Sweeping Corporation of America (SCA). These services were originally obtained through a formal competitive bid process and were later continued through Sourcewell. Sourcewell is a nationally recognized public agency cooperative that competitively solicits and awards contracts on behalf of participating government agencies. This "piggyback" procurement method allows the City to utilize an existing competitively bid contract without conducting a separate formal bid process, while still complying with public purchasing requirements. Use of cooperative purchasing agreements helps reduce administrative costs, streamline procurement timelines, and leverage previously negotiated competitive pricing and terms.

To continue providing citywide street sweeping and related maintenance services, staff evaluated the newly awarded Sourcewell cooperative purchasing agreement for these services and determined that Sourcewell Contract No. 111125-SWEP provides an appropriate procurement vehicle for the City's continued use. The agreement was competitively solicited and awarded to Sweeping Corporation of America for street sweeping, sewer jetting, hydro-excavation, and related public works services and is available for use by participating public agencies through the cooperative purchasing process. The agreement remains in effect through April 6, 2030.

The scope of work includes 340.88 curb miles of monthly street sweeping services for both residential and commercial areas throughout the City. Residential areas will be serviced once per month, and commercial areas will be serviced four (4) times per month. Additionally, monthly sweeping services will be provided to the parking lots of Repplier, Roosevelt Williams, and Lions Parks. Services shall include all labor, tools, materials, and equipment necessary to perform citywide street sweeping services. In addition to beautifying the City, street sweeping services eliminate roadside debris and trash, pollutants, and sediments that might otherwise enter the storm drain, assisting the City in complying with the requirements of its National Pollutant Discharge Elimination System (NPDES) permit. This permit requires the Permittees to implement litter and debris control measures, such as street sweeping, to reduce and/or eliminate the discharge of pollutants, including trash and debris, from the storm sewer system to Receiving Waters. In addition to standard monthly needs, the scope requires the Contractor to respond to special requests when hazards pose a threat to public safety, such as debris that creates

traffic issues. Street sweeping services may also be scheduled for special events. Routes, service days, and curb miles are summarized in the attached.

The agreement establishes an initial one-year term, effective through June 30, 2027, with the option for the City Council to approve up to two (2) successive one (1)- year renewal terms, not to exceed June 30, 2029.

JUSTIFICATION:

The Public Works Department does not have the required staff or equipment needed to maintain regularly scheduled street sweeping services; therefore, it is necessary to retain a contractor. Upon review, staff determined that SCA has continued to provide satisfactory citywide street sweeping services and that services be obtained utilizing Sourcewell Contract #111125-SWEP.

FISCAL IMPACT:

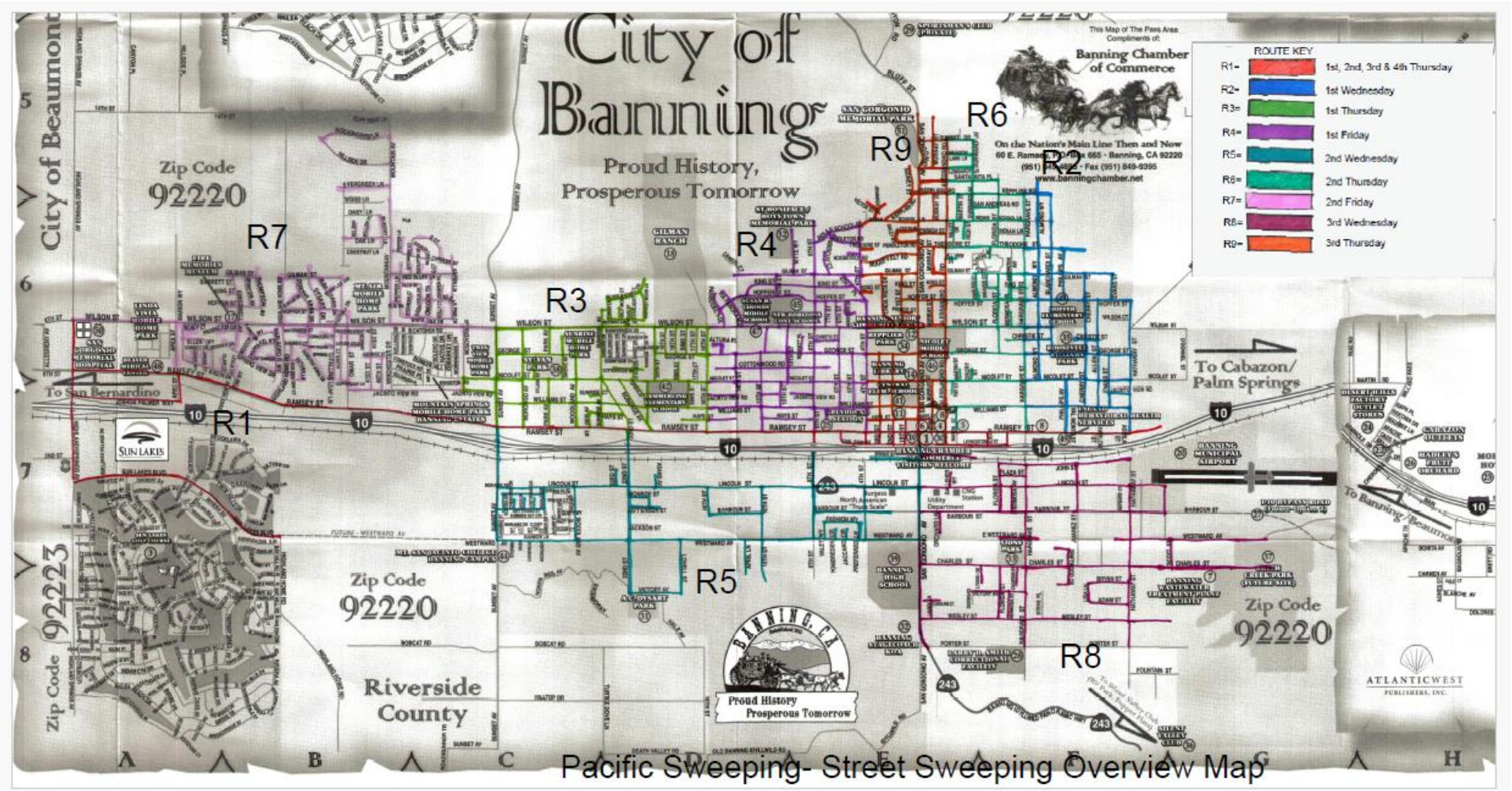
The total contract award amounts to $164,213.15. Residential and commercial street sweeping services will be provided for $150,123.55 and funded by Gas Tax Funds, Account 100-4900-431.33-11 (Professional Services). Additionally, monthly street sweeping services will be provided to the parking lots of Repplier, Roosevelt Williams, and Lions Parks, totaling $4,089.60 and funded by Account 001-3600-461.30-01. Funding for services as needed in the amount of $10,000 will be determined on a case-by-case basis. A budget for these services will be included in the proposed FY 2026/67 Operating Budget.

ATTACHMENTS:

1. Route Map.pdf
2. Street Sweeping Schedule.pdf
3. Proposal_Sourcewell Sweeper Services Price List.xlsx
5. Resolution_2026-81__002_updated.docx
6. Draft_Agreement_SCA_FINAL.docx

Route Maps:

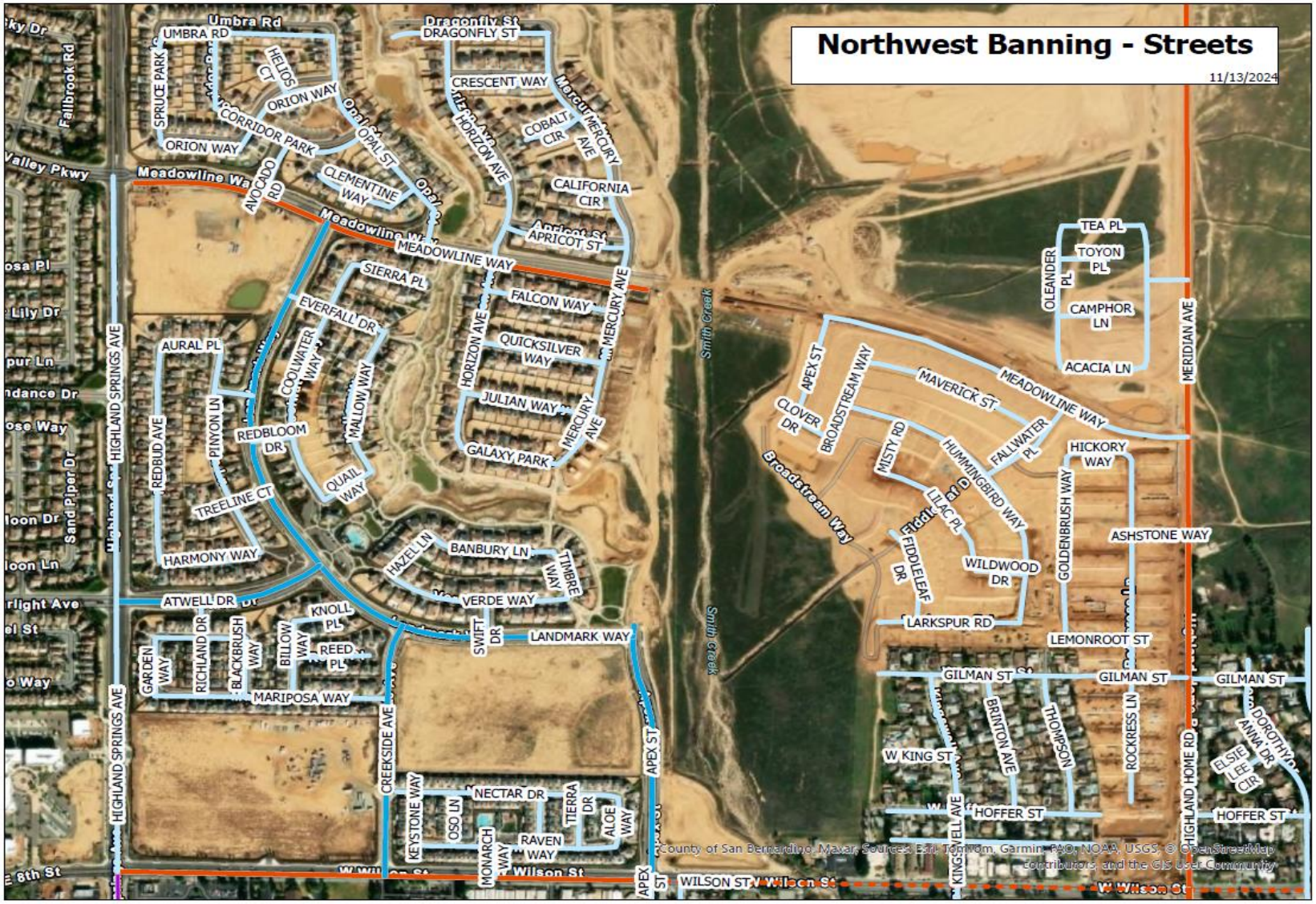
FY 2026/2027



Pacific Sweeping- Street Sweeping Overview Map

Added Atwell Community

FY 2026/2027



FY 2026/2027

Sky Dr
Sanchez Family Child Care
JM's Mobile Detailing
Daisy Dr
Sand Piper Dr
N Highland Springs Ave
Centerstone at Atwell by Tri Pointe Homes
Linwood by Tri Pointe Homes
Linwood at Atwell by Tri Pointe Homes
Rigel St
Bros Coffee
Beaumont
Google
Linda Vista Mobile Home Park

Street Sweeping Route Schedule

FY 2026-2027

	ROUTE	ROUTE TYPE	FREQUENCY	SERVICE DAYS	ROUTE CURB MILES	MONTHLY CURB MILES	ANNUAL CURB MILE
A.	1	Commercial	4 X/Month	Thursdays	31	124	1488
B.	2	Residential	Monthly	1st Wednesday	14	14	168
C.	3	Residential	Monthly	1st Thursday	28	28	336
D.	4	Residential	Monthly	1st Friday	27	27	324
E.	5	Residential	Monthly	2nd Wednesday	20	20	240
F.	6	Residential	Monthly	2nd Thursday	15	15	180
G.	7	Residential	Monthly	2nd Friday	71.88	71.88	862.56
H.	8	Residential	Monthly	3rd Wednesday	22	22	264
I.	9	Residential	Monthly	3rd Thursday	19	19	228
K.	As Needed	TBD	TBD	TBD	TBD	TBD	TBD
	Total					340.88	4,090.56

Banning Street Sweeping Services FY 2027
Sourcewell Contract #111125

Description	Frequency
Residential	1x/month
ADDITIONAL ATWELL RESIDENTIAL	1x/month
Commercial	4x/month
Repplier Parking Lot	Monthly Sweep
Roosevelt Williams Parking Lot	Monthly Sweep
Lions Parking Lot	Monthly Sweep
Services As Needed ($215 hr)	TBD

Per Hour (scheduled)*Sourcewell	
Per Hour (emergency)*Sourcewell	

Service Area (Miles, Parking lot, etc.)	FY 2027 Annual Curb Miles	FY 2027 Monthly Service Cost
193.45	2,321.40	$ 36.70
23.43	281.16	$ 36.70
124.00	1,488.00	$ 36.70
Parking Lot	Parking Lot	$ 113.60
Parking Lot	Parking Lot	$ 113.60
Parking Lot	Parking Lot	$ 113.60
TBD	TBD	TBD

$276.00	-$8.28	**$267.72**
$304.75	-$9.14	**$295.61**

FY 2027 Annual Service Cost	
$	85,195.38
$	10,318.57
$	54,609.60
$	1,363.20
$	1,363.20
$	1,363.20
$	10,000.00
$	164,213.15

SCA discounted price $215

SCA discounted price $245

RESOLUTION 2026-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A THREE-YEAR STREET SWEEPING SERVICES AGREEMENT WITH SWEEPING CORP OF AMERICA, UTILIZING SOURCWELL CONTRACT #111125-SWEP

WHEREAS, since 2020, the City has contracted street sweeping services with Sweeping Corporation of America (SCA), originally obtained through a formal competitive bid and later continued through the Sourcewell cooperative purchasing process; and

WHEREAS, Sourcewell is a nationally recognized public agency cooperative that competitively solicits and awards contracts on behalf of participating government agencies, allowing the City to utilize competitively bid contracts without conducting a separate formal bid process; and

WHEREAS, Sourcewell Contract No. 111125-SWEP was competitively solicited and awarded to SCA for street sweeping, sewer jetting, hydro-excavation, and related public works services, and remains in effect through April 6, 2030; and

WHEREAS, the scope of work for Fiscal Year 2027 includes 340.88 curb miles of monthly street sweeping services in both residential and commercial areas, with residential sweeping once per month and commercial sweeping four (4) times per month, along with monthly sweeping of Repplier Park, Roosevelt Williams Park, and Lions Park parking lots; and

WHEREAS, the total first-year amount for Fiscal Year 2027 street sweeping services is $164,213.15, with $150,123.55 for residential and commercial sweeping funded by Gas Tax Funds (Account 100-4900-431.33-11), $4,089.60 for park parking lot sweeping funded by Account 001-3600-461.30-01, and $10,000 for services as needed to be determined on a case-by-case basis; and

WHEREAS, the agreement establishes an initial one-year term effective through June 30, 2027, with the option for the City Council to approve up to two (2) successive one (1) year renewal terms, not to extend beyond June 30, 2029; and

WHEREAS, the agreement further provides that compensation shall be paid in accordance with the Sourcewell Sweeper Services Price List, and that the total fees for Fiscal Year 2027 street sweeping services shall not exceed One Hundred Sixty-Four Thousand Two Hundred Thirteen Dollars and Fifteen Cents ($164,213.15), unless otherwise approved in writing by the City;

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

SECTION 1. The City Council approves the three (3) year Street Sweeping Services Agreement with Sweeping Corp of America (SCA) utilizing Sourcewell Contract #111125-SWEP.

SECTION 2. City Council authorizes the City Manager or designee to make necessary budget adjustments, appropriations, and transfers related to the Agreement with SCA for street sweeping services.

SECTION 3. City Council authorizes the City Manager to make necessary non-substantive revisions to the agreement and to execute said agreement with SCA for Fiscal Year 2026/2027 street sweeping 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 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-81, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit A
SWEEPING CORP OF AMERICA (SCA)

AGREEMENT FOR GENERAL SERVICES (C000000) BY INDEPENDENT CONTRACTOR

THIS AGREEMENT FOR GENERAL SERVICES BY INDEPENDENT CONTRACTOR ("Agreement") is made and effective as of the _____ by and between the **CITY OF BANNING**, a California municipal corporation ("City") whose address is 99 East Ramsey Street, Banning, California 92220, and **SCA of CA, LLC**, a Delaware limited liability company whose address is 3031 N. Rocky Point Drive West, Suite 730, Tampa FL 33607 ("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: citywide street sweeping services through a cooperative purchasing program administered by Sourcewell, a Minnesota service cooperative; and

B. Contractor is a vendor under a cooperative purchasing master agreement with Sourcewell, a governmental cooperative purchasing organization, pursuant to MASTER AGREEMENT #111125 CATEGORY: STREET SWEEPING, SEWER JETTING, HYRDO-EXCAVATION, AND RELATED PUBLIC WORKS AS A SERVICE ("Sourcewell Agreement"), which is attached hereto as **Exhibit "A"** and incorporated herein by this reference subject to Section 13.23. The parties intend that purchases of services under this Agreement may be made pursuant to and in reliance upon the Sourcewell Agreement and applicable law.

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 remain in effect through June 30, 2027 ("Initial Term"), unless earlier terminated as provided herein. Upon expiration of the Initial Term, this Agreement may be renewed for

successive one-year terms (each, a "Renewal Term"). The total term of this Agreement shall not exceed three (3) years, ending no later than June 30, 2029, unless earlier terminated as provided herein. Any Renewal Term shall be subject to the prior approval of the City Council of the City.

2. Services to be Performed. Contractor agrees to provide the services ("Services") as follows: Contractor shall provide citywide street sweeping and related maintenance services, including sweeping of residential and commercial streets, designated City parking lots, response to special sweeping requests, event-related sweeping, debris removal services related to public safety hazards, and all labor, supervision, equipment, tools, materials, and supplies necessary to perform such services, in accordance with Exhibit "A" and Sourcewell Contract No. 111125-SWEP. All Services shall be performed in the manner and according to the timeframe set forth in the Sourcewell Agreement or subsequent order forms. Contractor designates Alejandra Zaragoza 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 subsequent order form 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. Contractor shall ensure that all subcontractors comply with the requirements of this Agreement, including, but not limited to, insurance, indemnification, and licensing requirements.

4. Compensation.

4.01 Contractor shall be paid at the rates set forth in the Sourcewell Sweeper Services Price List Exhibit "C", and shall not increase any rate without the prior written consent of the City. In accordance with Section 11 of the Sourcewell Agreement, Contractor shall not charge the City rates that exceed those listed in the current, approved Sourcewell pricing schedules. Contractor may offer lower rates at its discretion; however, no rate may exceed the Sourcewell-approved ceiling pricing. 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 One Hundred Sixty-Four Thousand Two Hundred Thirteen Dollars and Fifteen Cents ($164,213.15).

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. 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. Determination that the multiplication of the hours billed times the approved rate schedule dollars is correct;

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.

4.05 Sourcewell administrative fees owed by Contractor under the Sourcewell Agreement are included in all pricing and shall not be billed separately to City.

5. Obligations of Contractor.

5.01 Contractor agrees to perform all Services in accordance with the terms and conditions of this Agreement and any subsequent order form. In the event that the terms of an order form 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 Sourcewell Agreement 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 Contractor warrants that it has investigated the scope, site, and conditions of the Services, understands the challenges involved, and will perform in accordance with this Agreement. Contractor shall promptly notify the City of any latent or unknown conditions and shall not proceed without written direction from the Project Manager.

All Services shall be of good quality and free from defects at time of service completion. City may notify Contractor within forty-eight (48) hours of service completion, City may request that Contractor correct any defective or non-conforming Services and repair related damage, including work of others affected thereby , at its sole expense within ten (10) days of such notice.

If Contractor fails to fulfill these obligations, the City may correct the work at Contractor's expense, and Contractor shall reimburse the City upon demand. Payment by the City shall not be deemed acceptance of defective work.

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 $1,000,000 per occurrence and $2,000,000 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 __ /Not Required _X_; 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.

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 likewise.

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 endorsements. All copies of 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, to the extent of Contractor's contractual obligations.

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, reasonable 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, reasonable 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.

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, either party, at their sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving twenty (30) days' written notice to the other party.

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 not more than once in any twelve (12) month period , 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. Such audit(s) shall be subject to a mutually agreeable nondisclosure agreement.

12.04 Contractor acknowledges that the City is a California municipal corporation and is subject to the California Public Records Act, Government Code § 7920.000 et seq. ("CPRA"), and other applicable laws requiring public access to 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 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, 1773.1, 1773.5, and 1773.9", 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 1771 - Requirement to Pay Prevailing Wages
2. Section 1773.1 – Per Diem Wages; Travel and Subsistence Pay.
3. Section 1774 – Payment of Prevailing Wage Rates.
4. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
5. Section 1776 – Payroll Records and Certified Payroll Reports.
6. Section 1777.5 - Apprenticeship Requirements.
7. Sections 1810 and 1811 - Working Hour Restrictions.
8. Section 1813 - Penalty for Failure to Pay Overtime.

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 Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations is delayed or prevented by causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, riots, fires, floods, epidemics, pandemics, earthquakes, strikes, labor disputes, governmental orders, or failure of utilities. The affected party shall promptly notify the other party in writing of the occurrence of such event and shall use reasonable efforts to resume performance as soon as practicable. Force majeure shall not excuse the obligation to make payments when due. In no event shall force majeure entitle Contractor to additional compensation, but only to a reasonable extension of time.

13.17 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.

13.18 The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. The parties expressly adopt and confirm each electronic signature made by a party to this Agreement, regardless of whether delivered in person, by mail, courier, facsimile, email, or in portable document format (PDF), as if the same were manually signed and delivered in person. Each party agrees not to assert that any electronic signature is inadequate to bind such party to the same extent as if signed manually and delivered in person.

13.19 The provisions of this Agreement that by their nature are intended to survive the expiration or termination of this Agreement shall survive such expiration or termination. Without limiting the foregoing, the provisions relating to indemnification, ownership of documents and intellectual property, audit and records retention, insurance obligations, confidentiality, and payment obligations shall survive the termination or expiration of this Agreement.

13.20 Notice. Any notice, demand, request, consent, approval, or other communication required or permitted to be given under this Agreement ("Notice") shall be in

writing and shall be deemed to have been duly given if delivered personally, sent by nationally recognized overnight courier, sent by certified or registered mail (return receipt requested), or sent by electronic mail, addressed as follows:

To City:
City of Banning
Attn: City Manager
99 East Ramsey Street
Banning, California 92220
Email: eclifford@banningca.gov

To Contractor:
Attn: Legal
SCA of CA, LLC
3031 N. Rocky Point Drive West, Suite 730, Tampa, FL 33607

Notices shall be deemed received as follows: (i) on the date of delivery if delivered personally; (ii) one (1) business day after deposit with a nationally recognized overnight courier; (iii) three (3) business days after deposit in the United States mail, postage prepaid; or (iv) on the date transmitted if sent by electronic mail during normal business hours of the receiving party, or on the next business day if sent after normal business hours. Either party may change its address for Notice by providing written Notice of such change to the other party in accordance with this Section.

13.21 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which counterparts taken together shall constitute one and the same instrument for all purposes of this Agreement.

13.22 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.

13.23 Incorporation of Sourcewell Agreement. The parties intend to incorporate by reference into this Agreement the Sourcewell Agreement solely to the extent necessary to (i) identify the cooperative contract vehicle, (ii) apply Sourcewell pricing controls and program requirements to City's purchases, and (iii) apply any Sourcewell terms that, by their nature, govern transactions between Contractor and a Participating Entity.

[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:

CITY OF BANNING

By:_____
Elizabeth Gibbs, City Manager

Date: _____

CONTRACTOR:

SCA of CA, LLC

By:_____
Print
Name: _____

Date: _____

ATTEST:

By: _____
Sandra Calderon, Deputy City Clerk

Date: _____

APPROVED AS TO FORM:

By: _____
John O. Pinkney, City Attorney

Date: _____

EXHIBIT "A"
SOURCEWELL MASTER AGREEMENT

EXHIBIT "B"
CERTIFICATES OF INSURANCE

EXHIBIT “C”
SOURCEWELL SWEEPER SERVICES PRICE LIST

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

PREPARED BY: **Jennifer Terry, Finance Director**
Jennifer Terry, Finance Director

MEETING DATE: **June 23, 2026**

SUBJECT: **Consideration of Resolution 2026-83 for Approving the First Amendment to the Lance, Soll, Lunghard, LLP (LSL) Agreement for Professional Accounting Services and Ratifying Certain Services Performed in Excess of the Agreement Amount.**

STAFF RECOMMENDATION:

Adopt Resolution 2026-83

BACKGROUND:

The City has lacked current, reliable, and up-to-date financial information for Fiscal Years 2024/25 and 2025/26. This deficiency has impacted day-to-day operations and limits the City's ability to accurately assess its overall financial position. The situation stems from the departure of several key Finance Department employees, resulting in a loss of institutional knowledge and continuity that is critical to maintaining accurate and timely financial records. Due to a lack of City staff and the extreme backlog of work, the City needed to quickly procure financial expertise. In accordance 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.

Following this informal procurement process, staff selected LSL, 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. The City Council approved the Agreement with LSL on October 14, 2025.

Some of the mandatory assignments performed by LSL included bank reconciliations, year-end closing schedules and journal entries, assistance with bond trustee statement reconciliations, and other audit-related endeavors. LSL helped the City significantly by completing the previously mentioned tasks for FY 2024/25 and several for FY 2025/26.

With permanent Finance Department staff in place, city staff are resuming the tasks that were performed by LSL. While LSL's assistance will wind down, their Agreement needs to be amended. Work was performed by LSL that exceeded the amount specified in the Agreement. Staff seeks to amend the Agreement to increase the not-to-exceed amount to $415,000. This is an increase of $105,000, which will fund the existing services previously performed and authorized by City staff. This amount covers

billed but unpaid invoices for work completed to date, as well as the estimated cost to complete LSL's remaining in-process tasks to facilitate hand-off to City staff.

JUSTIFICATION:

During the recruitment and onboarding of vital accounting staff and the Finance Director positions, LSL provided support with bank reconciliations and preparation of various Fiscal Year 2024/25 year-end close tasks and comprehensive audit schedules. Responsibilities are now being transitioned back to City staff.

The City acknowledges that the use of external consulting services represents a significant cost; however, this support was essential to completing numerous backlog items. The agreement will conclude once all functions have been successfully transferred to City staff. The City will be responsible for only the services rendered.

FISCAL IMPACT:

No additional funding is necessary as this amendment will be funded by salary savings from vacant positions in Fiscal Year 2025/26.

ATTACHMENTS:

1. LSL_1st_Amendment (2).docx
2. LSL Original Reso.docx
3. V2 LSL Consulting Proposal
4. LSL_New_Resolution_2026-83 JT.docx
5. LSL_1st_Amendment__JT

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C01217) FOR ACCOUNTING AND FINANCE CONSULTING SUPPORT SERVICES BY AND BETWEEN CITY OF BANNING AND LSL, LLP

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **LSL, LLP**, a California limited liability partnership ("Contractor") is effective as of this 9th day of June 2026.

RECITALS

A. City and Contractor entered into that certain Contract dated October 14, 2025 for the purpose of providing Accounting and Finance Consulting Support Services ("Agreement") following, as approved by City Council Resolution 2025-149.

B. City and Contractor now desire to amend the Agreement to increase the Contract Sum to $620,000.00.

The Parties therefore agree follows:

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

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Three Hundred Ten Thousand Dollars ($310,000.00) thereby increasing the Contract Sum, as set forth in Section 4.01 of the Agreement, to Six Hundred Twenty Thousand Dollars ($620,000.00).

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement No. 1, shall control.

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

   2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No.

1 does not violate any provision of any other agreement to which said party is bound.

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

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

[*SIGNATURE PAGE FOLLOWS*]

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

CITY OF BANNING	LSL, LLP
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval: _____	_____ NAME: TITLE:
ATTEST:	
_____	
Sandra Calderon Deputy City Clerk	
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
_____	
John O. Pinkney City Attorney	

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

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: June 15, 2026
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

June 15, 2026

Jennifer Terry, Finance Director
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Dear Ms. Terry,

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. 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 a combined 60 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. She 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.

Kelly is a licensed CPA in California and Texas.

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.

Noah is a licensed CPA in California.

Nike Ricks, MBA, Manager

Nike specializes in guiding public agencies through operational challenges, financial overhauls, and system upgrades with a focus on strategic improvement. With 20 years of public sector leadership across California, Arizona, and Utah - Nike has served in key roles including City Treasurer, Assistant Finance Director, and Finance Manager. Nike's experience is in budgeting and forecasting, financial reporting, system design, grant administration, policy development, and long term planning for enterprise operations allows her to provide comprehensive support with a solutions driven approach that empowers her clients to lead with confidence. She has led full-scale ERP implementations, revamped payroll systems, strengthened internal controls, restructured fund accounting, and modernized treasury operations.

Louis Li, Manager

Louis brings a decade of experience in governmental accounting and is known for delivering results under pressure. He combines precision and adaptability to navigate the most complex financial challenges and uncover effective solutions. Louis' expertise includes reconciliations, preparing audit-ready documentation, and journal entries. Whether it's troubleshooting system inefficiencies or optimizing financial workflows, his passion is in helping clients untangle their accounting challenges and bring clarity and structure to the underlying causes.

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 implemented ERP systems as both consultants and as members of local government which allows us to design policies and procedures with accounting in mind.

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.

LSL does not subcontract work but often has personnel working outside of the US. All staff assigned have extensive experience providing auditing and/or accounting services for cities, counties, and special-purpose government agencies. Our educational programs are designed to provide our team members with the knowledge and skills necessary to deliver high-quality services to our clients. We offer a variety of training opportunities, including those provided by CalCPA, AICPA, Government Audit Quality Center, and GFOA.

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 was and will be at the firm's preferred 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 performed, as well as any out-of-pocket expenses. Due to the nature of these services, the work LSL performs work on an hourly basis to allow for as little or as much assistance as necessary.

This amendment adds an estimated $105,000 to the existing contract to cover services previously performed and authorized by City staff. This amount covers billed but unpaid invoices for work completed to date, as well as the estimated cost to complete LSL's remaining in-process tasks to facilitate hand-off to City staff. Any significant deviations from this estimate will be reviewed and discussed with City management.

LSL has collaborated with City management throughout the engagement to prioritize the most critical tasks, sequence the work accordingly, and identify opportunities where City staff could assist with certain tasks to help control hours. As the engagement winds down, LSL will continue to keep the City informed of progress through completion of the remaining in-process work.

Our standard hourly rates and preferred client rates are provided on the following page.

Title	2026 Hourly Rates	2026 Rates with Preferred Client Discount
Group Training	$ 675	$ 675
Partner - Advisory	$ 590	$ 590
Partner - Technical	$ 590	$ 460
Principal	$ 590	$ 460
Director	$ 465	$ 363
Senior Manager	$ 410	$ 320
Manager	$ 350	$ 273
Supervisor	$ 315	$ 246
Senior	$ 250	$ 195
Experienced Staff	$ 210	$ 164
Staff	$ 190	$ 148
Clerical	$ 110	$ 86

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 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, 2026. 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 entirely 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, 4 principals, and 180 employees.

Ranked #17 on the Orange County Business Journal's CPA Firm Book of Lists

Established in 1929

15 Partners
4 Principals

180 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
500 Technology Drive, Suite 350
Irvine, CA 92618
Phone: (949) 829-8299

Sacramento, CA
500 Capitol Mall., Suite 2350
Sacramento, CA 95814
Phone: (916) 503-9691

Phoenix Metropolitan Area, AZ
950 W. Elliot Rd., Suite 110
Tempe, AZ 85284
Phone: (480) 424-7855

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 2026. The list ranks the top CPA firms that have shown exceptional growth, embraced technology, and who 'think outside the box' when providing solutions.

accountingTODAY 2026 Regional Leaders

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 B.

QUALIFICATIONS & EXPERIENCE

CERTIFIED PUBLIC ACCOUNTANTS

Your engagement team includes two certified public accountants who maintain active licenses with the State of California. In addition, your engagement team may also include individuals licensed in other states. Please refer to the individual bios for information on CPA licensure.

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, CSMFO, GFOA, Becker and GASB.

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
Task 1 - Additional Assistance for FY 2024–25 Year End Close • Performed year-end close procedures, including reconciliation of key fund-level balance sheet accounts • Collaborated with City staff to confirm accounting activity ahead of close, enabling City staff to complete the year-end close and proceed with the fiscal year audit City responsibilities will include: • Assisting LSL in locating and providing supporting documentation and records as available	Plan: LSL has assisted the City with the FY 2024–25 Year-End Close. During the engagement, the scope expanded beyond the prior engagement to include clean-up of prior year balances and completion of the bank and investment reconciliations necessary to close FY 2024–25. Under this task, LSL is completing the remaining in-progress FY 2024–25 close procedures so that City staff can finalize the year-end close and proceed with the annual audit. Outcome: Completion of the in-progress FY 2024–25 year-end close procedures and delivery to City staff of the information necessary to finalize the close and proceed with the audit.
Task 2 – FY 2025–26 Bank and Investment Reconciliations Prepared monthly bank and investment account reconciliations through March 31, 2026, including: • Identification of all reconciling items for bank and investment accounts on a monthly basis • Advised City staff on reconciliation procedures to transition ongoing responsibility to the City beginning with the April 1, 2026 reconciliations and forward City responsibilities will include: • Providing daily accounting in a timely manner to ensure activity is recorded accurately • Providing monthly bank statements, investment statements, and custody reports promptly after month-end • Providing access to third-party payment platform reports used in daily cash settlement • Researching and posting journal entries arising from the monthly reconciliation process • Designating staff to participate in training and to assume reconciliation responsibilities upon hand-off	Plan: LSL has performed the monthly reconciliations and identified the reconciling items for the City's bank and investment accounts through March 31, 2026. LSL has conducted remote training and advised City staff on the reconciliation processes so that City staff can continue performing the reconciliations independently, and will continue to support the transition through the wrap-up of in-process tasks. Outcome: Bank and investment account workbooks identifying the reconciling items for each month through March 2026, which City staff will research and post, along with remote training on the reconciliation process so City staff can assume the reconciliation responsibility going forward.

APPENDIX B – 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*.

Spafford & Landry, Inc.

March 30, 2023

RESOLUTION 2026-83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE LANCE, SOLL, LUNGHARD, LLP (LSL) AGREEMENT FOR PROFESSIONAL ACCOUNTING SERVICES AND RATIFYING CERTAIN SERVICES PERFORMED IN EXCESS OF THE AGREEMENT AMOUNT

WHEREAS, the City has been faced with a significant lack of current and reliable financial information for Fiscal Years 2024/25 and 2025/26, 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, which has resulted in the loss of institutional knowledge and continuity essential to maintaining accurate and timely financial records; 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, the City entered into an Agreement with LSL on October 14, 2025; and

WHEREAS, City staff will resume the tasks previously prepared by LSL now that a permanent Finance Director and accounting staff have been hired; and

WHEREAS, the City and LSL wish to increase the agreement for work that was performed in excess of the agreement amount and to transition any remaining tasks; and

OW, 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, with the additional amount of $105,000 for Professional Municipal Accounting Services, with a contract sum of $415,000.

SECTION 2. The City Council authorizes the City Manager, or their designee, to use savings from previously vacant and currently vacant positions to fund this endeavor.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute the Professional Services Agreement with LSL.

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

PASSED, APPROVED, AND ADOPTED this 23rd day of June 2026.

Richard A. Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-83, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement with LSL, LLP

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C01217) FOR ACCOUNTING AND FINANCE CONSULTING SUPPORT SERVICES BY AND BETWEEN CITY OF BANNING AND LSL, LLP

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and **LSL, LLP**, a California limited liability partnership ("Contractor") is effective as of this 23rd day of June 2026.

RECITALS

A. City and Contractor entered into that certain Contract dated October 14, 2025, for the purpose of providing Accounting and Finance Consulting Support Services ("Agreement") following, as approved by City Council Resolution 2025-149.

B. City and Contractor now desire to amend the Agreement to increase the Contract Sum to $415,000.

The Parties therefore agree follows:

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

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Three Hundred Ten Thousand Dollars ($105,000.00) thereby increasing the Contract Sum, as set forth in Section 4.01 of the Agreement, to Six Hundred Twenty Thousand Dollars ($415,000.00).

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement No. 1, shall control.

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

   2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No.

1 does not violate any provision of any other agreement to which said party is bound.

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

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

[*SIGNATURE PAGE FOLLOWS*]

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

CITY OF BANNING	LSL, LLP
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval: _____	_____ NAME: TITLE:
ATTEST:	
_____	
Sandra Calderon Deputy City Clerk	
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
_____	
John O. Pinkney City Attorney	

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

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Holly Stuart, Public Works Program Manager** **Arturo Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-91, Confirming the Authority Granted By Resolution No. 2025-79 and Approving Amendment No. 3 to the Services Agreement with Yunex, LLC. for Citywide Traffic Signal Maintenance Services**

STAFF RECOMMENDATION:

Adopt Resolution 2026-91

BACKGROUND:

The City owns and maintains traffic signals and related equipment at signalized intersections throughout the City. These facilities include signal controllers, signal poles and heads, vehicle detection systems, battery backup systems, communication equipment, and other associated infrastructure necessary for the safe and efficient operation of the City's transportation network.

On May 23, 2023, through ProcureNow and advertisement in the local newspaper, City staff released a solicitation for proposals from qualified firms to provide maintenance and repair services for traffic signals throughout the City of Banning for a one-year term with the option to renew four (4) additional one-year periods.

Following the competitive solicitation process, the City entered into an agreement with Yunex, LLC, on August 17, 2023, for Citywide Traffic Signal Maintenance Services in an amount not to exceed $25,000.

On June 25, 2024, the City Council approved Amendment No. 1, extending the agreement term through August 31, 2025, and increasing the contract amount by $25,000, resulting in a total not-to-exceed contract amount of $50,000.

On June 10, 2025, the City Council adopted Resolution No. 2025-79 approving Amendment No. 2 to extend the agreement term and increase compensation for a total contract of $75,000 for continued traffic signal maintenance services through Fiscal Year 2027/28. However, during processing of the amendment, the executed amendment extended the agreement term only through August 31, 2026, rather than through August 31, 2028, as stated in Resolution 2025-79.

To accurately reflect the City Council's intended action, staff is confirming the authority granted by Resolution No. 2025-79, and approval of Amendment No. 3 to extend the agreement term through August 31, 2028, and increase the contract amount by $50,000. Upon approval, the total agreement amount over the five-year term will not exceed $125,000.

The agreement is structured around an anticipated average annual maintenance budget of approximately $25,000 over the five-year term. However, traffic signal maintenance requirements can vary significantly from year to year depending on equipment failures, emergency repairs, replacement part costs, system upgrades, and other operational needs. As such, annual expenditures may be greater or less than the anticipated annual allocation. The agreement provides flexibility for the City to utilize funding as needed during any fiscal year, provided that total cumulative expenditures under the agreement do not exceed the authorized not-to-exceed amount of $125,000.

The Scope of Work includes routine monthly traffic signal maintenance services, emergency call-outs, troubleshooting, repairs, and related services necessary to maintain the reliable operation of the City's traffic signal infrastructure. Yunex is responsible for furnishing all labor, equipment, tools, materials, and technical expertise required to perform the work in accordance with applicable federal, state, and local regulations.

JUSTIFICATION:

The Public Works Department does not maintain staffing levels or specialized traffic signal technicians necessary to perform comprehensive traffic signal maintenance and emergency repair services. Consequently, the City relies on a qualified contractor to ensure traffic signals remain operational, safe, and compliant with applicable standards.

Yunex has continued to provide satisfactory maintenance services and possesses the specialized expertise, equipment, and technical resources necessary to maintain the City's traffic signal infrastructure. Approval of Amendment No. 3 will correct the contract term discrepancy, maintain continuity of services, and ensure the agreement accurately reflects the intended five-year contractual relationship previously approved by the City Council.

The amendment also provides the City with the flexibility necessary to address varying maintenance and repair demands throughout the contract term while maintaining a clearly defined maximum contract amount of $125,000.

FISCAL IMPACT:

Amendment No. 3 increases the contract amount by $50,000, bringing the total agreement amount to no more than $125,000 over the five-year term.

The agreement is based on an anticipated average annual expenditure of approximately $25,000. Actual annual expenditures may fluctuate depending on maintenance demands, emergency repairs, equipment failures, replacement components, and other operational requirements. Accordingly, funding allocations may be utilized unevenly throughout the contract term, provided that cumulative expenditures do not exceed the authorized not-to-exceed amount of $125,000.

Funding for the agreement will continue to be provided through the Street Division's operational budget, Account No. 100-4900-413.30-09 (Repair/Maintenance – Traffic Signals), subject to budget appropriations in each fiscal year. The annual appropriation to cover the costs associated with this agreement will be included in the proposed Operating Budgets for FY 2026/27 and 2027/28.

ATTACHMENTS:

1. Reso__2026-91_Traffic_Signal.docx
2. Orginal Agreement_Yunex.pdf
3. Amend 1_Yunex.pdf
4. Amend No. 2_Yunex.pdf
5. CC Resolution No. 2025-079.pdf
6. 26-03-02 Traffic Signal Maintenance Extension Rate Sheet_PRO.pdf

7. AMENDMENT_NO_3.pdf

RESOLUTION NO. 2026-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CONFIRMING THE AUTHORITY GRANTED BY RESOLUTION NO. 2025-79 AND APPROVING AMENDMENT NO. 3 TO THE SERVICES AGREEMENT WITH YUNEX, LLC. FOR CITYWIDE TRAFFIC SIGNAL MAINTENANCE SERVICES

WHEREAS, on May 23, 2023, through ProcureNow and advertisement in the local newspaper, City staff released a solicitation for proposals from qualified firms to provide maintenance and repair services for traffic signals throughout the City of Banning for a term of one (1) year with the option to renew four (4) additional one-year periods; and

WHEREAS, in August 2023, the City entered into an agreement with Yunex, LLC. ("Yunex") for Citywide Traffic Signal Maintenance Services in an amount not to exceed Twenty-Five Thousand Dollars ($25,000.00); and

WHEREAS, on June 25, 2024, Amendment No. 1 was approved extending the term of the agreement through August 31, 2025, and increasing the contract amount by Twenty-Five Thousand Dollars ($25,000.00), for a total not-to-exceed amount of Fifty Thousand Dollars ($50,000.00); and

WHEREAS, on June 10, 2025, the City Council adopted Resolution No. 2025-79 approving Amendment No. 2 to extend the agreement term and increase the compensation amount for continued traffic signal maintenance services; and

WHEREAS, the City Council's intended action was to provide for continued traffic signal maintenance services through August 31, 2028; however, the executed amendment extended the agreement term only through August 31, 2026; and

WHEREAS, Resolution No. 2025-79 authorized continuation of the Agreement for the balance of the five-year term contemplated by the original procurement and authorized a total not-to-exceed compensation amount of One Hundred Twenty-Five Thousand Dollars ($125,000.00); and

WHEREAS, the Parties have determined that Amendment No. 2 did not fully memorialize the City Council's authorized term and compensation and that Amendment No. 3 is necessary to conform the written Agreement to the authority previously granted by Resolution No. 2025-79; and

WHEREAS, Amendment No. 3 increases the contract amount by Fifty Thousand Dollars ($50,000.00), resulting in a total agreement amount not to exceed One Hundred Twenty-Five Thousand Dollars ($125,000.00) over the five-year term of the agreement; and

WHEREAS, the agreement is based upon an anticipated average annual expenditure of approximately Twenty-Five Thousand Dollars ($25,000.00), although annual expenditures may vary based upon traffic signal maintenance requirements, emergency repairs, equipment failures, replacement part costs, and other operational needs; and

WHEREAS, the City Council recognizes that funding may be utilized unevenly throughout the agreement term, provided that cumulative expenditures do not exceed the authorized not-to-exceed contract amount of One Hundred Twenty-Five Thousand Dollars ($125,000.00); and

WHEREAS, Amendment No. 3 will be funded through the operational budget of the Street Division, Account No. 100-4900-413.30-09 (Repair/Maintenance – Traffic Signals), subject to annual budget appropriations.

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

SECTION 1. The City Council hereby confirms and ratifies the authority previously granted in Resolution No. 2025-79 and finds that Amendment No. 3 is consistent with and implements that prior authorization.

SECTION 2. The City Council hereby approves Amendment No. 3 to the Citywide Traffic Signal Maintenance Agreement with Yunex, LLC. The Council finds that Amendment No. 3 memorializes and implements the term and compensation authority previously authorized by Resolution No. 2025-79, including a contract term through August 31, 2028, and a total not-to-exceed compensation amount of One Hundred Twenty-Five Thousand Dollars ($125,000.00).

SECTION 3. The City Council acknowledges that the agreement is structured around an anticipated average annual expenditure of approximately Twenty-Five Thousand Dollars ($25,000.00); however, annual expenditures may fluctuate based upon operational needs and maintenance demands. Funding may be utilized unevenly throughout the agreement term, provided that cumulative expenditures do not exceed the total authorized contract amount of One Hundred Twenty-Five Thousand Dollars ($125,000.00). Funding shall be provided through the operational budget of the Street Division, Account No. 100-4900-413.30-09 (Repair/Maintenance – Traffic Signals), subject to annual budget appropriations.

SECTION 4. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this Resolution.

SECTION 5. The City Council authorizes the City Manager to execute Amendment No. 3 with Yunex, LLC., and to make any necessary non-substantive revisions consistent with the intent of this Resolution.

SECTION 6. The City Clerk shall certify the adoption of this Resolution and shall cause a certified copy to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 23rd day of June 2026.

_____
Richard Royce, Mayor
City of Banning

ATTEST:

_____
Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2026-91 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Sandra Calderon, Deputy City Clerk
City of Banning, California

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AGREEMENT FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES (C00857)

THIS AGREEMENT FOR TRAFFIC SIGNAL MAINTENANCE SERVICES (herein "Agreement") is entered into this day: 8/17/2023, ("Effective Date") by and between the CITY OF BANNING, a California municipal corporation ("City") and, YUNEX, LLC., a Delaware Limited Liability Company, ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. Following submission of a proposal or bid for the performance of traffic signal maintenance services, as particularly defined and described in Article 1 of this Agreement, the Consultant was selected by City to perform those services.

B. The Parties desire to enter this Agreement in order to set forth terms and conditions under which Consultant will perform the traffic signal maintenance services referenced in Recital "A". above.

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, in accordance with all terms and conditions of this Agreement, and to City's reasonable satisfaction ("Services.") 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 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. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all

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respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit "B" hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes this document, **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), and **Exhibit C** (Schedule of Compensation) . In the event of any conflict between this document and any Exhibit hereto, the provisions of this document shall govern.

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.

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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 maintenance schedule set forth in the Scope of Services, 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, 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.

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
David P. Heermance	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

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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.

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 **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more

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than Twenty-Five Thousand Dollars ($25,000.00) (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.

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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 monthly and call-out Services as set forth in the Scope of Services, Exhibit "A", hereto..

3.3 Force Majeure.

The maintenance schedule specified in the Scope of Services may be adjusted 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 adjust the maintenance schedule 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 and/or adjustment of the maintenance schedule, pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through August 31, 2024, unless sooner terminated as provided in Article 6 of this Agreement or extended by written agreement of the Parties or as provided in Sections 1.8 and 3.3 of this Agreement. This Agreement may be extended for four (4) succeeding terms of one (1) year each by the written agreement of the Parties. The maximum term and any subsequent amendment or modification to the term shall not exceed five (5) years.

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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. If a claims-made policy is provided, it shall be endorsed with an extended reporting period of not less than three (3) years, or shall be maintained in full force and effect for three (3) years, following final payment to Consultant hereunder.

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

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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, excepting the professional liability policy, 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

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coverages.

4.10 Indemnity Requirements not Limiting.

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

4.11 Sub-contractor Insurance Requirements.

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

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, defend, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, stop notices, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

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

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

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

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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.

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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

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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.

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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 Services actually provided 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

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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,

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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: Art Vela Public Works Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: avela@banningca.gov
With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Consultant:	Attn: David P. Heermance, President Crosstown Electrical & Data, Inc. 5454 Diaz Street Irwindale, CA 91706 Email: dave@crosstowndata.com

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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.

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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

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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 **Signatures.**

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

8/17/2023

Douglas Schulze, Date
City Manager

ATTEST:

8/17/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Michael Hutchens 8/16/2023

NAME: Michael Hutchens Date
TITLE: Western Operations Manager

NAME: Date
TITLE:

86-2136678

Tax ID No.

Address:
2250 Business Way
Riverside, CA 92501
USA

City Council Approval: n/a

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

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing City Wide Traffic Signal Maintenance prepared in connection therewith:

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

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YUNEX TRAFFIC

June 13th, 2023

Ms. Barbara Mason
Purchasing Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Proposal for: Traffic Signals Maintenance & Repair Services (RFP-23-030)

Ms. Mason,

Yunex LLC would like to express our sincere appreciation for the opportunity to participate in the proposal process for providing Traffic Signals Maintenance & Repair Services for the City's traffic signal system. The prices and terms stated in our proposal package will remain in effect for 90-days from the date of submission, June 13th, 2023.

Yunex LLC is a corporation, incorporated in the State of Delaware on February 17th, 2021. Our federal tax employer I.D. number is 86-2136678 and our corporate address is 9225 Bee Cave Road, Building B, Austin, TX 78733.

Yunex LLC is an electrical contracting firm who is a California licensed A & C-10 contractor (CA License #1080007) and is also a registered Public Works Contractor (DIR No. 1000815000), who provides leading edge technology for the fast-paced Intelligent Transportation Systems world. Whether providing maintenance services, controllers, controller firmware, central systems, system analysis, design, or integration, Yunex LLC brings innovative and reliable solutions to customers.

Yunex LLC has reviewed the Scope of Work in the RFP and Sample Professional Services Agreement and will list our Legal Exceptions and Assumptions within our Proposal for the City's review/consideration.

During the evaluation, if there are any questions regarding this proposal, please feel free to contact either of us using the contact information listed below. We look forward to serving the needs of the City of Banning and would like to thank you in advance for your consideration.

Respectfully,

Yunex LLC

Steven Teal
Director of Service
2250 Business Way
Riverside, CA 92501
(951) 784-6600 Office
(951) 784-6700 Fax
steven.teal@yunextraffic.com

Yunex LLC

Michael J. Hutchens
West Operations Manager
2250 Business Way
Riverside, CA 92501
(951) 784-6600 Office
(951) 784-6700 Fax
michael.hutchens@yunextraffic.com

A. Statement of Understanding and Approach

Understanding

It is our understanding that the City Banning is seeking a qualified traffic signal maintenance firm to provide Traffic Signals Maintenance and Repair Services. The selected service company will be responsible for providing a continuing, comprehensive, routine, and extraordinary maintenance program for the City's equipment. The City's expectation is that the maintenance program will reduce the incidence of malfunctions, reduce complaints, promote safety, and proactively extend the longevity of the equipment, thus reducing the overall operating cost for the City's traffic signal system.

Our goal is always to exceed our customer's expectations. We have a broad range of experienced personnel including IMSA and NEC certified Traffic Signal Maintenance personnel. The technician assigned to this contract has over 20 years of experience managing and maintaining traffic signal systems and related ITS equipment.

Our local traffic signal laboratories (Riverside, CA) provide a full range of technical services including complete controller/cabinet testing, repair, and conflict monitor testing/certification. Services for this contract include the provision of appropriately trained personnel and equipment necessary to perform maintenance activities as outlined in your RFP.

We understand that the general Scope of Work to be done consists of routine preventative maintenance and repair of your traffic control systems as well as general and emergency repairs of the same. These services will provide your city with safe and efficient operations. Yunex Traffic will have available and readily accessible, qualified personnel, tools, equipment, facilities, and material required to perform all work necessary for the maintenance of the City's traffic signal systems, as outlined in the Scope of Work and in compliance with current City and State standards.

Our Approach / Emergency Response Times

To be able to respond immediately to emergency calls, Yunex Traffic's field technicians are authorized to take their work vehicles home daily. All work vehicles are stocked with proper field equipment so he/she may sufficiently address most problems they encounter while responding.

Emergency response call outs and unscheduled repairs are initiated by calling our toll-free emergency phone number, **1-800-229-6090.** A live dispatcher will be available 24 hours a day, 7 days per week, 365 days per year. Our dispatcher will create a work order in our visual planning board and once the work order is released, it will immediately transfer to our technician's queue on their mobile device. As part of our quality control practice, our dispatcher will follow up with a phone call to our technician to confirm that he/she is in receipt of the call out/work order. For emergency calls, the technician will arrive at the site **within two (2) hours** to assess and correct the reported problem. Once the problem is corrected, the technician will inform the city of the repair actions.

Scope of Work

It is always the goal of Yunex Traffic to tailor our services around our customer's needs. We understand that throughout the term of a contract, those needs may change. We approach all our contracts with the same vision; build a partnership with the City's staff and work towards achieving common goals set forth through that partnership. We realize that this is an ever-evolving process and that is why we believe that the only successful route is through establishing common goals. This methodology and a commitment to service will be applied to every aspect of our services for the City of Banning.

Routine Maintenance

We will execute a comprehensive monthly routine maintenance program as outlined in the City's Scope of Work, as recommended by the manufacturer, and as listed below. Yunex Traffic will also maintain, at the same unit price, additional traffic signals and appurtenant devices as they are installed or become a part of the maintenance requirements of the city.

Yunex Traffic technicians will, at a minimum, perform the following tasks on the City's traffic signal system monthly:

- Routine maintenance is typically scheduled by the technician as they are more aware of the geography of the area. He will take into consideration contract requirements and your preference when scheduling routine preventive maintenance.
- Once our technician arrives at the location, he will complete a job hazard analysis (JHA) determining any potential hazards at the location. Following the JHA, he/she will secure the area with proper traffic control as referenced in the most recent edition of the W.A.T.C.H. Handbook and in accordance with the city's traffic control requirements.
- Our technician will clean and vacuum the controller and battery backup cabinets (if equipped) and ensure the cabinet vents are un-obstructed, the air filter is clean, properly inserted, and secure (air filters will be replaced semi-annually). During this process, your Yunex Traffic technician will perform the following checks inside the controller cabinet:
    - Confirm the controller cabinet is securely mounted to the foundation and inspect the seal for deterioration. Excessive dampness and plant/animal intrusion inside the controller cabinet will be reported to the city and repaired immediately.
    - Verify fan operation and ensure the thermostat is set to 96 degrees Fahrenheit and that there is sufficient airflow through the cabinet.
    - Inspect cabinet hardware (i.e., door gaskets, hinges, locks, etc.) for proper operation. All deficiencies will be repaired and reported to the city.

    - Inspect electrical components (i.e., relays, load switches, equipment displays and indications, flasher(s), rack-mount detectors, harness/connectors, service connections, system telemetry, communications system, cabinet grounding, GFCI receptacles, terminal connections cabinet lights and switches, CMU (interlock) door switch, the police panel switches, etc.) for proper operation and adjust, as necessary. We will also verify proper operation of all equipment displays and

cabinet/controller indicator lamps. Deficiencies that pose a safety concern will be corrected immediately.

- Verify that controller software/firmware is up to date.

- Following the visual inspection, your Yunex Traffic technician will examine the functionality of the controller in relation to traffic at the intersection and confirm all phase and coordination timing is programmed correctly and is current based on the timing sheet located in the controller cabinet.
- In addition to monitoring phase actuation from vehicle/traffic, they will also confirm proper intersection cycling by manually placing vehicle/pedestrian calls on each phase through the cabinet test switches/controller keypad to verify controller servicing of each phase.
- Yunex Traffic technicians will ensure your controller's date and time is correct and we will adjust all controller clocks within 48 hours of time changes related to Daylight Savings Time. This also includes confirming the correct date and time in all Conflict Monitor Units and Malfunction Management Units (CMU/MMU) during each visit.
- Your Yunex Traffic technician will check the controller log buffers and investigate any faults that may have surfaced since the last maintenance visit.
- CMU's/MMU's can be tested annually with an MT-180 or equivalent conflict monitor tester. Individual test results will meet the city's documentation requirements and be available in each controller cabinet and an electronic file (USB) will be delivered to the city within 30 days after completing the testing. This test will also be documented on the routine maintenance log located in the controller cabinet. If requested, the cost for annual CMU/MMU testing will be billed as noted on the Price Proposal.
- The technician will confirm all detector loop cables are correctly identified, connected to the correct vehicle detector field terminals, and that a call is placed on the correct detector input, and that the input places a call on the correct controller phase. We will adjust or re-tune detector amplifiers and correct substandard splices, as necessary. Loops requiring re-seal or replacement will be documented and reported to the city immediately. Loop replacement cost will be billed as noted on the Price Proposal.
- If the intersection is equipped with video/radar detection our technician will verify that detection zones are properly structured. They will also verify proper camera operation by monitoring the vehicle call on the video processor unit and confirm that the calls are registering in the controller and actuating the correct phase in the controller. The technician will verify that detection system software has been properly updated. Video Detection lens cleaning can be done, if requested, on a time/material basis.
- If equipped, your Yunex Traffic technician will confirm operation of all preemption devices (i.e., railroad, emergency vehicle preemption (EVP), fire station preemption, etc.). Annual Optical detector lens cleaning can be done, if requested, on a time/material basis.
- Inspect CCTV cameras for correct operation and for damage to wiring or housing. Inspection and lens cleaning can be done, if requested, on a time/material basis.
- If equipped, your Yunex Traffic technician will also test your interconnect systems to maintain existing operation and will notify you of any deficiencies.
- If equipped, your Yunex Traffic technician will check the battery back-up systems / uninterruptible power supplies

Our technicians are extremely knowledgeable with the installation, handling, and testing of interconnect and **fiber optic** systems.

(UPS) including checking / logging the battery and load levels. In addition, we will confirm all battery connections to ensure they are clean and secure. If requested, we can perform testing by electrical bypass for proper operation, which will be billed on a time/material basis. We will report any batteries that require replacement immediately. All events and run time will be documented inside each controller cabinet.

- If requested, Yunex Traffic can perform a night check of all safety lights and illuminated street name signs (IISNS). Our findings will be submitted to the city and required repairs will be made according to the time & material rates. Monthly night checks can be done, if requested, on a time/material basis.
- Our technician will walk the intersection (clockwise and counterclockwise) and visually inspect all poles, signal heads, pedestrian signals, associated framework, and signal mounted signs for proper operation, alignment, and broken or missing parts. During this process, your Yunex Traffic technician will perform the following checks outside of the controller cabinet:
    - Depress all pedestrian push buttons and observe proper timing and display.
    - Visually inspect the loops for sufficient sealant or exposed loop wires.
    - Inspect pull boxes, pull box lids and hand-hole covers. Missing covers/lids will be replaced immediately.
    - Visually inspect all signal doors, back plates, and visors and confirm they are secure.
    - Remove unauthorized signs, stickers, and posters that can be easily removed from traffic signal poles and the controller cabinet. Graffiti will also be removed within twenty-four (24) hours of notification.
    - Prepare a list of locations where painting may be necessary, which will be submitted to the City for approval. Painting rates can be provided upon request.

- The technician will lubricate cabinet door locks and padlocks quarterly, unless required sooner.
- Maintain an inventory list of all equipment in the controller cabinet at each location. This list will also be updated electronically and provided to the city yearly in a Microsoft Excel spreadsheet, or as requested.
- Your Yunex Traffic technician will document all maintenance activities on the city approved Preventative Maintenance checklist, on the cabinet log, and in their mobile device which is wirelessly communicating to our maintenance server enabling our customers to view all progress in virtually real-time.

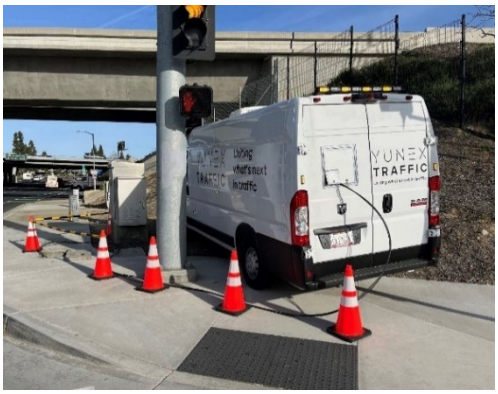
Extraordinary Services

In addition to the Preventative Maintenance program, we will provide other Extraordinary Services such as scheduled repairs, emergency response and technical support services to the City's traffic signal systems in accordance with City requirements and as listed below.

Our Extraordinary and Emergency Response Services include, but not limited to, the following services:

- Downed signal heads, poles, signal on flash, signal blackout, burned out lamps, damaged controllers and cabinets, damaged illuminated street name signs, damaged inductive loops, sensing elements, pedestrian push buttons, electroliers, pedestrian signal heads, wiring, and other operational equipment related issues.
- Assisting the City for special events or for City construction projects, as necessary to implement revised traffic signal timing and phasing for changed traffic conditions. If requested, prepare punch list items, and follow through with city representative to ensure a successful completion.
- Perform overhead maintenance on traffic signals, safety lighting, street name and regulatory signs, video detection cameras and Opticom systems.
- Provide support for underground maintenance including conduit repair or replacement, wire inspection and installation, and interconnect installation.
- Repair, replace or otherwise render in good working order all defective parts of the traffic signal equipment with like make and model parts. Whenever equipment is removed, the city representative will be notified within twenty-four (24) hours.
- USA Dig Alert – Locating services using **in-house locators**.
    - Yunex Traffic will respond to all **Underground Service Alert (USA)** requests/notices or at the request of city staff for the marking and protection of traffic signal underground facilities such as traffic signal and electrical conduits, interconnect facilities, loops, safety light conduits, and other appurtenant equipment which might conflict with other right-of-way construction or repairs. Our technicians are equipped and certified with the proper locating devices provided by Metrotech.

- **Fiber Optic** related maintenance services such as: Installation, splicing, terminations, troubleshooting, on-reel testing, and integration.



- **Signal Loop Replacement**. Yunex Traffic is the **only** maintenance provider who performs Loop replacements in-house.

Yunex Traffic will notify the City prior to any traffic signal deactivations that may be necessary to provide the required services. Traffic signal shutdowns will not be scheduled without the approval of an authorized representative of the City. Also, Yunex Traffic will not proceed with any extraordinary repairs without authorization from the city, unless it is a matter of public safety.

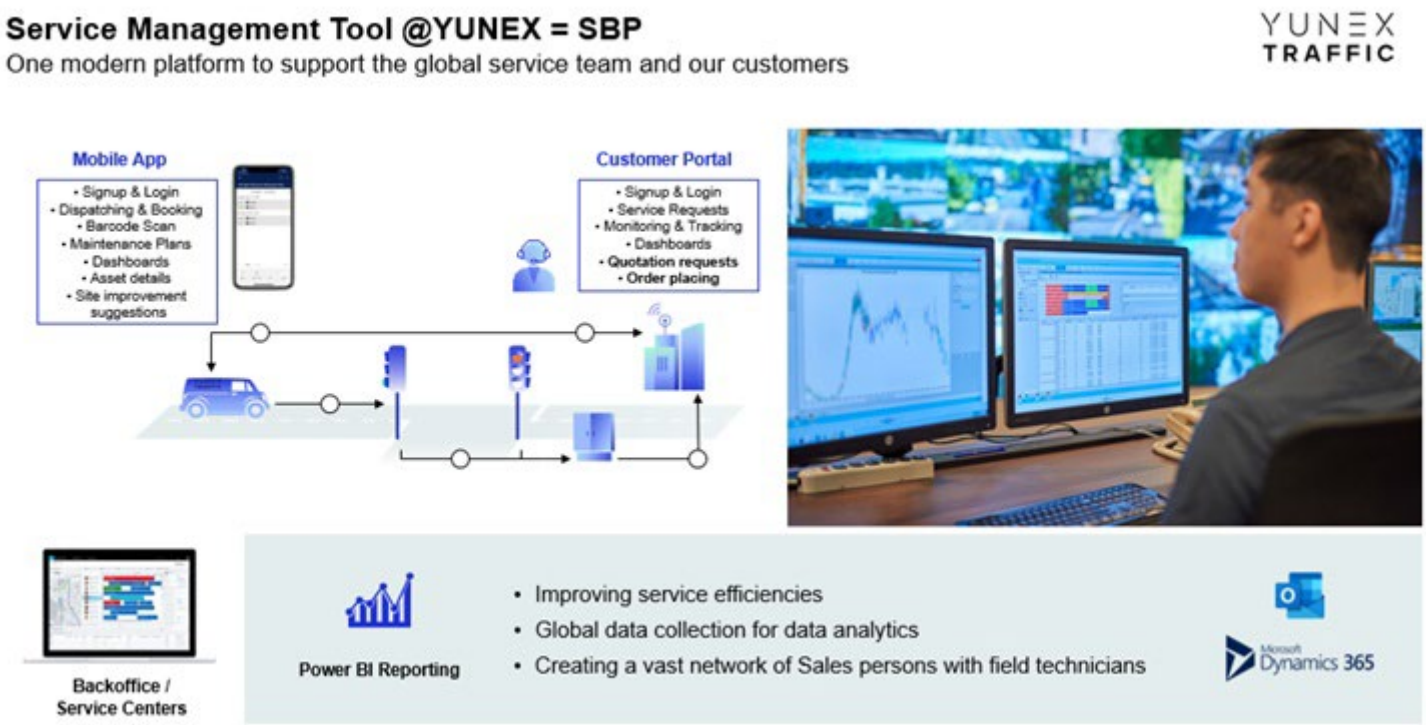
Spare Equipment

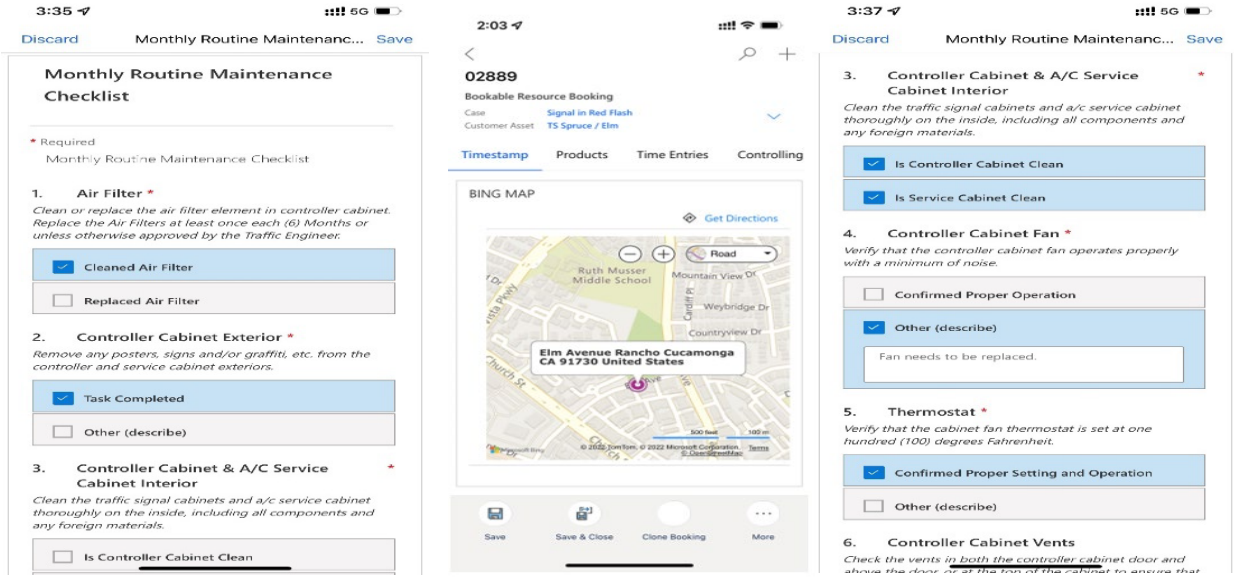
Yunex Traffic has over $1,500,000 in spare inventory and available to the City of Banning:

- 25 – NEMA controllers (such as Econolite ASC/2S-2100, ASC/3-2100, Cobalt, McCain, and many others)
- 25 – 24VDC Power Supply
- 25+ – MMU/CMU from various manufacturers
- 150 – Load Switches
- 6 – Type P controller cabinets
- 3 – 332 controller cabinets
- 250+ – Replacement LED Lamps (Red/Yellow/Green) and LED pedestrian signals
- 50 – ADA compliant pedestrian activation buttons
- 25+ - Battery Backup Batteries (sizes/manufacturers vary)
- 20+ – Streetlight luminaires of various manufactures and wattages
- 25+ - Several types/sizes of Marbelite concrete streetlight poles

On-Line Portal (Service Business Platform @ITS)
Yunex Traffic has rolled out a new service tool called SBP (Service Business Platform), which is a proprietary management system designed to effectively manage all service order progress, remotely update our ERP system (SAP) and as work is performed.

- SBP allows us to monitor many key performance items such as time arrived onsite, time of completion, materials used, and vehicle/equipment used.
- SBP keeps historical records for every location which allows the technicians an additional resource when troubleshooting.
- When creating a new service request, the SBP will query the location history and will flag the order if it appears to be a repeated call out or duplicate order.
- Technicians transmit response and routine maintenance items in real-time using IOS or Android devices.
- The contractual Scope of Work and all maintenance activities are also available for technicians to review to ensure all tasks are completed within the specified timeframe.
- Customer specific checklists for routine preventative maintenance will be available to the technicians so all required tasks are completed, per your Scope of Work.





Customer Portal

The SBP Customer Portal gives our customers access to:

- Monitor real-time status of routine maintenance and service calls
- Location history (sort/filter by date, location, call type, etc.)
- Overall historical maintenance and repair data
- Real-time equipment inventories, maps, and event reporting
- Asset management (including digital photographs, GIS data, etc.)

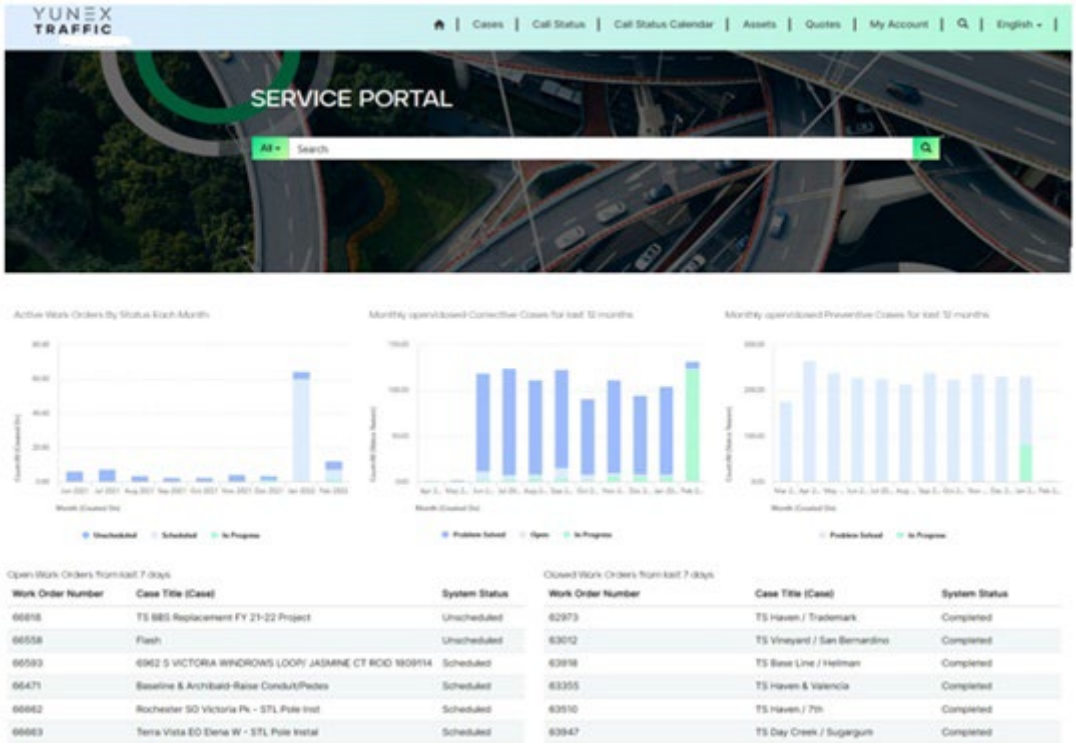
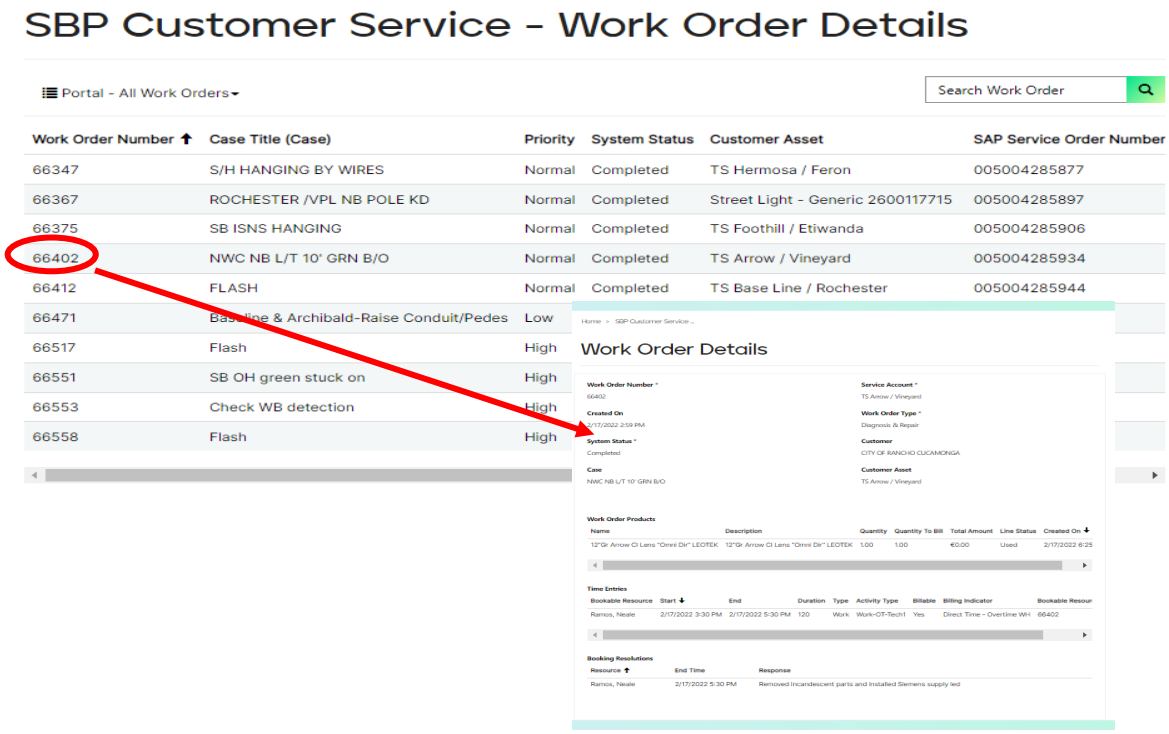


EXHIBIT "A"



Tracking as Related to Invoicing

In addition to our Customer Portal, you will receive a monthly detailed billing report with each invoice that lists labor and equipment hours billed for each service order.

TS B - Merrill / Bloomington / Riverside

Date Completed: **Fri, MAR/18/2016 01:00** Work Order #: **5002764108** Debit Memo Req. **3801177197**

Description: **NEC POLE KD * CALLER: PD**

Response: **REMOVED DAMAGED EQUIPMENT. DRILLED & INSTALLED NEW 1D POLE, TV2T, TWO 3 SEC. PV HEAD S WITH ARROW LENSES, 2 R, 2 Y & 2 G PV LEDS, COUNT-DOWN COMBO M8 LED. RE-USED PEDHEAD & PPB ASSY. REPLACED PPB AND DIRECTIONAL PLATE. OLD S/H WEREN'T PROGRAM. WILL FOLOW UP WITH BALL LENSES & PROGRAM S/H'S IF CITY WANT THEM PROGRAMMED.**

Item:	Qty and Unit Cost			Extra Charges	Routine Maint.	
ELECTRICIAN (RT)	12.000 H	@	per H	$	$ 0.00	
ELECTRICIAN (OT)	8.000 H	@	per H	$	$ 0.00	
ELECTRICIAN (PT)	6.000 H	@	per H	$	$ 0.00	
SERVICE BUCKET TRUCK	26.000 H	@	per H	$	$ 0.00	
MATERIALS	1 PC	@	per PC	$	$ 0.00	
			Visit Total	$	$ 0.00	
			Total	$	$ 0.00	$

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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, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

Date_____ **Signature**_____

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

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the tasks ("Tasks") not to exceed the rates in Exhibit "C1-1"

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.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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

YUNEX TRAFFIC

PRICE PROPOSAL FORM

All proposals submitted shall have a stated dollar bid amount for providing the services outlined in the Scope of Services. All proposals shall include a full and complete breakdown of all the costs, and proposed fees including but not limited to hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, miscellaneous fees, etc., and include a Grand Total Amount to complete this project and fulfill the entire scope of services herein.

BID SCHEDULE – TRAFFIC SIGNAL MONTHLY MAINTENANCE AND REPAIR SERVICES

Monthly routine maintenance services shall include routine inspection, preventative maintenance and repairs of traffic signal systems, interconnect, safety lights and illuminated street name signs, per intersection, per month.

ITEM NO.	DESCRIPTION OF ITEM	MONTHLY UNIT PRICE	ANNUAL PRICE
1.	Ramsey Street & Hargrave Street Routine Monthly Maintenance Services	$81.00	$972.00
2.	Ramsey Street & Sunset Avenue Routine Monthly Maintenance Services	$81.00	$972.00
3.	Ramsey Street & 4th Street Routine Monthly Maintenance Services	$81.00	$972.00
4.	Ramsey Street & 8th Street Routine Monthly Maintenance Services	$81.00	$972.00
5.	Ramsey Street & 22nd Street Routine Monthly Maintenance Services	$81.00	$972.00
6.	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance Services	$81.00	$972.00
7.	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$81.00	$972.00
8.	Wilson Street & Mountain Avenue Routine Monthly Maintenance Services	$81.00	$972.00

TOTAL BID AMOUNT IN FIGURES – SCHEDULE I $648.00 (Monthly) or $7,776.00 (Annually)

TOTAL BID AMOUNT IN WORDS – SCHEDULE I: Six Hundred Forty Eight Dollars and Zero Cents (Monthly) or Seven Thousand, Seven Hundred Seventy Six Dollars and Zero Cents (Annually)

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YUNEX TRAFFIC

City of Banning
Traffic Signals Maintenance & Repair Services
Cost Schedule

Labor Rates

Item Description	Unit	Regular Time	Overtime	Premium Time
Foreman	Hourly	$138.00	$173.00	$208.00
Traffic Signal Technician – Field	Hourly	$131.00	$162.50	$193.50
Traffic Signal Technician – Lab	Hourly	$131.00	$162.50	$193.50
Laborer	Hourly	$105.00	$149.25	$149.25

Regular, Overtime, and Premium time explanation:

- Regular Hours are Monday thru Friday (excluding holidays) from 7:30am to 4:00pm.
- Overtime Hours are Monday thru Friday after these work hours for the first four straight hours on any job as well as Saturday for the initial 8 working hours.
- Premium Hours are Monday thru Friday after four hours of OT on any one job, Saturdays after 8 hours on any one job, all day Sunday starting at 12:00am until Monday at 7:30am and all holidays starting at 12:00am until the next morning at 7:30am.

Equipment Rates

Item Description	Unit	Unit Price
Service Truck	Hourly	$29.00
Bucket Truck	Hourly	$32.00
Crane Truck	Hourly	$65.00
Arrow Board	Hourly	$5.00
Air Compresser with tools	Hourly	$5.00

Material Markup

Item Description	%
Material Markup	10%

Miscellaneous Items

Item Description	Unit	Unit Price
Type E Loop (6' Round)	Each	$650.00
CMU Testing	Each	$160.00

Project Schedule:

Banning - Traffic Signals Maintenance & Repair Services - Proposed Schedule									
Project Lead: City of Banning Start Date: 8/1/2023 Tuesday									
WBS	Tasks	Task Lead	Start	End	Duration (Days)	% Complete	Working Days	Days Complete	Days Remaining
1	Monthly Preventative Maintenance	Yunex	8/1/23	8/31/23	31		23	0	31
1.1	Extraordinary Maintenance (As-Needed)								
1.2	Emergency Response (As-Needed)								
1.3	Air Filter Replacement (Semi Annually)								
2	Monthly Preventative Maintenance	Yunex	9/1/23	9/30/23	30		21	0	30
2.1	Extraordinary Maintenance (As-Needed)								
2.2	Emergency Response (As-Needed)								
3	Monthly Preventative Maintenance	Yunex	10/1/23	10/31/23	31		22	0	31
3.1	Extraordinary Maintenance (As-Needed)								
3.2	Emergency Response (As-Needed)								
4	Monthly Preventative Maintenance	Yunex	11/1/23	11/30/23	30		22	0	30
4.1	Extraordinary Maintenance (As-Needed)								
4.2	Emergency Response (As-Needed)								
5	Monthly Preventative Maintenance	Yunex	12/1/23	12/31/23	31		21	0	31
5.1	Extraordinary Maintenance (As-Needed)								
5.2	Emergency Response (As-Needed)								
6	Monthly Preventative Maintenance	Yunex	1/1/24	1/31/24	31		23	0	31
6.1	Extraordinary Maintenance (As-Needed)								
6.2	Emergency Response (As-Needed)								
7	Monthly Preventative Maintenance	Yunex	2/1/24	2/29/24	29		21	0	29
7.1	Extraordinary Maintenance (As-Needed)								
7.2	Emergency Response (As-Needed)								
7.3	Air Filter Replacement (Semi Annually)								
8	Monthly Preventative Maintenance	Yunex	3/1/24	3/31/24	31		21	0	31
8.1	Extraordinary Maintenance (As-Needed)								
8.2	Emergency Response (As-Needed)								
9	Monthly Preventative Maintenance	Yunex	4/1/24	4/30/24	30		22	0	30
9.1	Extraordinary Maintenance (As-Needed)								
9.2	Emergency Response (As-Needed)								
10	Monthly Preventative Maintenance	Yunex	5/1/24	5/31/24	31		23	0	31
10.1	Extraordinary Maintenance (As-Needed)								
10.2	Emergency Response (As-Needed)								
11	Monthly Preventative Maintenance	Yunex	6/1/24	6/30/24	30		20	0	30
11.1	Extraordinary Maintenance (As-Needed)								
11.2	Emergency Response (As-Needed)								
12	Monthly Preventative Maintenance	Yunex	7/1/24	7/31/24	31		23	0	31
12.1	Extraordinary Maintenance (As-Needed)								
12.2	Emergency Response (As-Needed)								

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AMENDMENT NO. 1 TO THE AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and YUNEX, LLC., A Delaware Limited Liability Company, ("Contractor") is effective as of this day: June 25, 2024.

RECITALS

A. City and Contractor entered into that certain Contract dated August 17, 2023 for the purpose of providing traffic signal maintenance services ("Agreement") following Request for Proposal (RFP 23-030).

B. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to August 31, 2025, and increase the Contract Sum to Fifty Thousand Dollars ($50,000.00).

The Parties therefore agree follows:

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

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Twenty-Five Thousand Dollars ($25,000.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Fifty Thousand Dollars ($50,000.00).

   1.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through August 31, 2025, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement, as amended by Amendment No.1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions

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of the Agreement or Amendment No. 1, the provisions of this Amendment No. 1 shall control.

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

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

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

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

[*SIGNATURE PAGE FOLLOWS*]

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

CITY OF BANNING

Douglas Schulze,
City Manager

City Council Approval: 2024-99

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young
City Attorney

CONTRACTOR

Michael Hutchens

NAME: Michael Hutchens
TITLE: Western Operations Manager

NAME:
TITLE:

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

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AMENDMENT NO. 2 TO AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **YUNEX, LLC**, a Delaware Limited Liability Company, ("Consultant") is effective as of this day: June 10, 2025.

RECITALS

A. City and Consultant entered into that certain Contract dated August 17, 2023 for the purpose of providing Traffic Signal Maintenance Services ("Agreement") following Request for Proposal (RFP 23-030).

B. City and Consultant have entered into an Amendment No. 1 to the Agreement dated June 25, 2024 to extend the Term of the Agreement to August 31, 2025, and increase the Contract Sum to Fifty Thousand Dollars ($50,000.00), as approved by City Council Resolution 2024-99.

C. City and Consultant now desire to amend the Agreement to modify the Scope of Services to add an additional site, update the rate schedule, extend the Term of the Agreement to August 31, 2026 and increase the Contract Sum to Seventy-Five Thousand Dollars ($75,000.00).

The Parties therefore agree follows:

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

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

   1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 2 shall not exceed Twenty-Five Thousand Dollars ($25,000.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Seventy-Five Thousand Dollars ($75,000.00).

   1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through August 31, 2026, unless sooner terminated or extended as provided in the Agreement

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

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2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2, all provisions of the Agreement, as amended by Amendment Nos. 1 and 2, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2 , and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

[*SIGNATURE PAGE FOLLOWS*]

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The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING

Robert Fisher

Robert Fisher,
Acting City Manager

City Council Approval: 2025-079

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney

John O. Pinkney
City Attorney

CONSULTANT

Michael Hutchens

NAME: Michael Hutchens
TITLE: Western Operations Manager

NAME:
TITLE:

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

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ATTACHMENT "A"

Traffic Signal Annual Maintenance and Repair Services			
Item#	Description of Item	Monthly Unit Price	Annual Price
1	Ramsey Street & Hargrave Street Routine Monthly Maintenance	$83.03	$996.36
2	Ramsey Street & Sunset Avenue Routine Monthly Maintenance	$83.03	$996.36
3	Ramsey Street & 4th Street Routine Monthly Maintenance	$83.03	$996.36
4	Ramsey Street & 8th Street Routine Monthly Maintenance	$83.03	$996.36
5	Ramsey Street & 22nd Street Routine Monthly Maintenance	$83.03	$996.36
6	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance	$83.03	$996.36
7	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$83.03	$996.36
8	Wilson & Mountain Avenue Routine Monthly Maintenance	$83.03	$996.36
9	Wilson Street & Apex Street Routine Monthly Maintenance	$83.03	$996.36
10	Wilson Street & Highland Home Road Routine Monthly Maintenance	$83.03	$996.36

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ATTACHMENT "B"

Contractor Fee Schedule

Description	Unit	Qty.	Regular	Overtime	Premium
Traffic Signal Technician - Field	HR	1	$134.28	$166.56	$198.34
Traffic Signal Technician - Lab	HR	1	$134.28	$166.56	$198.34
Foreman	HR	1	$141.45	$177.33	$213.20
Laborer	HR	1	$107.63	$152.98	$152.98
Air Compressor/Arrow Board	HR	1	$5.12		
Service Truck	HR	1	$29.73		
Bucket Truck	HR	1	$32.80		
Crane	HR	1	$66.63		

RESOLUTION 2025-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE SERVICES AGREEMENT WITH YUNEX, LLC., IN THE AMOUNT OF $75,000 EXTENDING THE TERM THROUGH FISCAL YEAR 2027/2028 CITYWIDE TRAFFIC SIGNAL MAINTENANCE

WHEREAS, on May 23, 2023, through ProcureNow and advertisement in the local newspaper, City staff released a solicitation for proposals from qualified firms to provide maintenance and repair services for eight (8) traffic signals throughout the City of Banning for a term of one (1) year with the option to renew four (4) additional signal year periods; and

WHEREAS, in August of 2023 an agreement in the amount of $25,000 was administratively approved and awarded to Yunex, LLC., following the formal bid process and bid evaluation; and

WHEREAS, on June 25, 2024, Amendment No. 1 was approved and extended the term of the agreement for a one (1) year period and increased the traffic signal maintenance services agreement for FY 2024/2025 in the amount of $25,000; and

WHEREAS, under approval of this resolution, Amendment No. 2 is approved extending the term of the agreement for an additional three (3) year period and increasing the traffic signal maintenance services agreement in the amount of $75,000 for a total contract amount of $125,000: and

WHEREAS, Amendment No. 2 will be funded by the operational budget of the Street Division, Account 100-4900-413.30-09 (Repair/Maintenance-Traffic Signals).

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

SECTION 1. The City Council approves Amendment No. 2 to the Citywide Traffic Signal Maintenance Agreement with Yunex, LLC., extending the term through Fiscal Year 2027/2028 and increasing the contract in an additional amount of $75,000.

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

SECTION 3. City Council authorizes the City Manager to make necessary non-substantive changes and to execute Amendment No. 2 with Yunex, LLC., for services through Fiscal Year 2027/2028.

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

PASSED, APPROVED AND ADOPTED this 10th day of June, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-79, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of June, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Amendment No. 2 with Yunex, LLC.,
FY 2025/2026 Citywide Traffic Signal Maintenance Services

AMENDMENT NO. 2 TO AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **YUNEX, LLC**, a Delaware Limited Liability Company, ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Contract dated August 17, 2023 for the purpose of providing Traffic Signal Maintenance Services ("Agreement") following Request for Proposal (RFP 23-030).

B. City and Consultant have entered into an Amendment No. 1 to the Agreement dated June 25, 2024 to extend the Term of the Agreement to August 31, 2025, and increase the Contract Sum to Fifty Thousand Dollars ($50,000.00), as approved by City Council Resolution 2024-99.

C. City and Consultant now desire to amend the Agreement to modify the Scope of Services to add an additional site, update the rate schedule, extend the Term of the Agreement to August 31, 2026 and increase the Contract Sum to Seventy-Five Thousand Dollars ($75,000.00).

The Parties therefore agree follows:

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

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

   1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 2 shall not exceed Twenty-Five Thousand Dollars ($25,000.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Seventy-Five Thousand Dollars ($75,000.00).

   1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through August 31, 2026, unless sooner terminated or extended as provided in the Agreement

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

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2, all provisions of the Agreement, as amended by Amendment Nos. 1 and 2, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2 , and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

[***SIGNATURE PAGE FOLLOWS***]

The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
_____	_____
Robert Fisher, Acting City Manager	NAME: TITLE:
	_____
	NAME: TITLE:

ATTEST:

_____

Caroline Patton
Administrative City Clerk

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

ATTACHMENT "A"

Traffic Signal Annual Maintenance and Repair Services			
Item#	Description of Item	Monthly Unit Price	Annual Price
1	Ramsey Street & Hargrave Street Routine Monthly Maintenance	$83.03	$996.36
2	Ramsey Street & Sunset Avenue Routine Monthly Maintenance	$83.03	$996.36
3	Ramsey Street & 4th Street Routine Monthly Maintenance	$83.03	$996.36
4	Ramsey Street & 8th Street Routine Monthly Maintenance	$83.03	$996.36
5	Ramsey Street & 22nd Street Routine Monthly Maintenance	$83.03	$996.36
6	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance	$83.03	$996.36
7	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$83.03	$996.36
8	Wilson & Mountain Avenue Routine Monthly Maintenance	$83.03	$996.36
9	Wilson Street & Apex Street Routine Monthly Maintenance	$83.03	$996.36
10	Wilson Street & Highland Home Road Routine Monthly Maintenance	$83.03	$996.36

ATTACHMENT "B"

Contractor Fee Schedule

Description	Unit	Qty.	Regular	Overtime	Premium
Traffic Signal Technician - Field	HR	1	$134.28	$166.56	$198.34
Traffic Signal Technician - Lab	HR	1	$134.28	$166.56	$198.34
Foreman	HR	1	$141.45	$177.33	$213.20
Laborer	HR	1	$107.63	$152.98	$152.98
Air Compressor/Arrow Board	HR	1	$5.12		
Service Truck	HR	1	$29.73		
Bucket Truck	HR	1	$32.80		
Crane	HR	1	$66.63		

YUNEX TRAFFIC

Yunex Traffic
2240 Business Way
Riverside, CA. 92501
951.784.6600
951.784.6700 Fax

March 2, 2026

Carl Szoyka
Public Works Department
City of Banning
99 E. Ramsey St.
Banning, Ca. 92220

Subject: **Traffic Signal Maintenance Contract extension– Rate Schedule**

Contractor Fee Schedule

Description	Unit	Qty.	Regular	Overtime	Premium
Traffic Signal Technician - Field	HR	1	$138.58	$171.89	$204.69
Traffic Signal Technician - Lab	HR	1	$138.58	$171.89	$204.69
Foreman	HR	1	$145.98	$183.00	$220.02
Laborer	HR	1	$111.07	$157.88	$157.88
Air Compressor/Arrow Board	HR	1	$5.28		
Service Truck	HR	1	$30.68		
Bucket Truck	HR	1	$33.85		
Crane	HR	1	$68.76		

Traffic Signal Annual Maintenance and Repair Services			
Item#	Description of Item	Monthly Unit Price	Annual Price
1	Ramsey Street & Hargrave Street Routine Monthly Maintenance	$85.69	$1,028.28
2	Ramsey Street & Sunset Avenue Routine Monthly Maintenance	$85.69	$1,028.28
3	Ramsey Street & 4th Street Routine Monthly Maintenance	$85.69	$1,028.28
4	Ramsey Street & 8th Street Routine Monthly Maintenance	$85.69	$1,028.28
5	Ramsey Street & 22nd Street Routine Monthly Maintenance	$85.69	$1,028.28
6	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance	$85.69	$1,028.28
7	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$85.69	$1,028.28
8	Wilson & Mountain Avenue Routine Monthly Maintenance	$85.69	$1,028.28
9	Wilson Street & Apex Street Routine Monthly Maintenance	$85.69	$1,028.28
10	Wilson Street & Highland Home Road Routine Monthly Maintenance	$85.69	$1,028.28

Thank You,

Candace Gallaher

Candace Gallaher
Service Project Manager

(

AMENDMENT NO. 3 TO AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 3 TO THE AGREEMENT FOR SERVICES ("Amendment No. 3") by and between the CITY OF BANNING ("City") and YUNEX, LLC, a Delaware Limited Liability Company ("Consultant"), is effective as of this ___ day of _____, 2026.

RECITALS

A. City and Consultant entered into that certain Agreement dated August 17, 2023, for the purpose of providing Traffic Signal Maintenance Services ("Agreement") following Request for Proposal (RFP 23-030) in an amount not to exceed Twenty-Five Thousand Dollars ($25,000).

B. City and Consultant entered into that certain Amendment No. 1 dated June 25, 2024, to extend the Term of the Agreement to August 31, 2025, and increase the contract amount by Twenty-Five Thousand Dollars ($25,000), for a total not-to-exceed amount of Fifty Thousand Dollars ($50,000.00).

C. On June 10, 2025, the City Council adopted Resolution No. 2025-79 approving Amendment No. 2 and authorizing continuation of the Agreement for the remaining term contemplated by Request for Proposals No. 23-030, through August 31, 2028, and authorizing a total not-to-exceed compensation amount of One Hundred Twenty-Five Thousand Dollars ($125,000.00).

D. Following adoption of Resolution No. 2025-79, Amendment No. 2 was executed by the Parties. However, the executed Amendment No. 2 did not fully memorialize the term and compensation authority approved by the City Council in Resolution No. 2025-79, and instead reflected an Agreement term ending August 31, 2026, and a total not-to-exceed compensation amount of Seventy-Five Thousand Dollars ($75,000.00).

E. The City Council's approval of Resolution No. 2025-79 was intended to authorize continuation of the Agreement through August 31, 2028, and authorize total compensation not to exceed One Hundred Twenty-Five Thousand Dollars ($125,000.00) over the full five-year term of the Agreement.

F. The Parties desire to enter into this Amendment No. 3 for the purpose of conforming the Agreement documents to the authority previously approved by the City Council through Resolution No. 2025-79 and fully memorializing the authorized Agreement term and compensation.

G. City and Consultant now desire to amend the Agreement to extend the Term of the Agreement through August 31, 2028, and increase the Contract Sum by Fifty Thousand Dollars ($50,000.00), for a total Agreement amount not to exceed One Hundred Twenty-Five Thousand Dollars ($125,000.00) over the five-year term of the relationship.

The Parties therefore agree as follows:

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

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

1.2 Section 2.1 of the Agreement is hereby amended to increase the maximum compensation by Fifty Thousand Dollars ($50,000.00), thereby increasing the total Contract Sum from Seventy-Five Thousand Dollars ($75,000.00) to an amount not to exceed One Hundred Twenty-Five Thousand Dollars ($125,000.00).

1.3 Section 3.4 of the Agreement is hereby amended to extend the Term of the Agreement through August 31, 2028, unless sooner terminated in accordance with the Agreement.

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

2. Miscellaneous Provisions.

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 3, all provisions of the Agreement, as amended by Amendment Nos. 1 and 2, remain unchanged and in full force and effect. From and after the effective date of this Amendment No. 3, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by Amendment Nos. 1 through 3. In the event of a conflict between the provisions of this Amendment No. 3 and the provisions of the Agreement or prior amendments, the provisions of this Amendment No. 3 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 3.

2.3 Authority. The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Amendment No. 3, and (iv) entering into this Amendment No. 3 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 3 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No. 3 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

The Parties are signing this Amendment No. 3 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval:_____	_____ NAME: TITLE:

ATTEST:

_____
Sandra Calderon
Deputy City Clerk

APPROVED AS TO FORM:
Slovak Baron Empey Murphy & Pinkney

_____
John O. Pinkney
City Attorney

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

ATTACHMENT "A"

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

PREPARED BY: **Paul Mattern, Transit Manager**
Art Vela, Director of Public Works

MEETING DATE: **June 23, 2026**

SUBJECT: **Consideration of Resolution 2026-93, Providing Authorization for the Execution of the Certification and Assurances and Authorized Agent Forms for the Low Carbon Transit Operations Program (LCTOP) for the Following Project: Free Fare Program in the Amount of $122,249**

STAFF RECOMMENDATION:

Adopt Resolution 2026-93

BACKGROUND:

LCTOP is one of several programs that are part of the Transit, Affordable Housing, and Sustainable Communities Program established by the California Legislature in 2014 by Senate Bill 862.

The LCTOP was created to provide operating and capital assistance for transit agencies to reduce greenhouse gas emission and improve mobility, with a priority on serving disadvantaged communities. Approved projects in LCTOP are intended to support new or expanded bus or rail services, expand intermodal transit facilities, and may include equipment acquisition, fueling, maintenance and other costs to operate those services or facilities, with each project reducing greenhouse gas emissions.

The City of Banning, in working with the California Department of Transportation (Caltrans) and the Riverside County Transportation Commission (RCTC), requested an allocation of LCTOP funds in the amount of $122,249 to fund an additional year of the Free Fare Program for students, seniors, persons with disabilities, veterans and City of Banning residents with proper identification.

JUSTIFICATION:

The Free Fare Program is intended to support transit operations and promote the use of public transportation. The Free Fare Program will also help meet LCTOP's goal of reducing greenhouse gas emissions and improving mobility within disadvantaged communities. It also allows the City of Banning to take advantage of the $122,249 LCTOP funds which will be used to supplement free rides provided to the community.

FISCAL IMPACT:

If approved, staff will have the authority to execute and submit the required documentation to receive LCTOP funds in the amount of $122,249. The revenue budget associated with this program will be included in the proposed FY 2026/27 Operating Budget. There is no impact on the General Fund associated with this action.

ATTACHMENTS:

1. Resolution_2026-93_LCTOP JT.docx
2. Certifications and Assurances LCTOP FY27.docx
3. FY 26-27 Authorized Agent form.docx
4. RCTC's LCTOP Contributing Sponsor Letter FY 25-26.pdf

RESOLUTION 2026-93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, PROVIDING AUTHORIZATION FOR THE EXECUTION OF THE CERTIFICATION AND ASSURANCES AND AUTHORIZED AGENT FORMS FOR THE LOW CARBON TRANSIT OPERATIONS PROGRAM (LCTOP) FOR THE FOLLOWING PROJECT: FREE FARE PROGRAM, $122,249

WHEREAS, the City of Banning is an eligible project sponsor and may receive state funding from the Low Carbon Transit Operations Program (LCTOP) for transit projects; and

WHEREAS, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

WHEREAS, Senate Bill 862 (2014) named the Department of Transportation ("Department") as the administrative agency for the LCTOP; and

WHEREAS, the Department has developed guidelines for the purpose of administering and distributing LCTOP funds to eligible project sponsors (local agencies); and

WHEREAS, the City of Banning wishes to delegate authorization to execute these documents and any amendments thereto to Elizabeth Gibbs, City Manager or his designee; and

WHEREAS, the City of Banning wishes to implement the following LCTOP project listed above.

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

SECTION 1. The City of Banning as the fund recipient agrees to comply with all conditions and requirements set forth in the Certification and Assurances and the Authorized Agent documents and applicable statutes, regulations and guidelines for all LCTOP funded transit projects; and

SECTION 2. The City Manager is authorized to execute all required documents of the LCTOP program and any Amendments thereto with the California Department of Transportation; and

SECTION 3**.** The City Council of the City of Banning hereby authorizes the submittal of the following project nomination(s) and allocation request(s) to the Department for FY2025-2026 Cycle A LCTOP funds:

Project Name: Free Fare Program
Short description of project: The extension of the Free Fare Program from two to three years. Fare would be free seniors, disabled, veterans, students and resident of Banning (with ID) on all fixed routes.
Amount of LCTOP funds requested: $122,249.00
Benefit to a Priority Populations: Program provides incentives to disadvantage community, promotes the use of public transportation, and promotes transit connectivity.
Amount to benefit Priority Populations: $72,429
Contributing Sponsor: Riverside County Transportation Commission (RCTC)
; and

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 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-93, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Certifications and Assurances

Lead Agency: City of Banning

Project Title: Free Fare Program

Prepared by: Paul Mattern

The California Department of Transportation (Caltrans) has adopted the following Certifications and Assurances for the Low Carbon Transit Operations Program (LCTOP). As a condition of the receipt of LCTOP funds, Lead Agency must comply with these terms and conditions.

A. General

1. The Lead Agency agrees to abide by the current LCTOP Guidelines and applicable legal requirements.

2. The Lead Agency must submit to Caltrans a signed Authorized Agent form designating the representative who can submit documents on behalf of the project sponsor and a copy of the board resolution appointing the Authorized Agent.

B. Project Administration

1. The Lead Agency certifies that required environmental documentation is complete before requesting an allocation of LCTOP funds. The Lead Agency assures that projects approved for LCTOP funding comply with Public Resources Code § 21100 and § 21150.

2. The Lead Agency certifies that a dedicated bank account for LCTOP funds only will be established within 30 days of receipt of LCTOP funds.

3. The Lead Agency certifies that when LCTOP funds are used for a transit capital project, that the project will be completed and remain in operation for its useful life.

4. The Lead Agency certifies that it has the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of that project.

5. The Lead Agency certifies that they will notify Caltrans of pending litigation, dispute, or negative audit findings related to the project, before receiving an allocation of funds.

6. The Lead Agency must maintain satisfactory continuing control over the use of project equipment and facilities and will adequately maintain project equipment and facilities for the useful life of the project.

7. Any interest the Lead Agency earns on LCTOP funds must be used only on approved LCTOP projects.

8. The Lead Agency must notify Caltrans of any changes to the approved project with a Corrective Action Plan (CAP).

9. Under extraordinary circumstances, a Lead Agency may terminate a project prior to completion. In the event the Lead Agency terminates a project prior to completion, the Lead Agency must (1) contact Caltrans in writing and follow-up with a phone call verifying receipt of such notice; (2) pursuant to verification, submit a final report indicating the reason for the termination and demonstrating the expended funds were used on the intended purpose; (3) submit a request to reassign the funds to a new project within 180 days of termination.

C. Reporting

1. The Lead Agency must submit the following LCTOP reports:

a. Annual Project Activity Reports October 27th each year.

b. A Close Out Report within six months of project completion.

c. The annual audit required under the Transportation Development Act (TDA), to verify receipt and appropriate expenditure of LCTOP funds. A copy of the audit report must be submitted to Caltrans within six months of the close of the year (December 31) each year in which LCTOP funds have been received or expended.

d. Project Outcome Reporting as defined by CARB Funding Guidelines.

e. Jobs Reporting as defined by CARB Funding Guidelines.

2. Other Reporting Requirements: CARB develops and revises Funding Guidelines that will include reporting requirements for all State agencies that receive appropriations from the Greenhouse Gas Reduction Fund. Caltrans and project sponsors will need to submit reporting information in accordance with CARB's Funding Guidelines, including reporting on greenhouse gas reductions and benefits to disadvantaged communities.

D. Cost Principles

1. The Lead Agency agrees to comply with Title 2 of the Code of Federal Regulations 225 (2 CFR 225), Cost Principles for State and Local Government, and 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

2. The Lead Agency agrees, and will assure that its contractors and subcontractors will be obligated to agree, that:

   a. Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allow ability of individual project cost items and

   b. Those parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving LCTOP funds as a contractor or sub-contractor shall comply with

Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

3. Any project cost for which the Lead Agency has received funds that are determined by subsequent audit to be unallowable under 2 CFR 225, 48 CFR, Chapter 1, Part 31 or 2 CFR, Part 200, are subject to repayment by the Lead Agency to the State of California (State). All projects must reduce greenhouse gas emissions, as required under Public Resources Code section 75230, and any project that fails to reduce greenhouse gases shall also have its project costs submit to repayment by the Lead Agency to the State. Should the Lead Agency fail to reimburse moneys due to the State within thirty (30) days of demand, or within such other period as may be agreed in writing between the Parties hereto, the State is authorized to intercept and withhold future payments due the Lead Agency from the State or any third-party source, including but not limited to, the State Treasurer and the State Controller.

A. Record Retention

1. The Lead Agency agrees and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of the Lead Agency, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP) and enable the determination of incurred costs at interim points of completion. All accounting records and other supporting papers of the Lead Agency, its contractors and subcontractors connected with LCTOP funding shall be maintained for a minimum of three (3) years after the "Project Closeout" report or final Phase 2 report is submitted (per ARB Funding Guidelines, Vol. 3, page 3.A-16), and shall be held open to inspection, copying, and audit by representatives of the State and the California State Auditor. Copies thereof will be furnished by the Lead Agency, its contractors, and subcontractors upon receipt of any request made by the State or its agents. In conducting an audit of the costs claimed, the State will rely to the maximum extent possible on any prior audit of the Lead Agency pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the Lead Agency's external and internal auditors may be relied upon and used by the State when planning and conducting additional audits.

2. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of the Lead Agency's contracts with third parties pursuant to Government Code § 8546.7, the project sponsor, its contractors and subcontractors and the State shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times

during the entire project period and for three (3) years from the date of final payment. The State, the California State Auditor, or any duly authorized representative of the State, shall each have access to any books, records, and documents that are pertinent to a project for audits, examinations, excerpts, and transactions, and the Lead Agency shall furnish copies thereof if requested.

3. The Lead Agency, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

F. Special Situations

Caltrans may perform an audit and/or request detailed project information of the project sponsor's LCTOP funded projects at Caltrans' discretion at any time prior to the completion of the LCTOP.

I certify all of these conditions will be met.

Elizabeth Gibbs	City Manager
(Print Authorized Agent)	*(Title)*
(Signature)	*(Date)*

FY 2026-2027 LCTOP
Authorized Agent

AS THE **Mayor**
(Chief Executive Officer/Director/President/Secretary)

OF THE **City of Banning**
(Name of County/City/Transit Organization)

I hereby authorize the following individual(s) to execute for and on behalf of the named Regional Entity/Transit Operator, any actions necessary for the purpose of obtaining Low Carbon Transit Operations Program (LCTOP) funds provided by the California Department of Transportation, Division of Local Assistance. I understand that if there is a change in the authorized agent, the project sponsor must submit a new form. This form is required even when the authorized agent is the executive authority himself. I understand the Board must provide a resolution approving the Authorized Agent. The Board Resolution appointing the Authorized Agent is attached.

Elizabeth Gibbs, City Manager OR
(Name and Title of Authorized Agent)

Arturo Vela, Director of Public Works OR
(Name and Title of Authorized Agent)

Jennifer Terry, Director of Finance OR
(Name and Title of Authorized Agent)

Paul Mattern, Transit Manager OR
(Name and Title of Authorized Agent)

Richard Royce — Mayor
(Print Name) — *(Title)*

(Signature)

Approved this 22 *day of* **June**, 2026

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
4080 Lemon Street, 3rd Floor • Riverside, CA
Mailing Address: P.O. Box 12008 • Riverside, CA 92502-2208
951.787.7141 • 951.787.7920 • www.rctc.org

April 23, 2026

Wendy King, Program Manager
Low Carbon Transit Operations Program
Department of Transportation
1120 N Street, Sacramento CA 95814

Subject: Riverside County Fiscal Year 2025/26 LCTOP (Cycle A) Contributing Sponsor Allocations

Dear Program Manager King:

The Riverside County Transportation Commission (RCTC) is the contributing sponsor for Public Utilities Code (PUC) 99313 funds and is anticipating that its allocations will be approved by the Commission on May 13, 2026. RCTC has also coordinated with the transit operators that receive PUC 99314 funds directly and was notified by City of Riverside that they would be opting out and providing its PUC 99314 funds to Riverside Transit Agency.

The table below lists the Fisal Year 2025/26 LCTOP (Cycle A) proposed projects within Riverside County:

Agency	PUC 99313 Funds	PUC 99314 Funds	Total LCTOP Allocation	Proposed Project Description
City of Banning	$ 120,000	$ 2,429	$ 122,429	Free fares on fixed-routes within city limits
City of Beaumont	130,000	3,713	133,713	Discounted fares on pass programs
City of Corona	260,000	4,972	264,972	Free fares for seniors, people with disabilities, and students
City of Riverside	-	-	-	$5,754 of PUC 99314 funds provided to RTA
Palo Verde Valley Transit Agency	125,000	2,050	127,050	Free fares on deviated fixed-routes
RCTC Commuter Rail Program	900,000	-	900,000	Metrolink Service Optimization
SCRRA	-	309,246	309,246	Student/Youth Discount Program
Riverside Transit Agency	1,781,000	213,664	1,994,664	Discounted and Free Fare Promotions
SunLine Transit Agency	880,536	134,125	1,014,661	Indio Liquid Hydrogen Station project
Total	**$ 4,196,536**	**$ 675,953**	**$ 4,872,489**	

If you have any questions, please feel free to contact Eric DeHate, Transit Manager, at (951) 787-7989 or at edehate@rctc.org.

Sincerely,

Aaron Hake
Executive Director

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Sandra Calderon, Deputy City Clerk**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-94, Adopting Regulations for Candidates for Elective Office Pertaining to the Electorate and the Costs Thereof for the General Municipal Election to be Held in the City on Tuesday, November 3, 2026.**

STAFF RECOMMENDATION:

Adopt Resolution 2026-94

BACKGROUND:

Per Section 13307 of the California Elections Code, the governing body of any local agency may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including the costs thereof. Adoption of this resolution is needed so that if a candidate elects to have a candidate's statement they will have regulations to follow and pay his or her pro rata share of the costs of a statement to be included in the voters' pamphlet.

JUSTIFICATION:

Each candidate is responsible for the entire cost of filing their candidate statements. Since the total due is not known until after the election, the City collects a deposit--set by the Riverside County Registrar of Voters each election cycle--until billed for the full amount. The City remits payment to the Riverside County Registrar of Voters and then settles up with each candidate. In each instance, the candidate will either:

1. Receive a refund, if the total due was less than the total deposit amount;
2. Receive a bill to pay the remaining total, if the total due exceeded the deposit amount; or
3. Receive neither a bill or a refund, if the total due was equal to the deposit amount.

FISCAL IMPACT:

All costs associated with Candidate Statements are pass through costs. The candidate pays the statement fee to the City. The City is then billed for the Candidate Statements with the total cost of the election.

ATTACHMENTS:

1. Resolution_2026-94__Election_Regulations.pdf

RESOLUTION 2026-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE, PERTAINING TO THE ELECTORATE AND THE COSTS THEREOF FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD TUESDAY, NOVEMBER 3, 2026

WHEREAS, Section 13307 of the California Elections Code provides that the governing body of any local agency may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs thereof.

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

SECTION 1. General Provisions. Pursuant to Section 13307 of the California Elections Code, each candidate for elective office to be voted for at the General Municipal Election to be held in the City of Banning on Tuesday, November 3, 2026 may prepare a candidate's statement on an appropriate form provided by the City Clerk. Such statement may include the name, age, and occupation of the candidate, and a brief description of no more than 200 words of the candidate's education and qualifications as expressed by the candidate. Such statement will not include party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the City Clerk at the time the candidate's nomination papers are filed. Except as provided in Section 13309 of the California Elections Code, such statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

SECTION 2. Payment. The Riverside County Elections Department shall give the City Clerk an estimate of the total cost of printing, handling, translating and mailing the candidate's statement filed pursuant to the Elections Code, and require each candidate filing a statement to pay in advance his or her pro rata share as a condition of having his or her statement included in the voter's pamphlet. As these costs are only estimated, the City Clerk shall bill each candidate for any cost in excess of the deposit and shall refund any unused portion of any deposit.

SECTION 3. The City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time the nominating petitions are issued.

PASSED, APPROVED AND ADOPTED this 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

_____

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-94, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Arturo Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consider Resolution 2026-95, Approving Amendment No. 2 to the Professional Services Agreement with ALL4, LLC. to Extend the Term of the Agreement through June 30, 2027 and approve the Assignment and Assumption Agreement between City of Banning, VCS Environmental and ALL4 LLC.**

STAFF RECOMMENDATION:

Adopt Resolution 2026-95

BACKGROUND:

The City Council adopted Resolution 2022-145 on October 25, 2022, to execute a Professional Services Agreement with VCS Environmental in an amount not to exceed $189,000 for fiscal years 22/23, 23/24, and 24/25. During that contract period, the not-to-exceed amount was not met.

On June 10, 2025, City Council approved Resolution 2025-80, which extended the term of the contract through January 11, 2026, while maintaining the previously approved not-to-exceed amount of $189,000. At the time of the extension, there was $152,551 unspent on the original contract.

Furthermore, City Council Resolution No. 2025-80 authorized an extension of the Agreement through January 11, 2026; however, Amendment No. 1 to the Agreement, dated June 10, 2025, extended the Agreement through June 30, 2026. The parties now desire to clarify and correct the Agreement to reflect that the term was intended to continue through June 30, 2026, consistent with Amendment No. 1.

Of the original authorization of $189,000, there is a balance remaining of $96,249.15. Staff does not anticipate needing to add additional funds to the original authorization.

In the subsequent time, VCS Environmental has been providing environmental services to the Public Works Department related to a Banning Electric Utility pole replacement project in the Mias Canyon area of the City, and outside the City within the County jurisdiction. The scope of work has included environmental assessment documents and coordination with state and federal wildlife agencies. They have also been providing environmental compliance services to the Department of Public Works related to the Sun Lakes Boulevard Extension Project. Additionally, their services have included coordination of stakeholders for an environmental compliance project related to Smith Creek and its impacts from various construction permits. Both projects are ongoing and require continued service from VCS Environmental as the service provider.

In January of 2026, the City was notified that VCS Environmental was acquired by All4 LLC. In conversations with previous management of VCS Environmental, it is anticipated that key staff that the City has been engaged with will remain with All4 LLC.

On April 29, 2026, City, VCS Environmental, and All4 LLC entered into an Assignment and Assumption Agreement where VCS Environmental assigned to All4 LLC the right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under the Agreement and all of its Amendments.

The Amendment No 2 and the Assignment and Assumption Agreement will accomplish the following:

- Extend the term of the Contract to June 30, 2027
- Authorize the Assignment and Assumption Agreement

Staff anticipates that the two remaining work items will be resolved in the time frame of the contract extension.

JUSTIFICATION:

All4 LLC (Formerly VCS Environmental) have been providing ongoing environmental services for the City of Banning Electric Utility and Engineering Division. To maintain continuity of services and completion of tasks, it is necessary to approve Amendment No. 2 to the Professional Services Agreement and the Assignment and Assumption Agreement.

FISCAL IMPACT:

A budget appropriation for expenses related to the agreement will be included in the Fiscal Year 2026/27 proposed Operating Budget.

ATTACHMENTS:

1. Reso_2026-95_-_All4_Amend_2 (finalV2) 1.docx
2. CC Resolution No. 2022-145.pdf
3. CC Resolution No. 2025-080.pdf
4. CM_VCS_Environmental_to_ALL4_LLC_-_Name_Chan.pdf
5. Amendment No 2 ALL4 FINAL.docx

RESOLUTION 2026-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALL4, LLC TO EXTEND THE TERM OF THE AGREEMENT THROUGH JUNE 30, 2027

WHEREAS, on October 25, 2022, the City Council adopted Resolution 2022-145, approving a Sole-Source Professional Services Agreement with VCS Environmental for wetlands permitting, consulting, and strategy services ("Agreement"); and

WHEREAS, on June 10, 2025, the City Council adopted Resolution 2025-80 approving Amendment No. 1 to the Agreement to extend the term of the contract with no additional appropriation; and

WHEREAS, City Council Resolution No. 2025-80 authorized an extension of the Agreement through January 11, 2026; however, Amendment No. 1 to the Agreement, dated June 10, 2025, extended the Agreement through June 30, 2026, and the parties now desire to clarify and correct the Agreement to reflect that the term was intended to continue through June 30, 2026, consistent with Amendment No. 1; and

WHEREAS, on or around January 16, 2026, ALL4 LLC, a Delaware limited liability corporation, entered into a series of corporate transactions pursuant to certain assets of VCS Environmental; and

WHEREAS, on April 29, 2026, City, VCS Environmental, and ALL4 LLC entered into an Assignment and Assumption Agreement where VCS Environmental assigned to ALL4 LLC the right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under the Agreement and all of its Amendments; and

WHEREAS, ALL4 LLC is anticipating to retain key staff working with the City of Banning from VCS Environmental and said staff may be retained through the acquisition process; and

WHEREAS, the Banning Electric Utility and Engineering Division have utilized environmental consulting and strategy services by VCS for various projects, including a pole replacement project and services related to a mandatory mitigation measure identified in the Sun Lakes Boulevard Extension Project; and

WHEREAS, continuity of services is necessary for compliance matters related to ongoing projects, including the Sun Lakes Boulevard Extension Project; and

WHEREAS, sufficient and unexpended funds of $96,249.15 remain of the original authorization to meet the expected work through Fiscal Year 2026/2027 without any additional appropriation; and

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

SECTION 1. The City Council approved Resolution 2026-95 approving Amendment No. 2 to the Professional Services Agreement with ALL4 LLC to extend the term of the agreement through June 30, 2027.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the professional services agreement and to execute the amendment to the professional services agreement with ALL4 LLC . 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 23th day of June, 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-95, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit A

Amendment No. 2 to the Professional Services Agreement with ALL4 LLC

RESOLUTION 2022-145

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SOLE SOURCE PROFESSIONAL SERVICES AGREEMENT WITH VCS ENVIRONMENTAL IN AN AMOUNT NOT TO EXCEED $189,000 TO PROVIDE WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICES TO THE CITY OF BANNING.

WHEREAS, on June 18, 2020 the City solicited proposals for On-Call Environmental and Land Use Planning support services to augment the services provided by the Community Development Department; and

WHEREAS, on October 13, 2020 the City Council adopted Resolution 2020-13 which identified firms with the top five (5) evaluation scoring as Webb and Associates; CASC Engineering and Consulting, Inc.; Michael Baker International; Rincon Consultants; and VCS Environmental; and

WHEREAS, on June 8, 2022 the Community Development Director solicited and received a letter proposal from VCS Environmental in the amount of $4,750.00 to provide expert advice and strategy to Planning Department Staff during meetings with the California Department of Fish & Wildlife (CDFW), the United States Fish and Wildlife Service (USFWS), and to a lesser extent the Army Corp of Engineers (ACOE); and

WHEREAS, City staff has negotiated the Scope of Work with VCS Environmental, to provide expertise and skill of a Wetlands Permitting and Biological Resource Specialist to support and advise staff along these lines of Streambed Alteration Permits and other similar activities; and

WHEREAS, existing circumstances pertaining to the negotiation of Streambed Alteration Permits between new development projects are facing increased scrutiny through the wetland and biological permitting and mitigation strategies; and

WHEREAS, the Purchasing Officer has determined this service qualifies for sole source procurement as no other firms can provide the level of knowledge, experience, and expertise to assist and advise the City on wetland and biological permitting and mitigation strategies; and

WHEREAS, staff recommends the award of a Professional Services Agreement to VCS Environmental, in an amount not-to-exceed $189,000 for Fiscal Years 22/23; 23/24; 24/25; and

WHEREAS, funding will be available in the amount of $63,000 per year in the City's Community Development Department accounts during Fiscal Years 22/23; 23/24; 24/25 in the amount of not-to-exceed $189,000.

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

SECTION 1. The Banning City Council hereby approves a Professional Service Agreement with VCS Environmental in a not-to-exceed total amount of $189,000 for Fiscal Years 22/23; 23/24; and 24/25 to provide City staff expert advice and strategy consultation that will assist and advise on the wetland and biological permitting and mitigation strategies for current and future land development projects.

SECTION 2. The City Council hereby authorizes the City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to this professional services agreement.

SECTION 3. The City Council hereby authorizes the City Manager or his designee to execute a Professional Services Agreement with VCS Environmental, in substantial form of the agreement attached as Exhibit A hereto, for a compensation amount not-to-exceed $189,000.

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, ADOPTED AND APPROVED this 25th day of October 2022.

Colleen Wallace, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita 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 2022-145, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on 25th day of October 2022 by the following vote, to wit:

AYES: Happe, Sanchez, Wallace.

NOES:

ABSENT: Minjares.

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

EXHIBIT A

Draft Professional Services Agreement with VCS Environmental

AGREEMENT FOR PROFESSIONAL SERVICES (C00###) FOR [INSERT DESCRIPTION OF SERVICES HERE] BY AND BETWEEN CITY OF BANNING AND [INSERT COMPANY NAME HERE]

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 **[CONSULTANT NAME],** a [Legal Form of Entity and state of formation, *e.g.*, California corporation, limited partnership, limited liability company] ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposal (RFP No. ##-###), the performance of the services for the [Insert type of services and work to be completed] and as further defined and described particularly in Article 1 of this Agreement.

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

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

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

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

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

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

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
[Name]	[Title]

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.

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 $[Numerical Amount] (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 [Month] [Day], [Year], OR (shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, 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: _____ City's Contract Officer City of Banning 99 East Ramsey Street Banning, California 92220 Email: _____
With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: [Name] [Title] [Company Name] [Street Address] [City, State, Zip] Email: [Email Address]

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.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

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

EXHIBIT "A"
SCOPE OF SERVICES

I. **Consultant will perform the following Services in connection with providing [Insert Services to be Completed] prepared in connection therewith:**

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

[COPY SOW HERE…MAKE IT PRETTY]

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.

VCS Environmental
EXPERT SOLUTIONS | CEQA-NEPA . Biology . Regulatory

June 8, 2022

Adam Rush
Community Development Director
City of Banning
99 East Ramsey Street
Banning, California 92220

Re: Proposal for the City of Banning

Dear Adam:

Please consider this letter a scope of work for Vandermost Consulting Services, Inc. doing business as VCS Environmental (VCS) to assist the City of Banning in reviewing the Western Riverside Multi-Species Habitat Conservation Plan (MSHCP) and the Determination of Biologically Equivalent or Superior Preservation (DBESP) comments from the wildlife agencies and working with the developer's biological consultant in drafting the City's response.

This scope of work consists of reviewing the comment letter and associated documents, providing strategic advice, and participating in virtual meetings. We recommend a time and materials contract in the amount of $4,750 (assumes 19 hours). I will be performing this work on behalf of the City.

We bill monthly with invoices due upon receipt, pursuant to the attached fee schedule. Miscellaneous expenses such as reprographics, Federal Express, mileage, and postage are billed as reimbursable expenses for the actual cost.

To authorize VCS to proceed, please sign below and return. Please do not hesitate to contact me at 949-289-3624 with any questions. Thank you for your consideration of our request.

Sincerely,

Julie Beeman

Julie Beeman
President

Authorization_____Date_____

z:\proposals-scopes_change orders\city of banning\2022.06.08 - city of banning.docx

City of Banning			
Julie Beeman	19	$250	$4,750
TOTAL	***19***		***$4,750***

EXHIBIT "B"
SPECIAL REQUIREMENTS

None

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following rates:

TASK	DESCRIPTION	SUB-BUDGET
1.		
2.		
3.		
4.		
5.		
6.		
7.		
	TOTAL	

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

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

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

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

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

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

IV. The total compensation for Services shall not exceed $_____ as provided in Section 2.1 of this Agreement.

V. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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

RESOLUTION 2025-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO EXTEND THE END DATE OF THE SOLE-SOURCE PROFESSIONAL SERVICES AGREEMENT WITH VCS ENVIRONMENTAL TO JANUARY 11, 2026

WHEREAS, on October 25, 2022, City Council approved Resolution 2022-145, approving a Sole-Source Professional Services Agreement with VCS Environmental for wetlands permitting consulting and strategy services; and

WHEREAS, this resolution provided an end date of Fiscal Year 2025 rather than the complete three-year term of the contract allowable within the City's Purchasing Policy B-30; and

WHEREAS, there is a remaining balance in the contract of $152,551; and

WHEREAS, VCS has assisted in the environmental requirements related to the western Riverside Multiple Species Habitat Conservation Plan ("MSHCP") and the City's application with Federal Emergency Management Agency ("FEMA") for the Wildfire Mitigation Grant for the City's Mias Canyon Utility Line Project; and

WHEREAS, VCS has also assisted in the development of an actionable plan for the protection and development along the Smith Creek watershed and corridor; and

WHEREAS, the City requires a subject-matter expert to continue the advisement to staff regarding the environmental needs required under the Wildfire Mitigation Grant application process and watershed protection of Smith Creek; and

WHEREAS, the Wildfire Mitigation grant application is approximately 95% complete and VCS has been involved in navigating the requirements with the MSHCP and FEMA; and

WHEREAS, continuing the contract with VCS is the most efficient and effective path through the remainder of the application process due to the skill, experience and knowledgebase provided by VCS Environmental for both work efforts.

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

SECTION 1. The City Council approves the first amendment to the sole-source professional services agreement with VCS Environmental to extend the end date to January 11, 2026, with a remaining balance of $152,551.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the professional services agreement and to execute the amendment to the professional services agreement with VCS Environmental on behalf of the City Council.

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

PASSED, APPROVED AND ADOPTED this 10th day of June, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-80, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of June, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

VCS Environmental Amendment No., 1

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICE BY AND BETWEEN CITY OF BANNING AND VCS ENVIRONMENTAL

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

RECITALS

A. City and Consultant entered into that certain Contract dated January 11, 2023 for the purpose of providing Wetlands Permitting Consulting and Strategy Services ("Agreement") following a sole source procurement, as approved by City Council Resolution 2022-145.

B. City and Consultant now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2026.

The Parties therefore agree follows:

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

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

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement or Amendments No. 1, the provisions of this Amendment No. 1 shall control.

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

   2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No.

1 does not violate any provision of any other agreement to which said party is bound.

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

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

[*SIGNATURE PAGE FOLLOWS*]

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

CITY OF BANNING	CONSULTANT
_____	_____
Robert Fisher, Acting City Manager	NAME: TITLE:
City Council Approval: _____	_____ NAME: TITLE:

ATTEST:

_____
Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

_____
John O. Pinkney
City Attorney

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

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment Agreement") is entered into as of 4/29/2026, 20 26 (the Effective Date), by and between the **CITY OF BANNING**, a California municipal corporation ("City") whose address is 99 East Ramsey Street, Banning, California 92220, **VANDERMOST CONSULTING SERVICES, INC.,** a California corporation doing business as **VCS Environmental** ("Assignor") whose address is 30900 Rancho Viejo Road Suite 100, San Juan Capistrano, California 92675; and **ALL4 LLC**, a Delaware limited liability company ("Assignee") whose address is 2393 Kimberton Road Kimberton, Pennsylvania 19442. City, Assignor, and Assignee may be referred to individually as a "party" and collectively as the "parties."

RECITALS

This Assignment Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Assignment Agreement:

WHEREAS, on January 11, 2023, City and Assignor entered into that certain AGREEMENT FOR PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICES BY AND BETWEEN CITY OF BANNING AND VCS ENVIRONMENTAL ("Agreement"), attached hereto as Exhibit "A" with all amendments thereto, pursuant to which Assignor agreed to provide certain wetlands permitting consulting and strategy services to City, on a sole source basis approved by City Council Resolution No. 2022-145, for compensation not to exceed One Hundred Eighty-Nine Thousand Dollars ($189,000.00), all as more particularly described in the Agreement and its exhibits;

WHEREAS, Section 1.14 of the Agreement prohibits assignment of the Agreement without the express written consent of the City, and the City now desires to provide such consent subject to the terms of this Assignment Agreement;

WHEREAS, on or about June 10, 2025, the Parties executed AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICE BY AND BETWEEN CITY OF BANNING AND VCS ENVIRONMENTAL ("Amendment No. 1"), which extended the term of the Agreement through June 30, 2026, unless sooner terminated or further extended;

WHEREAS, Assignor has informed the City, by letter dated January 16, 2026, that it entered into a series of corporate transactions pursuant to which certain assets of Assignor, including the Agreement and Amendment No. 1, were transferred indirectly to Assignee;

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WHEREAS, Assignor desires to assign all of its rights, duties, and obligations under the Agreement, as amended, to Assignee, and Assignee desires to accept such assignment and assume all obligations and liabilities arising under the Agreement;

WHEREAS, the City is willing to consent to such assignment and assumption subject to the terms and conditions of this Assignment Agreement.

WHEREAS, the parties intend that there be no interruption in the performance of the services required by the Agreement, that the Agreement remain in full force and effect (as assigned and novated hereby), and that City's rights, protections, and remedies under the Agreement, including without limitation insurance, indemnification, and records obligations, remain at least as protective of City after the Effective Date as they were immediately prior thereto.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, the parties agree as follows:

1. Defined Terms. Unless otherwise expressly defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings ascribed to them in the Agreement.

2. Conflicts. In the event of any conflict or inconsistency between the terms and provisions of this Assignment Agreement and the terms and provisions of the Agreement, the terms and provisions of this Assignment Agreement shall control as between the parties, but only to the extent necessary to give full effect to the assignment, assumption, consent, and novation contemplated hereby. Except as expressly modified by this Assignment Agreement, the Agreement shall remain in full force and effect.

3. Assignment. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, Assignor hereby irrevocably sells, grants, assigns, transfers, conveys, and sets over to Assignee, and Assignee hereby accepts from Assignor, all of Assignors right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under: (i) the Agreement and all of its terms, provisions, and conditions; (ii) all amendments, modifications, supplements, change orders, and extensions thereof existing as of the Effective Date; and (iii) all claims, causes of action, rights to payment, rights to performance, and other rights and interests of Assignor relating to the Agreement after the Effective Date, including without limitation all rights to receive compensation, fees, reimbursements, and any other amounts due or to become due from City under the Agreement.

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4. Scope of Assignment. The assignment made herein is intended to be absolute and to transfer to Assignee all of Assignors rights and interests as Consultant and/or Contractor under the Agreement, such that, from and after the Effective Date, Assignee shall be entitled to stand in the place of Assignor with respect to all such rights and interests, subject to and in accordance with the terms of this Assignment Agreement and the Agreement.

5. No Partial Assignment. The assignment set forth herein constitutes a transfer of the Agreement in its entirety, and not a partial assignment or division of rights or obligations, and does not affect any other contracts between City and Assignor except as expressly set forth herein.

6. Assumption by Assignee.

A. Assumption of Obligations. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, Assignee hereby: (i) accepts the assignment of the Agreement from Assignor as set forth in this Assignment Agreement; and (ii) assumes, undertakes, and agrees to be bound by, perform, pay, discharge, and observe, in accordance with their respective terms, each and every covenant, duty, obligation, and liability of Assignor under the Agreement, whether such covenant, duty, obligation, or liability: (a) arose, accrued, or relates to services performed or to be performed on, before, or after the Effective Date; or (b) arises or accrues after the Effective Date.

B. Specific Assumed Obligations. Without limiting the generality of this Assignment Agreement, Assignee expressly assumes, in accordance with and subject to the terms of the Agreement: (i) all obligations to perform the Services (as defined in the Agreement), including all tasks set forth in Exhibit A (Scope of Services) thereto; (ii) all payment obligations owing to third parties, including sub-consultants and suppliers, in connection with the performance of the Services; (iii) all insurance obligations set forth in Article 4 of the Agreement, including without limitation the procurement and maintenance of: commercial general liability insurance; automobile liability insurance; workers compensation and employers liability insurance (or appropriate declarations in the absence of employees); and professional liability/errors and omissions insurance, in the minimum amounts and with the endorsements required by the Agreement, including the endorsement of City as an additional insured where specified; (iv) all indemnification, hold harmless, and defense obligations set forth in Section 4.12 of the Agreement, which shall apply to Assignee and Assignees officers, employees, agents, and sub-contractors, with the same scope and effect as they applied to Assignor and Assignors officers, employees, agents, and sub-contractors; (v) all obligations regarding service records, reports, ownership of documents, confidentiality, and release of information as set forth in Article 5 of the Agreement; and (vi) all other obligations and duties of Assignor under the Agreement, including without limitation compliance with laws, conflict of interest obligations, non-discrimination obligations, and any other covenants imposed upon Assignor therein.

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7. Continuing Performance. Assignee shall perform the Services and all other obligations under the Agreement in accordance with the highest professional standards and all other performance standards set forth in the Agreement, and acknowledges that City relied upon the experience, knowledge, capability, and reputation of Assignor and its key personnel in awarding the Agreement.

Assignee shall designate a Representative (defined below) acceptable to City and City retains the right to approve or reject key personnel. Assignee designates Drue Pounds as its representative ("Representative").

8. Insurance and Evidence Thereof. On or before the Effective Date (or within such period thereafter as City may approve in writing), Assignee shall provide to City all certificates of insurance, endorsements, and related documentation required under Article 4 of the Agreement, evidencing that Assignee has procured and maintains the insurance coverages required thereunder, with City named as an additional insured where specified, and otherwise fully compliant with the Agreement. Failure to do so shall constitute a default under both this Assignment Agreement and the Agreement. This Assignment shall not become effective until Assignee has provided insurance meeting the requirements of the Agreement and acceptable to City.

9. Consent to Assignment and Assumption. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, City: (i) hereby consents, pursuant to Section 1.14 of the Agreement and any other applicable provision thereof, to the assignment by Assignor to Assignee of all of Assignors right, title, and interest in and to the Agreement, as set forth in this Assignment Agreement; and (ii) hereby consents to and acknowledges the assumption by Assignee of all covenants, duties, obligations, and liabilities of Assignor under the Agreement, as set forth in this Assignment Agreement.

10. Novation; Substitution of Party. Subject to the satisfaction of the conditions set forth herein and in consideration of the mutual covenants herein, City, Assignor, and Assignee hereby agree that, as of the Effective Date: (i) Assignee shall be and is hereby substituted for Assignor as the Consultant and/or Contractor under the Agreement; (ii) the Agreement shall thereafter be deemed to be by and between City and Assignee, and all references in the Agreement to Consultant and/ Contractor shall be deemed to refer to Assignee; and (iii) except as expressly provided in this Assignment Agreement, City hereby releases Assignor from the performance of the covenants, duties, obligations, and liabilities of Consultant and/or Contractor under the Agreement with respect to services and obligations first arising after the Effective Date. Notwithstanding the assignment and assumption contemplated herein, Assignor shall remain responsible and liable for any claim, demand, liability, damage, loss, cost, or expense arising out of or related to the negligent acts, errors, omissions, or willful misconduct of Assignor in the performance of the Agreement.

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Such liability shall survive the Effective Date of this Assignment Agreement and shall not be extinguished or limited by the substitution of Assignee as Consultant and/or Contractor under the Agreement.

11. Pre-Effective Date Matters. Notwithstanding anything herein to the contrary, City: (1) does not waive, and expressly reserves, all rights and remedies it may have against Assignor with respect to any breach, default, claim, cause of action, or liability of Assignor under the Assigned Agreement arising out of or relating to acts, omissions, events, or circumstances occurring or existing prior to the Effective Date; and (ii) retains the right, in its sole discretion, to assert any such rights and remedies against Assignor, Assignee, or both, to the extent permitted by law and this Assignment Agreement.

12. Agreement in Full Force and Effect. City confirms and agrees that, as of the Effective Date (and after giving effect to this Assignment Agreement), the Agreement: (i) remains in full force and effect, unmodified except as expressly provided by this Assignment Agreement and Amendment No. 1; and (ii) is a valid and binding obligation of City and Assignee (as successor to Assignor), enforceable in accordance with its terms, subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors rights generally.

13. No Waiver of Future Rights. Except as expressly set forth in this Assignment Agreement, nothing herein shall be construed as a waiver or relinquishment by City of any right, remedy, protection, or benefit afforded to City under the Agreement or applicable law, all of which are hereby expressly reserved.

14. Representations and Warranties. Each party represents and warrants to the other parties that, as of the Effective Date:

A. Due Organization and Existence. It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization and has all requisite power and authority to own its properties and to carry on its business as now conducted.

B. Authority; Execution and Delivery. It has the full right, power, and authority to enter into this Assignment Agreement and to consummate the transactions contemplated hereby; the execution, delivery, and performance of this Assignment Agreement by such party have been duly authorized by all necessary corporate, limited liability company, municipal, or other action; and this Assignment Agreement has been duly executed and delivered by such party.

C. Binding Obligation. This Assignment Agreement constitutes the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms,

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subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors rights generally.

D. No Conflict. The execution, delivery, and performance of this Assignment Agreement by such Party do not and will not: (i) violate its bylaws, operating agreement, or similar organizational documents; (ii) conflict with or result in a violation or breach of, or constitute a default under, any material contract, agreement, instrument, order, judgment, or decree to which such party is a party or by which it is bound; or (iii) violate any applicable law, rule or regulation in any material respect.

15. Additional Representations and Warranties of Assignor. Assignor further represents and warrants to City and Assignee that, as of the Effective Date:

A. Ownership of Assigned Agreement. Assignor is the lawful holder of all of Assignors right, title, and interest in and to the Agreement, free and clear of any liens, security interests, pledges, encumbrances, or other adverse claims of any nature whatsoever, other than those imposed by the Agreement itself.

B. No Prior Assignment. Assignor has not previously assigned, transferred, or conveyed its interests in the Agreement, in whole or in part, to any other person or entity, and no person or entity other than Assignee shall have any rights as a result of this assignment.

C. Accuracy of Assigned Agreement. The copy of the Agreement attached hereto as Exhibit "A" is a true, complete, and correct copy of the Agreement and Amendment No. 1 (and any other written amendments or modifications existing as of the Effective Date), and there are no other written or oral amendments, modifications, or side agreements with respect thereto, except as disclosed in writing to City and Assignee.

D. No Known Default. To Assignors knowledge, (a) Assignor is not in material default under the Agreement, (b) City is not in material default under the Agreement, and (c) no event has occurred which, with the passage of time or the giving of notice, would constitute a material default by Assignor or City under the Agreement, except as disclosed in writing to City and Assignee prior to the Effective Date. Assignor represents all subcontractors and suppliers have been paid and no claims or liens exist.

E. Compliance with Agreement. Assignor acknowledges and agrees that City's consent to this Assignment Agreement is being obtained pursuant to Section 1.14 of the Agreement, and that no purported assignment, transfer, or change of control of Assignor with respect to the Agreement has been or will be effective unless and until City has provided its express written consent as set forth herein.

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16. Additional Representations and Warranties of Assignee. Assignee further represents and warrants to City and Assignor that, as of the Effective Date:

A. Qualification and Experience. Assignee has, and will maintain during the term of the Agreement, the qualifications, experience, personnel, and facilities necessary to properly perform, in a thorough, competent, and professional manner, the Services and all other obligations required under the Agreement, and is experienced in performing services of the type contemplated therein.

B. Licenses and Approvals. Assignee has obtained and will maintain all licenses, permits, certificates, approvals, and other authorizations required by law to perform the Services under the Agreement within the State of California and within the jurisdiction of City, including but not limited to any required business licenses.

C. Insurance. Assignee either (a) currently maintains or (b) will maintain, contemporaneously with the Effective Date and thereafter during the term of the Assigned Agreement, all insurance coverages required of Consultant and/or Contractor under Article 4 of the Agreement, in the required types, amounts, and with required endorsements, including the naming of City as an additional insured where specified.

D. No Debarment. Assignee has not been debarred, suspended, or otherwise declared ineligible from contracting with any governmental entity, including any state or local agency in the State of California, and to Assignees knowledge no such proceedings are pending or threatened.

17. Indemnification. Assignee agrees to indemnify, defend, and hold harmless the City to the same extent required of the Consultant and/or Contractor under the Agreement.

Nothing in this Assignment Agreement shall be construed to limit or impair City's rights of indemnity, defense, and hold harmless set forth in the Agreement, all of which shall continue in full force and effect as against Assignee (and, to the extent reserved, Assignor) in accordance with the Agreement.

18. Municipal Law Requirements. Nothing in this Assignment Agreement shall be deemed to waive, limit, or modify any requirement under the City of Banning Municipal Code, the California Constitution, or any other applicable law requiring City Council approval or other municipal action with respect to the Agreement or any amendment, extension, or renewal thereof, and this Assignment Agreement is expressly conditioned upon and subject to compliance with all such legal requirements.

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19. Termination Rights of City.

A. Retention of Termination Rights. Nothing in this Assignment Agreement shall be construed to limit, waive, or otherwise modify any termination rights of the City contained in the Agreement. From and after the Effective Date, the City shall retain and may exercise all rights to suspend or terminate the Agreement as provided therein, and such rights shall apply to Assignee in the same manner and to the same extent as they applied to Assignor prior to the Effective Date.

20. Miscellaneous.

A. Further Assurances. Each party shall, upon the reasonable request of any other party, execute and deliver such further instruments and documents and take such additional actions as may be reasonably necessary or appropriate to carry out the intent and purposes of this Assignment Agreement and to effectuate the assignment, assumption, consent, and novation contemplated hereby.

B. Notices. From and after the Effective Date, all notices, demands, and communications required or permitted to be given under the Agreement to Consultant and/or Contractor shall be given to Assignee at the address set forth below (or at such other address as Assignee may hereafter designate in writing). Assignor shall cooperate reasonably with City and Assignee to update contact information and to ensure an orderly transition.

Assignee: **ALL4 LLC**
2393 Kimberton Road Kimberton
Pennsylvania 19442

C. Governing Law; Venue. This Assignment Agreement, and any dispute arising out of or relating to this Assignment Agreement or the transactions contemplated hereby, shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of law rules. The parties agree that venue in any litigation between them shall be in Riverside County, California.

D. Incorporation by Reference. Except as expressly modified herein, all terms, conditions, covenants, and provisions of the Agreement are hereby incorporated into this Assignment Agreement by this reference as though fully set forth herein.

E. Entire Agreement. This Assignment Agreement, together with the Agreement (as attached hereto as Exhibit "A"), constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral, relating to such subject

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matter, including, without limitation, if any, notice by the parties to the extent inconsistent with this Assignment Agreement.

F. Amendments. This Assignment Agreement may be amended, supplemented, or modified only by a written instrument executed by duly authorized representatives of all three Parties and, with respect to City, approved in the manner required for amendments to the Agreement (including City Council approval where required).

G. Severability. If any portion, section, sentence, provision or paragraph of this Assignment Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Assignment Agreement not so affected shall remain in full force and effect.

H. No Third-Party Beneficiaries. Except as expressly provided in the Agreement with respect to City's Indemnitees or other expressly identified beneficiaries, nothing in this Assignment Agreement, express or implied, is intended to or shall confer upon any person or entity other than the parties and their respective permitted successors and assigns any rights, benefits, or remedies of any nature whatsoever.

I. Successors and Assigns. This Assignment Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Any further assignment by Assignee of the Agreement or this Assignment Agreement shall be subject to the assignment restrictions and approval requirements set forth in the Agreement and applicable law.

J. Counterparts; Electronic Signatures. This Assignment Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile, electronic mail in portable document format (PDF), electronic signature platform, or other electronic means shall be deemed original signatures for all purposes and shall have the same force and effect as original wet ink signatures.

K. Interpretation. The headings in this Assignment Agreement are for convenience only and shall not affect the interpretation of any provision. The terms hereof, herein, hereunder, and similar terms refer to this Assignment Agreement as a whole and not to any particular provision. The word including means including without limitation. This Assignment Agreement shall be construed according to its fair meaning and not strictly for or against any party, regardless of which party or its counsel drafted this Assignment Agreement.

L. Attorneys Fees. In any action or proceeding arising out of or relating to this Assignment Agreement, the prevailing party shall be entitled to recover its reasonable attorneys

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fees' and costs, in addition to any other relief to which such prevailing party may be entitled, in a manner generally consistent with the Agreement.

[SIGNATURE ATTACHED BELOW]

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

ASSIGNOR:
VANDERMOST CONSULTING SERVICES, INC. d/b/a VCS ENVIRONMENTAL

By: Julie Beeman

Print Name: Julie Beeman

Date: 4/29/2026

ASSIGNEE:
ALL4 LLC

By: Drue Pounds

Print Name: Drue Pounds

Date: 4/29/2026

CITY:
CITY OF BANNING

By: Elizabeth Gibbs

Print Name: Elizabeth Gibbs

Date: 4/29/2026

ATTEST:

By: Sandra Calderon

Date: 4/29/2026

APPROVED AS TO FORM:

By: John Pinkney
John O. Pinkney, City Attorney

Date: 4/29/2026

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EXHIBIT "A"
AGREEMENT

[ATTACHED BELOW]

AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICES BY AND BETWEEN CITY OF BANNING AND ALL4 LLC

THIS AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **ALL4 LLC**, a Delaware limited liability company ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Vandermost Consulting Services, Inc., a California corporation doing business as VCS Environmental ("VCS") entered into that certain Contract dated January 11, 2023, for the purpose of providing Wetlands Permitting Consulting and Strategy Services ("Agreement") following a sole source procurement, as approved by City Council Resolution 2022-145.

B. City and VCS entered into an Amendment No. 1 to the Agreement dated June 10, 2025, to extend the Term of the Agreement to June 30, 2026, as approved by City Council Resolution 2025-80.

C. City Council Resolution No. 2025-80 authorized an extension of the Agreement through January 11, 2026; however, Amendment No. 1 to the Agreement, dated June 10, 2025, extended the Agreement through June 30, 2026. The parties now desire to clarify and correct the Agreement to reflect that the term was intended to continue through June 30, 2026, consistent with Amendment No. 1.

D. On or around January 16, 2026, Consultant entered into a series of corporate transactions pursuant to certain assets of VCS.

E. On April 29, 2026, City, VCS, and Consultant entered into an Assignment and Assumption Agreement where VCS assigned to Consultant the right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under the Agreement and all of its Amendments.

F. Furthermore, City and Consultant now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2027.

The Parties therefore agree follows:

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

   1.1 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby clarified to confirm that the Agreement was extended through June 30, 2026, pursuant to Amendment No. 1 and is further extended through June 30,

2027, by this Amendment No. 2, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2 all provisions of the Agreement as amended by Amendment Nos. 1 and 2, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval: _____	_____
	NAME: TITLE:
ATTEST:	
_____	
Sandra Calderon Deputy City Clerk	
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
_____	
John O. Pinkney City Attorney	

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

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Brandon Robinson, Electrical Engineering Supervisor** **Art Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-98, Approving Amendment No. 1 to the Professional Services Agreement with Resource Innovations, Inc. for Solar Photovoltaic and Energy Assessment Services**

STAFF RECOMMENDATION:

Adopt Resolution 2026-98

BACKGROUND:

On August 8, 2025, the City of Banning Electric Utility ("BEU") solicited a Request for Proposal (RFP) for Solar Photovoltaic and Energy Assessment Services. On September 11, 2025, the City received a total of five (5) proposals. Following a careful review of the proposals by a selection committee, there was consensus that Richard Heath & Associates, Inc. (RHA) should be recommended for the contract award.

On November 12, 2025, the City Council approved Resolution 2025-162, and the parties entered into a Solar PV & Energy Assessment Services Agreement (the "Agreement") with RHA, and RHA thereafter executed the Agreement on or about March 31, 2026. Prior to the execution of the Agreement, RHA was acquired by Resource Innovation, Inc. (the "Consultant"), and, as part of that acquisition, the Consultant initiated a corporate integration process that included the assignment and transition of RHA's existing contracts to the Consultant. As part of the transition, the Consultant began integrating RHA's existing agreements into the Consultant's name and retiring the RHA brand. Staff requests that the agreement be amended to 1) reflect the assignment of the Agreement from RHA to Consultant, confirm that Consultant has assumed all rights, duties, and obligations of RHA under the Agreement, and ensure uninterrupted service continuity and 2) all parties also desire to amend the Agreement to extend its term for an additional period of one hundred eighty (180) days, consistent with Sections 1.8 and 3.4 of the Agreement

JUSTIFICATION:

Since Section 1.14 of the Agreement prohibits assignment of the Agreement without the express written consent of the City, the City now desires to provide such consent subject to the terms of this amendment to the Agreement. Additionally, the City Attorney's office has reviewed the attached Assignment and Addendum to the Agreement document and has provided their concurrence.

FISCAL IMPACT:

There are no new fiscal impacts associated with this Amendment. The initial Agreement in the amount not-to-exceed $60,000 will remain unchanged. Because this amendment will occur several months after the initial Agreement date, the parties also desire to amend the Agreement to extend its term for an

additional period of one hundred eighty (180) days, consistent with Sections 1.8 and 3.4 of the Agreement. The budget for expenses related to this agreement will be included in the proposed Fiscal Year 2026/27 Operating Budget.

ATTACHMENTS:

1. Resolution 2026-98 - Amendment No. 1_Solar PV & Energy Agreement.docx
2. Assignment and Addendum to PSA Resource Innovations Inc CLEAN 6.1.26.docx
3. Reso 2025-162.pdf
4. Agreement_Richard Heath & Associates Inc.pdf

RESOLUTION 2026-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 OF THE PROFESSIONAL SERVICES AGREEMENT WITH RESOURCE INNOVATIONS, INC. SOLAR PHOTOVOLTAIC AND ENERGY ASSESSMENT SERVICES

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

WHEREAS, Staff solicited a Request for Proposal ("RFP") on August 8, 2025, to procure Solar Photovoltaic and Energy Assessment Services through the City's procurement process; and

WHEREAS, On November 12, 2025, the City Council approved Resolution 2025-162 and the parties entered into that certain Solar PV & Energy Assessment Services Agreement (the "Agreement") with Richard Heath & Associates, Inc. ("RHA"), in the amount not-to-exceed $60,000: $25,000 to complete solar PV and energy assessment related services as a public benefit to utility customers and $35,000 to complete solar PV and energy assessment related services for City projects and future initiatives; and

WHEREAS, Prior to the execution of the Agreement, RHA was acquired by Resource Innovation, Inc. (the "Consultant"), and, as part of that acquisition, the Consultant initiated a corporate integration process that included the assignment and transition of RHA's existing contracts to the Consultant; and

WHEREAS, Section 1.14 of the Agreement prohibits assignment of the Agreement without the express written consent of the City, and the City desires to provide such consent subject to the terms of this amendment to the Agreement; and

WHEREAS, the parties desire to also amend the Agreement to extend the term of the Agreement for an additional period of one hundred eighty (180) days, consistent with Sections 1.8 and 3.4 of the Agreement.

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

SECTION 1. The City Council approves Amendment No. 1 of the MSA with Resource Innovations, Inc. in an amount with a total not-to-exceed $60,000 for one (1) year and subsequent amendments to extend the Agreement for up to four (4) additional one-year terms.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Amendment and to execute the Amendment with Richard Heath & Associates, 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 23rd day of June, 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy 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 2026-98, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

EXHIBIT A
Amendment No.1 to the Agreement

ASSIGNMENT AND AMENDMENT NO. 1
TO
SOLAR PV & ENERGY ASSESSMENT
SERVICES AGREEMENT
City of Banning AND
Richard Heath & Associates, Inc.

THIS ASSIGNMENT AND AMENDMENT NO. 1 ("Addendum"), dated _____ _____ ("Addendum Effective Date"), between **the City of Banning** ("City"), **Resource Innovations, Inc.** (the "Consultant"), a Delaware corporation with a principal address of 400 N. Michigan Avenue, S600, Chicago, Illinois 60611, and **Richard Heath & Associates, Inc.** ("RHA"), a California corporation with a principal address of 590 W. Locust Street, Suite 103 Fresno, California 93560; assigns, modifies, amends and supplements the terms and conditions of the SOLAR PV & ENERGY ASSESSMENT SERVICES AGREEMENT dated as of November 12, 2025 (the "Agreement") between City and the Consultant.

RECITALS

WHEREAS, the Richard Heath & Associates, Inc. ("RHA") was acquired on or about January 28, 2025 by Consultant;

WHEREAS, the City issued Request for Proposals No. 25-107 for Solar Photovoltaic and Energy Assessment Services on or about August 8, 2025, and, following evaluation of proposals received, selected RHA for award of the contract;

WHEREAS, on November 12, 2025, the City Council approved and the parties entered into that certain Solar PV & Energy Assessment Services Agreement (the "Agreement") with RHA, and RHA thereafter executed the Agreement on or about March 31, 2026; and

WHEREAS, prior to the execution of the Agreement, RHA was acquired by Consultant, and, as part of that acquisition, Consultant initiated a corporate integration process that included the assignment and transition of RHA's existing contracts to Consultant;

WHEREAS, in or about February 2026, Consultant began to integrate RHA's existing agreements into Consultants and retire the RHA brand;

WHEREAS, the parties now desire to amend the Agreement to reflect the assignment of the Agreement from RHA to Consultant, confirm that Consultant has assumed all rights, duties, and obligations of RHA under the Agreement, and ensure continuity of services without interruption;

WHEREAS, the Consultant hereby acknowledges and agrees to perform all responsibilities, accept all warranties, and comply with all obligations set forth in the Agreement;

WHEREAS, Section 1.14 of the Agreement prohibits assignment of the Agreement without the express written consent of the City, and the City now desires to provide such consent subject to the terms of this Addendum;

WHEREAS, RHA desires to assign all of its rights, duties, and obligations under the Agreement, as amended, to Consultant, and Consultant desires to accept such assignment and assume all obligations and liabilities arising under the Agreement;

WHEREAS, the City is willing to consent to such assignment and assumption subject to the terms and conditions of this Addendum;

WHEREAS, Section 8.4 of the Agreement provides that any modification to the Agreement be by written agreement between Consultant and City;

WHEREAS, the parties desire to amend the Agreement to extend the term of the Agreement for an additional period of one hundred eighty (180) days, consistent with Sections 1.8 and 3.4 of the Agreement;

WHEREAS, the Consultant represents and warrants that it has full power and authority under its organizational documents to execute and deliver this Addendum, and that no further action or approval is necessary to authorize this Addendum;

WHEREAS, except as expressly amended by this Addendum, the Agreement remains unmodified and in full force and effect;

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, the parties agree as follows:

1. The parties hereby agree that the recitals set forth in this Addendum are deemed incorporated into this Addendum and the Agreement by this reference.

2. Defined Terms. Unless otherwise expressly defined herein, all capitalized terms used in this Addendum shall have the meanings ascribed to them in the Agreement.

3. Assignment. Subject to the terms and conditions of this Addendum and effective as of the Effective Date, RHA hereby irrevocably sells, grants, assigns, transfers, conveys, and sets over to Consultant, and Consultant hereby accepts from RHA, all of RHA's right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under: (i) the Agreement and all of its terms, provisions, and conditions; (ii) all amendments, modifications, supplements, change orders, and extensions thereof existing as of the Effective Date; and (iii) all claims, causes of action, rights to payment, rights to performance, and other rights and interests of RHA relating to the Agreement after the Effective Date, including without limitation all rights to receive compensation, fees, reimbursements, and any other amounts due or to become due from City under the Agreement.

4. Scope of Assignment. The assignment made herein is intended to be absolute and to transfer to Consultant all of RHA's rights and interests as contractor/consultant

under the Agreement, such that, from and after the Effective Date, Consultant shall be entitled to stand in the place of RHA with respect to all such rights and interests, subject to and in accordance with the terms of this Addendum and the Agreement.

5. No Partial Assignment. The assignment set forth herein constitutes a transfer of the Agreement in its entirety, and not a partial assignment or division of rights or obligations.

6. Assumption by Resource Innovations, Inc.

A. Assumption of Obligations. Subject to the terms and conditions of this Addendum and effective as of the Effective Date, Consultant hereby: (i) accepts the assignment of the Agreement from RHA as set forth in this Addendum; and (ii) assumes, undertakes, and agrees to be bound by, perform, pay, discharge, and observe, in accordance with their respective terms, each and every covenant, duty, obligation, and liability of RHA under the Agreement, whether such covenant, duty, obligation, or liability: (a) arose, accrued, or relates to services performed or to be performed on, before, or after the Effective Date; or (b) arises or accrues after the Effective Date.

B. Specific Assumed Obligations. Without limiting the generality of this Addendum, Consultant expressly assumes, in accordance with and subject to the terms of the Agreement: (i) all obligations to perform the Services (as defined in the Agreement), including all tasks set forth in Exhibit A (Scope of Services) thereto; (ii) all payment obligations owing to third parties, including sub-consultants and suppliers, in connection with the performance of the Services; (iii) all insurance obligations set forth in Article 4 of the Agreement, including without limitation the procurement and maintenance of: commercial general liability insurance; automobile liability insurance; workers compensation and employers liability insurance (or appropriate declarations in the absence of employees); and professional liability/errors and omissions insurance, in the minimum amounts and with the endorsements required by the Agreement, including the endorsement of City as an additional insured where specified; (iv) all indemnification, hold harmless, and defense obligations set forth in Section 4.12 of the Agreement, which shall apply to Consultant and Consultant's officers, employees, agents, and sub-contractors, with the same scope and effect as they applied to RHA and RHA's officers, employees, agents, and sub-contractors; (v) all obligations regarding service records, reports, ownership of documents, confidentiality, and release of information as set forth in Article 5 of the Agreement; and (vi) all other obligations and duties of RHA under the Agreement, including without limitation compliance with laws, conflict of interest obligations, non-discrimination obligations, and any other covenants imposed upon RHA therein.

7. Continuing Performance. Consultant shall perform the Services and all other obligations under the Agreement in accordance with the highest professional standards and all other performance standards set forth in the Agreement, and acknowledges that City relied upon the experience, knowledge, capability, and reputation of RHA and its key personnel in awarding the Agreement.

Consultant shall designate a Representative (defined below) acceptable to City and City retains the right to approve or reject key personnel. Consultant designates Roland Mollen as its representative ("Representative").

8. Consent to Assignment and Assumption. Subject to the terms and conditions of this Addendum and effective as of the Effective Date, City: (i) hereby consents, pursuant to Section 1.14 of the Agreement and any other applicable provision thereof, to the assignment by RHA to Consultant of all of RHA's right, title, and interest in and to the Agreement, as set forth in this Addendum; and (ii) hereby consents to and acknowledges the assumption by Consultant of all covenants, duties, obligations, and liabilities of RHA under the Agreement, as set forth in this Addendum.

9. Novation; Substitution of Party. Subject to the satisfaction of the conditions set forth herein and in consideration of the mutual covenants herein, City, RHA, and Consultant hereby agree that, as of the Addendum Effective Date: (i) Consultant shall be and is hereby substituted for RHA as the contractor/consultant under the Agreement; (ii) the Agreement shall thereafter be deemed to be by and between City and Consultant, and all references in the Agreement to contractor/consultant shall be deemed to refer to Resource Innovations, Inc.; and (iii) except as expressly provided in this Addendum, City hereby releases RHA from the performance of the covenants, duties, obligations, and liabilities of contractor/consultant under the Agreement with respect to services and obligations first arising after the Effective Date. Notwithstanding the assignment and assumption contemplated herein, Resource Innovations, Inc. shall be solely responsible and liable for any and all claims, demands, liabilities, damages, losses, costs, and expenses arising out of or related to the acts, errors, omissions, or willful misconduct of RHA in connection with the performance of the Agreement, whether occurring before, on, or after the Effective Date of this Addendum.

10. Additional Representations and Warranties of RHA. RHA further represents and warrants to City and Consultant that, as of the Addendum Effective Date:

A. Ownership of Assigned Agreement. RHA is the lawful holder of all of RHA's right, title, and interest in and to the Agreement, free and clear of any liens, security interests, pledges, encumbrances, or other adverse claims of any nature whatsoever, other than those imposed by the Agreement itself.

B. No Prior Assignment. RHA has not previously assigned, transferred, or conveyed its interests in the Agreement, in whole or in part, to any other person or entity, and no person or entity other than Consultant shall have any rights as a result of this assignment.

C. Accuracy of Assigned Agreement. The copy of the Agreement attached hereto as Exhibit "A" is a true, complete, and correct copy of the Agreement (and any other written amendments or modifications existing as of the Effective Date), and there are no other written or oral amendments, modifications, or side agreements with respect thereto, except as disclosed in writing to City and Consultant.

D. No Known Default. To RHA's knowledge, (a) RHA is not in material default under the Agreement, (b) City is not in material default under the Agreement, and (c) no event has occurred which, with the passage of time or the giving of notice, would constitute a material default by RHA or City under the Agreement, except as disclosed in writing to City and Consultant prior to the Addendum Effective Date. RHA represents all subcontractors and suppliers have been paid and no claims or liens exist.

E. Compliance with Agreement. RHA acknowledges and agrees that City's consent to this Addendum is being obtained pursuant to Section 1.14 of the Agreement, and that no purported assignment, transfer, or change of control of RHA with respect to the Agreement has been or will be effective unless and until City has provided its express written consent as set forth herein.

11. Additional Representations and Warranties of Resource Innovations, Inc. Consultant further represents and warrants to City and RHA that, as of the Effective Date:

A. Qualification and Experience. Consultant has, and will maintain during the term of the Agreement, the qualifications, experience, personnel, and facilities necessary to properly perform, in a thorough, competent, and professional manner, the Services and all other obligations required under the Agreement, and is experienced in performing services of the type contemplated therein.

B. Licenses and Approvals. Consultant has obtained and will maintain all licenses, permits, certificates, approvals, and other authorizations required by law to perform the Services under the Agreement within the State of California and within the jurisdiction of City, including but not limited to any required business licenses.

C. Insurance. Consultant either (a) currently maintains or (b) will maintain, contemporaneously with the Effective Date and thereafter during the term of the Agreement, all insurance coverages required of Consultant under Article 4 of the Agreement, in the required types, amounts, and with required endorsements, including the naming of City as an additional insured where specified.

D. No Debarment. Consultant has not been debarred, suspended, or otherwise declared ineligible from contracting with any governmental entity, including any state or local agency in the State of California, and to Consultant's knowledge no such proceedings are pending or threatened.

12. Pursuant to Sections 1.8 and 3.4 of the Agreement, the term of the Agreement is hereby extended for an additional period of one hundred eighty (180) days beyond its current expiration date. The new expiration date is July 3, 2027. The parties acknowledge that such extension does not exceed the administrative authority of the Contract Officer.

13. No Change in Compensation. This Addendum does not increase the total compensation payable under the Agreement.

14. Conflicts. In the event of any conflict or inconsistency between the terms and provisions of this Addendum and the terms and provisions of the Agreement, the terms and provisions of this Addendum shall control as between the parties, but only to the extent necessary to give full effect to the assignment, assumption, consent, and novation contemplated hereby. Except as expressly modified by this Addendum, the Agreement shall remain in full force and effect.

15. Agreement in Full Force and Effect. City confirms and agrees that, as of the Addendum Effective Date, the Agreement: (i) remains in full force and effect, unmodified except as expressly provided by this Addendum; and (ii) is a valid and binding obligation of City and Consultant (as successor to RHA), enforceable in accordance with its terms, subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors rights generally.

16. No Waiver of Future Rights. Nothing herein shall be construed as a waiver or relinquishment by City of any right, remedy, protection, or benefit afforded to City under this Addendum, Agreement, or applicable law, all of which are hereby expressly reserved.

17. Representations and Warranties. Each party represents and warrants to the other parties that, as of the Effective Date:

A. Due Organization and Existence. It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization and has all requisite power and authority to own its properties and to carry on its business as now conducted.

B. Authority, Execution and Delivery. It has the full right, power, and authority to enter into this Addendum and to consummate the transactions contemplated hereby; the execution, delivery, and performance of this Addendum by such party have been duly authorized by all necessary corporate, limited liability company, municipal, or other action; and this Addendum has been duly executed and delivered by such party.

C. Binding Obligation. This Addendum constitutes the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms, subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors' rights generally.

D. No Conflict. The execution, delivery, and performance of this Addendum by such party do not and will not: (i) violate its bylaws, operating agreement, or similar organizational documents; (ii) conflict with or result in a violation or breach of, or constitute a default under, any material contract, agreement, instrument, order, judgment, or decree to which such party is a party or by which it is bound; or (iii) violate any applicable law, rule or regulation in any material respect.

18. Miscellaneous.

A. Further Assurances. Each party shall, upon the reasonable request of any other party, execute and deliver such further instruments and documents and take such additional actions as may be reasonably necessary or appropriate to carry out the intent and purposes of this Addendum and to effectuate the assignment, assumption, consent, and novation contemplated hereby.

B. Notices. From and after the Effective Date, all notices, demands, and communications required or permitted to be given under the Agreement to Consultant shall be given to Consultant at the address set forth below (or at such other address as Consultant may hereafter designate in writing). RHA shall cooperate reasonably with City and Consultant to update contact information and to ensure an orderly transition.

Consultant: Resource Innovations, Inc.
Attn: Legal Department
400 North Michigan Avenue, Suite 600
Chicago, IL 60611
United States
Email: GeneralCounsel@resource-innovations.com

C. Governing Law, Venue. This Addendum, and any dispute arising out of or relating to this Addendum or the transactions contemplated hereby, shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of law rules. The parties agree that venue in any litigation between them shall be in Riverside County, California.

D. Incorporation by Reference. Except as expressly modified herein, all terms, conditions, covenants, and provisions of the Agreement are hereby incorporated into this Addendum by this reference as though fully set forth herein.

E. Entire Agreement. This Addendum, together with the Agreement (as attached hereto as Exhibit "A"), constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral, relating to such subject matter, including, without limitation, if any, notice by the parties to the extent inconsistent with this Addendum.

F. Amendments. This Addendum may be amended, supplemented, or modified only by a written instrument executed by duly authorized representatives of all three parties and, with respect to City, approved in the manner required for amendments to the Agreement (including City Council approval where required).

G. Severability. If any portion, section, sentence, provision or paragraph of this Addendum is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Addendum not so affected shall remain in full force and effect.

H. No Third-Party Beneficiaries. Except as expressly provided in the Agreement with respect to City's Indemnitees or other expressly identified beneficiaries, nothing in this Addendum, express or implied, is intended to or shall confer upon any person or entity other than the parties and their respective permitted successors and assigns any rights, benefits, or remedies of any nature whatsoever.

I. Successors and Assigns. This Addendum shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Any further assignment by Consultant of the Agreement or this Addendum shall be subject to the assignment restrictions and approval requirements set forth in the Agreement and applicable law.

J. Counterparts; Electronic Signatures. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile, electronic mail in portable document format (PDF), electronic signature platform, or other electronic means shall be deemed original signatures for all purposes and shall have the same force and effect as original wet ink signatures.

K. Interpretation. The headings in this Addendum are for convenience only and shall not affect the interpretation of any provision. The terms hereof, herein, hereunder, and similar terms refer to this Addendum as a whole and not to any particular provision. The word including means including without limitation. This Addendum shall be construed according to its fair meaning and not strictly for or against any party, regardless of which party or its counsel drafted this Addendum.

L. Attorneys Fees. In any action or proceeding arising out of or relating to this Addendum, the prevailing party shall be entitled to recover its reasonable attorneys fees' and costs, in addition to any other relief to which such prevailing party may be entitled, in a manner generally consistent with the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed, each acting under due and proper authority as set forth below as of the Amendment Effective Date.

[*SIGNATURE PAGE FOLLOWS*]

Resource Innovations, Inc.

By: _____

NAME: Lauren Casentini

TITLE: CEO

Date: _____

City of Banning

By: _____

NAME: _____

TITLE: City Manager

Date: _____

Richard Heath & Associates, Inc.

By: _____

NAME: Cynthia Rafferty

TITLE: President

Date: _____

EXHIBIT "A"
AGREEMENT

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Arturo Vela, Interim City Manager**
PREPARED BY:	**Brandon Robinson, Electrical Engineering Supervisor** **Fred Lyn, Deputy Electric Utility Director**
MEETING DATE:	**November 12, 2025**
SUBJECT:	**Consideration of Resolution 2025-162, Approving the Professional Services Agreement with Richard Heath & Associates, Inc. for Solar Photovoltaic and Energy Assessment Services**

RECOMMENDATION:

Adopt of Resolution 2025-162

BACKGROUND:

The City of Banning Electric Utility (BEU) for many years had the benefit of participating in professional services agreements through the Southern California Public Power Authority (SCPPA) at the request of, and on the behalf of, its members through the use the use of Public Benefit Funds. The scope of services performed through these professional services agreements included the exchange of information regarding energy efficiency, assessment of renewable energy projects such as solar photovoltaic (PV) and battery storage installations, research and development programs and low-income assistance services.

BEU has executed task orders with SCPPA for the use of solicited vendors to complete power quality and solar PV assessments for City owned facilities and City electric customers' properties including, but not limited to the following: roof-mounted systems, ground mounted systems, and parking structures. These vendors have also completed several energy audits for BEU's residential customers, businesses and the Banning Unified School District.

In an effort to continue support for distributed energy resource (DER) review and development, power quality, and other energy assessments services, BEU solicited a Request for Proposal (RFP) for Solar Photovoltaic and Energy Assessment Services on August 8, 2025. On September 11, 2025, the City received a total of five (5) proposals for the contract services. Following a careful review of the proposals by a selection committee, there was consensus that Richard Heath & Associates (RHA) should be recommended for contract award.

JUSTIFICATION:

BEU has utilized contracted services to complete solar PV plan check and other energy related assessments as a public benefit to BEU customers for several years. This function allows BEU to execute review and approval of DER projects in a streamlined and timely manner.

In addition to many mandated electric utility reporting and regulatory requirements, California Assembly Bill 723 (2011) requires municipal electric utilities to collect revenues for the following Public Benefit Programs:

- Cost-effective demand-side management services to promote energy efficiency and energy conservation.
- New investments in renewable energy resources and technologies consistent with existing statutes and regulations which promote those resources and technologies.
- Research, development and demonstration programs for the public interest to advance science or technology which is not adequately provided by competitive and regulated markets.
- Services provided for low-income electricity customers, including but not limited to, targeted energy efficiency services and rate discounts.

Several of the services listed within this contract will be eligible for completion through the use of BEU Public Benefit funds.

FISCAL IMPACT:

Staff recommends approval and adoption of the Professional Service Agreement with Richard Heath & Associates, Inc (RHA) in the amount of $60,000 for one (1) year, with the option of four (4) additional one-year extensions.

The fiscal impacts of this one-year agreement are as follows:

- $25,000 to complete solar PV and energy assessment related services as a public benefit to BEU customers as requested. Funds for this task are available in the Public Benefit Fund account 675-7020-473.33-25.
- $35,000 to complete solar PV and energy assessment related services for City projects and other related initiatives. Funds for this task shall be appropriated from the Electric Fund to Professional Services account 670-7000-473.33-11.

ALTERNATIVES:

Reject award to RHA and all other bids and provide alternative direction.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. 2025-162_Reso_Solar___Energy.docx
2. Professional_Services_Agreement_Template_with_Prevailing_Wage_-_provided_by_RWG_4-24-23 (14).docx
3. RFP 25-107_w Addendum 2.pdf
4. Proposal_to_the_City_of_Banning_-_Solar_PV_and_Energy_Assessments.pdf
5. Proposal_to_the_City_of_Banning_-_Solar_PV_and_Energy_Assessments_-_Pricing (1).pdf

AGREEMENT FOR PROFESSIONAL SERVICES (C01227) FOR SOLAR PV & ENERGY ASSESSMENT SERVICES BY AND BETWEEN CITY OF BANNING AND RICHARD HEATH & ASSOCIATES, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: November 12, 2025, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Richard Heath & Associates, 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 25-107) for the performance of the services for Solar PV & Energy Assessment Services 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
Cynthia Rafferty	~~CEO~~ 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 Sixty Thousand Dollars ($60,000.00) (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 January 4, 2027, with an option of four (4) one year extension, 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.

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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: Brandon Robinson Electrical Engineering Supervisor City of Banning 99 East Ramsey Street Banning, California 92220 Email: brobinson@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

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If to Consultant:

Attn: Cynthia Rafferty
~~CEO~~ President
Richard Heath & Associates, Inc.
590 W. Locust Street, Suite 103
Fresno, CA, 93560
Email: contracts@rhainc.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

Arturo Vela 4/3/2026

Art Vela, Date
Intermin City Manager

ATTEST:

Sandra Calderon 4/9/2026

Sandra Calderon Date
~~Acting~~ Deputy City Clerk

APPROVED AS TO FORM:
Slovak Baron Empey Murphy & Pinkney LLP

John Pinkney 1/7/2026

John O. Pinkney Date
City Attorney

CONSULTANT

Cynthia Rafferty 3/31/2026

NAME: Cynthia Rafferty Date
TITLE: President

NAME: Date
TITLE:

94-2625839

Tax ID No.

Address:
590 W Locust
Suite 103
Fresno, CA 93650

City Council Approval: RESO 2025-162

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 Solar PV & Energy Assessment 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:

- Solar Photovoltaic Assessments (IV.A): Assess roof , ground , and parking cover mounted PV systems. Each feasibility study will include site inspections, shading analysis, interconnection review, and financial modeling.
- Power Quality Assessments & Energy Audits for DERs and TE (IV.B): Schedule site visits, document existing systems, and evaluate solar PV, battery storage, microgrids, and demand response. Transportation electrification assessments will include capacity checks, accessibility reviews, EV load forecasting, and phased readiness planning.
- Battery Storage and Resilience: Experience designing and deploying residential battery storage through programs with other utilities. RI RHA can conduct feasibility studies for Banning and share best practices.
- Engineering Support (IV.C): Provide policy and technical guidance to BEU. Review project scope with BEU staff, provide quotes based on approved hourly rates, and deliver services including M&V, simulation modeling, and custom tool development.

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 3/31/2026 **Signature** Cynthia Rafferty

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

The following table summarizes our estimated average hourly unit rates by scope as requested in RFP:

Line Item	Description	Quantity	Unit of Measure	Unit Cost (Blended)	Total
1	Roof Mounted Systems	1	Per Hour	$164.70	$164.70
2	Ground Mounted Systems	1	Per Hour	$180.90	$180.90
3	Parking Cover Mounted Systems	1	Per Hour	$171.85	$171.85
4	Other Solar Applications	1	Per Hour	$162.20	$162.20
5	Power Quality Assessments	1	Per Hour	$191.70	$191.70
6	Engineering Support as Needed	1	Per Hour	$144.93	$144.93

Hourly Fee Schedule Table

Role Classifications	Rates
Energy Engineer Assistant	$103.00
Energy Engineer I	$127.00
Energy Engineer II	$148.00
Energy Engineer III	$177.00
Energy Engineer Manager; Manager	$190.00
Professional Engineer	$204.00
Director of Engineering; Principal	$308.00

1. **Table with % time allocation assumptions used to estimate average hourly cost of Roof Mounted Assessments:**

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	10%	$10.30
Energy Engineer I	$127.00	15%	$19.05
Energy Engineer II	$148.00	25%	$37.00
Energy Engineer III	$177.00	25%	$44.25
Energy Engineer Manager	$190.00	15%	$28.50
Professional Engineer	$204.00	5%	$10.20
Director of Engineering	$308.00	5%	$15.40
Blended Rate (Unit Cost)			$164.70

2. **Table with % time allocation assumptions used to estimate average hourly cost of Ground Mounted Systems Assessments:**

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	5%	$5.15
Energy Engineer I	$127.00	10%	$12.70
Energy Engineer II	$148.00	20%	$29.60
Energy Engineer III	$177.00	25%	$44.25
Energy Engineer Manager	$190.00	20%	$38.00
Professional Engineer	$204.00	10%	$20.40
Director of Engineering	$308.00	10%	$30.80
Blended Rate (Unit Cost)			$180.90

3. Table with % time allocation assumptions used to estimate average hourly cost of Parking Cover Mounted Systems Assessments:

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	5%	$5.15
Energy Engineer I	$127.00	15%	$19.05
Energy Engineer II	$148.00	20%	$29.60
Energy Engineer III	$177.00	25%	$44.25
Energy Engineer Manager	$190.00	20%	$38.00
Professional Engineer	$204.00	10%	$20.40
Director of Engineering	$308.00	5%	$15.40
Blended Rate (Unit Cost)			$171.85

4. Table with % time allocation assumptions used to estimate average hourly cost of Other Solar Applications Assessments:

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	10%	$10.30
Energy Engineer I	$127.00	20%	$25.40
Energy Engineer II	$148.00	25%	$37.00
Energy Engineer III	$177.00	20%	$35.40
Energy Engineer Manager	$190.00	15%	$28.50
Professional Engineer	$204.00	5%	$10.20
Director of Engineering	$308.00	5%	$15.40
Blended Rate (Unit Cost)			$162.20

5. **Table with % time allocation assumptions used to estimate average hourly cost of <u>Power Quality Assessments</u>:**

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	5%	$5.15
Energy Engineer I	$127.00	5%	$6.35
Energy Engineer II	$148.00	10%	$14.80
Energy Engineer III	$177.00	20%	$35.40
Energy Engineer Manager	$190.00	20%	$38.00
Professional Engineer	$204.00	30%	$61.20
Director of Engineering	$308.00	10%	$30.80
Blended Rate (Unit Cost)			$191.70

6. **Table with % time allocation assumptions used to estimate average hourly cost of <u>Engineering Support</u> as Needed:**

Role Classification	Hourly Rate (from Rates)	% Time Allocation	Weighted Cost Contribution
Energy Engineer Assistant	$103.00	25%	$25.75
Energy Engineer I	$127.00	25%	$31.75
Energy Engineer II	$148.00	20%	$29.60
Energy Engineer III	$177.00	15%	$26.55
Energy Engineer Manager	$190.00	10%	$19.00
Professional Engineer	$204.00	3%	$6.12
Director of Engineering	$308.00	2%	$6.16
Blended Rate (Unit Cost)			$144.93

Role Classification	Hourly Rate	Responsibilities
Energy Engineer Assistant	$103	Supports field data collection, preliminary calculations, documentation, and administrative coordination under supervision of senior staff.
Energy Engineer I	$127	Conducts site assessments, prepares baseline energy models, drafts technical reports, and assists in solar/DER feasibility evaluations.
Energy Engineer II	$148	Performs detailed design reviews, develops simulation models, supports interconnection analysis, and leads field audit teams.
Energy Engineer III	$177	Senior-level technical engineer responsible for complex system analysis, oversight of feasibility studies, QA/QC review of modeling, and preparation of final recommendations.
Energy Engineer Manager	$190	Provides day-to-day project management, staff coordination, schedule management, and client communications. Ensures project deliverables meet technical standards.
Professional Engineer (PE)	$204	Licensed engineer responsible for signing/stamping calculations and reports, ensuring compliance with codes,

		standards, and regulatory requirements. Provides oversight for system safety and interconnection studies.
Director of Engineering	$308	Provides executive level technical oversight, ensures compliance with City and utility standards, supports stakeholder engagement, and serves as escalation point for technical or contractual matters.

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

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

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

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III. EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

Table 1. Project Tasks, Duration, and Deliverables

Task	Duration	Deliverable
Kick-off Meeting with City	1 day	Confirm project scope with BEU staff
Database Setup	2 weeks	Establish a project in BEU's custom database
Contract Execution	1 week	Executed agreement and mobilization
Appointment Scheduling & Documentation	1 week	Once an assessment is requested. RI RHA will secure customer appointments and gather documentation
Field Assessments	1-5 days	On site audit and technical data collection
Simulations, Calculations & Modeling	1-2 weeks	Draft analyses and models
Report Development	1-2 weeks	Draft audit/assessment report
Report Review & Presentation	1 day	Virtual meeting with customer and BEU staff; submit final report
Additional Support (if requested by BEU)	As needed	Added to project timelines per BEU direction

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Ralph Wright, Parks and Recreation Director**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-99, Approving the Agreement with Riverside County Children and Families Commission Allowing the City of Banning to Provide Swim Lessons Scholarships to Eligible Children Under the Age of Five**

STAFF RECOMMENDATION:

Adopt Resolution 2026-99

BACKGROUND:

The Riverside County Children and Families Commission provides services through First Five California to support and optimize early childhood development for children from prenatal to the age of five. The funding for these programs and services was established and provided beginning in 1998 through the California Children and Families Act (Proposition 10). One of the First Five California service areas, through their mission, is to provide programming that emphasizes children's health and drowning prevention programs, like Learn to Swim programs, which are an avenue to deliver this service.

The Riverside County Children and Families Commission partnered with the City of Banning Parks and Recreation Department by offering up to 100 scholarships for eligible children 6 months of age through 5 years of age. The term of the agreement was from April 1, 2025, through June 30, 2026. During this period, the City registered over 33 eligible participants through the grant program, and all registration fees were supported by the grant for these registrants.

The Riverside County Children and Family Commission has offered to enter into a new fourteen-month agreement for the remainder of the 2026 and 2027 aquatic season. The grant would have a maximum funding of a Not to Exceed amount of $4,000. The Banning Parks and Recreation Department would allow eligible registrants to participate in this program within the existing swim lessons program and schedule. Depending on participation levels, the department may create additional swim lesson sessions in the 2026 or 2027 aquatic season specifically for this program. There is no added cost to the City from offering these programs, and all program costs will be reimbursed from the funds provided under this agreement.

The scholarship program will provide swim lessons to eligible children ages six months to five years, with priority given to families eligible for public assistance, those who have experienced near drowning, or those at risk for drowning, as well as families served by First 5 Riverside County Funded agency. Lessons will be offered on a first-come, first-served basis to families that meet one or more of the following criteria:

- Children served by a First 5 Riverside County-funded agency.
- Children who have experienced a near drowning or who are at a greater risk for drowning (ex.

child who lives near an open body of water)
- Children of families eligible for public assistance, including but not limited to:
    - CalWorks
    - CalFresh
    - Medi-Cal
    - WIC
    - Quality Start Riverside County CAPP/RHAP
    - Other Criteria as approved by First 5 Riverside County that define eligibility

Participating children must be at least six months old to enroll. Priority enrollment will be given to children who are high risk for drowning: those living in a home with access to a pool, have a family member with a pool, infants/toddlers, children who have experienced a near drowning, and children involved in the child welfare system.

JUSTIFICATION:

The agreement with Riverside County Children and Families Commission will provide scholarships to eligible children in the community that might otherwise be unable to participate and without participation in drowning prevention and learn to swim programs could put them at risk for accidental drowning and negative health impacts.

FISCAL IMPACT:

All programming costs incurred by the City for the swim lessons associated with the agreement will be completely reimbursed by the provided scholarships. There is minimal staff time associated with reporting, as the City of Banning will be responsible for providing demographic information and results to the Riverside County Children and Families Commission, along with monthly and quarterly reimbursement requests. The budget for expenditures related to this grant will be included in the proposed Fiscal Year 2026/27 Operating Budget.

ATTACHMENTS:

1. Att_1_Resolution_2026-99_Agreement_with_RCCFC_Learn_to_Swim_Program.docx
2. Draft__RCCFSC_and_COB_Swim_Lessons_agreement_7.1.26-8.31.27-_unsigned.docx

RESOLUTION 2026-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE AGREEMENT WITH RIVERSIDE COUNTY CHILDREN AND FAMILIES COMMISSION TO ALLOW THE CITY TO PROVIDE SWIM LESSONS SCHOLARSHIPS TO ELIGIBLE CHILDREN UNDER THE AGE OF FIVE

WHEREAS, the Riverside County Children and Family Commission is an assembly of Commissioners appointed by the Riverside County Board of Supervisors responsible for directing Proposition 10 funds; and

WHEREAS, Proposition 10 established First 5 California and supports and optimizes early childhood development programs that emphasize child health and other services and programs for children prenatal through age 5; and

WHEREAS, one program area that serves the First 5 California mission and the health and safety of children under the age of 5 are drowning prevention programs like learn to swim programs; and

WHEREAS, Riverside County Children and Family Services Commission has funding available for swim lessons program for children under 5 years of age; and

WHEREAS, The City of Banning Parks and Recreation Department offers a variety of healthy, affordable, and safe activities in the Repplier Park Aquatic Center including a learn-to-swim program for children 6 months through 5 years of age; and

WHEREAS, The City Council of the City of Banning adopted Resolution 2025-33 on March 11, 2025 approving an agreement with Riverside County Children and Family Services Commission with a term of fifteen months, from April 1, 2025-June 30, 2026; and

WHEREAS, The City of Banning complied with all requirements of the grant during the initial term and 33 children ages 6 months through 5 years of age took advantage of the program scholarship and were provided with important swim lessons skills; and

WHEREAS, The Riverside County Children and Families Service Commission would like to enter into a new contract to provide up to 80 swim lessons for children under the age of 5 with the City of Banning Parks and Recreation Department; and

WHEREAS, The City of Banning would like to enter into a new agreement with a fourteen-month term, effective from July 1, 2026 through August 31, 2027.

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

SECTION 1. The City Council approves the agreement with Riverside County Children and Families Commission for the Investment of Funds for a 14-month term for a maximum reimbursement amount of Four Thousand dollars and no cents ($4,000.00).

SECTION 2. The City Council authorizes the City Manager or her designees to make non-substantive changes and to execute the agreement with Riverside County Children and Families Commission on behalf of the City Council.

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

SECTION 4. The City Clerk shall certify 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 23th day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-99, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit A

Draft Agreement with RCCFC for Swim lessons – July 1, 2026-August 31, 2027

RIVERSIDE COUNTY CHILDREN AND FAMILIES COMMISSION CONTRACT INVESTMENT OF FUNDS
585 Technology Court
Riverside, California 92507

RCCFC AWARD:	**CF26126**
CONTRACTOR:	**City of Banning**
CONTRACT TERM:	**07/01/2026 – 08/31/2027**
MAXIMUM REIMBURSABLE AMOUNT:	**$4,000**

Compensation: The CONTRACTOR designated above is hereby certified for an Investment of Funds in an amount not to exceed **FOUR THOUSAND DOLLARS ($4,000)** over the life of the Contract, as awarded by the Riverside County Children and Families Commission, also known as First 5 Riverside County, (hereinafter the "COMMISSION" or "COUNTY"), provided pursuant to the California Children and Families Act of 1998, also known as Proposition 10 (CA Health and Safety Code § 130100-130155), or other COMMISSION administered funds to provide services and results as set forth in Attachments A, B, C and D attached hereto as incorporated herein by reference.

IN WITNESS WHEREOF, COMMISSION and CONTRACTOR have executed this Contract.

Authorized Signature for COMMISSION:	**Authorized Signature for CONTRACTOR:**
Charna Widby, Executive Director	Elizabeth Gibbs, City Manager and Authorized Signatory
Date Signed:	Date Signed:
585 Technology Court Riverside, CA 92507-2423	99 East Ramsey Street Banning, CA 92220
APPROVED AS TO FORM SIGNATURE: Kristine Bell-Valdez	
Kristine Bell-Valdez Supervising Deputy County Counsel	
Date Signed: 06/10/2026	
ATTEST SIGNATURE:	
Lynn M. Stephens Executive Assistant IV	
Date Signed:	

RIVERSIDE COUNTY CHILDREN AND FAMILIES COMMISSION

CONTRACT TERMS AND CONDITIONS

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Terms and Conditions

1. NOTICES

All correspondence and notices required or contemplated by this Contract shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one day after deposit in the United States mail, postage prepaid:

COMMISSION:	**CONTRACTOR:**
Charna Widby	Elizabeth Gibbs
Executive Director	City Manager First 5 Riverside County
99 East Ramsey Street	
585 Technology Court	Banning, CA 92220
Riverside, CA 92507	

Or to such other address as the parties may hereafter designate in writing.

2. SOURCE AND SCOPE OF CONTRACT

A. The COMMISSION, created by California Children and Families Act of 1998, also known as Proposition 10 (CA Health and Safety Code § 130100- 130155), was established by the County of Riverside in Riverside County Ordinance No. 784 as a department of the County that maintains its statutority established independant authority.

B. This Contract award is valid and enforceable only if sufficient funds are available to the COMMISSION from Proposition 10 tax dollars or other COMMISSION administered funds for the total term of the Contract. It is mutually agreed that if sufficient funds are not available this Contract shall be amended to reflect any reduction in funds.

C. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the State of California, which may affect the provisions, terms, or funding of this Contract in any manner.

D. This Contract award is designated for an investment of funds to provide services to address Child Health & Development, Quality Early Learning or Resilient Families in accordance with the current COMMISSION Strategic Plan. Services shall align with the goals of Proposition 10 and/or other designated funding streams and shall be implemented in accordance with applicable restrictions, guidelines, and reporting requirements.

E. Appendix I: Special Terms and Conditions, and Attachments A: Scope of Work, B: Budget, C: Payment Provisions, D: Comprehensive Tobacco Control Policy, E: Business Associate Agreement, F: Use of Data and Confidentiality, G: Remote Access User Agreement, and H: Whole Person Health Score Assessment Master Agreement, are attached hereto and incorporated herein.

3. DEFINITIONS

Terminology included within the Terms and Conditions of the Contract are defined by the Riverside County Children & Families Commission as stated below:

Commission: The Riverside County Children & Families Commission, an assembly of Commissioners appointed by the Riverside County Board of Supervisors, which is responsible for establishing policy and directing Proposition 10 funds at the County level.

Contractor: The government or other legal entity to which the Contract is awarded and which shall be accountable to the Commission for the use of funds provided.

County: The Riverside County Children & Families Commission, the County of Riverside, its Agencies, Districts, Special Districts and Departments, respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives.

Data Management System: An online data management system used to collect and analyze client demographics, services, and target accomplishments.

Executive Director: The designated lead director of the Commission.

Fiscal Year: The Commission's fiscal year is July 1 through June 30.

Performance Target: The specific results that a CONTRACTOR will commit to achieving as outlined in the Scope of Work.

Performance Target Accomplishment Schedule: The specific timeline that a CONTRACTOR will commit to adhere to achieving specific results as outlined in the Scope of Work.

Probationary Status: CONTRACTOR is given notice of non-compliance after failing to correct deficiencies and has been placed in a status that may require additional monitoring, announced and unannounced visits, additional reporting by CONTRACTOR, an evaluation by COMMISSION staff and a report to the COMMISSION inclusive of recommendations regarding the disposition of the Contract.

Scope of Work (SOW): A documented qualitative and quantitative description of the project deliverables (i.e, what the CONTRACTOR is funded to do).

4. TERM

The term of this Contract shall be from **07/01/2026** through **08/31/2027** unless terminated sooner by the provisions herein by either party. Funds shall not be automatically renewed by the COMMISSION upon or after the term of the Contract except by formal amendment approved by the COMMISSION.

5. COMPLIANCE, DISALLOWANCE, WITHHOLDING

If CONTRACTOR fails to comply with any conditions contained within this Contract, the COMMISSION may place the CONTRACTOR in a probationary status, temporarily withhold payments until the deficiency is corrected, deny funds for all or part of the cost of activity not in compliance, and/or request repayment to the COMMISSION if any disallowance is rendered after audit findings. Written notification of non-compliance will be sent to the identified contact person and the CONTRACTOR's Executive Director or other lead staff authorized by the CONTRACTOR's governing board or ownership within twenty (20) working days.

6. TERMINATION

A. By COMMISSION: The COMMISSION may, by written notice to CONTRACTOR, terminate this Contract in whole or in part at any time for the reasons as set forth below. Upon receipt of notice, the CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise).

1. Termination for cause:

a. Due to Default or Breach of Contract. Upon default by the CONTRACTOR in the performance of this Contract or material breach of any of its provisions which include but are not limited to; change in status or delegation, assignment or alteration of the services outlined in Attachment A of this Contract, the COMMISSION may immediately terminate this Contract by written notice, which shall be effective upon receipt by CONTRACTOR, unless COMMISSION provides CONTRACTOR the opportunity to

cure breach within twenty (20) working days of receipt of notice, and CONTRACTOR does so to COMMISSION's satisfaction.

b. **Due to Health and Safety Concerns of Clients.** The COMMISSION may immediately terminate this Contract, at the sole discretion of the COMMISSION when the CONTRACTOR has been accused and found to be in violation of any county, state, or federal law and/or regulation related to the health and safety of clients. The Contract may also be immediately terminated at the sole discretion of the COMMISSION if the CONTRACTOR fails to provide for the health and safety of clients served under this Contract where the health and safety of clients are placed at risk by CONTRACTOR.

c. **Due to Non-Appropriation.** It is mutually agreed that if either the federal or state budget of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract shall be of no further force and effect. In this event, the COMMISSION shall have no liability to pay any funds whatsoever to the CONTRACTOR or to furnish any other considerations under this Contract and CONTRACTOR shall not be obligated to perform any provisions of this Contract. If funding for any fiscal year is reduced or deleted by the federal or state budgetary process for purposes of this program, the COMMISSION shall have the option to either cancel this Contract with no liability occurring to the COMMISSION or offer a Contract amendment to CONTRACTOR to reflect the reduced amount.

d. **Due to Non-Compliance.** Termination may occur if CONTRACTOR fails to provide the COMMISSION with any reports, data and information as required in this Contract. CONTRACTOR may be placed in a probationary status until compliance with the terms of the Contract has been met. CONTRACTOR will be given thirty (30) calendar days after the date of written notice by COMMISSION to cure the deficiency. If compliance is not met within the thirty (30) calendar days, the COMMISSION may move forward with termination of the Contract.

e. **Without Cause.** COMMISSION may terminate this Contract without cause upon thirty (30) days' written notice served upon the CONTRACTOR stating the extent and effective date of termination.

B. **By CONTRACTOR**: CONTRACTOR may terminate this Contract in whole or in part upon thirty (30) calendar days' written notice to the COMMISSION.

7. REQUIREMENT OF SUPPLEMENTING PROGRAM

Funds received pursuant to this Contract shall not be used to supplant any program of the CONTRACTOR. Proposition 10 funds shall ONLY be used to supplement a CONTRACTOR's program. The COMMISSION endorses the California Children and Families Commission's interpretation of supplanting: The definition of "supplement" is to add to or augment something that currently exists, while "supplant" is defined as taking the place of something currently in existence. As defined in Health and Safety Code sections 130100 et seq. (the Children and Families Act), all monies raised pursuant to the Act shall be appropriated and expended by CONTRACTOR only to supplement existing levels of services. The Act specifically prohibits appropriation and expenditure of funds to supplant state or local general fund money for any purpose. Further, expenditures are prohibited for use to fund any existing levels of service.

8. DATA MANAGEMENT

CONTRACTOR agrees to participate in a comprehensive, countywide, internet-based evaluation and management process as defined by the COMMISSION. Participation shall include, but is not limited to, monthly input of program and financial data, submission of quarterly and annual

Program Progress Reports (PPR), utilization of the COMMISSION developed reporting systems and Administrative Review formats and required training(s) to familiarize and implement the results-based accountability framework. The COMMISSION continues to refine its evaluative processes that will assist the COMMISSION, its CONTRACTORS and the community to successfully increase and measure the impact of Proposition 10 in Riverside County. Where appropriate, CONTRACTOR agrees to participate in the ongoing development of these evaluative processes. Specific areas may include but are not limited to, the development of outcomes for programmatic performance, standards for service delivery, and assessment tools.

9. SCOPE OF WORK (SOW)

A. CONTRACTOR will be required to submit and adhere to a SOW approved by the COMMISSION and attached to this Contract. The SOW will accurately reflect the measurable results of services provided through Proposition 10 funding. The SOW will provide a qualitative and quantitative description of program(s) objectives to be achieved in connection with Proposition 10 funding.

B. The SOW (Attachment A) will be amended each fiscal year of the Contract Term to confirm or adjust specific qualitative and/or quantitative targets for the respective year.

C. SOW revisions that are considered relatively minor adjustments that do not affect the overall deliverables of this Contract shall be accepted for consideration through March 31st of each fiscal year. Requests for these types of SOW adjustments must be submitted to the COMMISSION office in writing or via e-mail and shall not be implemented by CONTRACTOR prior to receipt of written approval from authorized COMMISSION personnel. Upon approval, CONTRACTOR will receive either written or e-mail verification from the COMMISSION Executive Director.

D. SOW revisions that are considered significant changes to program performance targets and affect the overall deliverables of this Contract include the following: changes that result in the type of customer or numbers served, new staff positions or major staff changes, or significant changes in the Performance Targets. Requests for these types of SOW changes shall be accepted for consideration through March 31 of each fiscal year. SOW revisions shall be submitted to the COMMISSION Executive Director, via the COMMISSION's Contracts & Grants Analyst assigned to the CONTRACTOR. The COMMISSION Executive Director will respond to the proposed request for SOW revisions within thirty (30) calendar days after receipt at the COMMISSION office. Final approval of any proposed revisions to the SOW shall require the written approval of the COMMISSION Executive Director. All changes will be incorporated into the Contract and shall become effective on the date of written approval from the COMMISSION Executive Director and/or the COMMISSION.

E. CONTRACTOR agrees to make every possible effort to obtain voluntary consent using the COMMISSION Consent Form for any customer entered into the data management system. CONTRACTOR also agrees to maintain the original signed Consent Form on file for the COMMISSION to review as necessary. Each customer is to receive a copy of the signed Consent Form.

10. REIMBURSEMENT OF COSTS

Payment will not be provided for services performed and/or expenditures accrued prior to the full execution of this Contract unless previously authorized by COMMISSION action. Reimbursement of costs shall be made upon CONTRACTOR'S satisfactory performance, based upon the SOW and methodology contained in Attachment A as determined by the COMMISSION. The COMMISSION shall allocate the funds to CONTRACTOR as follows:

A. All funds provided pursuant to this Contract shall be expended by CONTRACTOR in accordance with the Budget attached hereto.

B. All funds will be distributed as detailed in the attached Payment Provisions, attached hereto.

11. FISCAL AND PROGRAM REPORTING REQUIREMENTS

A. Fiscal Reporting

Fiscal expenditures are required to be input into the data management system by CONTRACTOR on a monthly basis with input completed and submitted by the 20th of the month following Contract performance for expenditures occurring in the 1st, 2nd and 3rd quarters of the fiscal year (July through March). Fiscal expenditures occurring in the 4th quarter (April, May and June) will be required to be input into the data management system on earlier modified due dates to support COUNTY internal deadlines and external audit requirements. These due dates will be communicated to CONTRACTOR through the COMMISSION's Contracts and Grants Analyst assigned to the CONTRACTOR. CONTRACTOR is required to report expenditures on a monthly basis and apply accruals at year-end. Accruals show costs for services that have occurred but have not yet been paid. If the reporting due date falls on a weekend or County, State or nationally recognized holiday, the due date will be on the following business day. Any changes that occur with expenditures must be reported to COMMISSION staff and adjusted within the data management system before the end of the Quarter following the expense occurrence. Example: Changes to expenditures in the first quarter of performance must be adjusted and reconciled before the end of the second quarter (December 30, as reported in the January 30 report). CONTRACTOR will uphold monthly fiscal reporting responsibility even in the during staff changes or other challenges.

In rare and justifiable circumstances, an extension may be requested by the CONTRACTOR. Such requests are to be submitted in writing prior to the due date and shall be directed through the COMMISSION's Contracts and Grants Analyst assigned to the CONTRACTOR.

If applicable, CONTRACTOR shall provide copies of the claim report submitted monthly for Medi-Cal and/or any other state or federal reimbursements. In addition, the CONTRACTOR will provide the subsequent revenue reports that will reconcile the claim reports.

Costs may be allowed and reviewed for reimbursement up to the time of the Final Fiscal Expenditure Report, which is due as described in paragraph one of this section. All reimbursement costs not submitted at the time of the Final Fiscal Expenditure Report will be disallowed.

Payment information, including amount, payment reduction or payment withheld may be obtained by the CONTRACTOR via the data management system.

B. Program Reporting

As requested by COMMISSION, CONTRACTOR shall participate in research and evaluation studies designed to show the effectiveness of CONTRACTOR'S services or to provide information about CONTRACTOR'S program. CONTRACTOR shall report program and demographic data on participants, where appropriate, service and outcome data with measurement tools approved by COMMISSION. CONTRACTOR shall enter data (quantitative and qualitative) in the evaluation database system designated by COMMISSION. CONTRACTOR shall submit complete data, in accordance with the SOW.

C. Monthly Reporting

CONTRACTOR shall input and submit program data into the COMMISSION's data management system on a monthly basis and input must be completed by the 20th of the month following Contract performance. If the reporting due date falls on a weekend or holiday, the due date will be on the following business day. The due date for program data submitted in the 4th quarter (April, May and June) may be modified by COMMISSION as required to meet internal

COUNTY and State reporting deadlines. Modified due dates will be communicated to CONTRACTOR through the COMMISSION's Contracts and Grants Analyst assigned to the CONTRACTOR. Any changes that occur with program data input must be reported to COMMISSION staff and adjusted within the data management system before the end of the Quarter following the change.

Example: Changes to program data in the first quarter must be adjusted and reconciled before the end of the 2nd quarter (December 30th, as reported in the January 30th report). A change in CONTRACTOR staff, or other difficulties, does not absolve the CONTRACTOR from this monthly program data input and quarterly Program Progress Report (PPR) responsibility.

D. Quarterly and Annual Reporting

CONTRACTOR shall submit Program Progress Reports (PPR) which include quarterly and year-to-date progress on actual achievement of performance targets compared to projected achievements as detailed in the SOW and other data collection information as requested by the COMMISSION. The PPR shall include narrative information on lessons learned, course corrections, client success stories, sustainability and public awareness/policy change activities for the quarter. CONTRACTOR is required by the COMMISSION to complete and submit Program Progress Reports electronically via the COMMISSION's data management system.

For each reporting period, CONTRACTOR shall provide the COMMISSION with a Program Progress Report within thirty (30) calendar days from the end of the reporting period. In rare and justifiable circumstances, an extension may be requested by the CONTRACTOR. Such requests are to be submitted in writing prior to the due date and shall be directed through COMMISSION's Contracts and Grants Analyst assigned to the CONTRACTOR. Quarterly Program Progress Reporting due dates for each Contract period are as follows:

- QUARTER 1 (July 1 – September 30): Report Due October 20
- QUARTER 2 (October 1 – December 31): Report Due January 20
- QUARTER 3 (January 1 – March 31): Report Due April 20
- QUARTER 4 (April 1 – June 30): Report Due July 11 (Final Cumulative Program Progress Report), Quarter 4 due date may be modified by COMMISSION as necessary to meet County and/or State reporting deadlines.

If the due date falls on a weekend or County, State or nationally recognized holiday, the due date will be on the following business day. The first quarterly report is due October 20th of the current fiscal year.

CONTRACTOR agrees that failure to submit reports as specified will be sufficient cause for the COMMISSION to withhold any payment due until reporting requirements have been fulfilled.

12. <u>REIMBURSEMENT OF FUNDS TO THE COMMISSION</u>

If CONTRACTOR has been overpaid in the previous fiscal year, the COMMISSION will, in instances where the Contract is renewed, reduce subsequent payment(s) to recover the amount overpaid.

Notwithstanding any other provision herein, CONTRACTOR agrees to reimburse, in full, all funds received from the COMMISSION, upon request of the COMMISSION, where such funds as determined by the COMMISSION are not or have not been utilized by CONTRACTOR for purpose as intended by the COMMISSION. The terms and conditions of reimbursement shall be at the sole discretion of the COMMISSION. This provision is not terminated upon termination of this Contract.

13. COMMISSION FISCAL REQUIREMENTS

A. Diversifying Funding Sources

The COMMISSION may administer funding from sources other than Proposition 10. Contracts funded by such sources shall be subject to restrictions and terms and conditions outlined by the funded stream, including allowable expenditures, indirect cost percentages. reporting requirements, and timelines. In cases where funding restrictions conflict, the terms shall default to the more restrictive funding source, as determined by the COMMISSION in consultation with County Counsel.

B. Budget Revisions

Budget Revision Form may be submitted by the CONTRACTOR to the COMMISSION to modify budget line(s) of the approved budget. The request must indicate the proposed line-item change, the budget as amended applying the requested change, a written justification for each requested change, and signed by an authorized representative. For the purposes of Budget Revisions, electronic submittal of a budget revision request in the Commission data system by an authorized representative shall be accepted as signed by an authorized representative. The request cannot result in any alteration or degradation to the program services and performance targets as specified in this Contract.

The COMMISSION Executive Director, on behalf of the COMMISSION, has the authority to approve or deny the request, provided that the modification does not deviate from the original intent of the Contract or increase the total Contract amount. CONTRACTOR is limited to three (3) budget revisions, one for each of the first three (3) quarters of the fiscal year.

The CONTRACTOR must submit any Budget Revision Forms to the COMMISSION no later than **April 15th** of the fiscal year.

C. Amendments

Necessity for budget amendments to this Contract will be determined by the COMMISSION Executive Director and may include, but are not limited to, Contract increases or decreases and significant changes to the Scope of Work (SOW). All budget amendments to the Contract shall require formal approval of the COMMISSION Executive Director (acting on behalf of the COMMISSION), as provided herein before such amendments are effective. Major budget amendments, as determined by the COMMISSION Executive Director, in consultation with County legal counsel, will require formal approval of the COMMISSION. Contract budget amendments shall be considered until March 31st of each fiscal year.

D. Cost Allocation Plan

CONTRACTOR shall have or will establish a Cost Allocation Plan (CAP) to identify prorated costs shared by multiple funding sources, including Proposition 10 funds. CONTRACTOR shall identify any other funding sources and organizations whose cooperation/participation is necessary to ensure the success of the project. CONTRACTOR'S CAP must be approved by CONTRACTOR'S appropriate governing body and submitted with the executed Contract.

A CAP is defined as a written summarization that documents the methods and procedures CONTRACTOR will use to allocate costs between two or more programs or funding sources. The goal is to ensure that each program or funding source bears its fair share, and only its fair share, of the total costs. The CONTRACTOR must have a method of identifying and distributing program costs that are comprehensive, well documented, and defensible under the Generally Accepted Accounting Principles (GAAP).

A written CAP is required if <u>any</u> of the conditions below are met:

a. Funded staff members share time between a COMMISSION-funded program and one or more other grant-funded program.

b. A single-funded staff member shares time between two or more COMMISSION-funded programs.

c. The same facilities and/or resources are utilized by more than one funded program.

E. Overhead/Indirect Costs

1. Overhead/Indirect costs are defined as costs incurred for a common or joint purpose benefiting more than one cost objective and cannot be readily identified with a particular final cost objective. These costs do not provide a measurable, direct benefit to a particular program or activity, unlike direct costs. Indirect cost may include salaries and benefits. For the purpose of this Contract, operational expenses, capital expenses, and subcontractor costs are **excluded** from the indirect cost calculation.

2. Indirect cost percentage rate included in the Budget, to this Contact, shall not exceed ten percent (10%) calculated against the salaries and benefits expenses only.

3. Indirect costs shall be based on the CONTRACTOR'S official governing board approved CAP. State/federal approved rates in excess of the approved ten percent (10%) indirect cost rate percentage will be reviewed and approved on a case-by-case basis.

4. A pass-through is defined as those instances where the CONTRACTOR forwards funds obtained from the COMMISSION to a subcontractor and the COMMISSION maintains no relationship or responsibility for the performance of the subcontractor. Proposition 10 funds shall not be used in a manner that will cause payment for indirect costs associated with the CONTRACTOR'S funded program more than once. The COMMISSION will not pay subcontractor indirect costs as part of the CONTRACTOR'S budget.

F. Revenues Received

All revenue received by the CONTRACTOR (except funds received from the COMMISSION) to operate the program funded pursuant to this Contract shall be reported as revenue received within the monthly fiscal report. All such revenues shall be used to fully compensate expenses within the program funded and/or to provide additional services within the program funded pursuant to this Contract. Any unused revenues shall be deducted from Contract reimbursement.

G. Payroll Taxes

The COMMISSION shall not be directly responsible for the payment of any taxes on the CONTRACTOR'S behalf. In the event that the COMMISSION is required to do so by state, federal or local taxing agencies, CONTRACTOR agrees to promptly reimburse the COMMISSION for the full value of such paid taxes plus interest and penalty, if any. Taxes shall include, but are not limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and workers' compensation insurance.

H. Payor of Last Resort

CONTRACTOR shall obtain funding through sources other than the COMMISSION to provide services or support to participants whenever possible.

In cases where a participant is qualified for benefits from another source (such as Medi-Cal, Healthy Families, federal or state-funded programs, personal insurance, etc.), costs relating to services provided to that participant must be paid for by the primary payor first. Only the

costs not covered will be allowable under this Contract. CONTRACTOR must provide written verification upon request.

14. CONTRACTOR AUDIT REQUIREMENTS

A. All CONTRACTORS are required to have an annual financial audit. Each CONTRACTOR shall provide a copy of the annual audited financial statements to the COMMISSION covering the fiscal year that funds are received for services provided pursuant to this Contract. The audited financial statements will cover the CONTRACTOR'S fiscal year and will include a report on internal controls over financial reporting and on compliance and other matters in accordance with Government Auditing Standards. All audits shall be performed by a Certified Public Accountant (CPA) who possesses a valid license to practice within the State of California.

B. Audited financial statements are to be submitted to the COMMISSION Executive Director within one hundred and eighty (180) calendar days after the close of the CONTRACTOR'S fiscal year for every year covered under this Contract. If the audited financial statements are not received on or before the required due date, and an extension has not been granted, the audited financial statements shall be considered delinquent, and immediate corrective action will be initiated. If the CONTRACTOR fails to produce or submit acceptable audited financial statements, the COMMISSION has the authority to withhold funding, and if necessary, secure an Auditor, and the CONTRACTOR shall be liable for all COMMISSION costs incurred in obtaining an independent audit. The cost of the audit will be applied against the Contract encumbered amount, thereby reducing the amount of funding available to the program.

15. INVENTORIABLE EQUIPMENT

A. Inventoriable equipment includes equipment or fixed assets with a unit cost of one thousand dollars ($1,000.00), or more, or if the aggregate cost of integral components required to fully operate the assembled equipment (i.e., computer processing unit, keyboard, monitor) total one thousand dollars ($1,000.00) or more. Inventoriable equipment derived from approved purchases funded by Proposition 10 funds shall be maintained by the CONTRACTOR. CONTRACTOR shall use such capitalized equipment only for the purposes for which they were granted for children 0 through 5 years of age.

B. The CONTRACTOR shall inventory and report all equipment purchases meeting this criterion on the COMMISSION Inventory Record Form. This record must be submitted within forty-five (45) calendar days of purchase to the COMMISSION's Contracts and Grants Analyst assigned to the CONTRACTOR. Applicable receipts must be maintained by the CONTRACTOR to validate expenditures and shall be submitted as invoice back-up documentation and uploaded to the COMMISSION's data management system and made available as requested during the COMMISSION staff site visits. The CONTRACTOR understands that they are liable for all damages and/or loss resulting from the use and/or misuse of equipment purchased with Proposition 10 funds. Equipment shall not be used for personal use by the CONTRACTOR and/or employees, agents, subcontractors, and/or collaborating partners.

C. Any materials and supplies purchased by CONTRACTOR with Proposition 10 funds with a value of less than one thousand dollars ($1,000.00) will be used for children ages 0 through 5 years of age by another of the CONTRACTOR'S programs serving this population or returned to the COMMISSION. If CONTRACTOR is no longer serving this population, all remaining items will be returned to the COMMISSION within thirty (30) calendar days of the program ceasing operations.

16. REVERSION OF ASSETS

Real or Personal Property Assets. Any real property or moveable or immovable personal property under CONTRACTOR'S control or ownership that was acquired or improved in-whole or in-part with Proposition 10 funds disbursed under this Contract, or under any previous Contract between the COMMISSION and CONTRACTOR, where the original cost exceeded one thousand dollars ($1,000.00) shall either be: (1) used by CONTRACTOR for the services described in the SOW for a period of five (5) years after termination or expiration of this Contract, unless a different period is specified in the SOW; or (2) disposed of and proceeds paid to the COMMISSION in a manner that results in the COMMISSION being reimbursed in the amount of the current fair market value (assuming depreciation in accordance with customary business practices) of the real or personal property less any portion of the current value attributable to CONTRACTOR'S out of pocket expenditures using non-commission funds for acquisition of, or improvement to, such real or personal property and less any direct and reasonable costs of disposition.

A. In furtherance of the foregoing, if the COMMISSION selects continued use of the capital asset, the CONTRACTOR hereby agrees that it will confirm in writing that it will continue to use the capital asset for purposes congruent with the intent of this Contract. This provision shall survive termination or expiration of this Contract and shall be actionable at law or in equity by the COMMISSION against CONTRACTOR and its successors in interest.

B. In the event the COMMISSION selects disposition of the subject real or personal property, the CONTRACTOR shall exercise due diligence to dispose of such property in conformity with applicable laws and regulations and in accordance with customary business practices. The net proceeds of such disposition shall be disbursed directly to and be payable to the COMMISSION upon the close of the applicable disposition transaction, such as close of escrow for the sale of real property, transfer of a motor vehicle "Certificate of Title" in accordance with applicable California Vehicle Code requirements, or completion of sale of personal property by bill of sale in accordance with Uniform Commercial Code (UCC) requirements.

17. TOBACCO CONTROL POLICY

CONTRACTOR shall abide by the Comprehensive Tobacco Control Policy, incorporated herein by reference, and as may be amended from time to time. CONTRACTOR shall have tobacco education and cessation materials visibly available and accessible to clients participating and to staff funded from the COMMISSION-funded activities. The Comprehensive Tobacco Control Policy, as attached hereto.

18. CONDUCT OF BUSINESS

CONTRACTOR shall comply with all references listed below. Failure to comply may place the CONTRACTOR in a Probationary Status or result in Termination of Contract.

A. CONTRACTOR shall comply with all applicable state and/or federal laws, regulations, or requirements during the term of the Contract.

B. CONTRACTOR shall conduct its business, pursuant to this Contract, in compliance with all applicable state, and/or federal laws, regulations, or requirements.

C. CONTRACTOR shall obtain and maintain all applicable business and/or professional licenses, insurances, and/or accreditations, in good standing, which are required under the laws of the State of California or the federal government at all times while performing services under this Contract.

D. CONTRACTOR shall notify the COMMISSION Executive Director verbally and in writing of the intent to cease operations of the facility or program within sixty (60) calendar days, but no less than thirty (30) calendar days of the event.

E. CONTRACTOR shall notify the COMMISSION Executive Director in writing within seventy-two (72) hours of a change of key personnel funded under this Contract. Key personnel is defined as individuals who have a direct bearing on the outcome of the project, who have substantive responsibility for developing or achieving the scope or objectives of the project, and who possess the reputation, knowledge, or skills on which the work of the project is based. This includes, but is not limited to, the Director, Chief Executive Officer (CEO), Chief Financial Officer (CFO), Program Manager, or Project Lead.

F. CONTRACTOR shall notify the COMMISSION Executive Director verbally and in writing of any condition that could interfere with CONTRACTOR'S ability to perform required services and/or meet material Contract requirements within thirty (30) calendar days of learning of such a condition.

G. Agencies that are governed by a regulatory or licensing entity shall advise and forward to the COMMISSION Executive Director all documentation of regulatory/licensing violations, findings and responses to such violations and/or findings within twenty-four (24) hours of receipt of notice of violation from the governing entity. Agencies shall promptly submit to COMMISSION Executive Director a copy of the response sent to the governing entity.

H. CONTRACTOR shall immediately notify the COMMISSION in writing with the intent to file or filing of any action of bankruptcy.

I. CONTRACTOR shall immediately notify the COMMISSION in writing upon the commencement of any litigation, whether CONTRACTOR is the plaintiff or defendant, where such litigation may interfere with the ability of CONTRACTOR to perform its duties under this Contract and where the COMMISSION is not a party to such litigation.

J. CONTRACTOR shall immediately notify the COMMISSION in writing upon the commencement of any investigation, and/or activity by a regulatory agency against CONTRACTOR, which may interfere with the ability of CONTRACTOR to perform its duties under this Contract.

K. CONTRACTOR shall provide a grievance policy system to the COMMISSION, through which participants of services shall have an opportunity to express views and complaints regarding the delivery of service. Grievance procedures must be posted prominently in English and Spanish at service sites for participants to review.

19. RECORDS MANAGEMENT AND MAINTENANCE

A. The CONTRACTOR shall make reports to the COMMISSION in the required format and contain information as required by the COMMISSION.

B. The CONTRACTOR shall provide additional reports or information if required by the State or the local COMMISSION that was not reasonably anticipated at the time the Contract was entered into.

C. CONTRACTOR shall input all data required on a monthly basis by the 20th day of the month following the end of the reporting period **and** submit quarterly reports within thirty (30) calendar days following the end of the quarter, and at the end of the term of the Contract.

This requirement includes:

a. All the monthly data necessary to generate demographic, service utilization, results and aggregate activity reports; and

b. Submission of the Program Progress Report on a quarterly basis.

D. CONTRACTOR shall retain such reports and all records associated with this Contract for at least five (5) years following the close of the fiscal year in which this Contract is in effect. This obligation is not terminated upon termination of this Contract, whether by rescission or otherwise. CONTRACTOR agrees to require any subcontractors to retain all records associated with the Contract for the same time period.

E. Accounting information and transactions shall be recorded and reported in accordance with generally accepted accounting principles (GAAP).

F. Where medical records and/or client records are generated under this Contract, CONTRACTOR shall safeguard the confidentiality of the records in accordance with all state and federal laws, and all regulations promulgated hereunder, including the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-91, enacted August 21, 1996, and the laws and regulations promulgated subsequent thereto.

G. Each CONTRACTOR must maintain a written customer confidentiality policy and maintain a written protocol to ensure CONTRACTOR'S staff is aware of and abide by said policy.

20. PUBLIC DISCLOSURE OF DOCUMENTS

CONTRACTOR acknowledges and agrees that information, communications, and documents given to the COMMISSION during meetings involving COMMISSION members, staff, finance or COMMISSION Advisory Committee members may be subject to applicable law on public disclosures and/or public meetings. CONTRACTOR shall cooperate with the COMMISSION in order that it may fully comply with the requirements of such laws and regulations.

21. INSPECTIONS, PROGRAM MONITORING, AND CONTRACT ADMINISTRATIVE REVIEW BY COMMISSION

A. COMMISSION representatives shall review and inspect the CONTRACTOR through mandatory periodic Administrative Review visits for compliance with the terms of this Contract. Administrative Review visits will occur at a minimum of one (1) time per Fiscal Year for the duration of the Contract Term. During the Administrative Review visits, CONTRACTOR representatives **must** be present. All books, financial records and program records including verification of target(s) and other documents relating to the performance of this Contract must be open to inspection, examination, or copying during normal business hours by the COMMISSION staff or duly authorized representatives from the state or federal government. Records shall be made available at reasonable times at CONTRACTOR'S place of business or at such other mutually agreeable location in the County of Riverside, State of California.

B. Upon completion of the Program Monitoring and Administrative Review visit, the CONTRACTOR will be mailed a report summarizing the results of the Administrative Review visit within forty-five (45) calendar days of the visit. The CONTRACTOR may be required to respond to concerns or requests as specified in the Administrative Review report within thirty (30) calendar days of receipt.

C. CONTRACTOR shall reimburse the COMMISSION for all direct and indirect expenditures incurred in conducting an audit or investigation when CONTRACTOR is found in violation of the terms of the Contract. Reimbursement for such costs will be withheld from any amounts due to CONTRACTOR.

D. When additional information (i.e., receipts, paperwork, etc.) is requested of the CONTRACTOR as a result of any audit or monitoring, CONTRACTOR must provide all information requested by the deadline specified by the COMMISSION. Failure to provide the information by the specified deadline will subject the CONTRACTOR to the provisions of Contract section: COMPLIANCE, DISALLOWANCE, and WITHHOLDING.

22. GOVERNING LAW AND VENUE

A. This Contract is entered into under the provisions of Health and Safety Code section 130100 et seq., as may be amended from time to time and any other applicable law.

B. This Contract, its construction, and interpretation as to validity, performance, and breach shall be construed under the laws of the State of California. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

C. The provision of the Government Claims Act (Government Code Section 900 et seq.) must be followed first for any disputes under this Contract.

D. All actions and proceedings arising in connection with this Contract shall be tried and litigated exclusively in state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the County of Riverside, State of California.

23. CONTRACTOR SUBCONTRACTS FOR WORK OR SERVICES

A. The COMMISSION holds CONTRACTOR solely responsible for the performance of all duties and obligations under this Contract. CONTRACTOR agrees and understands that COMMISSION does not enter into or assume any legal relationship with any subcontractor of CONTRACTOR for performance under this Contract. CONTRACTOR agrees to remedy all breaches of any contracts with any subcontractor, and further agrees that CONTRACTOR may not look to the COMMISSION for any payment, liability, or assistance in the remedy of any actual or alleged breach.

B. CONTRACTOR shall identify any other organization whose cooperation/participation is necessary to ensure the success of the project and what specific roles these key partners will play. All subcontractor(s) shall conform to all requirements of the COMMISSION and any Contract between the CONTRACTOR and the COMMISSION.

C. The CONTRACTOR shall not enter into any subcontract with any subcontractor who:

1. Is presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from covered transactions by a federal department or agency;

2. Has within a three (3) year period preceding this Contract been convicted of or had a civil judgment rendered against them for the commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction; violation of Federal or State anti-trust status or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in the paragraph above; and

4. Within a three (3) year period preceding this Contract, has had one or more public transaction (federal, state, or local) terminated for cause or default.

D. The CONTRACTOR shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the CONTRACTOR.

E. The CONTRACTOR shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this Contract insofar as they are applicable to the work of subcontractors.

F. Nothing contained in this Contract shall create any contractual relationship between any subcontractor and the County of Riverside, its Agencies, Districts, Special Districts and Departments, respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives.

24. PUBLICITY AND ATTRIBUTION REQUIREMENTS

A. Upon signing this Contract, CONTRACTOR shall publicize funded program and partnership with the COMMISSION by creating a press release to be distributed to local media outlets. The press release shall be sent to COMMISSION for review and approval within fourteen (14) calendar days of signing of Contract. No later than five (5) calendar days after the press release is reviewed and approved by COMMISSION Public Information Specialist, the press release shall be distributed to local media outlets. Should guidance be needed on this requirement, please contact COMMISSION Public Information Specialist.

B. CONTRACTOR shall include the following acknowledgment of the COMMISSION and Proposition 10 funding in all materials produced for the purpose of public education and outreach related to COMMISSION funded programs. These materials include but are not limited to the following: brochures, workbooks, flyers, circulars, posters, games, television, radio and print advertising, public service announcements and video news releases, calendar/event listings, presentations, telephone hold messages, outdoor advertising and vehicles. The wording of the COMMISSION attribution shall be one of the following:

"Made possible by funding from First 5 Riverside County"

"Funded by First 5 Riverside County"

"Funded by First 5 Riverside County - the Riverside County Children & Families Commission"

"Hecho posible por medio de fondos de Primeros 5 Riverside County"

"Financiado por Primeros 5 Riverside County"

For events, conferences or programs with multiple funders, one of the following attributions shall be used:

"Funded in part by First 5 Riverside County"

"Funded in part by First 5 Riverside County - the Riverside County Children & Families Commission"

"Made possible by funding from First 5 Riverside County"

"Financiado parcialmente por Primeros 5 Riverside County"

"Financiado parcialmente por Primeros 5 Riverside County - Comisión de Niños y Familias del Condado de Riverside"

When space is limited (i.e., buttons, pencils, pens, etc.), attribution may be omitted. However, CONTRACTOR shall contact the COMMISSION's Public Information Specialist to determine an appropriate method of providing attribution to the public regarding the funding source for such items.

C. The approved First 5 Riverside County logo (graphic) shall be used on materials specific to the COMMISSION funded program. CONTRACTOR shall use the approved First 5 Riverside County logo (graphic) on public education and outreach materials in accordance with the First 5 Riverside County graphics attribution standard as posted on the COMMISSION public website (www.First5Riverside.org).

D. CONTRACTOR shall provide the COMMISSION staff and COMMISSION Public Information Specialist a copy of all public information/relations products (such as flyers, newsletters,

posters, etc.) as soon as possible but not later than fourteen (14) calendar days prior to submitting to print. News releases should be submitted as soon as possible but not later than seven (7) calendar days before public release is scheduled.

E. The COMMISSION's Public Information Specialist shall provide guidance on procedures for logo usage and printed public relations material in accordance with the COMMISSION policies. Policies will be available on the COMMISSION public website (www.First5Riverside.org).

25. PROHIBITION OF POLITICAL/RELIGIOUS ACTIVITY

CONTRACTOR agrees that it shall not require client participation in political or religious activities in order to receive services for programs funded by the COMMISSION. Furthermore, Proposition 10 funds shall be used only for the purposes specified in this Contract and in any attachments, hereto. No Proposition 10 funds shall be used for any political activity, or to further the election or defeat of any candidate for political office. No Proposition 10 funds shall be used for purposes of religious worship, instruction or proselytizing.

26. WORK PRODUCT

A. The COMMISSION shall be the owner of the following items incidental to this Contract upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Contract is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of the COMMISSION.

B. Material produced in whole or in part under this Contract shall not be subject to copyright in the United States or in any other country except as determined at the sole discretion of the COMMISSION. The COMMISSION will have the unrestricted authority to publish, disclose, distribute, and use in whole or in part, any reports, data, documents or other materials prepared under this Contract.

27. NON-DISCRIMINATION

Pursuant to the Affordable Care Act section 1557 (42 U.S.C. section 18116), during the performance of this Contract, CONTRACTOR shall not, and shall also require and ensure its subcontractors, providers, agents, and employees to not cause an individual, beneficiary, or applicant to be excluded on the grounds prohibited under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or subject to any other applicable State and Federal Laws, from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity offered through the California Department of Health Care Services. This Contract hereby incorporates by reference the provisions of Title 2, California Code of Regulations, Section 11105 et seq., as may be amended from time to time. CONTRACTOR agrees to comply with the provisions of Title 2, California Code of Regulations, Section 11105 et seq. and further agrees to include this Non-Discrimination clause in all subcontracts to perform services under this Contract.

28. CHILD ABUSE REPORTING

CONTRACTOR shall ensure that all known or suspected instances of child abuse or neglect are reported to the appropriate law enforcement agency and/or to the appropriate Child Protective Services agency. This responsibility shall include:

A. Assurance that all employees, agents, consultants or volunteers who perform services under this Contract and are mandated by Penal Code Sections 11164 et seq. to report child abuse or neglect, sign a statement, upon the commencement of employment, acknowledging reporting requirements and compliance with them;

B. Development and implementation of procedures for employees, agents, consultants, or volunteers who are not subject to the mandatory reporting laws for child abuse to report any observed or suspected incidents of child abuse to a mandated reporting party, within the program, who will ensure that the incident is reported to the appropriate agency;

C. Provision of or arrangement of training in child abuse reporting laws (Penal Code, Sections 11164 et seq.) for all employees, agents, consultants, and volunteers, or verification that such persons have received training in the law within thirty (30) days of employment/volunteer activity.

29. DEPARTMENT OF JUSTICE CLEARANCE

CONTRACTOR shall obtain from the Department of Justice (DOJ), records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment, or volunteers, for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3. This includes licensed personnel who are not able to provide documentation of prior DOJ clearance. A copy of a valid license from the State of California is sufficient proof.

CONTRACTOR must have on file for review or upon request, a signed statement verifying Department of Justice clearance for all appropriate individuals.

30. ADULT AND ELDER ABUSE REPORTING

The CONTRACTOR shall provide documentation of a policy and procedure acceptable to the COUNTY to ensure that all employees, volunteers, consultants, subcontractors, or agents performing services under this Contract report elder and dependent adult abuse pursuant to Welfare & Institutions Code (WIC) Sections 15600 et seq. Suspected incidents of abuse should be immediately reported to the COUNTY, followed by a written report within two (2) working days.

31. INDEPENDENT CONTRACTOR

It is understood and agreed that CONTRACTOR is an independent contractor, and that no relationship of employer-employee exists between the CONTRACTOR and the COMMISSION. The CONTRACTOR, nor CONTRACTOR's officers, agents, employees or subcontractors, shall not be entitled to any COMMISSION paid employee benefits, including Workers' Compensation.

32. HOLD HARMLESS/INDEMNIFICATION

CONTRACTOR shall indemnify and hold harmless COMMISSION, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to in this section as the "COUNTY") from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Contract, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subcontractors, agents or representatives under this Contract. CONTRACTOR shall defend the COUNTY at CONTRACTOR's sole expense, including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards), the COUNTY in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at sole cost, have the right to use counsel of choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR's indemnification to the COUNTY as set forth herein.

CONTRACTOR's obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe CONTRACTOR's obligations to indemnify and hold harmless the COUNTY herein from third party claims.

In the event there is a 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 CONTRACTOR from indemnifying the COUNTY to the fullest extent allowed by law.

A. If CONTRACTOR is a public entity, as defined by applicable law, the COMMISSION and CONTRACTOR, to the extent that liability may be imposed on the COMMISSION by the provisions of Government Code Section 895.2, shall be liable for acts or omissions, including all claims, liabilities, injuries, suits, and demands and expenses of all kinds which may result or arise out of any alleged malfeasance or neglect, caused or alleged to have been caused by either the COMMISSION or CONTRACTOR's, employees or representatives, performance or omission of any act or responsibility of either party under this Contract. In the event that a claim is made against both the COMMISSION and CONTRACTOR, both parties shall cooperate in the defense of said claim and to cause insurers to do likewise.

B. CONTRACTOR agrees to indemnify the COMMISSION for all federal/state withholding or state retirement payments, which the COMMISSION may be required to make by the federal or state government as a result of this Contract. If for any reason, CONTRACTOR is determined not to be an independent contractor to the COMMISSION in carrying out the terms of the Contract, such indemnification shall be paid in full to the COMMISSION upon sixty (60) calendar days written notice to CONTRACTOR if a federal and/or state determination is made that such payment is required.

33. <u>INSURANCE</u>

Without limiting or diminishing the CONTRACTOR's obligation to indemnify or hold the COMMISSION harmless as set forth in this Contract, and except as expressly provided below with respect to public entities, CONTRACTOR shall procure and maintain, or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Contract. For purposes of the insurance provisions only, the COMMISSION includes the COMMISSION of Riverside, its Agencies, Districts, Special Districts, and Departments, including the COMMISSION, and their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

Notwithstanding any other provision of this Contract, including any indemnification or insurance requirement, if CONTRACTOR is a public entity, the allocation of liability between the parties shall be governed exclusively by California Government Code section 895.2. Self-insurance program shall be deemed to satisfy the insurance requirements set forth herein, provided that such coverage affords protection substantially equivalent to the types and limits of coverage required under this Agreement and is authorized by applicable law. Each party shall be responsible for the acts and omissions of its own officers, officials, employees, and agents arising out of or in connection with the performance of this Contract. In any claim, action, or proceeding involving both parties, liability shall be apportioned in accordance with comparative faults. Nothing in this

Contract shall be construed to expand, restrict, or waive any statutory immunities, defenses, or limitations of liability available under applicable law.

Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR 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 one million dollars ($1,000,000) per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside, and if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross-liability coverage, covering claims which may arise from or out of CONTRACTOR's performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insureds. Policy limit of liability shall not be less than two million dollars ($2,000,000) per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit.

Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Contract, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than one million dollars ($1,000,000) per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two (2) times the occurrence limit. The policy shall name the COUNTY as Additional Insured.

Professional Liability Insurance:

CONTRACTOR shall maintain Professional Liability Insurance providing coverage for the CONTRACTOR's performance of work included within this Contract, with a limit of liability of not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) annual aggregate. If CONTRACTOR's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has maintained continuous coverage with the same or original insurer. Coverage provided under items 1), 2) or 3) will continue as long as the law allows.

General Insurance Provisions - All lines:

1. 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 or a particular insurer, such waiver is only valid for that specific insurer and only for one (1) policy term.
2. The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds five hundred thousand dollars ($500,000) per occurrence such retention shall have the prior written consent of the COUNTY Risk Manager before the commencement of operations under this Contract. Upon notification of self-insured retention unacceptable to the COUNTY and at the election

of the County's Risk Manager, CONTRACTOR's carriers shall either; 1) reduce or eliminate such self-insured retention with respect to this Contract with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3. CONTRACTOR shall cause CONTRACTOR's insurance carrier(s) to furnish the COUNTY with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and/or 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) working days written notice shall be given to the COUNTY prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If CONTRACTOR's insurance carrier(s) policies does not meet the minimum notice of requirement found herein, CONTRACTOR shall cause CONTRACTOR's insurance carrier(s) to furnish a thirty (30) day Notice of Cancellation Endorsement.

4. In the event of a material modification, cancellation, expiration or reduction in coverage, this Contract shall terminate forthwith, unless the COUNTY 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. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original copies of endorsement and if requested, certified original policies of insurance including all endorsements 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.

5. It is understood and agreed to by the parties hereto that the CONTRACTOR's insurance shall be construed as primary insurance and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

6. If during the term of this Contract 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 SOW; or this Contract, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance required under this Contract and the monetary limits of liability for the insurance coverage currently required herein, if in the COUNTY Risk Manager's reasonable judgment the amount or type of insurance carried by the CONTRACTOR has become inadequate.

7. CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

8. The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the COUNTY.

9. CONTRACTOR agrees to immediately notify COUNTY in writing 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 Contract.

<u>Adjustment and/or Waiver of Requirements:</u>

The COMMISSION Executive Director, in consultation with the COUNTY'S Risk Manager, may adjust the insurance requirements set forth herein as deemed necessary for the Contract,

and/or may waive insurance requirements where not applicable to the Contract. Insurance endorsements shall be submitted to the COMMISSION upon submission of the fully executed Contract, but no later than when contract work commences.

34. ASSIGNMENT

This Contract shall not be assigned by CONTRACTOR, either in whole or in part, without prior written consent of the COMMISSION, as approved and authorized by formal action of the COMMISSION.

35. ALTERATION AND/OR AMENDMENT

No alteration, amendment, or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties hereto. Oral understandings of Contract not incorporated herein shall not be binding on any of the parties hereto. As provided herein, the COMMISSION Executive Director, acting on behalf of the COMMISSION, may alter or revise this Contract on behalf of the COMMISSION. Material alterations and/or amendments, as determined by the COMMISSION Executive Director in consultation with County legal counsel, will require formal approval of the COMMISSION. Except as provided herein, the parties expressly recognized that individual COMMISSION members, COMMISSION Advisory Committee members, or staff to the COMMISSION is without authorization to either change or waive any material requirements of this Contract without formal action of the COMMISSION.

36. CONFLICT OF INTEREST

CONTRACTOR shall have no economic interest and shall not acquire any economic interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this Contract.

37. WAIVER AND SEVERABILITY

Any waiver by the COMMISSION of any breach or default hereof by CONTRACTOR shall be deemed to be a waiver of any preceding or succeeding breach or default hereof, and no waiver shall be operative unless the same shall be in writing. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions hereof shall remain in full force and effect without being impaired or invalidated in any way.

38. DISALLOWANCE

In the event CONTRACTOR receives payment for services under this Contract, which is later disallowed for nonconformance with the terms and conditions herein, CONTRACTOR shall promptly refund the disallowed amount to the COMMISSION upon request. The COMMISSION retains the option to offset the amount disallowed from any payment due to the CONTRACTOR under this Contract, or under any other Contract between CONTRACTOR and the COMMISSION.

39. OFFICIAL DOCUMENTS

Upon the Contract approval by the COMMISSION, and full execution of the Contract by COMMISSION and CONTRACTOR, one (1) fully executed copy will be sent to the CONTRACTOR. Such copy shall be the officially approved Contract for the conduct of the approved project.

40. ENTIRE CONTRACT

This Contract, inclusive of all attachments and exhibits, constitutes the entire Contract between the parties. Any modifications to the terms of this Contract shall be by the provisions detailed in the Section entitled “Alteration and/or Amendment” herein.

41. NONEXCLUSIVE CONTRACT

CONTRACTOR understands that this is not an exclusive Contract and that the COMMISSION shall have the right to negotiate with and enter into Contracts with others providing the same or similar services as those provided by CONTRACTOR as the COMMISSION desires and at the sole discretion of the COMMISSION.

42. CERTIFICATION OF AUTHORITY TO EXECUTE THIS CONTRACT

CONTRACTOR certifies that the individual signing herein has authority to execute this Contract on behalf of CONTRACTOR and may legally bind CONTRACTOR to the terms and conditions of this Contract and any attachments hereto.

43. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State, and Federal law now in force or which may hereafter be in force with regard to this Contract. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action against CONTRACTOR, whether the COMMISSION be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and the COMMISSION.

44. CONFLICTS IN INTERPRETATION

In the event of a conflict in interpretation by the parties of the provisions contained in the numbered sections of this Contract and the provisions contained in the attachments hereto, the provisions of the attachments in the Contract shall prevail over those in numbered sections.

45. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party of this Agreement 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), for executing this Agreement. 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 the CUETA as amended from time to time. CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. 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.

ATTACHMENT A: SCOPE OF WORK

Contractor: City of Banning

Program: Drowning Prevention

Contract #: CF26126

Term: 07/01/2026 – 08/31/2027

Program Overview:

Drowning remains a leading cause of injury-related death among children under five. Each year, neardrowning incidents leave survivors with lifelong medical challenges, including respiratory, cardiovascular, and neuromuscular disorders.

First 5 Riverside County (F5RC) is committed to protecting young children through drowning prevention initiatives that provide families with critical education and resources. In partnership with funded organizations, F5RC strives to reduce/eliminate drownings, increase access to swim lessons for children, and increase water safety skills. Through these efforts, F5RC continues to raise awareness, reminding parents and caregivers that drowning is preventable.

SOW Details:

The City of Banning shall provide swim instruction for children ages zero (0) through five (5) using the American Red Cross Learn-to-Swim curriculum, including Parent and Child Aquatics levels. The program shall serve approximately seventy-two (72) children and shall emphasize early water safety education and drowning prevention.

Swim lessons shall be offered in two-week sessions, Monday through Thursday. Each class shall be forty (40) minutes in duration and shall follow age-appropriate skill progressions.

Instruction shall include essential water safety topics, including recognizing emergencies, calling for help, and demonstrating safe behavior in and around water. Instruction shall also address foundational aquatic skills, including water adjustment, floating, kicking, breath control, safe water entry and exit, introductory submersion, and basic arm and leg movements. Developmentally appropriate instructional strategies, such as guided games, songs, and water toys, shall be incorporated to promote comfort and learning.

The objectives of the program are to strengthen water safety knowledge, build foundational swim skills, and support drowning prevention by increasing access to structured aquatic instruction for young children and their families.

Referral Intake and Enrollment:

The Agency shall receive electronic referrals for swim lessons through the First 5 Apricot database. The Agency shall review and accept referrals within twenty-four (24) hours of receipt and shall contact referred families within forty-eight (48) hours to complete enrollment and schedule participation in an upcoming swim lesson session.

Enrollment and Priority:

Lessons shall be offered on a first-come first-served basis to families that meet one or more of the following criteria:

• Children served by a First 5 Riverside County funded agency

• Children who have experienced a near-drowning incident or who are at greater risk for drowning (e.g., residing near an open body of water)

• Children of families eligible for public assistance, including but not limited to:

- CalWORKs

- CalFresh

- Medi-Cal

- WIC

- Quality Start Riverside County CAPP/RHAP

• Other eligibility criteria approved by First 5 Riverside County

Participating children must be at least six (6) months old to enroll.

Priority enrollment shall be given to children at high risk for drowning, including:

• Children living in a home with access to a pool

• Children with a family member who has a pool

• Infants and toddlers

• Children with a history of near-drowning

• Children involved in the child welfare system

Reporting and Performance Targets:

Monthly Reporting

The Agency shall input and submit all required program data into the data management system on a monthly basis by the established deadline. Monthly reporting shall include program data and participant demographic information.

The Agency shall report the following information for each child who completes a swim lesson series funded by First 5 Riverside County, organized by pool location and date of first lesson:

• Total number of children who completed swim lessons

• Child's age group (6 months–3 years or 3–5 years)

• Primary language spoken at home

• Child's ethnicity

• City of residence

• Zip code of residence

• Total number of children receiving refresher lessons

• Total number of families receiving drowning prevention educational materials

Quarterly Reporting (Program Progress Reports – PPR)

The Agency shall submit a Program Progress Report (PPR) on a quarterly basis through the data management system within the required timeframe. Quarterly reporting shall include narrative analysis, progress toward performance targets, and cumulative data.

Each PPR shall include:

Section 1: Activities and Accomplishments

• Summary of program implementation for the reporting period

• Progress toward quarterly and year-to-date performance targets

• Description of services delivered and populations reached

Section 2: Challenges and Course Corrections

• Identification of barriers or challenges encountered

• Description of adjustments made to address challenges

Section 3: Success Stories

• At least one client success story demonstrating program impact

ATTACHMENT B: BUDGET

FISCAL YEAR 2026-2027		
Category	**Description**	**Amount**
Operational Expenses	Swim Lesson Scholarship: Resident $50/Non-Resident $55	**$4,000**
SUBTOTAL:		**$4,000**

Budget Start Date: 07/01/2026 **Budget End Date:** 08/31/2027 **Total Amount:** $4,000

TOTAL CONTRACT BUDGET	**$4,000**

ATTACHMENT C: PAYMENT PROVISIONS

A. FISCAL

The maximum amount reimbursable over the life of this Contract shall not exceed **FOUR THOUSAND DOLLARS ($4,000)** for the duration of the Contract period as awarded by the Riverside County Children and Families Commission, also known as First 5 Riverside County, (hereinafter the "COMMISSION" or "COUNTY"), provided pursuant to the California Children and Families Act of 1998, also known as Proposition 10.

1) CONTRACT PERIOD: **07/01/2026 – 08/31/2027**

1. Method, Time, and Schedule Conditions of Payment
   a. The COMMISSION will disburse funds on a reimbursement payment process based on the Contract Budget (Attachment "B") amount for the applicable fiscal year and **Monthly** report submissions. Payment will be rendered fifteen (15) business days from submission of all required documentation.
   b. Disbursement of any payment of funds to CONTRACTOR shall be made so long as all of the following conditions have been met:
      1. The Contract has been approved by the COMMISSION;
      2. The Contract has been fully executed by all parties;
      3. All applicable licenses to comply with the terms of the SOW are current and valid; and
      4. The CONTRACTOR submits monthly itemized invoices, via the data management system to include the supporting documentation separated by a cover sheet in front of each expense category. Documentation shall include payroll register or report, time & activity report and/or, timesheets, statement of costs, copy of invoice or receipt, mileage report(s), copy of check(s) or proof of payment; and
      5. COMMISSION staff has reviewed and approved Cost Allocation Plan (if applicable).
   c. Under special circumstances, CONTRACTOR may request advance disbursements. A supplemental disbursement request along with justification must be submitted, in writing, to the Executive Director.
   d. The COMMISSION Executive Director reserves the right to withhold or reduce disbursement of funds if CONTRACTOR fails to 1) comply with monthly and/or quarterly reports by the indicated due date as set forth in Section 11 of the Contract; 2) if results achieved are not as projected and no COMMISSION approved plan is in place for improvement; or 3) if the CONTRACTOR is not in compliance with any provision contained within this Contract.
   e. The final funding period amount approved for the Contract Period shall be paid based on final allowable expenditures incurred between July 1, 2026, and August 31, 2027, and reported by the final deadline for fiscal reporting as defined in Section 11. Fiscal and Program Reporting Requirements, A. Fiscal Reporting. All expenditures must be incurred on or before August 31, 2027. The CONTRACTOR shall submit its final invoice no later than thirty (30) calendar days after the end of the Contract Period. Expenditures incurred after September 30 shall not be accepted.
2. Allowable Costs

Funds provided pursuant to this Contract shall be expended by CONTRACTOR in accordance with the Budget.

a. Such specified expenditures will be further limited to those that are considered both reasonable and necessary as determined by the COMMISSION. CONTRACTOR agrees COMMISSION may recover any payments for services or goods, including rental of facilities, which were not reasonable and necessary, or which exceeded the fair market value. The recovery shall be limited to payments over and above reasonable or fair market amounts and any costs of recovery.

b. The reasonable and allowable reimbursement rate for use of motor vehicles, travel expenses and food are based on the current IRS allowable rate.

c. Contractor shall obtain approval for all overnight travel and out of State travel as it relates to services provided in this Contract. Reimbursement as it relates to pre-approved travel will be based on the Federal allowable rate. Request must be submitted in writing thirty (30) days in advance of travel date and travel must be approved in advance by COMMISSION management.

ATTACHMENT D: COMPREHENSIVE TOBACCO CONTROL POLICY

As a material condition of the Contract, the CONTRACTOR shall agree that the CONTRACTOR and the CONTRACTOR's employees, while receiving funding from the COMMISSION:

1. Shall not use tobacco products while using the CONTRACTOR's property e.g., vehicle, equipment; and
2. Shall not sell, offer, or provide tobacco products on CONTRACTOR 'S premises; and
3. Shall have tobacco education and cessation materials visibly available and accessible to clients participating in activities funded by Proposition 10 funds; and
4. Shall assure that the CONTRACTOR and its employees have no current business association or relationship with the tobacco industry, and further agrees to neither accept nor solicit financial contributions, sponsorships, gifts, or services from any tobacco company, executive, or tobaccorelated function; and
5. Shall make a reasonable effort to divest all investments in companies that derive fifteen percent (15%) or more of revenues from tobacco.

The COMMISSION may terminate for default or breach of this Contract and any other Contract the CONTRACTOR has with the COMMISSION, if the CONTRACTOR or CONTRACTOR's employees, are determined by the COMMISSION Executive Director, not to be in compliance with the conditions set forth herein.

If the CONTRACTOR or CONTRACTOR's employees are determined by the COMMISSION Executive Director not to be in compliance with the conditions set forth herein, the COMMISSION may terminate for default or breach of this Contract and any other Contract the COMMISSION has with the CONTRACTOR.

In instances where the CONTRACTOR is part of a larger entity, and where the entity has an investment policy set by governance officials other than the CONTRACTOR, and the CONTRACTOR is not directly involved in such investment decisions, CONTRACTOR agrees to the provisions herein as required in the programs and activities under the direct control of the CONTRACTOR to the satisfaction of the COMMISSION Executive Director. Activities of the larger entity other than investment decisions, which are not under the direct control of CONTRACTOR, shall not be considered to be in violation of CONTRACTOR's activities pursuant to the policy.

ATTACHMENT F: USE OF DATA AND CONFIDENTIALITY

This Data and Confidentiality Agreement (the 'Addendum') supplements and is made part of Contract **CF26126** (the 'Contract') between the Riverside County Children and Familes First Commission, as a department of the County of Riverside ("COMMISSION") COMMISSION and City of Banning (the 'CONTRACTOR') and shall be effective as of 07/01/2026.

RECITALS

WHEREAS, the **COMMISSION** and CONTRACTOR entered into the Contract pursuant to which the CONTRACTOR provides services to the **COMMISSION**, and in conjunction with the provision of such services certain confidential data may be created by or made available to CONTRACTOR for the purposes of carrying out its obligations under the Contract;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. USE OF DATA

A. Disclosure of confidential data released under this Agreement for any purpose other than the purpose for which it is obtained is prohibited by law.

B. Confidential data provided under this Agreement continues to be the property of the providing party.

C. Confidential data shared under this Agreement will not be used for any purpose other than those stated herein.

D. CONTRACTOR may not disclose the confidential data to any other parties, except in aggregate.

E. No research or reports related to confidential data provided under this Agreement shall be published without COUNTY's prior review of the research or reports. COUNTY shall have 30 calendar days for review prior to publication. Should COUNTY disagree with any of the published content, a disclaimer stating COUNTY's disagreement must be included in the final publication, preferably in the Executive Summary.

F. COUNTY shall delete files in accordance with the COUNTY's retention policies and pursuant to applicable federal and state laws, unless the parties mutually agree in writing to a new purpose and retention period for the confidential data and matched confidential data sets. Any questions or concerns about the confidential data or reports should be relayed within 30 days of receipt.

G. CONTRACTOR's provision to COUNTY of confidential data as contemplated herein is not a violation of the Family Educational Rights and Privacy Act. (20 USCA § 1232.)

2. CONFIDENTIALITY

A. As required by applicable law, COUNTY and CONTRACTOR shall maintain the privacy and confidentiality of all information and records, regardless of format, received pursuant to the Agreement ("confidential information"). Confidential information includes but is not limited to, individually identifiable physical or mental health information, substance abuse information, child care or education information, personnel or employment information, financial information, criminal justice information, demographic information, unpublished or sensitive technological or scientific information; medical, personnel, or security records; material requirements or pricing/purchasing actions; COUNTY information or other data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of contractors, subcontractors or suppliers in advance of official announcement. CONTRACTOR shall ensure that no person will publish, disclose, use or cause to be disclosed such confidential information pertaining to any applicant or recipient of services unless authorized by law. CONTRACTOR shall keep all confidential information received from COUNTY in the strictest confidence. CONTRACTOR shall comply with Welfare and Institutions Code Section 10850 and Health and Safety Code § 130140.1(e)(1).

B. CONTRACTOR shall take special precautions, including but not limited to, sufficient training of CONTRACTOR's staff before they begin work, to protect such confidential information from loss or unauthorized use, access, disclosure, modification, or destruction.

C. CONTRACTOR shall ensure case records or personal information is kept confidential when it identifies an individual by name, address, or other specific information. CONTRACTOR shall not use such information for any purpose other than carrying out CONTRACTOR's obligations under this Agreement.

D. CONTRACTOR may disclose the confidential information disclosed to it pursuant to Contract XXX to any person, agency, or entity that receives funding from the county COMMISSION, by way of grant award, or contract or as a service provider for the provision

of early childhood services, and only to the extent necessary to the provision of services, unless further disclosure is authorized by a written consent of the parent or legal guardian, or where disclosure is required by state or federal law.

CONTRACTOR shall promptly transmit to COUNTY all third-party requests for disclosure of confidential information. CONTRACTOR shall not disclose such information to anyone other than COUNTY except when disclosure is specifically permitted by this Agreement or as authorized in writing in advance by COUNTY when COUNTY had determined disclosure is in compliance with applicable law.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Jennifer Terry, Finance Director** **Jennifer Terry, Finance Director**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-103, Establishing an Appropriations limit for Fiscal Year 2026/27 and Retroactively Approving the Fiscal Year 2025/26, Pursuant to Article XIIIB of the California Constitution.**

STAFF RECOMMENDATION:

Adopt Resolution 2026-103

BACKGROUND:

Article XIII-B of the California State Constitution, commonly referred to as the Gann Initiative or Gann Appropriations Limit, was adopted by California voters on November 6, 1979, to place limits on the amount of tax proceeds that can be spent by governmental entities. Subsequently, on June 5, 1990, California voters approved the Traffic Congestion Relief and Spending Limitation Act (Proposition 111), which made various amendments to Article XIII-B. As a result of Proposition 111, the City may choose between two annual inflation factors and two population growth factors for the calculation of the appropriations limit.

JUSTIFICATION:

Annually, local agencies are required to adopt an appropriations limit in accordance with Article XIII-B of the California State Constitution. Not doing so could allow spending limits greater than legally allowed and result in audit and compliance findings.

FISCAL IMPACT:

Approval of the FY 2026/27 GANN limit sets the maximum spending authority for the fiscal year.

ATTACHMENTS:

1. Resolution 2026-103 JT.docx
2. GANN FY27 Exhibit A.pdf

RESOLUTION 2026-103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ESTABLISHING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2026/27 AND RETROACTIVELY APPROVING THE FISCAL YEAR 2025/26, PURSUANT TO ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION

WHEREAS, Article XIIIB of the California Constitution (Propositions 4 and 111) places an appropriations limit on State and Local Government, including the City of Banning ("City") known as the Gann Appropriation Limit; and

WHEREAS, pursuant to said Article XIIIB of said California Constitution, and Section 7900 et seq. of the California Government Code, the City is required to set its appropriation limit for each fiscal year; and

WHEREAS, this appropriations limitation is based on proceeds of taxes adjusted annually, for population growth, inflation, and transfers of financial responsibility from one government entity to another, by the population growth factor of either the City or for the County of Riverside, and by an inflation factor that is either the change in the California Per Capita Personal Income ("CCPI") or the change in non-residential construction for the City; and

WHEREAS, the City has received inflation and population data from the State Department of Finance to calculate the fiscal year 2026/27 appropriations limit; and

WHEREAS, the City wishes to select the population growth factor and inflation factor providing the greatest ratio of change as shown below:

Change in CCPI	4.95%
City of Banning Population Change	2.51%

WHEREAS, due to staffing vacancies and administrative transitions within the Finance Department prior to the beginning of Fiscal Year 2025/26, the Fiscal Year 2025/26 appropriations limit was not separately presented to the City Council for consideration and adoption; and

WHEREAS, the City Council now desires to establish the appropriations limits for Fiscal Year 2025/26 (retroactively) and Fiscal Year 2026/27 in accordance with Article XIIIB of the California Constitution and applicable provisions of the California Government Code.

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

SECTION 1. The City Council retroactively approves the appropriation limit for Fiscal Year 2025/26, set at $68,398,928.

SECTION 2. The City Council approves the appropriation limit for Fiscal Year 2026/27 in the amount of $73,586,470.

SECTION 3. 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 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-103, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

EXHIBIT A
Description of Exhibit A

GANN LIMIT CALCULATION

Article XIIIB of the California State Constitution was adopted by California voters in November 1979, and is more commonly referred to as the Gann Limit. The Article places limits on the amount of revenue which can be appropriated (spent) each fiscal year. Only revenues which are considered proceeds of taxes are subject to the limit.
The limit is different for each agency and changes each year, modified for changes in inflation and population.

Fiscal Year	(1) Prior Year Gann Limit	(2) Previous Year's Population	(3) Current Year's Population	(4) * City Population Change %	(5) * County Population Change %	(6) % Change In Per Capita Income	(7) Current Year Gann Limit
15-16	35,822,527	30,325	30,491	0.61%	1.29%	3.82%	**37,670,711**
16-17	37,670,711	30,491	30,834	0.57%	1.26%	5.37%	**40,193,768**
17-18	40,193,768	30,834	31,068	0.75%	1.56%	3.69%	**42,327,078**
18-19	42,327,078	31,068	31,282	0.36%	1.40%	3.67%	**44,494,809**
19-20	44,494,809	31,282	31,142	0.30%	1.17%	3.85%	**46,748,491**
20-21	46,748,491	31,142	31,125	-0.05%	0.79%	3.73%	**48,875,298**
21-22	48,875,298	31,125	32,233	3.79%	0.67%	5.73%	**53,634,367**
22-23	53,634,367	32,233	30,877	0.81%	0.42%	7.55%	**58,151,000**
23-24	58,151,000	30,877	31,250	1.28%	0.34%	4.44%	**61,510,286**
24-25	61,510,286	31,046	31,213	0.54%	0.55%	3.62%	**64,087,512**
25-26	64,087,512	32,068	31,949	-0.37%	0.27%	6.44%	**68,398,928**
26-27	68,398,928	31,532	32,323	2.51%	0.42%	4.95%	**73,586,470**

The Gann Limit is adjusted annually by multiplying the "Prior Year Gann Limit" (column 1) by the greater of the "City or County % Change in Population" (column 4 or 5) and then by the "% Change in Per Capita Income" (column 6) This annual Gann adjustment figure is then added to the Prior Year's limit amount to obtain the Current Year Gann Limit amount in column 7. The shaded boxes indicate the calculation factors that were used in determining the adjustment to the Gann Limit.

*City and County population change % figures are provided by the Department of Finance Demographic Research Unit in their annual Price Factor and Population Information.

CITY OF BANNING, CA
GANN FY 26-27

GANN APPROPRIATIONS LIMIT
FOR 2026-27

6/30/2026

Fund	Division	Activity	Account	Description	Total 2026-27 Budget	6/30/2027 Proceeds of Taxes	Non-Taxes
001	0001	301	1001	Property Taxes-Cur	3,976,528	3,976,528	0
001	0001	301	1003	Prop Tx- Suppl Roll	250,000	250,000	0
001	0001	301	1007	Prop Tx-Admin Chg	(22,680)	(22,680)	0
001	0001	301	1009	Prop Tx-Cur Unsec	267,011	267,011	0
001	0001	301	1010	Prop Tx-Backfill	4,150,349	4,150,349	0
001	0001	301	1015	State ERAF Shift	0	0	0
001	0001	302	1101	Sales & Use Tax	3,831,466	3,831,466	0
001	0001	302	1103	Sales Tax Sharing	(325,000)	(325,000)	0
001	0001	302	1109	Cannabis	1,640,000	1,640,000	0
001	0001	302	1106	10% Cabazon Outlet	720,000	720,000	0
001	0001	302	1108	Sales Tax Backfill		0	0
001	0001	306	1203	Bed Tax- Total Tax	1,250,000	1,250,000	0
001	0001	306	1208	Property Trans Tax	300,000	300,000	0
001	0001	341	3101	St Mtr Veh Lic-Reg	40,000	40,000	0
001	0001	341	3103	Off Hwy Mtr Veh Lic	0	0	0
001	0001	341	3110	St Hmown Prop Rel	26,976	26,976	0
001	2200	302	1104	Pub Safety Sales Tax	257,935	257,935	0
001	2400	302	1104	Pub Safety Sales Tax	257,935	257,935	0
				SUB-TOTAL	**16,620,520**	**16,620,520**	**0**
TOTAL REVENUE BUDGET- 6/15/2026					**121,029,694**	**16,620,520**	**104,409,174**

Review each year for New Tax Items

Appropriation Limit Calculation for the Year Ended June 30, 2027

Appropriation Limit June 30, 2026				**68,398,928**
Per Capita Personal Income Change per State		**4.95%**		
Population Change--Use the Larger of City's or County's				
Annual Percentage Change in Population Increase.				
Banning	January 1, 2025 to January 1, 2026	2.51%		
Riverside County	January 1, 2025 to January 1, 2026	0.42%		
	Use Greater of the Two	**2.51%**		
Calculation Factor For June 30, 2027				
Per Capita Percentage Increase			1.0495	
Population Percentage Increase			1.0251	
	TOTAL (Per Capita X Population)			**1.0758425**
Gross Appropriation Limit June 30, 2027				**73,586,470**
Proceeds of Taxes Subject to Appropriation				**16,620,520**
Amount Limit Exceeds Taxes Subject to Limit				**56,965,950**
CONCLUSION:	**The City Has Not Exceeded its Appropriation Limit for the 2026-27 Year.**			

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Mark Staples, Planning Manager** **Matt Bassi, Interim Community Development Director**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Ten Year Review of the Development Agreement between Tri Pointe Homes and the City of Banning Regarding the Development of the Atwell Project within the Butterfield Specific Plan.**

STAFF 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. This is the Ten Year Review of the Development Agreement between Tri Pointe Homes (TPH, formerly Pardee Homes) and the City of Banning.

The Ten Year Review requirements for the Butterfield Specific Plan Project are set forth in Section 6.6 of the Development Agreement for the Project. In accordance with Section 6.6 (page 21) 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. Director David Newell conducted the last annual review on October 14, 2025. Director Newell notified the Council that the 10-Year Review would be provided in early 2026. However, the shortage in Community Development staffing delayed the review.

On April 15, 2026, City staff met with TPH to discuss the expectations and format of the Ten Year Review document and submission. Prior annual reviews focused primarily on the sections of the development agreement that could be considered the action items. Sections 4 though 9 are the action items of the DA that involve development impact fees, the formation of financing districts, construction timing and completion milestones, impact fee and TUMF credits, dedications and conveyances, processing of permit applications and timely reviews. For the Ten Year Review, the City and TPH agreed to expand on all sections and provide either a summation of the DA section and/or provide more detail into the section, particularly progress details such as for the number of residential units completed.

The Atwell Ten Year Anniversary Development Agreement Review letter is attached for review. The first draft of the Ten Year Review letter was submitted on May 11, 2026. Matt Bassi, Interim Community Development Director, and Mark Staples, Planning Manager, provided comments, corrections, and

recommended revisions to the letter on May 18, 2026. TPH resubmitted a final strikethrough and underline draft of the letter with their revisions and further discussion in sections, per staff direction.

City staff has determined and finds that 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:

After reviewing TPH's Ten Year Review update on the progress of the DA, staff concurs that the Atwell 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 Ten Year Review of the Development Agreement, it is recommended that the Council receive and file this matter. The next annual review will presented to the City Council in February 2027.

NOTE: In accordance with Section 6.2.4 of the DA, the applicant was required to demonstrate a good faith effort during the first five (5) year period to market the commercial site (Planning Area 18) for sale or lease to a suitable user. As of the date of this report, staff has been notified by Regency Centers of their interest to develop the commercial site. Their intention is to submit a development review application by July 1, 2026. Staff anticipates that TPH will help facilitate the submission and processing of the design review application package (See Page 4 of Ten Year Review Letter "Third Bullet Point").

Public Communication:

On June 12, 2026, 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 June 23, 2026. As of the time of the writing of this staff report, no public comments were received.

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. 7.1a Atwell - Ten Year DA Review_5-11-26 Final Draft.pdf
2. 7.1b Dev Agree.Pardee 7-17-12.pdf
3. column_affidavit_gf71xNbH24MIQA1Wymnj.pdf

May 11, 2026

To: Mayor Royce and City of Banning
99 East Ramsey Street
Banning, Ca 92220
Attn: Matthew Bassi, Interim Planning Director

RE: Atwell – Ten Year Anniversary Development Agreement Review

Mr. Bassi,

Tri Pointe Homes IE-SD, Inc. (TPH), is the owner and developer of the Atwell master planned community (formerly Butterfield; currently known as Atwell) located in the northwest corner City of Banning, Ca (City). Atwell was originally entitled as a 1,543-acre Specific Plan area with 5,387 residential homes, neighborhood parks, community parks, schools, golf course, retail and commercial parcels. However, a legal challenge was filed in 2012 and ultimately settled which ultimately resulted in among other things, a reduction of 525 units, of primarily high-density residential units, to a current maximum of 4,862 residential homes with the elimination of the golf course but replaced with active open space and flood conveyance facilities.

As part of the project approvals, the City and TPH entered into a Development Agreement (DA) on March 27, 2012, but the DA did not become effective until February 9, 2015 (City Effective Date letter is included in Appendix A). Section 6.6 of DA provides that the City and TPH conduct annual and 10-year anniversary reviews of the performance of the DA and the development goals of the Project.

TPH has submitted and the City Council has conducted eight (8) prior annual reviews, as development did not begin until 2018. The most recent 2025 annual review checklist was presented to the City Council on October 14, 2025, and is included in Appendix B. Because of several key City staff changes in 2025, a decision by the City was made to put off the 10-yr anniversary review (Review) until 2026. As such, TPH sent an email to City staff on February 2, 2026, requesting a meeting to discuss the information and format the City would require to complete the Review which was ultimately held on April 15, 2026.

As discussed below, TPH has met the performance goals of the DA.

The following is a discussion and more thorough review of each section in the DA.

Section 1: DEFINITIONS

TPH Response:
Sections 1.1 through 1.82. Section 1 lists the regular words and phrases used throughout the Development Agreement, such as Certificate of Occupancy, Effective Date, Land Use Regulations, and Term. Past and future annual reviews have not and will not include any further discussion regarding these terms. (**CONFORMING/ONGOING)**

Section 2: EXHIBITS

TPH Response:
Section 2. This section lists the eight (8) exhibits included in the Development Agreement, from the map and legal description, development impact fees, and proposed project facilities. The current Atwell Preliminary Composite Site Plan is included in Appendix C and is an update to the Specific Plan Map included as Exhibit A-4 of the Development Agreement. (**CONFORMING/ONGOING)**

Section 3: TERM

TPH Response:
Section 3.1. The DA term is a period of forty (40) years which may be extended due to Economic Distress or reduced if Development Goals are not met at each 10-year anniversary review. To date, neither extensions nor reductions have been discussed or proposed. (**CONFORMING/ONGOING)**

Sections 3.2 through 3.4. These three sections cover the Termination Upon Completion of Construction, Termination for Default, and Extension of the Term. As none of these items are occurring, being discussed or proposed, future reviews will not discuss these sections until they are appropriate. (**CONFORMING/ONGOING)**

Section 3.5. As part of the project approvals, the City and TPH entered into a *Development Agreement* (DA) on March 27, 2012, but did not become effective until February 9, 2015 (City Effective Date letter is included in Appendix A). (**CONFORMING/ONGOING)**

Section 4: DEVELOPMENT OF THE DEVELOPER'S PROPERTY

TPH Response:
Sections 4.1 through 4.6. These six (6) sections address TPH's Right to Develop, Right to Future Approvals, Existing Development Approvals, the Specific Plan, the Priority of Specific Plan standards over the Banning zoning code, and Later Enacted Measures that should not affect future project approvals. (**CONFORMING/ONGOING)**

Section 4.7. See TPH Response in Section 6.6 below. (**CONFORMING/ONGOING)**

Section 5: FINANCING AND THE CITY'S OBLIGATION

TPH Response:
Sections 5.1 through 5.3. Initial coordination with City staff took place in 2019 and early 2020 to establish Special Services and Maintenance Taxes prior to the formation of the Atwell Community Facilities District (CFD). The Special Services and Maintenance Taxes are collected annually and are expected to be dispersed from the County of Riverside to the City in January and May of any given year. The CFD was formed and is managed by the California Statewide Communities Development Authority (CSCDA) with coordination/reviews by the City. The following are when CFD bonds were sold:

- Improvement Area I – March 24, 2021 (Net Construction Proceeds – $18,054,758)
- Improvement Area II – July 13, 2022 (Net Construction Proceeds – $11,898,797)

- Improvement Area III – May 1, 2024 (Net Construction Proceeds – $12,336,262)
- Improvement Area IV – December 18, 2024 (Net Construction Proceeds – $16,298,044)
- Improvement Area V – Anticipated sale date 2nd Quarter 2026
- Improvement Area VI – Anticipated sale date 1st Quarter 2027

Appendix D contains an exhibit depicting the CFD Improvement Areas as mentioned above. Future CFD bond sales are development dependent. Dates of the future CFD bond sales are unknown at the time of this Review but is anticipated to follow a similar timing as previous bond sales. **CONFORMING/ONGOING)**

Section 5.4. Because of the legal challenge filed in 2012, the golf course was eliminated. In its place, a drainage corridor extends the length of Atwell from north to south conveying both onsite and offsite storm water runoff downstream. Drainage improvements within the corridor are eligible facilities to be constructed by TPH. (**CONFORMING/ONGOING)**

Section 5.5. On May 11, 2021, TPH and the City entered into a Development Impact Fee Credit Implementation Agreement which provided guidelines for reimbursement/credit for eligible facilities constructed by TPH. (**CONFORMING/ONGOING)**

Section 5.6. The Atwell Homeowner's Association (HOA), incorporated on April 22, 2020, and CCRs recorded on August 20, 2020, is responsible for all the maintenance of Atwell's landscaping, parks and open space, water quality basins and Smith Creek corridor improvements (approx. 500 acres).See TPH Response in Section 5.1 through 5.4 for discussion on City CFD Special Services and Maintenance Taxes. (**CONFORMING/ONGOING)**

Section 5.7. TPH provided funding for the City to hire consultants in 2011 to produce the nexus studies that established various City DIF fees. The City agreed that TPH be provided with DIF fee credits equal to the TPH funding amount pursuant to this DA section. DIF fee credits for water, wastewater and traffic improvements will be tracked by the City and TPH. (**CONFORMING/ONGOING)**

Section 5.8. (**CONFORMING/ONGOING)**

Section 6: TIME FOR CONSTRUCTION AND COMPLETION OF PROJECT

TPH Response:
Section 6.1. Commencement of construction took place in 2018 beginning at the northeast corner of Highland Springs Avenue and Wilson Street. Given the Term as specified in Section 3, the development has progressed at a much quicker pace than originally anticipated with all land development completed south of the Southern California Edison (SCE) Easement, between Highland Springs Avenue and Highland Home Road, with homes sales/construction following closely behind. Development is currently occurring north of the SCE Easement, along the northern extension of Highland Home Road, with new homes anticipated selling in 2027. **(GOAL MET)**

Section 6.2. This section specified development goals of Atwell to be completed prior to the Review (DA excerpts below).

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.

TPH Responses

First Bullet Point: Development for Atwell began in 2018 at the northeast corner of Highland Springs Avenue and Wilson Street. **(GOAL MET)**

Second Bullet Point: As of April 12, 2026, TPH has closed 1,495 homes within Atwell, which means that TPH has already closed 295 units towards the next 1,600 units expected for the 20th anniversary in 2036. Please note that the table's unit expectations are based on the original 5,387 units of the 2012 plan, not the current maximum unit development allowance of 4,862 units. **(GOAL MET/EXCEEDED)**

Third Bullet Point: TPH has actively marketed the 23-acre commercial parcel (Parcel) located at the northeast corner of Highland Springs Avenue and Wilson Street since the commencement of development of Atwell. The Section 6.2.4 of the DA stated the "The goal of the City is to locate a significant sales tax generating "big box user" as a major tenant of the project." Through years of TPH's marketing efforts, a "big box user" was not identified as being interested in developing the Parcel. Because of this fact, the City and TPH entered into a Pre-Litigation Settlement Agreement dated February 10, 2021, that acknowledged TPH had marketed in good faith but was unable garner interest from a "big box user" and thus the City agreed that the Parcel was to be developed with a "regional or national grocery store anchor tenant…". Since the execution of the Pre-Litigation Settlement Agreement, TPH continued to market the site in good faith and hired Regency Centers to engage and attract a suitable retail/commercial anchor tenant. TPH and Regency Centers has had multiple meetings with City staff and current Council members to discuss site plans and interested anchor tenants. Discussions and meetings are ongoing. **(CONFORMING/ONGOING)**

Fourth Bullet Point: TPH completed the Smith Creek outlet in the first quarter of 2026.. **(GOAL MET)**

The fourth bullet point also calls out "…other improvements in Section 6.2.3." That section of the DA is below.

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.

TPH Responses

(i): See above Third Bullet Point response. **(GOAL MET)**

(ii): See above Fourth Bullet Point response. **(GOAL MET)**

(iii): The Planning Area 39 identified in the Specific Plan for the Recreation/Emergency Center site is located in a future phase. Once TPH is in the planning stages of that phase, TPH will coordinate with the City. **(GOAL ONGOING)**

(iv): Through discussions with City staff, it was determined that the satellite wastewater treatment facility in Planning Area 11 was not feasible. It was also determined that recycled water infrastructure would be focused south of the I-10 Freeway. Instead, a TPH built City-owned and operated sewer lift station was constructed on a 2-acre parcel south of Planning Area 11. *The City was to appraise the two (2) acre parcel. It should be noted that TPH has not received wastewater DIF credit for the fair market value of the 2-acre parcel per Section 8.3.* **(GOAL MET)**

(v): Water tanks are constructed when needed to support a particular water pressure zone where construction/home closings are to occur. To date, TPH has constructed the City-owned and operated 3.7MG Foothill West Zone Water Reservoir. TPH is currently designing and will build the 2.6MG Mountain North Zone Water Reservoir to support the next development phase north of the SCE Easement. An issue that requires immediate attention from the City, is the Chromium 6 issue and how the City is going to align the goals of meeting the state of California standards with continued development. **(GOAL ONGOING)**

(vi): Other project facilities are constructed when needed to support a particular Atwell development phase. **(GOAL ONGOING)**

Section 6.2.4 Commercial Development. See the second bullet point of 6.2 above. **(GOAL ONGOING)**

Section 6.2.5 Extension of Phases. There has not been a request to extend any Phase. **(GOAL ONGOING)**

Section 6.3. Construction commenced in 2018. **(GOAL MET)**

Section 6.4. Public infrastructure (ie new traffic signal, etc) is constructed as needed to mitigate the impacts from a particular development phase. TPH will build the required infrastructure at prevailing wage rates or pay the City DIF fee. **(GOAL ONGOING)**

Section 6.5. Atwell development phasing has progressed in a logical sequence taking into account existing City infrastructure as well as required infrastructure needed to sustain a particular development phase. Tentative tract maps, final map sequencing and identification of required public infrastructure are analyzed by consultants hired by TPH, discussed with City staff, submitted to the City and reviewed by a City-hired third-party consulting firms for accuracy and completeness. **(GOAL ONGOING)**

Section 6.6. This section sets forth the guidelines for completing each Review. One subsection to note is Subsection 6.6.2 which states "…all Development Impact Fees are subject to adjustment as part of the Ten-Year Anniversary Review…". However, had development began on the DA effective date of February 9, 2015 and the City completed their DIF fee nexus studies to establish updated DIFs within the one-year timeframe as specified in DA Section 7.2.2, the DIFs would have been subject to adjustment at the first Review. Since that was not the case from both parties, TPH and the City entered into the Development Impact Fee Credit Implementation Agreement on May 11, 2021, establishing a 10-year DIF fee starting date of September 10, 2019 which coincides with the City adoption of the updated DIF fees. Therefore, Atwell DIFs are not eligible for adjustment until September 10, 2029 (Agreement excerpt below). **(GOAL ONGOING)**

> D. The Development Agreement requires Tri Pointe to pay development impact fees as set forth in the Development Agreement at Sections 7.2 through 7.5 and Exhibit D for the purpose of defraying all or a portion of the cost of public improvements, public services, and community amenities related to the Project. Section 7.2.1 of the Development Agreement provides that the fees identified on Exhibit D of the Development Agreement, that were established by the City in 2006, shall be imposed on the Tri Pointe for building permits issued for dwelling units in the Project, unless, pursuant to Section 7.2.2, the City within one year of the Effective Date of the Development Agreement undertakes a study and thereafter adopts updated DIF. As noted below, Tri Pointe has agreed to waive the requirement for the City to have completed the study and adoption of the DIF within the first year of the Development Agreement so as to allow the Development Impact Fees adopted by the City on September 10, 2019, to be applicable to Tri Pointe's Project for 10 years starting on September 10, 2019.

Section 6.7. This section identifies that if the development goals are not met by each 10-year Anniversary Review, the term of the DA can be reduced by 5 years at each 10-year milestone. **(GOAL ONGOING)**

Section 6.8. In late 2020, the City and TPH discussed the applicability of this section and whether TPH has met the criteria for development incentives to be afforded this section's benefits. As such, the City and TPH entered into a Pre-Litigation Settlement Agreement dated February 10, 2021 that acknowledged TPH has met the criteria. **(GOAL MET)**

Section 6.9. TPH and the City have collaboratively worked together to provide a high-quality, highly desirable community within the City of Banning. (**CONFORMING/ONGOING)**

Section 7: FEES, TAXES AND ASSESSMENTS

TPH Response:
Sections 7.1 and 7.2. TPH is responsible and has been paying all processing fees as invoiced by the City. The City Council adopted updated DIF fees at the 9/10/19 hearing which adjusted DIF's from that shown in Exhibit D of the DA. Park fees are not to be imposed on Atwell as the park requirement is met by the construction of parks and open space as shown in the SP. All other required DIF fees are collected at the time of building permit issuance and/or certificate of occupancy. However, if TPH constructs public infrastructure as identified in the City's Capital Improvement Program (CIP), TPH shall be earn credit with the City for the total construction cost applicable to the type of improvement (i.e. sewer infrastructure constructed then sewer DIF credit is earned). (**CONFORMING/ONGOING)**

Section 7.3. This section discusses water and wastewater DIF fee payments/credits and facility construction. Section 7.3.3 discusses the need for the City to upgrade its existing wastewater treatment facility capacity to be able to adequately treat current and future City wastewater flows. Further

discussion needs to be held between TPH, other developers and the City to discuss the City's wastewater facility capacity and status of upgrades including deliveries of recycled water to the Sun Lakes Development. (**CONFORMING/ONGOING)**

Section 7.4. Planned parks and open space have been constructed per the Atwell Specific Plan, Atwell will not be subject to park fees. As of the 10-year Anniversary Review, the southern half of Atwell's (below the SCE Easement) open space and parks have been either completed or are nearing completion. TPH has progressed north of the SCE Easement and is currently improving development Phase 3B and 4A-1. As previously mentioned in Section 5.4, the golf course was eliminated. In its place, a drainage corridor extends the length of Atwell from north to south conveying both onsite and offsite storm water runoff downstream. Within the drainage corridor, trails, lookout points, workout stations and leisure area have been constructed for the public to utilize and enjoy. As stated in Section 6.2.3.iii, Planning Area 39 identified in the Specific Plan for the Recreation/Emergency Center site is located in a future phase. Once TPH is in the planning stages of that phase, TPH will coordinate with the City. (**CONFORMING/ONGOING)**

Section 7.5. This section discusses traffic DIF fee payments/credits and facility construction. Section 7.5.2 discusses interim improvements on Highland Springs Avenue. TPH worked with the City of Banning and the City of Beaumont in the synchronization of the traffic signals near the I-10 Freeway intersection. In addition, TPH developed street improvement plans for the closure/re-routing of Joshua Palmer Avenue and coordinated with property owners that would have been affected by the closure/re-routing. However, TPH and the Cities were unsuccessful in coming to a solution that benefited all parties and the project has been stalled ever since.

TPH is required to conduct and submit for review to the City a Traffic Validation Report (TVR) for each development phase of Atwell. The TVR identifies traffic improvements needed to mitigate the impacts of that particular development phase. TPH has constructed all traffic improvements that the various development phase TVRs have identified (ie traffic signals, street widening, etc.). **(GOAL MET/ONGOING)**

Section 8: DEDICATIONS AND CONVEYANCES OF PROPERTY INTERESTS

TPH Response:
Section 8.1. Park and open space improvement plans have been and will continue to be designed by a qualified design professional and submitted for review and approval by the City. Per Section 8.1.4, a six (6) acre community recreation/emergency center parcel shall be in Planning Area 39 and said parcel shall be dedicated to the City without charge. The six (6) acre parcel "may be reduced so as to not adversely affect the development area of adjacent parcels…". TPH has continuously coordinated with City staff on the location of Planning Area 39 as this is in future development phase 4A-2 of Atwell. Community recreation/emergency center parcel will be dedicated to the City without charge once site has been graded and utilities stubbed. **(CONFORMING/ONGOING)**

Section 8.2. TPH has constructed the HOA owned and maintained Planning Area 19 detention basin within Phase 1A of the Atwell development. TPH began design and submittal process Planning Area 71 detention basin (Smith Creek Basin; located in the north) in 2019 and has been in ongoing design and review with Riverside County Flood Control and Water Conservation Department (RCFCD) since. Once constructed, The RCFCD owned and maintained Smith Creek Basin will significantly reduce offsite flows that impact Atwell from the north and in combination with other perimeter basins, alleviate the flood risks in Atwell and downstream portions of the City. The Smith Creek Basin was envisioned potentially as a dual-purpose detention/infiltration facility whereby the Pass Water Agency would discharge State Project Water through an extension of their pipeline into the Smith Creek Basin for groundwater

recharge purposes to augment the City's water supply. The City has not entertained this option. **(CONFORMING/ONGOING)**

Section 8.3. See above TPH response in Section 6.iv. **(GOAL MET)**

Section 8.4. The City desires to have an up to two-acre parcel for a future fire station. TPH has continuously coordinated with City staff on the location of Planning Area 60 as this is in a future phase of Atwell. Community recreation/emergency center parcel with be dedicated to the City once site has been graded and utilities stubbed and grant TPH a credit equal to the fair market value determined by an appraisal. **(CONFORMING/ONGOING)**

Section 8.5. See above TPH response in Section 6.v. Additionally, Atwell's DA called for a total water storage capacity of 3.5MG between the three (3) reservoirs to support the entirety of Atwell (DA excerpt below) at build-out. Because of further analysis and changing regulations, the projected total water storage capacity for Atwell is approximately 8.3MG in existing and future reservoirs. Please note, each reservoir parcel shall be dedicated to the City without charge once completed. **(GOAL ONGOING)**

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.

Section 9: PROCESSING OF REQUESTS AND APPLICATIONS: OTHER GOVERNMENT PERMITS

TPH Response:
Sections 9.1 through 9.12. In general, this section discusses the submittal and City review of the various design plans needed for a typical development project. (**CONFORMING/ONGOING)**

Sections 9.1 and 9.2. TPH has been timely in its development of each phase/Planning Area with each subsequent Tentative Tract Map submittal. To date, TPH has not needed to utilize expedited processing. (**CONFORMING/ONGOING)**

Section 9.3. A few years ago, the City implemented a new improvement plan and permit tracking software, SmartGov. The software was not without its issues since the initial rollout such as plan check turnaround times, invoice accuracy and file transfer corruption. It seems those issues have been resolved but City interdepartmental coordination and plan check turnaround times have suffered since SmartGov's implementation and are not typically within the two-week timeframe specified by the DA. TPH and the City are continually coordinating to resolve these issues, so construction delays are not experienced. (**CONFORMING/ONGOING)**

Sections 9.4 through 9.12. Throughout the life of Atwell, TPH will continuously coordinate and submit for City review/approval all required tentative tract maps, final maps and improvement plans, etc. to construct Atwell to City standards. (**CONFORMING/ONGOING)**

Section 10: AMENDMENT AND MODIFICATION OF DEVELOPEMNT AGREEMENT

TPH Response:
Sections 10.1 through 10.5. In general, this section discusses the guidelines for minor modifications and amendments to DA. To date, there have been no such amendments and/or modifications to the DA. (**CONFORMING/ONGOING)**

Section 11: RESERVATIONS OF AUTHORITY

TPH Response:
Sections 11.1 through 11.3. The Atwell DA term is 40 years, which means the project will be subject to several building code change cycles. Atwell will adhere to those code changes as required unless code extensions/grandfathering are granted either via State of California or applications to the City. (**CONFORMING/ONGOING)**

Section 12: ANNUAL REVIEW

TPH Response:
Section 12.1. To date, TPH has submitted eight annual reviews, with subsequent public reviews at City Council, as development did not begin until 2018. For reference, the most recent 2025 annual review checklist conducted by the City Council on October 14, 2025, is included in Appendix B. Because of several key City staff changes in 2025, a decision by the City was made to put off the 10-year anniversary review (Review) until 2026. As such, TPH sent an email to City staff on February 2, 2026, requesting a meeting to discuss the information and format the City would require to complete the Review which was ultimately held on April 15, 2026. It was agreed upon to hold the 10-year review at a City Council meeting in June 2026. (**CONFORMING/ONGOING)**

Sections 12.2 and 12.3. (**CONFORMING/ONGOING)**

Section 13: DEFAULT, REMEDIES AND TERMINATION

TPH Response:
Sections 13.1 through 13.9. Neither TPH nor the City have needed to exercise the default, recovery for damages, dispute resolution, or termination clauses of this section. (**CONFORMING/ONGOING)**

Section 14: ASSIGNMENT

TPH Response:
Sections 14.1 through 14.4. Section 14 lays out the rules and regulations of how TPH could transfer developer's rights under the agreement. (**CONFORMING/ONGOING)**

Section 15: RELEASE AND INDEMNITIES

TPH Response:
Sections 15.1 through 15.5. Section 15 outlines the releases and indemnities of the City and TPH, including third party litigation and hold harmless of developer's construction. (**CONFORMING/ONGOING)**

Section 16: EFFECT OF AGREEMENT ON TITLE

TPH Response:
Section 16.1. This section simply states how the provisions of the Agreement and other covenants run with the land. (**CONFORMING/ONGOING)**

Section 17: CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

TPH Response:
Sections 17.1 through 17.3. These sections outline the non-liability of City officials and employees, conflict of interest statement, and assuring covenants are non-discriminatory. (**CONFORMING/ONGOING)**

Section 18: MORTGAGEE PROTECTION

TPH Response:
Sections 18.1 through 18.9. This section covers mortgages, project financing, liens, defaults, City's rights on incomplete improvements, etc. (**CONFORMING/ONGOING)**

Section 19: MISCELLANEOUS

TPH Response:
Sections 19.1 through 19.13. The miscellaneous items covered in this section include Estoppel Certificates, Interpretations, severability, obligations, no third party beneficiaries, notice contacts to the Developer and City, relationship of parties, attorney's fees, further actions, time of essence, waivers, and execution of the Agreement. (**CONFORMING/ONGOING)**

TPH is proud to provide a high-quality development in the City and deliver it in a timely manner consistent with the DA as amended.

Should you have any questions or need additional information please call my office at (951) 428-4400.

Thank you,

Michael Heishman
Director of Land Development

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

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County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

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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.

NANCY TROJAN
Commission # 1903865
Notary Public - California
Los Angeles County
My Comm. Expires Sep 12, 2014

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

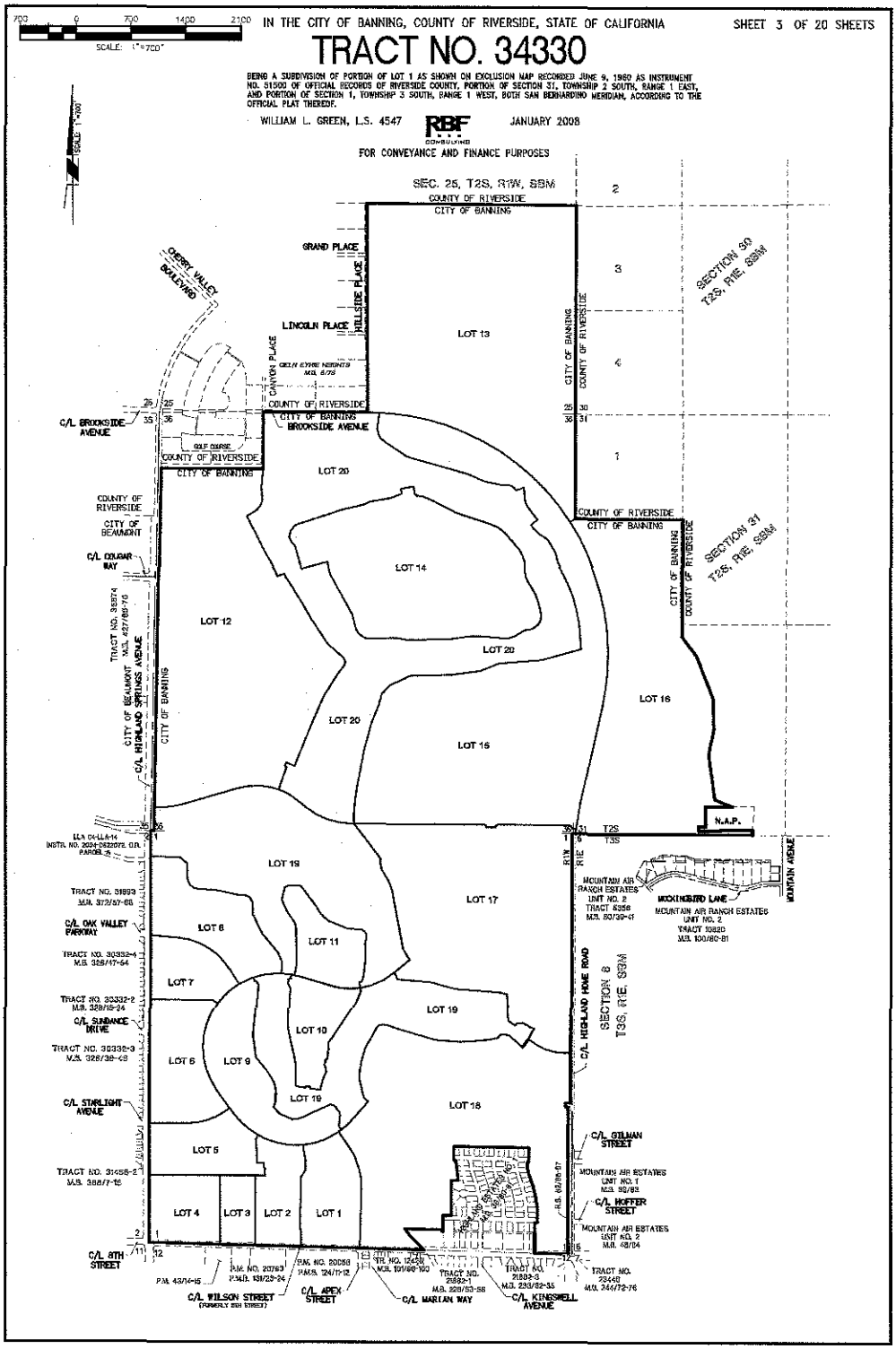
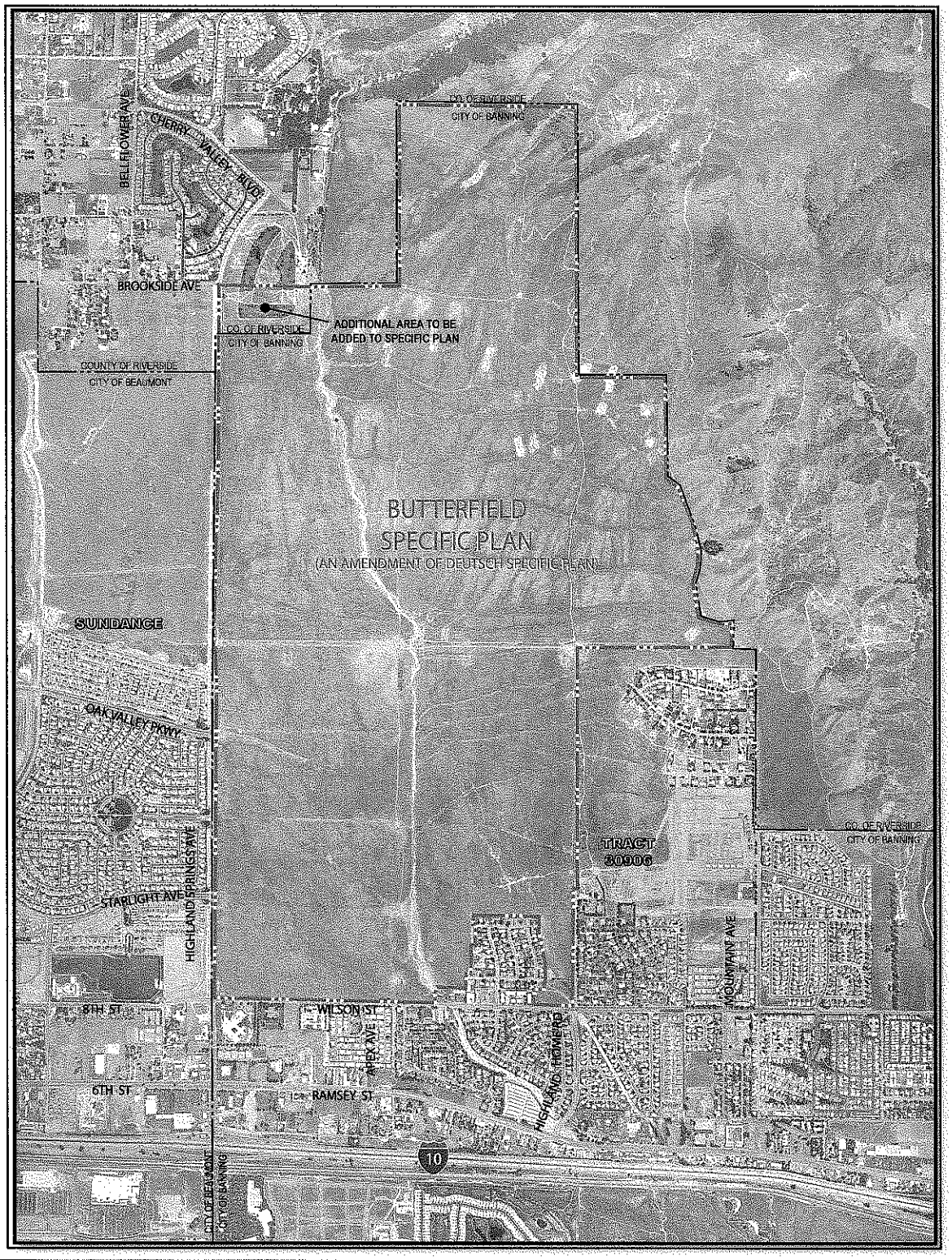


EXHIBIT "A"
PARDEE BANNING PROPERTY



SPECIFIC PLAN MAP

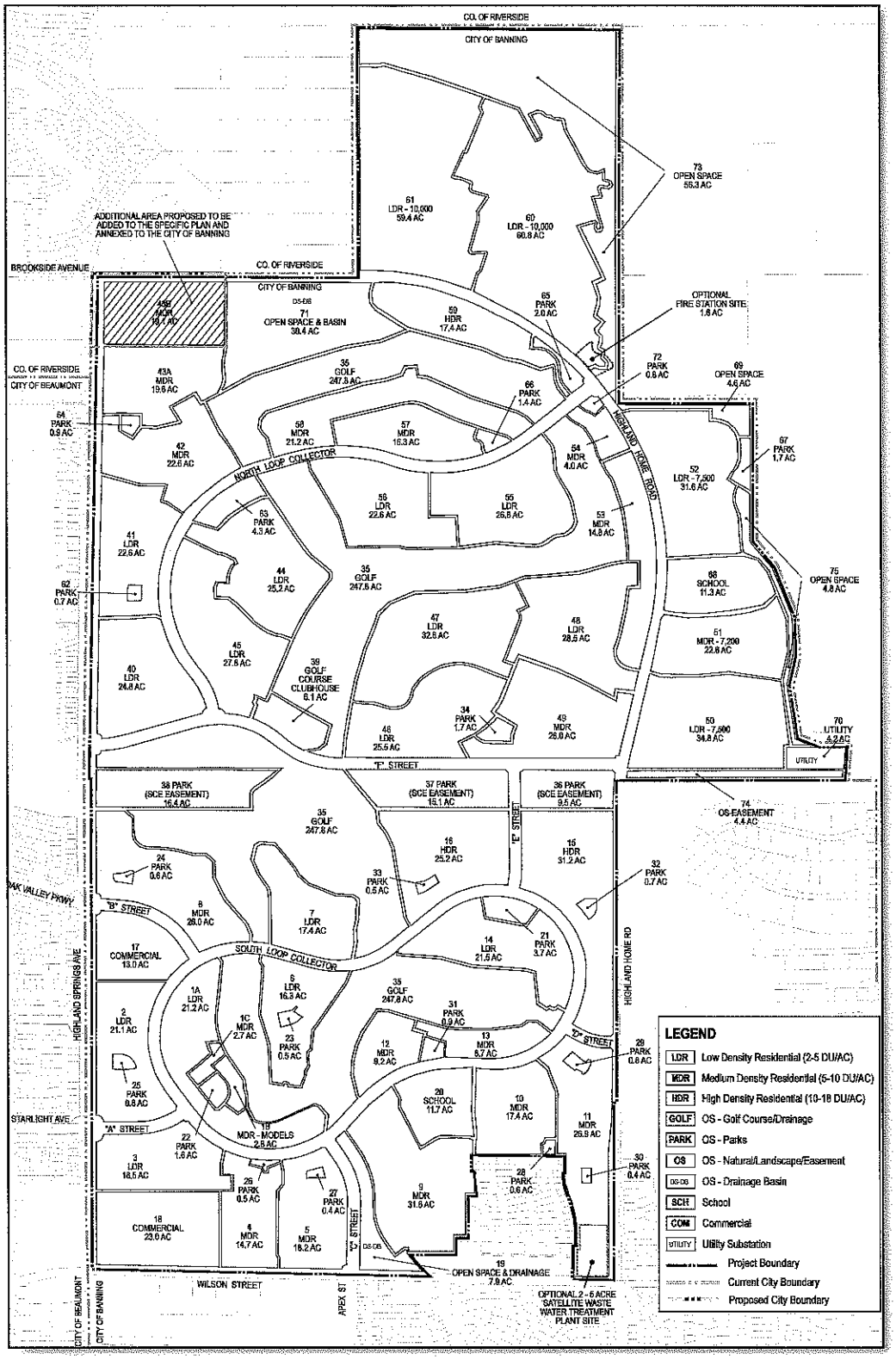


EXHIBIT "B"
EXISTING DEVELOPMENT APPROVALS/FEE STUDIES

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

DESCRIPTION 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

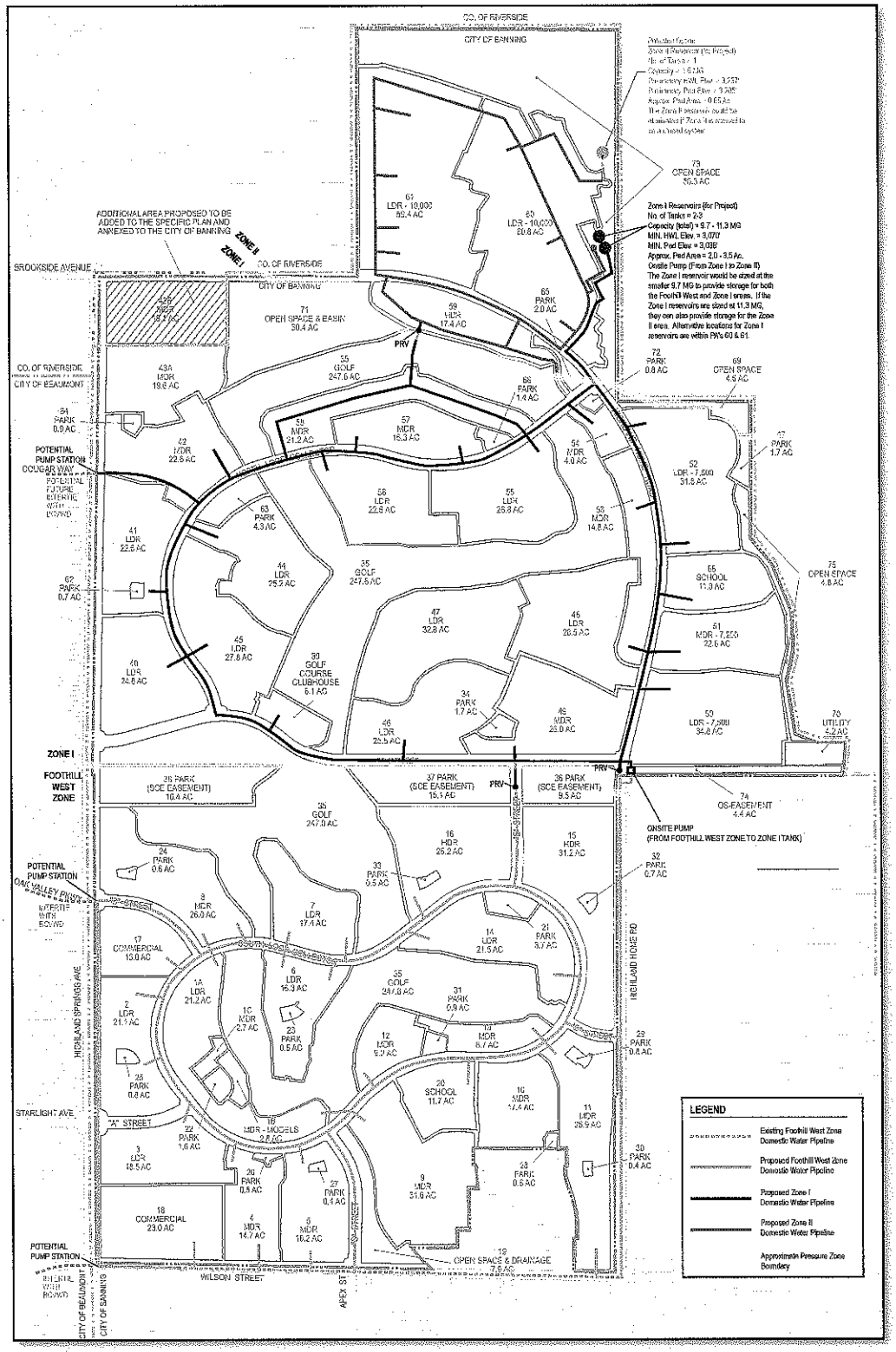
The Developer shall pay prevailing wages in connection with the construction of the Project as required by law. To the extent that it is determined that Developer has not paid, or does not pay, prevailing wages required by law for any portion of the Project, Developer shall defend and hold the City harmless 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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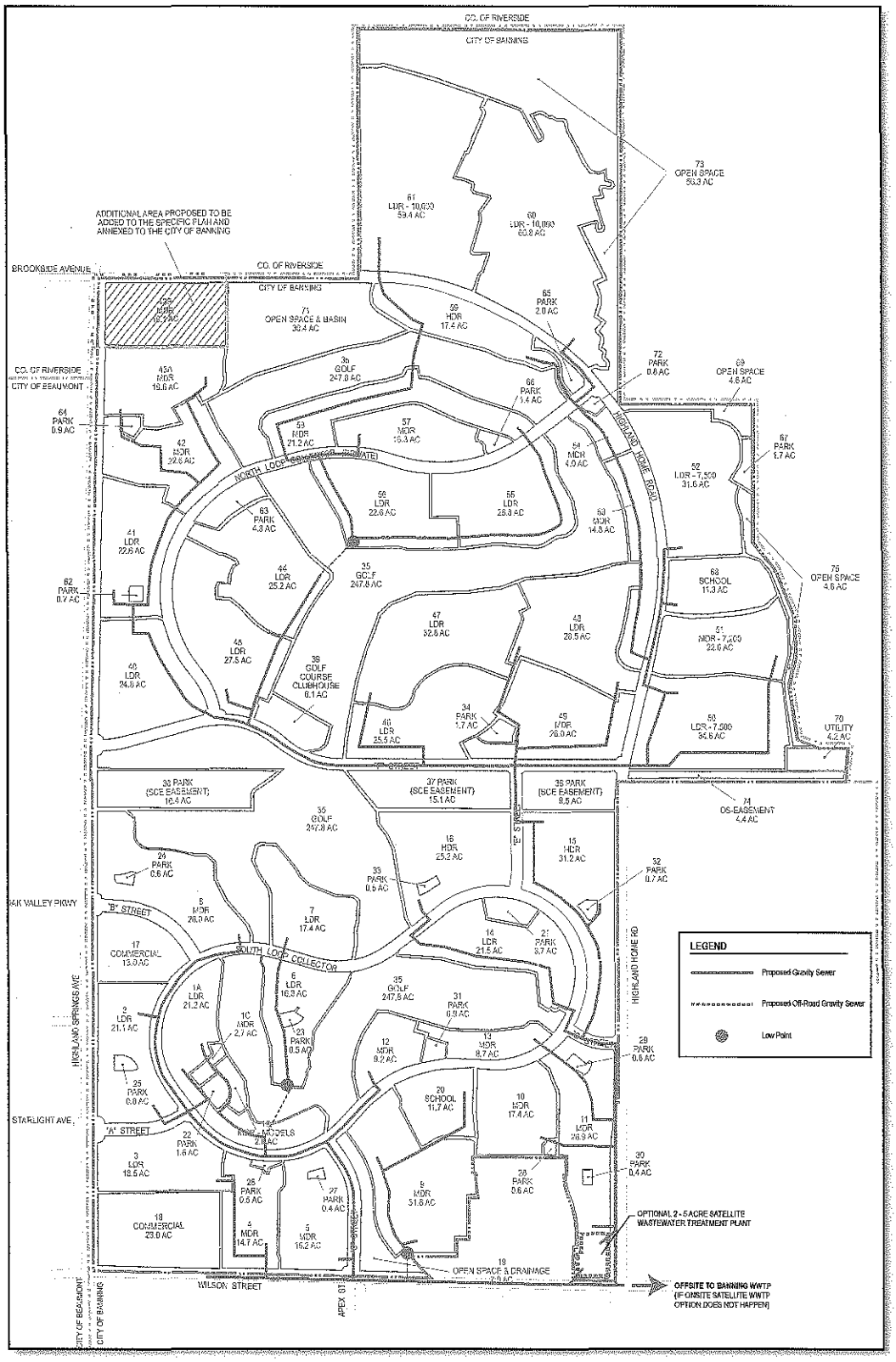

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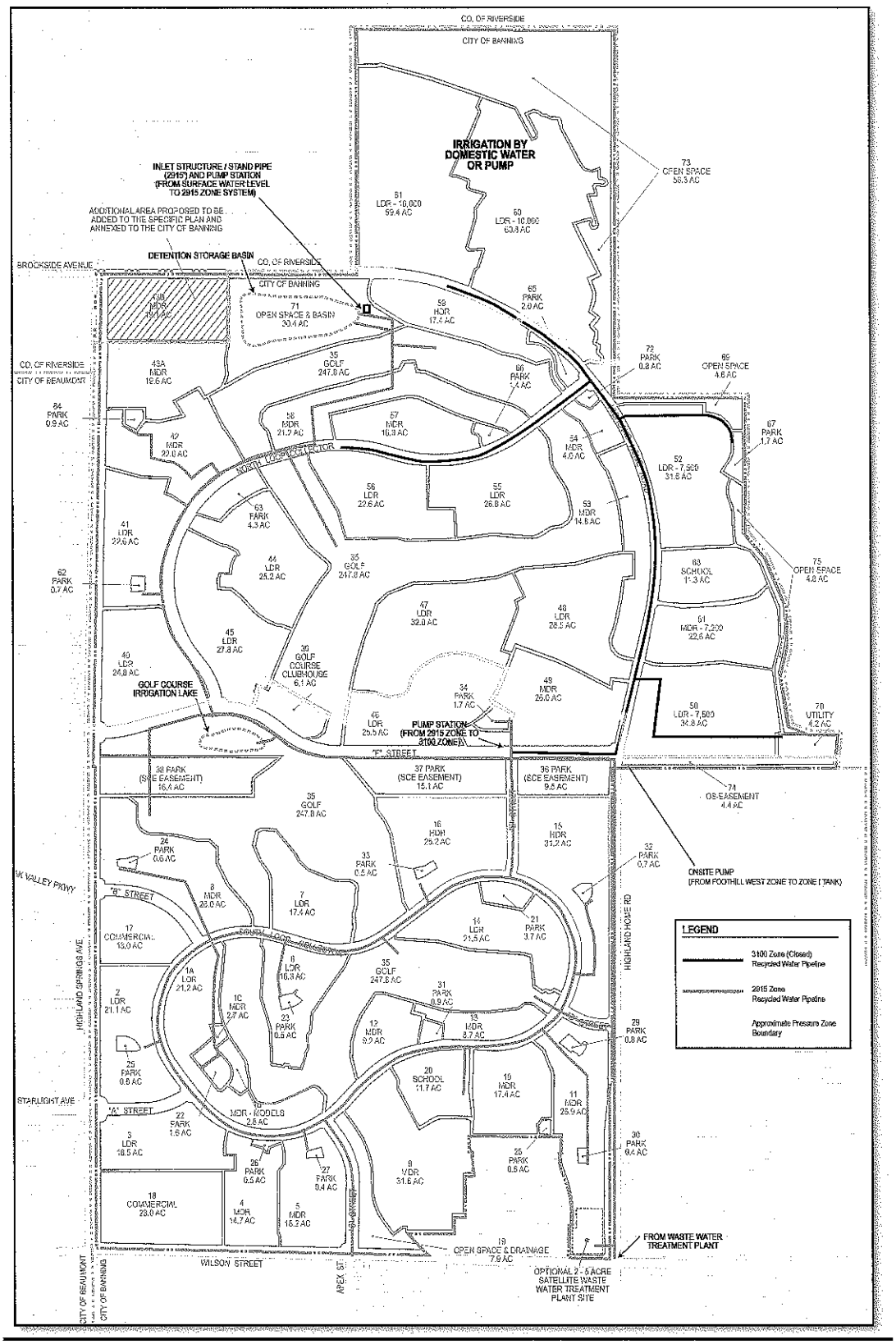

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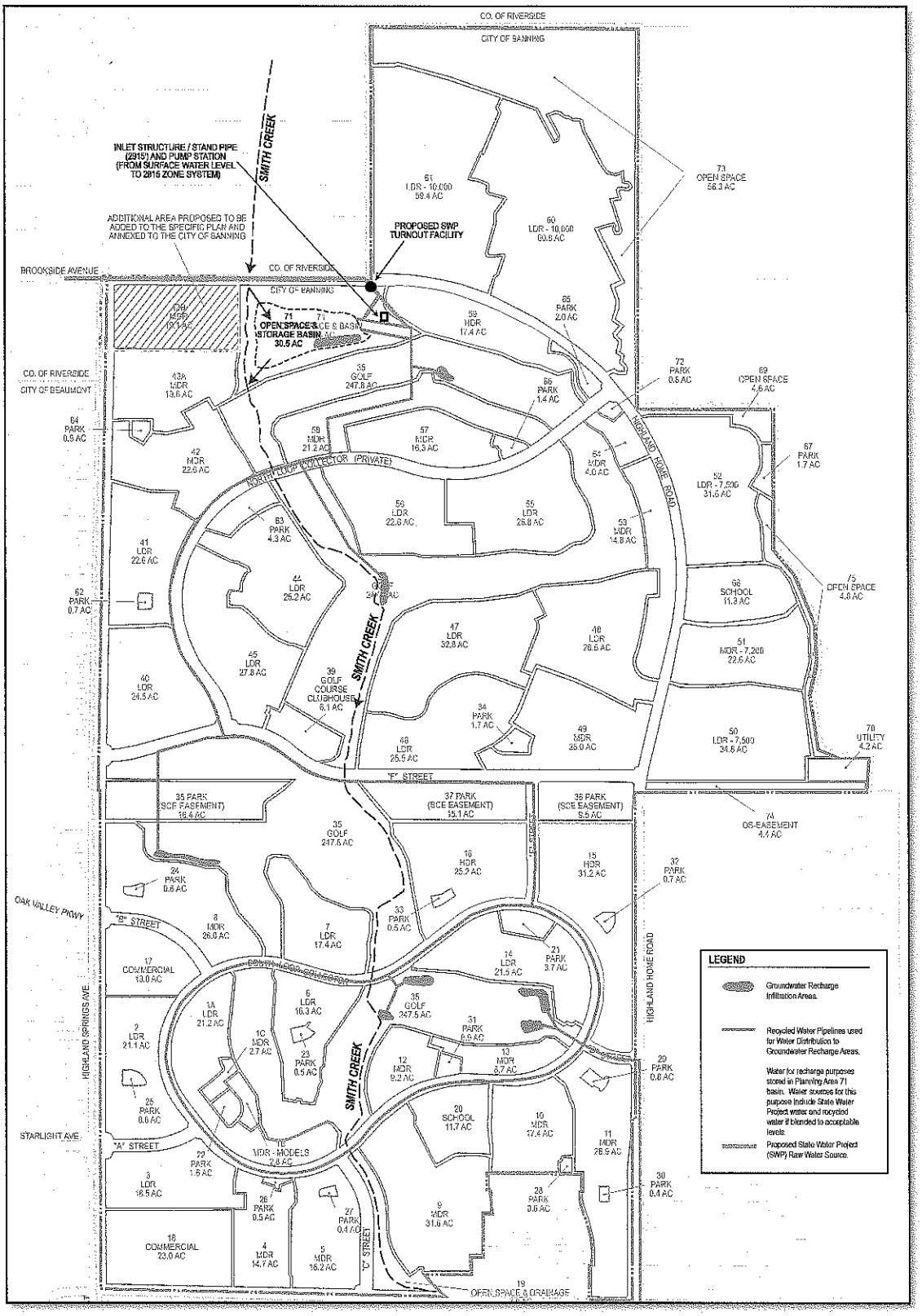

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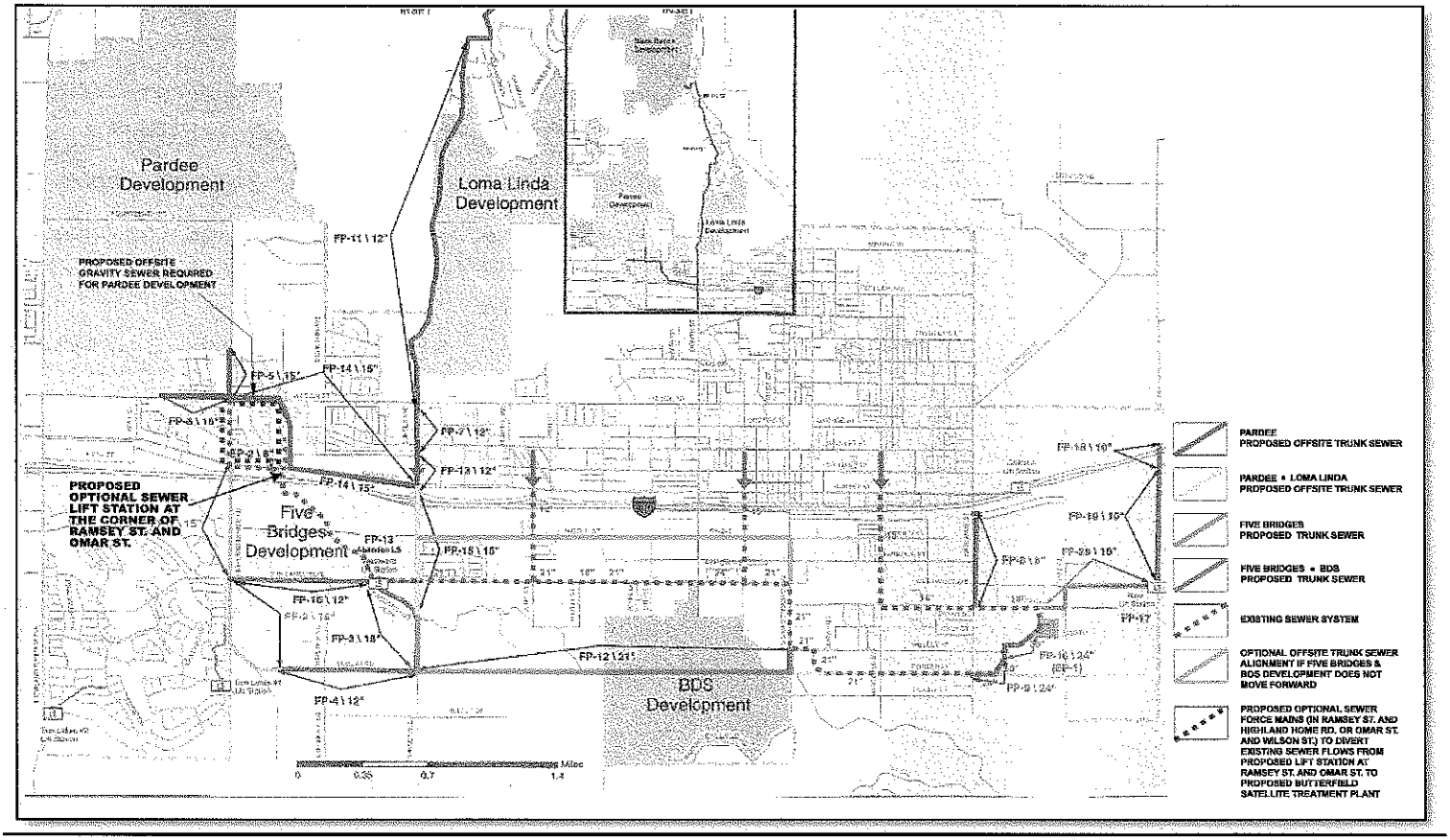

EXHIBIT "G"
HIGHLAND SPRINGS IMPROVEMENTS

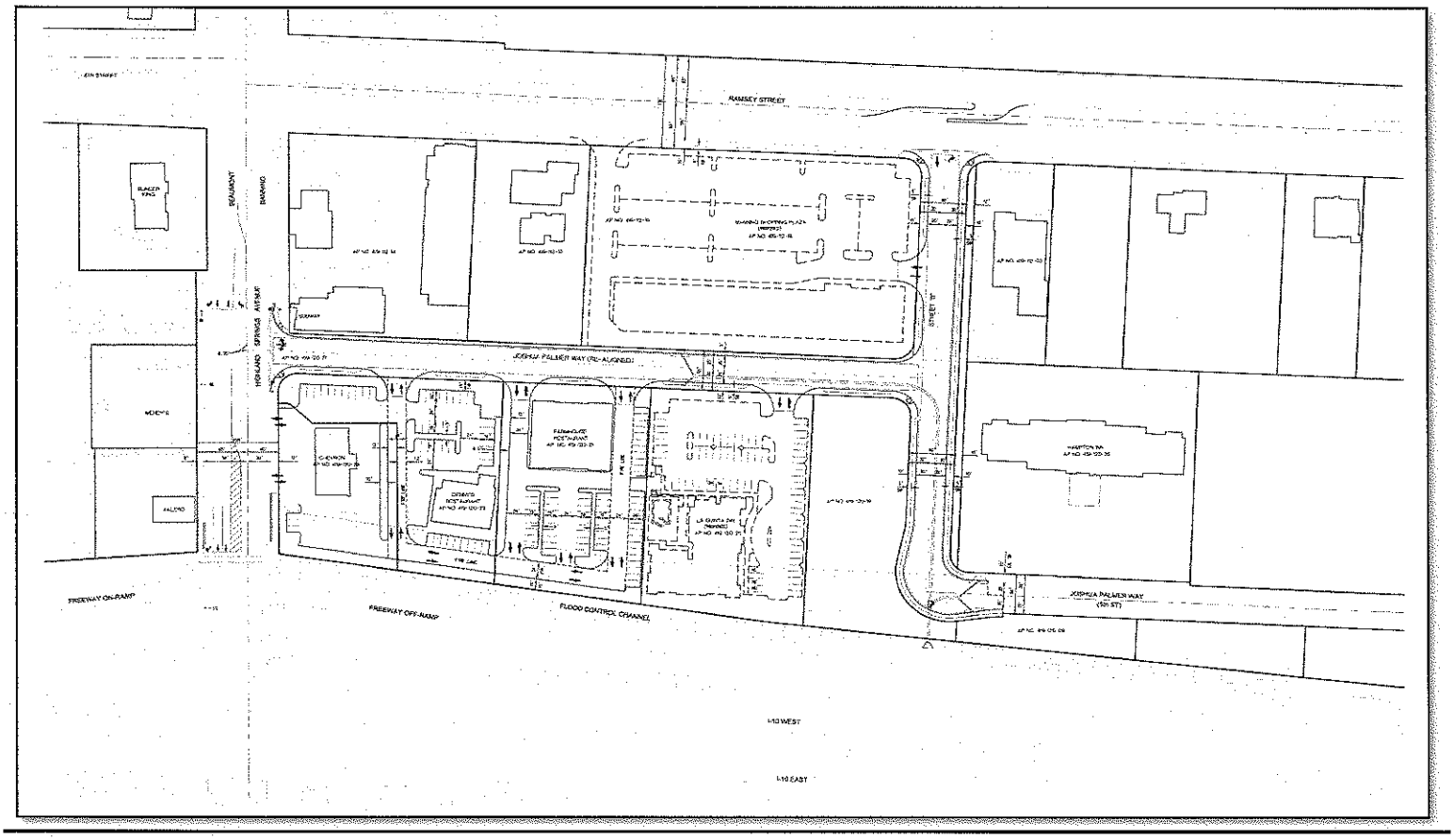

EXHIBIT "H"
BUTTERFIELD PROJECT FINANCING PLAN

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.)

PHN CC Meeting 6-23-26 Atwell DA 10 Year

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:

Jun 12, 2026

Executed on: June 12, 2026

At City of Banning, California

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

Kaila Yeaman
Signature

CITY OF BANNING

NOTICE OF PUBLIC HEARING BEFORE THE CITY COUNCIL

Atwell
10 Year 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 June 23, 2026. The City Council meeting begins at 5:00 p.m., in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, CA 92220. To observe the live meeting through your personal computer or smart phone enter the following link: https://banninglive.viebit.com or view on the Banning Government Channel on Cable Television.

The purpose of this hearing is to conduct a 10-Year 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 17.60.070 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. This 10-Year 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://banningca.granicus.com/ViewPublisher.php?view_id=1

· Written comments may be submitted to the City Council by email at CityClerks@banningca.gov or letter to the address below. Transmittal prior to the start of the meeting is required. Any correspondence received during or after the meeting will be distributed to the City Council as soon as practicable and retained for the official record.

City Clerk's Office
PO Box 998
99 E. Ramsey St
Banning, CA 92220

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior, to the public hearing (Government Code Section 65009[b][2]).

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Banning y puede hablar con Sandra Calderon, teléfono (951) 922-3125.

BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.

Matt Bassi	Dated: June 4, 2026
Interim Community Development Director	Publish: June 12, 2026

Published
Record Gazette
June 12, 2026

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

PREPARED BY: **Holly Stuart, Public Works Program Manager**
Arturo Vela, Director of Public Works

MEETING DATE: **June 23, 2026**

SUBJECT: **Public Hearing and Consideration of Resolution 2026-92, Approving a Report in Connection with the Proposed Collection on the 2026/2027 Riverside County Property Tax Roll of Delinquent Solid Waste Service Charges for Single-Family and Multi-Family Dwelling Accounts and Making a Determination of Exemption under CEQA**

STAFF RECOMMENDATION:

Staff recommends that the City Council Adopt Resolution 2026-92:

1. Conduct the Public Hearing and accept public testimony regarding calendar year 2025 single-family and multi-family delinquent accounts to be applied to the Fiscal Year 2026/2027 County of Riverside property tax roll.
2. In the absence of a majority protest, approve the single-family and multi-family solid waste delinquency report from Waste Management of the Inland Empire ("Waste Management") listing calendar year 2025 delinquencies for placement on the Fiscal Year 2026/2027 County of Riverside property tax roll ("County Tax Roll").
3. Authorize the City Manager or designee to decrease the number of delinquent accounts and/or principal balances reported by Waste Management should delinquencies be resolved or reduced prior to final submittal of the delinquencies to the Riverside County Auditor-Controller for collection on the Fiscal Year 2026/2027 County Tax Roll.
4. Authorize the collection of calendar year 2025 single-family and multi-family delinquent solid waste charges on the Fiscal Year 2026/2027 County Tax Roll and direct the City Clerk to file a certified copy of the Resolution and the Solid Waste Delinquency Report with the County of Riverside Auditor-Controller.
5. Find that the proposed collection of delinquent charges on the County Tax Roll is exempt from CEQA.

BACKGROUND:

On April 27, 2021, the City Council approved a solid waste franchise agreement with Waste Management of the Inland Empire (Waste Management) for Residential and Commercial Garbage, Recyclable Materials, and Organics Waste Collection, Transportation, Recycling, and Disposal Services (Franchise Agreement), effective July 1, 2021.

In accordance with the Franchise Agreement, on October 12, 2021, the City Council adopted Ordinance No. 1576, amending and restating Chapter 8.28, "Garbage Collection and Disposal," of Title 8, "Health and Safety," of the Banning Municipal Code. In addition to implementing many aspects of the new Franchise Agreement, the ordinance allows the collection of delinquent residential service charges on

the County Tax Roll in accordance with the Franchise Agreement and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("Article 4"). The operative date of the amendments to the Municipal Code was January 1, 2022.

Pursuant to Article 4, delinquent charges collected on the County Tax Roll will be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

The Franchise Agreement provides that Waste Management shall provide solid waste collection services to residential accounts, which include both single-family dwellings (SFD) and multi-family dwellings (MFD). Pursuant to the Franchise Agreement, services provided to residential accounts that become delinquent cannot be discontinued. In consideration of Waste Management not being able to discontinue residential services, the City is committed to working with Waste Management in placing qualifying residential delinquencies on the County Tax Roll. To initiate the process, the Franchise Agreement requires Waste Management, on May 1st of each year or such other agreed-upon date, to notify the City in writing that it seeks to have the City place qualifying delinquencies on the County Tax Roll. At no cost to the City, Waste Management is responsible for timely preparing required information, reports, notices, and materials.

Pursuant to the Franchise Agreement, a qualifying delinquent charge is an SFD or MFD charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as listed on the last equalized assessment roll.

On April 23, 2026, Waste Management submitted a formal letter to the City requesting that qualifying SFD and MFD delinquent solid waste service charges for calendar year 2025 be placed on the Fiscal Year 2026/2027 County Tax Roll, together with a report which includes a description of each parcel within the City for which there is a qualifying delinquent charge ("Identified Parcel") and the delinquent amount for each Identified Parcel (the "Report"). The Report is on file in the office of the City Clerk. Amounts listed in the Report include past-due charges for service and late fees (2.5% or $5 minimum on balances over $15). Additionally, County Tax Roll Fees amount to 10% of unpaid balances per occurrence.

For the calendar year 2025 period, Waste Management's request is for 912 delinquent residential accounts, with a total principal balance of $344,415.79. The principal balance for each parcel includes unpaid charges for solid waste collection services (including extra services) for all or a portion of the period of January 1, 2025, through December 31, 2025, and monthly late fees.

JUSTIFICATION:

The action before the City Council is to conduct a Public Hearing to place calendar year 2025 residential delinquent accounts on the Fiscal Year 2026/2027 County Tax Roll.

At the Public Hearing, the City Council shall hear and consider all oral and written objections or protests, if any, to the Report and the collection of the delinquent accounts on the Fiscal Year 2026/2027 County Tax Roll. If the City Council finds at the conclusion of the Public Hearing that the protest is made by the owners of a majority of the separate Identified Parcels, then the Report shall not be adopted and the delinquent charges shall not be collected on the County Tax Roll. In the absence of a majority protest, the City Council may adopt this resolution for inclusion of residential delinquent accounts to be added to the Fiscal Year 2026/2027 County Tax Roll.

On June 8, 2026, the notice of Public Hearing was mailed to the owner of each Identified Parcel at the address shown on the last equalized assessment roll available on the date the Report was prepared or as known to the City Clerk, and to the address to which the invoices are customarily mailed, if different than the owner's address. The mailed notices describe the Council's intent to place delinquent solid

waste charges on the Fisal Year 2026/2027 County Tax Roll, public hearing and protests process and deadline to resolve delinquent balances prior to submittal of the delinquencies to the County. In addition, notices of this public hearing were published in the Record Gazette on June 5, 2026 and June 12, 2026.

The following outlines the process for collecting delinquent solid waste charges:

1. Waste Management prepares an annual written Solid Waste Delinquency Report and submits a copy to the City. The delinquency report contains a description of each SFD and MFD parcel receiving solid waste services and the amount of the delinquent amount for each parcel that remains outstanding, which include service charges, late fees and a tax roll fee.
2. City staff evaluates delinquent residential accounts reported and continuously works with Waste Management to identify and resolve any identified inconsistencies. This process is pursued from the time the initial report is submitted by Waste Management through its final submittal to the County of Riverside.
3. At the public hearing, in absence of a majority protest, City Council approves the Solid Waste Delinquency Report and adopts a resolution authorizing the collection of delinquent solid waste charges to be placed on the annual County tax roll. City staff is authorized to decrease the number of residential delinquent accounts and/or principal balances reported to the County, if necessary. Property owners that resolve their outstanding calendar year 2025 solid waste charges with Waste Management, or make partial payment to Waste Management prior to July 17, 2026, will be removed from the accounts submitted to the County of Riverside Auditor-Controller by the City for collection on the County Tax Roll or the amounts submitted will be reduced accordingly.
4. Following the final determination of the delinquent solid waste charges, the City shall file with the County of Riverside Auditor-Controller any remaining delinquent balances, including applicable late fees and tax roll fee, to be included on the respective property owner's Fiscal Year 2026/27 property tax bill.

Property owners have two options to resolve delinquent solid waste charges:

1. Resolve unpaid solid waste delinquencies with Waste Management before the July 17, 2026 deadline; or
2. Resolve unpaid solid waste delinquencies with the County of Riverside once delinquent charges are included on the Fiscal Year 2026/2027 property tax bill. Delinquent charges collected on the County Tax Roll will be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

CEQA

City staff has evaluated the proposed collection of the delinquent charges on the County Tax Roll for purposes of compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. City staff has determined that the proposed collection of delinquent charges on the tax roll is an activity covered by the common sense exemption in that it can be seen with certainty that there is no possibility that such collection may have a significant effect on the environment because the collection only addresses the cost of an existing service provided to the public and not the commencement of a new service or program. Accordingly, the process for the collection of the delinquent charges on the County Tax Roll is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT:

At no cost to the City, Waste Management shall be responsible, without limitation, for all costs associated with preparing required information, including but not limited to reports, notices, and materials, publication costs, and Riverside County fees. The Franchise Agreement provides that the City will pay Waste Management moneys collected from the payment of the delinquent charges placed on the County Tax Roll, less the cost charged by the County to levy the charges on the County Tax Roll, and less a franchise fee equal to twelve and one-half percent (12.5%) of the amount received. If all 912 delinquent residential accounts are levied on the County Tax Roll and all accounts paid both installments

of the 2026-2027 property tax bill, the franchise amount the City would collect is $43,052. A budget for the franchise fee will be included with the proposed FY 2026/27 Operating Budget.

ATTACHMENTS:

1. Resolution 2026-92.docx
2. WM TaxRoll Letter_2026.pdf
3. CityOfBanning_Legal_PH Notice.pdf
4. Banning Public Hearing Example Letter.docx
5. column_affidavit_urrIDtf1OF08LgsNrCw1.pdf

RESOLUTION 2026-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A REPORT IN CONNECTION WITH THE PROPOSED COLLECTION ON THE 2026/2027 RIVERSIDE COUNTY PROPERTY TAX ROLL OF DELINQUENT SOLID WASTE SERVICE CHARGES FOR SINGLE-FAMILY DWELLING AND MULTI-FAMILY DWELLING ACCOUNTS, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

WHEREAS, the City Council is authorized pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("HSC Code"), to levy and collect annual service charges for the collection, transportation, recycling and disposal of solid waste ("Charges") and to have the delinquent Charges for single-family dwelling (SFD) and multi-family dwelling (MFD) accounts collected on the County of Riverside Property Tax Roll ("County Tax Roll"); and

WHEREAS, the City Council agreed to undertake annual proceedings to collect qualifying delinquent Charges for SFD and MFD accounts on the County Tax Roll in consideration of its franchise agreement with Waste Management of the Inland Empire ("Waste Management") which provides that Waste Management may not discontinue collection services for these delinquent residential accounts due to nonpayment; and

WHEREAS, pursuant to HSC Section 5473, delinquent Charges collected on the County Tax Roll shall be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City; and

WHEREAS, pursuant to its solid waste franchise agreement with the City, Waste Management notified the City in writing on April 23, 2026, that it seeks to have the City collect qualifying delinquent Charges for SFD and MFD accounts for calendar year 2025 on the 2026/2027 County Tax Roll; and

WHEREAS, pursuant to the Franchise Agreement, a qualifying delinquent Charge is a Charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as the property owner is listed on the last equalized assessment roll ("Delinquent Charge"); and

WHEREAS, the City has caused a written report to be prepared and filed with the City Clerk in accordance with HSC Sections 5473 and 5473a ("Report"). The Report contains a description of each parcel within the City for which there is Delinquent Charge in connection with a SFD or MFD account ("Identified Parcel") and the delinquent amount for each Identified Parcel. The City has received the Report, which is on file in the office of the City Clerk; and

WHEREAS, the City set a Public Hearing on the Report and collection of delinquent Charges on the 2026/2027 County Tax Roll for June 23, 2026 in the Council Chambers; and

WHEREAS, the notice of Public Hearing was mailed at least 14 days prior the hearing to the owner of each Identified Parcel at the address shown on the last equalized assessment roll available on the date the Report was prepared or as known to the City Clerk, and to the address to which the invoices are customarily mailed, if different than the owner's address; and notices of the Public Hearing were published in the Record Gazette on June 5, 2026 and June 12, 2026; and

WHEREAS, the City Council has held a full and fair Public Hearing regarding the Report and collection of the Delinquent Charges on the 2026/2027 County Tax Roll, and the City Council considered all oral and written protests or objections regarding the Report and the collection of the Delinquent Charges on the 2026/2027 County Tax Roll; and

WHEREAS, no majority protest, as determined in accordance with Health and Safety Code Section 5473.2, exists against the Report and collection of the Delinquent Charges on the 2026/2027 County Tax Roll.

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

SECTION 1. The City Council hereby overrules all protests and objections to the Report and collection of the Delinquent Charges on the Fiscal Year 2026/2027 Tax Roll and approves the Report as filed.

SECTION 2. The City Council approves the Delinquent Charges, including late fees and a tax roll fee, to be placed for collection on the 2026/2027 County Tax Roll.

SECTION 3. The City Manager or designee is authorized to decrease the number of SFD and MFD accounts and/or principal balances set forth in the Report prior to final submittal, should the Delinquent Charges be resolved or paid in part prior to the deadline identified in the notice of the Public Hearing, which is July 17, 2026.

SECTION 4. The City Clerk or designee is authorized and directed to file a certified copy of this Resolution and the Report with the County of Riverside Auditor-Controller.

SECTION 5. The City Council concurs with staff's determination that the proposed collection of the Delinquent Charges on the 2026/2027 County Tax Roll is exempt from the California Environmental Quality Act ("CEQA") because it can be seen with certainty that there is no possibility that such collection will have a significant effect on the environment because the collection of the Delinquent Charges on the County Tax Roll only addresses the cost of an existing service provided to the public and not the commencement of a new service or program. Consequently, the City Council finds the process for the collection of the Delinquent Charges on the 2026/2027 County Tax Roll is exempt from CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3).

SECTION 6. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-92, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

WM
17700 Indian St
Moreno Valley, CA 92551

April 23, 2026

Mr. Art Vela, P.E.
Director of Public Works/City Engineer
City of Banning
99 East Ramsey Street
Banning, CA 92220

RE: 2025 Tax Roll Process

Dear Mr. Vela,

As a formality and in accordance with WM's responsibilities under Section 4.02.1 of the Franchise Agreement, WM is required to provide written notification by May 1st of its intent to place delinquent accounts on the tax roll for calendar year 2025.

4.02.1 Delinquent SFD and MFD Service Accounts. Contractor shall provide SFD and MFD Service Recipients with a notice of delinquency in the event of non-payment if an account is five (5) or more days past due. Contractor will not discontinue Collection Service from delinquent SFD and MFD Service Units. In consideration for Contractor's agreement to not discontinue Collection Service from delinquent SFD and MFD Service Units, City agrees to assist Contractor with placing and collecting qualifying delinquencies on the tax roll in accordance with Health & Safety Code §5473a. Contractor shall, by May 1st of each year or at such other time as agreed upon by City and Contractor, notify City in writing as to whether it will seek to have City place and collect qualifying delinquencies on the tax roll. Contractor shall be responsible for timely preparing, at no cost to City, all required information, reports, notices, and materials including without limitation, the report required by Health & Safety Code §5473, the notices required by Health & Safety Code §5473.1 and paying for any publication costs. City agrees that it shall within one-hundred twenty (120) days after the Effective Date of this Agreement adopt the necessary ordinance authorizing collection of eligible delinquent SFD and MFD Service Recipients on the tax roll, and to hold all hearings, timely publish all notices, and to timely make all filings required under the above sections, provided Contractor has timely provided the required information, reports, notices, and materials to City. For the purposes of this Section, a "qualifying delinquency" is an SFD or MFD Service Recipient that is at least ninety (90) days in arrears and for which Contractor has provided at least one written notice of the delinquency delivered to the service recipient and to the property owner, as that owner is listed on the last equalized assessment roll, by mail. City shall pay Contractor money collected from payment of the delinquent fees, less the Franchise Fee and the City's cost to administer the tax roll lien process.

Once the dates are established, we will provide the customer delinquent report, issue customer notifications, and supply all required information and support for the hearing, as well as any other activities related to this matter.

Should you have any questions, please contact me at (951) 415-4389. Thank you for your time.

Respectfully,

Douglas Tani
WM Public Sector

WASTE MANAGEMENT

CITY OF BANNING NOTICE OF PUBLIC HEARING

Notice of Public Hearing Regarding the Proposed Collection of Delinquent Solid Waste Charges for Single-Family and Multi-Family Accounts on the Riverside County 2026-27 Tax Roll on

PUBLIC HEARING TO BE HELD:

June 23, 2026 at 5:00 p.m.

City Council Chambers – 99 East Ramsey Street, Banning, CA 92220

The City of Banning ("City") levies and collects annual service charges for the collection, transportation, recycling and disposal of solid waste ("Charges"). The City's franchised hauler, Waste Management of the Inland Empire ("Waste Management"), bills and collects the Charges.

Pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("Article 4"), the City is authorized to have the delinquent Charges for single-family and multi-family accounts collected on the County of Riverside Property Tax Roll ("Tax Roll").

Delinquent Charges collected on the Tax Roll shall be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

In accordance with the collection agreement Waste Management has requested the City to collect on the 2026-27 Tax Roll qualifying delinquent Charges for single-family and multi-family accounts for all or a portion of the 2025 calendar year pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4. A qualifying delinquent Charge is a Charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as the property owner is listed on the last equalized assessment roll ("Delinquent Charge").

The City has caused a written report to be prepared and filed with the City Clerk in accordance with Article 4 ("Report"). The Report contains a description of each parcel within the City for which there is Delinquent Charge in connection with a single-family or multi-family account ("Identified Parcel") and the delinquent amount for each Identified Parcel. The Report is on file in the City Clerk's Office, Banning City Hall, 99 East Ramsey Street, Banning, CA 92220. The amount to be collected on the Tax Roll includes the unpaid Charges, accrued late fees, and a 10% Tax Roll fee.

NOTICE IS HEREBY GIVEN that the City Council will hold a **public hearing** on the Report on **Tuesday, June 23, 2026 at 5:00 p.m.**, or as soon thereafter as the matter may be heard, **in the City Council Chambers, located at 99 East Ramsey Street, Banning, CA, 92220.** The public hearing may be continued from time to time.

At the public hearing, the City Council will hear and consider all oral or written objections or protests to the Report and the collection of the Delinquent Charges on the County Tax Roll. Written protests may be personally delivered to the City Clerk during the public hearing or personally delivered to the City Clerk's Office, Banning City Hall, 99 E. Ramsey Street, Banning, CA 92220. Written protests may also be mailed to the City Clerk's Office, P.O. Box 998, Banning CA 92220. Written objections or protests must arrive by 5:00 pm on June 23, 2026 to be counted. A written protest must clearly state the signer's opposition to the collection of the Delinquent Charges on the Tax Roll, identify the parcel for which the protest is being submitted, and include an original signature of the person submitting the protest.

If, at the conclusion of the public hearing, protest is made by the owners of a majority of the separate Identified Parcels, the Delinquent Charges shall not be collected on the 2026-27 Tax Roll, but may be collected by other means, including a collection action.

If a delinquent amount and accrued late fees are paid in full or in part or otherwise cleared by July 17, 2026, the delinquent amount set forth in the Report and late fees will be removed or reduced as applicable.

For questions or additional information regarding the public hearing, you may call the Public Works Department at (951) 922-3130 or email refuse@banningca.gov.

Si necesita ayuda para entender la información de esta notificación por favor llame al ***(951) 922-3130.***

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NOTICE OF PUBLIC HEARING ON DELINQUENT SOLID WASTE SERVICE CHARGES

JUNE 4, 2026

TOTAL BALANCE DUE ON ACCT AS OF JUNE 4, 2026: «Total_MAS»
MINIMUM AMOUNT DUE TO AVOID TAX ROLL: «Principal»

«OwnerName»
«MailAddress»
«MailCityState» «MailZip»

SERVICE LOCATION:
«NAME»
«HOUSE» «STREET»
«CITY», «STATE» «ZIPCOD»
ACCOUNT #: «MAS_Acct»
PARCEL #: «ParcelNo»

Your property has been identified as having unpaid charges for solid waste collection services for all or a portion of the period January 1, 2025 – December 31, 2025. Please be aware that under an agreement with its contract trash hauler, Waste Management of the Inland Empire ("Waste Management"), the City of Banning ("City") is authorized to annually place delinquent solid waste charges, together with accrued late fees and a Tax Roll fee, on the coming year's County property tax roll pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4 of Chapter 6 of Part 3 of Division 5 of the California Health and Safety Code, commencing with Section 5470 ("Article 4"). This is done to avoid unnecessary City-wide rate increases in future years or a reduction in solid waste services. Delinquent charges collected on the County tax roll shall be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

The Minimum Amount Due to Avoid Tax Roll referenced above includes unpaid charges for all or a portion of the period January 1, 2025 - December 31, 2025 and accrued late fees. If such amount is <u>not paid or the amount otherwise cleared by July 17, 2026</u>, this amount, together with a 10% Tax Roll fee, will be considered for collection on your County property tax bill for the coming fiscal year (2026-27).

The City in cooperation with Waste Management has prepared a written report which has been filed with the City Clerk in accordance with Article 4 ("Report"). The Report contains a description of each parcel within the City for which there are unpaid charges for solid waste collection services for all or a portion of the period January 1, 2025 through December 31, 2025 in connection with a single-family or multi-family account ("Identified Parcel") and the amount to be collected on the County Tax Roll for each Identified Parcel. As described above, the amount to be collected on the Tax Roll includes unpaid charges, accrued late fees, and a Tax Roll fee.

The Banning City Council will conduct a public hearing on delinquent solid waste service charges at the following date and time at which time it will consider the Report and the placement of unpaid charges on the County property tax roll and the property tax bills:

5:00 P.M.
June 23, 2026
Banning City Hall
99 E Ramsey St.
Banning, CA 92220

At the public hearing, the City Council will hear and consider all oral or written objections or protests to the Report and the collection of delinquent solid waste service charges on the County tax roll. Written protests may be personally delivered to the City Clerk during the public hearing or personally delivered to the City Clerk's Office, Banning City Hall, 99 E. Ramsey Street, Banning, CA 92220. Written protests may also be mailed to the City Clerk's Office, P.O. Box 998, Banning, CA 92220 and must arrive by <u>5:00 P.M. on June 23, 2026 to be counted.</u> A written protest must clearly state the signer's opposition to the collection of the delinquent charges on the County tax roll, identify the parcel for which the protest is being submitted, and include an original signature of the person submitting the protest. If, at the conclusion of the public hearing, protest is made by the owners of a majority of the identified Parcels, the delinquent

charges shall not be collected on the 2026-27 Tax Roll but may be collected by other means including a collection action.

If your property is a rental unit, this notice may indicate your tenant has not paid charges for solid waste services. The Banning Municipal Code makes solid waste disposal the responsibility of all property owners in the City. If tenants do not pay their solid waste service charges, the bill becomes the legal obligation of the property owner. Waste Management is willing to send property owners quarterly notices on rental units, so owners will be aware if their tenants have failed to pay. Call Waste Management at the number listed below to arrange for this service.

If you have recently acquired the property identified in this notice, you may not be responsible for charges for service prior to your purchase. You may establish the effective date of the change of ownership by providing a copy of the escrow document or grant deed to Waste Management.

Questions regarding unpaid charges should be directed to **Waste Management at (866) 949-9719**.

For your convenience, payments can now be made on-line at www.wm.com, or by automated attendant at 1-866-964-2729 using your WM Customer ID# located on your WM invoice.

For questions or additional information regarding the public hearing, you may call the Public Works Department at (951) 922-3130 or email refuse@banningca.gov.

Si necesita ayuda para entender la información de esta notificación por favor llame al (951) 922-3130.
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Waste Management ~ 17700 Indian St ~ Moreno Valley ~ CA ~ 92551 ~ 866-949-9719

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.)

Tax roll Publication

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:

Jun 5, 2026,Jun 12, 2026

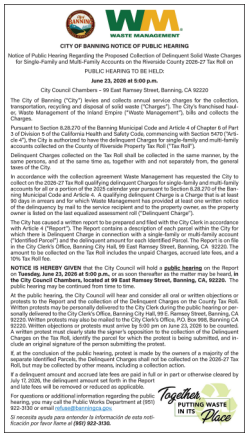
Executed on: June 12, 2026

At City of Banning, California

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

Kaila Yeaman

Signature



WASTE MANAGEMENT

CITY OF BANNING NOTICE OF PUBLIC HEARING

Notice of Public Hearing Regarding the Proposed Collection of Delinquent Solid Waste Charges for Single-Family and Multi-Family Accounts on the Riverside County 2026-27 Tax Roll on

PUBLIC HEARING TO BE HELD:

June 23, 2026 at 5:00 p.m.

City Council Chambers – 99 East Ramsey Street, Banning, CA 92220

The City of Banning ("City") levies and collects annual service charges for the collection, transportation, recycling and disposal of solid waste ("Charges"). The City's franchised haulier, Waste Management of the Inland Empire ("Waste Management"), bills and collects the Charges.

Pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4 of Chapter 6 of Part 1 of Division 1 of Title 5 (commencing with Section 5470) and Section 5473 ("Article 4"), the City is authorized to have the delinquent Charges for single-family and multi-family accounts collected on the County of Riverside Property Tax Roll ("Tax Roll").

Delinquent Charges collected on the Tax Roll shall be collected in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City.

In accordance with the collection agreement Waste Management has requested the City to collect on the 2026-27 Tax Roll qualifying delinquent Charges for single-family and multi-family accounts for all or a portion of the 2025 calendar year pursuant to Section 8.28.270 of the Banning Municipal Code and Article 4. A qualifying delinquent Charge is a Charge that is at least 90 days in arrears and for which Waste Management has provided at least one written notice of the delinquency by mail to the service recipient and to the property owner, as the property owner is listed on the last equalized assessment roll ("Delinquent Charge").

The City has caused a written report to be prepared and filed with the City Clerk in accordance with Article 4 ("Report"). The Report contains a description of each parcel within the City for which there is Delinquent Charge in connection with a single-family or multi-family account ("Identified Parcel") and the delinquent amount for each Identified Parcel. The Report is on file in the City Clerk's Office, Banning City Hall, 99 East Ramsey Street, Banning, CA 92220. The amount to be collected on the Tax Roll includes the unpaid Charges, accrued late fees, and a 10% Tax Roll fee.

NOTICE IS HEREBY GIVEN that the City Council will hold a **public hearing** on the Report **on June 23, 2026 at 5:00 p.m.** (or shortly thereafter as the matter may be heard) **in the City Council Chambers, located at 99 East Ramsey Street, Banning, CA, 92220.** The public hearing may be continued from time to time.

At the public hearing, the City Council will hear and consider all oral or written objections or protests to the Report and the collection of the Delinquent Charges on the County Tax Roll. Written protests may be personally delivered to the City Clerk during the public hearing or personally delivered to the City Clerk's Office, Banning City Hall, 99 E. Ramsey Street, Banning, CA 92220. Written protests may also be mailed to the City Clerk's Office, P.O. Box 998, Banning CA 92220. Written objections or protests must arrive by 5:00 pm on June 23, 2026 to be counted. A written protest must clearly state the signer's opposition to the collection of the Delinquent Charges on the Tax Roll, identify the parcel for which the protest is being submitted, and include an original signature of the person submitting the protest.

If, at the conclusion of the public hearing, protest is made by the owners of a majority of the separate Identified Parcels, the Delinquent Charges shall not be collected on the 2026-27 Tax Roll, but may be collected by other means, including a collection action.

If a delinquent amount and accrued late fees are paid in full or in part or otherwise cleared by July 17, 2026, the delinquent amount set forth in the Report and late fees will be removed or reduced as applicable.

For questions or additional information regarding the public hearing, you may call the Public Works Department at (951) 922-3130 or email refuse@banninga.gov.

Si necesita ayuda para entender la información de esta notificación por favor llame al **(951) 922-3130.**

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Shah Nawaz, Deputy Water/Wastewater Director** **Art Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-96, Adopting the 2025 Urban Water Management Plan (UWMP) and Consideration of Resolution 2026-97 Adopting the 2025 Water Shortage Contingency Plan (WSCP)**

STAFF RECOMMENDATION:

Adopt Resolution 2026-96 and Resolution 2026-97

BACKGROUND:

In accordance with the California Urban Water Management Planning Act (UWMPA) (California Water Code Sections 10610 et seq.), urban water suppliers that provide more than 3,000 acre-feet of water annually or serve more than 3,000 customers are required to prepare and update an Urban Water Management Plan (UWMP) every five years. The UWMP serves as the City's primary long-term water resources planning document and evaluates water supply reliability over a 25-year planning horizon under normal, single-dry, and multiple-dry year conditions.

The City of Banning is the Urban Water Supplier for the City's service area and portions of the surrounding unincorporated area. The City has remained in compliance with the UWMPA through the adoption and submittal of UWMPs in 1998, 2005, 2010, 2015, and 2020. The 2025 UWMP update is required to be adopted and submitted to the California Department of Water Resources (DWR) no later than July 1, 2026.

On October 14, 2025, the City entered into a Professional Services Agreement with West & Associates Engineering, Inc. to prepare the 2025 UWMP and associated Water Supply Assessments. The Draft 2025 UWMP was prepared in accordance with DWR's 2025 Urban Water Management Plan Guidebook and includes updated population and water demand projections through 2050, water supply reliability assessments, demand management measures, and an updated Water Shortage Contingency Plan (WSCP).

Key updates incorporated into the 2025 UWMP include:

- SBx7-7 conservation target reporting requirements;
- Enhanced water loss audit and compliance reporting;
- Additional demand management measures for suppliers exceeding their Urban Water Use Objective (UWUO);
- Updated indoor residential water use standards;
- Potable irrigation phase-out requirements for nonfunctional turf;
- New and revised water conservation and water use definitions; and
- Optional DWR planning and reporting tools to improve reliability and drought risk assessments.

Consistent with Water Code requirements, the City provided public notice and agency notifications regarding the availability of the Draft 2025 UWMP for review and comment. Notifications were provided to neighboring water agencies, local jurisdictions, interested parties, and other stakeholders. Copies of the Draft 2025 UWMP were made available through the City's website, City Hall, Public Works Department, and the Banning Library.

On June 23, 2026, the City Council will conduct a duly noticed Public Hearing to receive public comments on the Draft 2025 UWMP and Draft 2025 WSCP prior to consideration of adoption. Following adoption, the final UWMP and WSCP will be submitted to DWR in accordance with statutory requirements.

Tables 7.1 through 7.7 summarize the City's water supply and demand projections through normal years and multiple drought years. As indicated in these tables, the City will continue to maintain a healthy water supply portfolio through the planning period (2050) with the implementation of its water planning strategies (i.e. water conservation, recycled water, imported water purchases, etc.).

JUSTIFICATION:

Adoption of the 2025 Urban Water Management Plan and 2025 Water Shortage Contingency Plan is required by California Water Code and is necessary for the City to remain in compliance with the Urban Water Management Planning Act.

The UWMP serves as the City's long-term water resources planning document and provides the foundation for evaluating future water supply reliability, supporting responsible growth and development, preparing Water Supply Assessments (SB 610), issuing Written Verifications of Water Supply (SB 221), and demonstrating compliance with state water management and conservation requirements.

Additionally, maintaining a current UWMP is a prerequisite for eligibility for many state grant and loan funding programs administered by the California Department of Water Resources (DWR) and other state agencies. Adoption of the 2025 UWMP and WSCP will help ensure the City remains eligible to pursue future funding opportunities for water supply, conservation, infrastructure, drought resilience, groundwater, recycled water, and related water resource projects.

Adoption of the UWMP and WSCP will further position the City to proactively plan for future water demands, regulatory changes, and long-term water supply reliability.

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Resolution No. 2026-96.docx
2. Resolution No. 2026-97.docx
3. City of Banning - Final Draft 2025 UWMP.pdf
4. 2025 UWMP Supply and Demand Projections (Table 7).pdf
5. Public Hearing Notice Publication Proof.pdf
6. column_affidavit_ag9Hz7PzsM8z6X4q9KbW.pdf

RESOLUTION 2026-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE 2025 URBAN WATER MANAGEMENT PLAN

WHEREAS, the California Legislature enacted Assembly Bill 797 (Water Code Section 10610 et seq.), known as the Urban Water Management Planning Act, during the 1983-1984 Regular Session, and as amended subsequently, which mandates that every supplier providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually, prepare an Urban Water Management Plan (UWMP), the primary objective of which is to plan for the conservation and efficient use of water; and

WHEREAS, the City of Banning (City) is an urban supplier of water providing water; and

WHEREAS, the UWMP shall be periodically reviewed at least once every five years, and that the City shall make any amendments or changes to its plan which are indicated by the review; and

WHEREAS, the UWMP update is required to be adopted and submitted to the California Department of Water Resources (DWR) no later than July 1, 2026; and

WHEREAS, the UWMP was prepared in accordance with DWR's 2025 UWMP Guidebook and includes updated population and water demand projections through 2050, water supply reliability assessments, demand management measures, and an updated Water Shortage Contingency Plan (WSCP). The key updates incorporated into the 2025 UWMP include: SBx7-7 conservation target reporting requirements; enhanced water loss audit and compliance reporting; additional demand management measures for suppliers exceeding their Urban Water Use Objective (UWUO); updated indoor residential water use standards; potable irrigation phase-out requirements for nonfunctional turf; new and revised water conservation and water use definitions; optional DWR planning and reporting tools to improve reliability and drought risk assessments; and

WHEREAS, the UWMP must be adopted after public review and hearing, and filed with the California Department of Water Resources within thirty days of adoption; and

WHEREAS, the City has therefore prepared and circulated for public review a draft UWMP, and a properly noticed public hearing regarding said UWMP was held by the City Council on June 23, 2026; and

WHEREAS, the City Council shall have filed said UWMP with the California Department of Water Resources within 30 days of adoption.

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

SECTION 1. The City of Banning is in conformance with all applicable requirements of the Urban Water Management Planning Act.

SECTION 2. The City Council authorizes the City Manager, or designee, to file the 2025 UWMP with the California Department of Water Resources within 30 days after adoption of this resolution 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 23rd day of June, 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderone, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-96, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

EXHIBIT A

2025 Urban Water Management Plan, City of Banning, California.

RESOLUTION 2026-97

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE 2025 WATER SHORTAGE CONTINGENCY PLAN

WHEREAS, the California Water Code Section 10632 requires every urban water supplier shall prepare and adopt a Water Shortage Contingency Plan (WSCP) as part of its Urban Water Management Plan (UWMP); and

WHEREAS, the City of Banning is an urban supplier of water providing water; and

WHEREAS, the City of Banning has prepared and adopted a 2025 UWMP under separate Resolution No. 2026-96; and

WHEREAS, State Senate Bill 606 passed in 2018 has amended the Water Code related to the requirements of WSCPs to include six standard stages for water shortages up to and beyond 50 percent; and

WHEREAS, the City of Banning has updated its WSCP in accordance with these changes in the Water Code, and said WSCP is included as part of the UWMP; and

WHEREAS, the conservation of water is critically important if the City of Banning is to sustain itself; and the effective and equitable management of limited water supplies during a water shortage minimizes the impact on the people and the economy of the City of Banning; and

WHEREAS, the City of Banning is granted the authority by the State Water Code Section 350 and City municipal code Section 13.16.020 to declare a water supply shortage and to adopt by resolution regulations and restrictions on the delivery and consumption of water; and

WHEREAS, the City of Banning has therefore, prepared and circulated for public review a draft UWMP, and a properly noticed public hearing regarding said UWMP, held by the City Council on June 8, 2021, wherein the WSCP was also presented in the public hearing, and

WHEREAS, the City of Banning shall file said WSCP with the California Department of Water Resources within 30 days of adoption; and

WHEREAS, the City of Banning, an urban water supplier, shall make available the WSCP prepared pursuant to this article to its customers and any city or county within which it provides water supplies no later than 30 days after adoption of the WSCP.

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

SECTION 1. The City of Banning is in conformance with all applicable requirements of the Water Code.

SECTION 2. The City Council authorizes the City Manager, or designee, to file the 2025 WSCP along with the 2025 UWMP with the California Department of Water Resources within 30 days after adoption of this resolution 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 23rd day of June, 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderone, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-97, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

EXHIBIT A

2025 Water Shortage Contingency Plan, City of Banning, California.

2025
URBAN WATER MANAGEMENT PLAN

WEST&ASSOCIATES ENGINEERING, INC.

JOHN ROBINSON CONSULTING, INC.

2025

URBAN WATER MANAGEMENT PLAN

City of Banning, CA

Public Works Department
99 East Ramsey Street Banning, CA 92220
(951) 922-3130

June 2026

Prepared by:

West & Associates Engineering, Inc.
78 Anacapa Ct.
Foothill Ranch, CA
(949) 716-7670

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ACRONYMS

AAC	All-American Canal
AF	Acre-Feet
AFY	Acre-Feet per Year
AMI	Automatic Metering Infrastructure
AP	Allocation Plan
BCVWD	Beaumont Cherry-Valley Water District
BDCP	Bay-Delta Conservation Plan
BHMWC	Banning Heights Mutual Water Company
BMP	Best Management Practice
CDP	Census Designated Place
CDPH	California Department of Public Health
CFS	Cubic Feet per Second
CII	Commercial Industrial Institutional
CIMIS	California Irrigation Management Information System
City	City of Banning
CRA	Colorado River Aqueduct
CUWCC	California Urban Water Conservation Council
CalWEP	California Water Efficiency Partnership
CVP	Central Valley Project
CDPH	California Department of Public Health
DBPs	Disinfection Byproducts
DDW	Division of Drinking Water
DMM	Demand Management Measure
DOE	Department of Energy
DWSAP	Drinking Water Source Assessment and Protection
DWR	Department of Water Resources
EPA	Environmental Protection Agency
ETo	Evapotranspiration
GPCD	Gallons per Capita per Day
GPM	Gallons per Minute
HEN	High Efficiency Nozzle
HET	High Efficiency Toilet
HEW	High Efficiency Washer
IPR	Indirect Potable Reuse

IRP	Integrated Resources Plan
MAF	Million Acre-Feet
MBR	Membrane Bioreactor
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
MG	Million Gallons
MGD	Million Gallons per Day
mg/L	Milligrams per Liter
µg/L	Micrograms per Liter
MOU	Memorandum of Understanding
MWA	Mohave Water Agency
MWD	Metropolitan Water District of Southern California
ng/L	Nanograms per Liter
NPDWR	National Primary Drinking Water Regulations
NTU	Nephelometric Turbidity Units
PCA	Possible Contaminating Activities
PHG	Public Health Goal
PPCPs	Pharmaceuticals and Personal Care Products
QSA	Quantification Settlement Agreement
RHNA	Regional Housing Needs Assessment
SCADA	Supervisory Control and Data Acquisition
SCAG	Southern California Association of Governments
SDWA	Safe Drinking Water Act
SB	Senate Bill
SBx7-7	Senate Bill x7-7
SGPWA	San Gorgonio Pass Water Agency
SWP	State Water Project
SWRCB	State Water Resources Control Board
TDS	Total Dissolved Solid
TOC	Total Organic Carbon
ULFT	Ultra-Low-Flow Toilet
USFWS	U.S. Fish and Wildlife Service
UWMP	Urban Water Management Plan
WSAP	Water Supply Allocation Plan
WSDM	Water Surplus & Drought Management Plan
WSS	Watershed Sanitary Survey
WWTP	Wastewater Treatment Plant

1

Section 1: Introduction

In accordance with the Water Code, an Urban Water Management Plan is required to be updated every five years.

1.1. PURPOSE AND SUMMARY

This is the 2025 Urban Water Management Plan ("UWMP" or "Plan") for the City of Banning (hereinafter "City"). This Plan has been prepared in compliance with the Urban Water Management Planning Act (Act), which was established in 1983 and has been codified into the California Water Code sections 10610 through 10657. A copy of the Act can be found in **Appendix C**.

As part of the Act, the legislature declared that waters of the state are a limited and renewable resource subject to ever increasing demands; that the conservation and efficient use of urban water supplies are of statewide concern; that successful implementation of plans is best accomplished at the local level; that conservation and efficient use of water shall be actively pursued to protect both the people of the state and their water resources; that conservation and efficient use of urban water supplies shall be a guiding criterion in public decisions; and that urban water suppliers shall be required to develop water management plans to achieve conservation and efficient use.

The Act requires "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, to prepare and adopt, in accordance with prescribed requirements, an Urban Water Management Plan."

These plans must be filed with the California Department of Water Resources (DWR) every five (5) years, describing and evaluating reasonable and practical efficient water uses, reclamation, and conservation activities. The Water Code mandates that each water supplier shall update its plan at least once every five years on or before July 1, in years ending in six and one.

Figure 1.1 UWMPs are Governed by State Law

The Act has been amended multiple times since its initial passage in 1983. A summary of the amendments is provided in **Figure 1.2**. The intent of the amendments was to broaden the scope of the UWMPs, encourage public participation, and add financial incentives to the UWMPs. A significant amendment to the Act was a 2009 amendment (Senate Bill SBx7-7) signed by former Governor Schwarzenegger. The Senate Bill, also known as the "Water Conservation Act" required that per capita water use within an urban water supplier's service area decrease by 20 percent by the year 2020 in order to receive grants or loans administered by DWR or other state agencies. Each urban retail water supplier developed water use "targets" for 2015 and for 2020. The "target" date for 2020 passed on December 31, 2020. Urban water suppliers whose 2020 actual water use does not meet the target requirements established by this bill are not eligible for State water grants or loans. This included, but was not limited to, the following funding sources:

Amendments to the Act have added financial incentives to UWMPs.

- **Drinking Water State Revolving Fund**
  Primarily a source for funds to help correct deficiencies.
- **Proposition 1**
  Primarily a source for funds related to supplies & infrastructure.
- **Proposition 50**
  Primarily a source for funds related to security & treatment technology.
- **Proposition 84**
  Primarily a source for funds related to protection from pollution.

Agencies that submit their UWMPs past the July 2026 deadline are still technically eligible for grants or loans, provided that the UWMP addresses the requirements of the Act. However, applications for such funds are subject to legal challenges coming

1983

1983 – UWMP Act Established
Assembly Bill 797 made the preparation of UWMPs mandatory and established basic parameters for UWMPs, including content of UWMPs, public coordination, and submittal requirements.

1990 – UWMP Act Amended
Assembly Bill 797 expanded the reporting requirements for conservation measures or "Demand Management Measures" and also required UWMPs to be made publicly available within 30 days of submittal to DWR.

1991 – UWMP Act Amended
Assembly Bills 11x and 1869 added financial incentives to UWMPs, expanded the reporting requirements of UWMPs to include reporting on recycled water, and required the inclusion of a water shortage contingency, up to a 50% supply reduction.

1993 – UWMP Act Amended
Assembly Bill 892 eliminated some of the data reporting redundancies, required a description of community outreach in preparation of the UWMP, and allowed for the inclusion of CUWCC (now CalWEP) Annual BMP Reports (see Section 7).

1994 – UWMP Act Amended
Senate Bill 1017 and Assembly Bill 2853 allowed for agencies to recover the costs of preparing UWMPs and implementing the conservation measures through water rates, and expanded data reporting requirements on recycled water.

1995 – UWMP Act Amended
Assembly Bill 1845 and Senate Bill 1011 more clearly defined "recycled water" and its data reporting requirements. These bills also expanded the reporting requirements on water supply reliability to require specific reporting on various climactic conditions and to include a 3-year minimum water supply.

2000 – UWMP Act Amended
Assembly Bill 2552 and Senate Bill 553 required agencies to submit their UWMPs to any City or County within which they provide water and also updated the conservation measures to coincide with the more updated measures of the CUWCC (now CalWEP).

2001 – UWMP Act Amended
Assembly Bill 901 and Senate Bills 610 and 672 expanded the reporting requirements of UWMPs to include water quality information, additional information on groundwater supplies (if applicable), and to describe tools that maximize local resources. Additional financial incentives were also added.

2002 – UWMP Act Amended
Senate Bills 1348, 1384, and 1518 increased the significance of conservation measures reported in UWMPs with regard to funding requests, required that agencies provide their wholesalers with water use projections as described in their UWMPs, and expanded requirements on recycled water.

2004 – UWMP Act Amended
Assembly Bill 105 and Senate Bill 318 expanded the reporting requirements of UWMPs to include a discussion on opportunities for desalinated water and also added a requirement that UWMPs be submitted to the State Library in addition to the City(ies) and County(ies) within which they provide water.

2005 – UWMP Act Amended
Senate Bill 1087 expanded the reporting requirements of UWMPs to include a discussion on low-income or "affordable" housing, and an assessment of water supply needs to such developments.

2009 – UWMP Act Amended
Senate Bill SBx7-7 significantly expanded the reporting requirements of UWMPs to include an assessment of baseline water use and establishment of water use reduction targets. Also added significance to the conservation targets described in UWMPs by adding financial incentives.

2015 – UWMP Act Amended
Senate Bill 1420 streamlined data reporting and required the reporting of water losses. Senate Bill 2049 required reporting of water features in the Water Shortage Contingency Plan. Assembly Bill 2067 changed the requirement of the Demand Management Measures (DMMs).

2020 – UWMP Act Amended
Assembly Bill 1414, 2242, and Senate Bill 606 stipulate drought reporting, seismic risk, and energy intensity.

Present: The UWMP guidebook was released on November 17, 2025 with no UWMP Act Amendments.

Figure 1.2 UWMP Act Establishment and Amendment

from competing agencies for the same funding, if the competing agencies become aware of the timeframe in which an UWMP was submitted.

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, an 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.

One of the primary objectives of the Act is the assessment of demands and supplies over a 20-year or a 25-year planning horizon under normal rainfall conditions, as well as under various drought conditions. The Act also requires water shortage contingency planning and drought response actions be included in an UWMP. In short, this Plan is a management tool that provides a general, long-term framework for action, rather than a detailed blueprint for supply and demand management. This Plan evaluates the City's supply and demand projections over a 25-year planning horizon, and what mix of programs should be explored for ensuring that such water will be available. As part of the City's past and current water conservation policies, the City is currently implementing many facets of this plan to achieve its water conservation goals.

1.2. COORDINATION

The process of preparing and submitting an UWMP is a transparent process that requires opportunities for outside-agency and general public involvement. In preparing this 2025 UWMP, the City has encouraged broad community participation. The City notified the agencies that the City interacts with more than 60 days in advance of the City Council's adoption of the 2025 UWMP. The City has also made the draft 2025 UWMP available at City Hall and on the City's website, leading up to a public hearing on the 2025 UWMP. Notices of the public hearing were published in the local press and on the City's website for a two-week period. On June 23, 2026, the City held a noticed public hearing to review and accept comments on the 2025 UWMP. Following the public hearing, the City officially adopted the 2025 UWMP through Council resolution. A copy of the council resolution adopting this UWMP is included in **Appendix A.**

The City's 2025 UWMP is a collaborative effort involving its own staff, outside agencies, and the general public.

Table 1.1 Coordination and Public Involvement

Agency	Participated in Plan Preparation	Sent 60-Day Notice	Commented on Draft	Notified of Public Hearing	Attended Public Hearing
San Gorgonio Pass Water Agency	x	x		x	
Beaumont Cherry Valley Water District		x		x	
Beaumont Basin Watermaster		x		x	
City of Beaumont		x		x	
Yucaipa Valley Water District		x		x	
High Valleys Water District		x		x	
County of Riverside Planning Department		x		x	
Various Developers		x		x	
Building Industry Association of Southern California		x		x	
Cabazon Water District		x		x	
Morongo Band of Mission Indians		x		x	
Banning Heights Mutual Water Company		x		x	
South Mesa Water Company		x		x	
General Public				x	

Notes:

1. "60-Day" notice letters were sent out to all agencies (except the City's own) as required by CWC § 10621(b):
2. 2-week and 1-week notices were published in the local press.
3. **Appendix G** contains copies of the 60-day notice and the 2-week and 1-week notices.

As required by the Act, the 2025 UWMP is being prepared by the City and will be submitted to DWR, the California State Library, and any city or county within which it provides water no later than 30 days after adoption. The 2025 UWMP has been made available to the public on the City's website and at City Hall during normal business hours for 30 days prior to submitting the 2025 UWMP to DWR.

1.3. DWR UPDATES FOR THE 2025 UWMPS

There have been minor changes to the Water Code affecting the 2025 UWMPs. The changes include:

- **Clarified Reporting Requirements for SBx7-7:** Agencies must provide a description in the 2025 UWMP of how their water use goals of the 20x2020 were met. An urban retail water supplier's failure to meet those goals will be a violation of law and potentially result in a state administrative or judicial proceeding. If the agency did not achieve its targeted reduction in 2020, the agency must show in its 2025 UWMP whether it met their 2020 Target in 2025 to be eligible for state funds. Currently, the CWC does not set an end date for reporting on a supplier's progress in meeting the 2020 Target. (CWC § 10608.40)

- **Water Losses:** Retail Suppliers must indicate the quantity of water losses for five years by reporting data from their Validated Water Loss Audits, discuss their progress toward compliance with the 2028 Water Loss Standard, and show whether they met the Water Loss Performance Standard enacted by the State Water Resources Control Board (SWRCB). (CWC § 10631 (d) (3) (C), SB 1414, 2019). Suppliers can simply provide a link to their water loss reports submitted to DWR's Water Loss Audit Program.

- **Updates to Demand Management Measures (DMMs):** Retail Suppliers with an annual actual water use above their Urban Water Use-Objective (UWUO) must include a narrative describing additional DMMs the supplier plans to use to achieve its UWUO by January 1, 2027. (CWC § 10609.25, AB 1414, 2019)

- **UWUO and Water Use Reporting:** The standard for indoor residential water use from January 1, 2025 to January 1, 2030 was lowered from 52 to 47 Gallons per Capita per Day (gpcd). Until January 1, 2025, the standard was 55 gpcd. Beginning January 1, 2030 the standard was lowered from 50 to 42 gpcd. DWR, in coordination with SWRCB, will conduct an investigation to determine if the date for the 2030 indoor residential use

standard will be changed. The City will not be subject to enforcement pursuant to this chapter solely for failing to meet the indoor residential use standard. (CWC § 10609.4).

- **Irrigation of Nonfunctional Turf:** ”Functional turf” is ground cover surface of turf located in a recreational use area or community space. ”Nonfunctional turf” means any turf that is not functional turf, and includes turf located within street rights-of-way and parking lots. Turf enclosed by fencing or other barriers to permanently preclude human access for recreation or assembly is Nonfunctional turf. The use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem (CWC § 110). The use of potable water to irrigate Nonfunctional turf on all properties owned by urban retail water suppliers are to be phased out by January 1, 2027. All other Commercial, Industrial, and Institutional (CII) properties are to be phased out by January 1, 2028. After which it will be prohibited with a few exceptions (CWC § 10618.14). The website https://saveourwater.com/ provides information and resources on converting nonfunctional turf to native vegetation.

The use of potable water to irrigate nonfunctional turf is wasteful.

- **Definitions:** New definitions were added or existing definitions were modified, which include Nonfunctional Turf, CII water use, Large landscape, Gross water use, Potable reuse, Urban water use objective, Affordable housing, and Disadvantaged community to name a few (CWC § 10608.12).

In addition, there are several optional or voluntary categorical and data reporting changes to the UWMP Act. These include an optional Planning Tool that suppliers can use to report and assess water use and supply in order to better conduct the Reliability Assessment and Drought Risk Assessment, a Potable and Non-Potable Planning Tool, Potable and Non-Potable Submittal Tables, as well as various optional data reporting.

1.4. UPDATES TO THE CITY’S UWMP

In addition to the required updates described in the previous section, the City’s 2025 UWMP has undergone some changes from the 2020 UWMP. A summary of the key changes to the UWMP are:

- **DWR & Water Code:** A listing of DWR-required UWMP updates (see previous Section).

- **City Development Growth:** An updated review of development which took place in the City since the 2020 UWMP.
- **Water Sources and Supplies:** A broader, more in-depth discussion of water sources and supplies.
- **Recycled Water:** An updated review of recycled water opportunities in the City.
- **Water Quality:** An update to new regulations and contaminants affecting water quality and treatment.
- **Water Use:** Updated information on recent water use quantities and a more in-depth discussion on water use parameters.
- **Supply v Demand:** Updated information on projected supplies vs demands, and a discussion on recent regional droughts affecting the City. There is also an expansion on the discussion of the City's source water reliability.
- **Contingency Planning:** Updated information on the City's contingency plans, including the City's Ordinances.
- **Conservation Measures:** Updated information on the City's conservation measures, which reflect the previous (2020) changes by DWR.

In addition to these changes, there are multiple minor changes. The changes reflect both those that are required by the Water Code and those that are voluntarily included for the benefit of the City.

1.5. FORMAT OF THE 2025 UWMP

The information contained in this 2025 UWMP corresponds to the items in the UWMP Act and other amendments to the Water Code. The sections of the UWMP are:

Section 1 - Introduction

This section describes the UWMP Act, the UWMP preparation and adoption process, updates to the UWMP, and a lay description of this entire document.

Section 2 – Service Area Description

This section outlines the history and development of the City and the City's water supply system, a description of its existing service area, the local climate, population served, and basic statistics on the City's water distribution system.

Section 3 – Water Sources & Supplies

This section describes the existing water supplies available to the City, including local groundwater extracted from the San Gorgonio Pass Subbasin (SGP Subbasin) of the Coachella Valley Groundwater Basin, and its five (5) water storage units (also

colloquially termed "basins"), and imported water from the State Water Project (SWP) obtained from the San Gorgonio Pass Water Agency (SGPWA). In addition, this section discusses potential future water supplies.

Section 4 – Recycled Water Opportunities

This section describes the City's wastewater collection and treatment at the City's wastewater treatment plant (WWTP), and the uses and benefits to implementing a recycled water system. In addition, this section discusses the future use of recycled water in the City.

Section 5 – Water Quality

This section discusses the quality of the City's potable water supply sources, including imported, surface, and groundwater. This section also discusses drinking water standards and the effect that water quality has on management strategies and supply reliability.

Section 6 – Water Use

This section describes past, current, and projected water usage within the City's service area. This chapter also discusses the requirement of the Water Conservation Act (SBx7-7), including the 2020 Water Use Targets.

Section 7 – Reliability Planning

This section presents a drought risk assessment of the City's water system which compares projected future water demands with expected available water supplies under three different hydrologic conditions: normal year; a single dry year; and multiple dry years. This 2025 UWMP concludes that if projected imported and local supplies are developed as anticipated, no water shortages are anticipated in the City's service area during the planning period.

Section 8 – Contingency Planning

This section describes the City's response plan to water shortages, as well as the efforts that will be utilized in the event of water supply interruptions, such as power outages, earthquakes, or droughts. This section also describes regional response efforts to water supply interruptions.

Section 9 – Conservation Measures

This section addresses the City's compliance with water conservation measures that correspond to the seven (7) Demand Management Measures (DMMs) described in the 2025 UWMP Guidebook, which were previously the fourteen (14) DMMs listed in the Act. The DMMs also correspond to the current Best Management Practices (BMPs)

from the California Water Efficiency Partnership (CalWEP).

Appendices

The appendices contain references, specific documents, and data used to prepare this 2025 UWMP.

1.6. LAY DESCRIPTION

To facilitate effective and efficient management of water supplies, and in compliance with the UWMP Act and the Water Conservation Act of 2009, the City has prepared this 2025 UWMP. This UWMP includes background information regarding the City's history, water system, and water supplies. This UWMP also analyzes recent water demands and projects future water supply capacity and water demands through 2050. The effects of water quality, drought, and emergencies on the City's water supply reliability are also analyzed.

As indicated by **Section 7**, the City does not expect to have a water supply shortage through 2050. Furthermore, this UWMP concludes that the City's water supplies, which are obtained entirely from local groundwater basins, are resilient to droughts. A basic overview of the City's water system can be found in **Section 2**. Water quality does have an occasional impact on the consistency of groundwater supplies, but due to the recent ruling by the State Water Resources Control Board on Chromium-6, the City's groundwater quality is not expected to be affected.

This 2025 UWMP recommends that the City implement water operation management tools that maximize the use of local groundwater production and decrease the need for imported water. This 2025 UWMP also recommends conservation tools that will enable the City's residents to conserve water and maximize water use efficiency. These are described in **Section 9**. These are described in **Section 5**.

If water consumption rates in the City decrease as this 2025 UWMP projects, the City will have an adequate water supply despite projected population growth over the next 25 years. Finally, this 2025 UWMP recommends that severe droughts or sudden supply interruptions be addressed by following the criteria of the Water Shortage Contingency Plan (WSCP), as described in **Section 8**.

Since UWMPs are due for revision every five years, this UWMP will be in effect until the year's end of 2030. At that time, the City will begin development and adoption of their 2030 UWMP.

2

Section 2: Service Area Description

The City's Water Service Area comprises 16,908 acres or 26.4 square miles.

2.1. CITY AND WATER SYSTEM HISTORY

The City of Banning was incorporated on February 6, 1913. Currently, the City is a general-law City per the State of California Govt Code § 34102. Per the US Census Bureau, the City qualifies as an "urban area," but currently falls under the "urban cluster" category which is a Census category for small to mid-size cities. The City operates under a City Council/City Manager form of government. The City Council consists of five (5) Council Members elected to four-year terms, one of which is appointed mayor by Council for a one-year term. The City Manager, who serves on behalf of the City Council, runs the day-to-day operations of the City. Under the City Manager's general oversight, the City's Director of Public Works runs the Public Works Department, which includes the City's Water and Wastewater Division. The City's Water Division performs all activities related to the water system.

2.1.1. Early Stages

Prior to the City's incorporation, the Banning Water Company, which was incorporated in 1884, provided delivery of domestic and irrigation water to various local customers within the area. In 1913, the Banning Water Company began operating as a public utility, and, in 1967, the City acquired the Banning Water Company. In 1997, the City purchased the Mountain Water Company, which supplied water to its customers in an unincorporated portion of the County of Riverside from groundwater wells located within the City.

2.2. CURRENT WATER SERVICE AREA

The City of Banning is located in the northwestern portion of Riverside County, approximately 25 miles east of downtown Riverside and approximately 30 mile west of the City of Palm Springs. The City is bounded by the San Bernardino Mountains to the north; Cherry Valley to the northwest; the City of Beaumont to the west and southwest; unincorporated County area to the south; the San Jacinto Mountains to the southeast; and the Morongo Band of Mission Indians and unincorporated community of Cabazon to the east. The City's total land area is 14,848 acres or 23.2 square miles.

The City's water service area comprises 100 percent of the population residing within the City limits, and portions of unincorporated Riverside County located southwesterly of the City limits. The City's Water Service Area comprises approximately 16,908 acres or 26.4 square miles.

The City is a retail agency and within the San Gorgonio Pass Subbasin portion of the Coachella Valley Groundwater Basin. The City is a member of the San Gorgonio Pass Regional Water Alliance (Alliance). The Alliance was created to identify challenges in water supply and water quality in the region and to improve coordination and communication among local, state, and federal governments and water purveyors and other water resource stakeholders in the San Gorgonio Pass region.

Since the adoption of the 2015 UWMP, the City has participated in the following two additional agreements:

- **San Gorgonio IRWM Regional Water Management Group**, which includes the City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, High Valleys Water District, RCFCWCD, and the San Gorgonio Pass Water Agency.
- **San Timoteo Groundwater Sustainability Agency**, which includes the City of Banning, Beaumont-Cherry Valley Water District, City of Redlands, Yucaipa Valley Water District, San Gorgonio Pass Water Agency.
- **San Gorgonio Pass Groundwater Sustainability Agency**, which includes the City of Banning, Cabazon Water District, Banning Heights Mutual Water Company, San Gorgonio Pass Water Agency. See **Section 3.4.2** for the San Gorgonio Pass Subbasin Groundwater Sustainability Plan.

The City participates in the Beaumont Management Zone (BMZ) Maximum Benefits Program, which is under the oversight of the Santa Ana Regional Water Quality Control Board (RWQCB) and is

intended to ensure the long-term sustainability of water quality in the BMZ. Yucaipa Valley Water District, Beaumont-Cherry Valley Water District, and City of Beaumont also participate in the program.

The City also meets bi-monthly with the Beaumont Basin Watermaster, which is comprised of a five-member Watermaster Committee that consists of representatives from each of the five appropriators, which include the City of Banning, City of Beaumont, Beaumont-Cherry Valley Water District, South Mesa Water Company, and Yucaipa Valley Water District. This panel meets to discuss local issues with different agencies and addresses adjudicated rights within the Beaumont Basin.

The City's Public Works Department Organization Chart is shown in **Figure 2.2**, Water Division staff read water meters monthly for billing purposes, change damaged water meters in order to keep accurate accounts of water consumed by customers, and tracks water purchased from the SGPWA to ensure proper delivery of purchased water and related billing. The City's Water Division staff are certified by the State of California to operate, maintain, and repair the water distribution system and the City's wells.

The Water Division's key objectives can be summarized as the following:

- Responding to all water quality complaints
- Flushing mains
- Efficiently operate groundwater facilities
- Maintaining and making repairs to all components of the water distribution system
- Complying with Division of Drinking Water (DDW) regulations, including laboratory testing
- Promoting water certification and safety training

Another key objective of the Water Division is to lead and/or assist in the planning, design, and construction of the water system. This objective involves duties that occur on an infrequent, as-needed basis, such as assisting with the preparation of Master Plans and UWMPs.

2.3. LAND USE & ECONOMY

The City is one of twenty-eight (28) incorporated cities located in Riverside County. Riverside County encompasses an area of 7,206 square miles or 4.6 million acres, and is bordered on the west by Orange County, on the north by San Bernardino County, on the South by San Diego and Imperial Counties, and on the east

by the Colorado River. Roughly 4% of the total acreage in unincorporated Riverside County is irrigated for agricultural purposes, most of which occurs in the area known as the Palo Verde Valley. According to a County Report, nearly 200,000 acres are used for agriculture in Riverside County, including acreage in both unincorporated and incorporated County. Overall, Riverside County's agricultural production consists of more than 120 types of commodities. In addition, a number of dairies located in the County have significant economic impact. In fact, according to County Agricultural Reports, milk accounts for the single highest-ranking value at over $150 million gross. Total combined agricultural production in Riverside County is just over $1 billion.

Riverside County's agricultural component has aided the growth of inland empire communities.

In addition to agricultural and livestock production, the County has a substantial manufacturing economy. According to County estimates, total manufacturing production in Riverside County is estimated to be over $10 billion, of which over $1 billion consists of food shipments.

The Riverside County General Plan, updated October 2017, identifies nineteen (19) Specific Area Plans within Riverside County. This includes a mixture of residential, commercial, industrial, and public facility development. No specific developments are identified within the City in the current version of the County's Plan because the City is governed by its own general plan.

2.3.1. City Land Use & Economics

The City includes a mixture of residential uses and equestrian estates, combined with more-recent planned residential housing developments. The community focal point is an extended commercial downtown stretching along Ramsey Street. Ramsey Street largely parallels Interstate 10; and along Ramsey Street multiple City businesses can be found such as restaurants, banks, and service stations.

Table 2.1 provides basic statistics on current land use and economy for Riverside County and the City. **Figure 2.4** shows the Riverside County General Plan Land Use Map, which includes the agricultural, open space, and community areas.

Table 2.1 Current Land Use & Economic Statistics for Riverside County and City of Banning

Land: Total (sq. miles)		
Item	**Riverside County**	**City of Banning**
Land Area (sq. miles)	7,206 sq. miles	23 sq. miles
Land Area (acres)	4,611,840 acres	14,720 acres
Land: Irrigated/Agriculture (acres)		
Item	**Riverside County**	**City of Banning**
Agricultural Land	263,796 acres	1,200 acres
Land: Developed (acres)		
Item	**Riverside County**	**City of Banning**
Developed Land	165,151 acres	428 acres
Population		
Item	**Riverside County**	**City of Banning**
Population	2,470,546	31,949
Housing		
Item	**Riverside County**	**City of Banning**
Housing Units	857,148	10,991
Median Home Price	$350,100	$234,900
Owner Occupancy Rate	66.3%	65.9%
Economy		
Item	**Riverside County**	**City of Banning**
Employed (16yrs +)	59.7%	44.5%
Median Household Income	$67,005	$42,274
Percent in Poverty	11.3%	20.6%
Economic: Production/Revenue		
Item	**Riverside County**	**City of Banning**
Manufacturing	$15.1 Billion	$72.8 Million
Agriculture/Crops	$3.9 Billion	N/A*
Retail & Wholesale Sales	$43.8 Billion	$248.7 Million

2.3.2. Development in City

The current City General Plan was completely updated by the twenty-eight (28) member General Plan Advisory Committee (GPAC), which was appointed by the Banning City Council. The GPAC review process began in March of 2003 and ended in January of 2005. At the end of that process, the GPAC recommended a draft document to the Planning Commission and City Council.

The Banning General Plan contains the following elements, as mandated by Government Code Section 65302: Land Use, Traffic & Circulation, Housing, Conservation, Open Space, Safety and Noise. In addition to the mandated elements, optional elements have been included in this General Plan, including Economic Development and Cultural Resources. The Banning Land Use Element identifies six (6) main zones as shown on **Figure 2.4 including**:

Residential

- Ranch/Agriculture
- Ranch/Agriculture Hillside
- Rural
- Rural Hillside
- Very Low, Low, Medium, and High Density
- Single-Family
- Multi-Family

Commercial

- Downtown
- General
- Highway Serving
- Professional Office

Industrial

- Light and Medium Manufacturing
- Mini-Storage
- Auto storage and repair
- Business Park
- Mineral Resources

Public Facilities

- Airport
- Government
- Cemetery
- Fire Station
- Schools
- Hospital
- Railroad and Interstate

Open Space and Conservation

- Resources Preservation
- Parks
- Hillside Preservation

Other

- Indian jurisdiction
- Miscellaneous

The City's Land Use Element is meant to promote an orderly pattern of development in the City, including the City's ability to provide water service to new developments.

2.3.3. Recent Developments

The City has experienced very substantial development in recent years. Recent or planned developments are shown on **Figure 2.6**. Some of these developments are listed in **Table 2.2.**

Table 2.2 Recent Developments in City of Banning (Since 2020 UWMP)

No.	Development
1	Banning Distribution Center*
2	Sunset Crossroads*
3	First Hathaway Logistics*
4	ESTES Trucking Terminal
5	West Coast Electric
6	Banning Commerce Center*
7	O'Reilly's Auto Parts
Total	**Seven (7) Developments**

**Pending or Under Construction*

2.3.4. Planned Developments

Currently, there are two (2) significant developments planned within the City's water service area. Final subdivision maps prepared for the two projects will comply with the provisions of CA Government Code Section 66473.7.

Atwell (Formerly "Butterfield")

The Atwell Specific Plan is a master planned community project that encompasses 1,543 acres and includes approximately 4,900 residential dwelling units, two elementary schools, two commercial sites, and community parks and trails. The project will be constructed in five phases over an estimated period of 30 years. **Figure 2.1** shows one of the developments currently being constructed.

Figure 2.1 Atwell Development

A project-specific water supply assessment (WSA), titled "Water Supply Assessment for Atwell Specific Plan", was issued June 2011 with the Draft EIR, then modified in December 2011 by Section 4.1 of the Final EIR, that was prepared to determine the adequacy of existing and future water supplies to serve the project.

The Environmental Impact Report (EIR) for Atwell, which included an analysis of water

supply supported by the project specific WSA cited, has been approved by City Council. A Water Supply Verification (WSV) is further mandated by California Government Code Section 66473.7 for any subdivisions that include proposed residential development of more than 500 dwelling units.

Rancho San Gorgonio

The Rancho San Gorgonio Specific Plan (Rancho San Gorgonio) is a master planned community project that encompasses approximately 831 acres and includes up to 3,385 residential dwelling units, almost 49 acres of neighborhood and community parks, over 160 acres of paseos and open space, and approximately 81 acres of right-of-way and utility easements. The project is anticipated to be constructed in six phases over a period of 18 years. This period is likely to be extended due to economic factors.

A project-specific WSA was prepared for Rancho San Gorgonio, titled "Water Supply Assessment Rancho San Gorgonio Specific Plan", by Madole & Associates, Inc. and Encompass Associates, Inc., in 2015.

The EIR for Rancho San Gorgonio analyzes water supply supported by the project-specific WSA cited. Both the EIR and WSA have been completed and approved by the City Council.

2.4. CLIMATE

The City is located within the San Gorgonio Pass, which is a transitional zone where coastal climates transition to desert, resulting in significantly differing landscape and geology. The climate can best be characterized by hot, dry summers and short, mild winters. The region receives an average annual rainfall of approximately 15.3 inches, most of which takes place between December and March. Evapotranspiration (ETo) in the area ranges from 8.80 inches in July to 2.14 inches in December.

As the State of California and the Riverside County region have undergone a several-year drought, rainfall has been much lower in the City. Southern California is also expected to transition of a weak La Nina into El Nino by the end of 2026. Recent ETo and rainfall for the City is listed in **Table 2.3.**

Table 2.3 Recent Climate Characteristics (2025)
CIMIS Station 239 (Hemet) (cimis.water.ca.gov)

Month	Rainfall (in)	ETo (in)
Jan (2025)	0.40	2.16
Feb (2025)	1.70	3.03
Mar (2025)	2.49	4.40
Apr (2025)	0.16	5.69
May (2025)	0.18	6.61
Jun (2025)	0.70	8.22
Jul (2025)	0.00	8.80
Aug (2025)	0.19	8.36
Sep (2025)	0.68	6.28
Oct (2025)	0.34	4.79
Nov (2025)	1.67	3.09
Dec (2025)	1.48	2.14
Totals:	**10.0**	**63.57**

As shown in **Table 2.3**, rainfall totals for all months are lower than the normal levels.

2.4.1. Climate Change

The DWR Guidebook requires water suppliers to include a discussion of climate change in their UWMPs, specifically with regard to Drought Risk Assessments (DRA). **Section 7** provides an overview of droughts. Riverside County has released the 2025 Draft Climate Action Plan (CAP) Update for public review and aims to refine the County's efforts to meet greenhouse gas (GHG) reduction strategies, specifically targeting the years 2035 and 2050. This update built on the previous 2019 CAP and included measures to achieve significant reductions in GHG emissions by addressing various sectors, including energy efficiency, water conservation, transportation, and waste management.

Proposed 2025 CAP Update measures would achieve reductions in GHG production by addressing energy efficiency in existing and new residential and non-residential buildings, increasing water efficiency, expanding transportation options, electrifying fleets, reducing landfilled waste, promoting clean energy use, electrification of equipment and aviation, and promoting best management practices in agricultural activities.

The CAP update applies to all unincorporated areas of Riverside County and seeks to integrate the County's past and current efforts with its future efforts to grow and thrive sustainably.

The California Natural Resources Agency released a draft of the 2024 California Climate Adaptation Strategy (Strategy), which builds on the successes and lessons learned since the first iteration in 2009 and the California Adaptive Planning Guide issued in 2012. It also integrates and

connects key elements of the latest specific State of California action plans, such as the Extreme Heat Action Plan, Water Supply Strategy, Climate Smart Lands Strategy, Wildfire and Forest Resilience Action Plan, and Climate Action Plan for Transportation Infrastructure. Key elements of the approach:

01.Set updated, strategic direction and identify outcome-based priorities:

The Strategy links the State's existing, planned, and resourced climate adaptation efforts, showing how they fit together to achieve broad climate resilience priorities. The Strategy also specifies needed actions, with timeframes and metrics, to drive progress and enable accountability.

02.Unify efforts across all sectors and regions:

The Strategy is organized around outcome-based priorities, rather than individual sectors, enabling a coordinated, integrated approach to building climate resilience. This approach recognizes how climate adaptation is implemented on the ground, and reflects our commitment to integrating climate resilience into the work of all state agencies. The priorities have been developed based on input from Californians across all regions of the state and in consultation with California Native American tribes.

03. Help all Californians understand and contribute to California's climate resilience:

The 2024 Strategy updated the interactive website that serves as a hub for state climate resilience action. This website will continue to be updated to enable easier navigation, to follow the state's progress and to find adaptation information and resources easily.

The County's CAP lists seven (7) steps for implementing the GHG emission-reduction strategies. Among the 7 steps listed in the CAP is water conservation. Due to the City's reliance on groundwater, the City is not significantly impacted by temperature changes or droughts compared to agencies relying on surface water. **Section 7** provides greater detail of droughts and their impact on the City's supplies.

2.5. POPULATION

According to the most recent population figures from the California Department of Finance (DOF), the current 2025 resident population of the City is approximately 31,949 persons. Approximately 77 service connection meters exist outside the City limits that are directly served by the City in the unincorporated County. When multiplied by the City's average 2.79 persons per household, this brings the population served outside the City limits to 215. Since the City's water service area comprises 100 percent of the population residing within the City limits, and the small portion outside, the total current resident population served by the City's water system is also approximately

32,164 persons. This is approximately 1,039 persons more than the population total in 2020. The City is currently experiencing a peak population, based on DOF estimates. **Table 2.4** lists the City's recent and current (2025) populations.

Table 2.4 City of Banning Current Population

Year	Service Area Population
2021	30,569
2022	31,102
2023	31,789
2024	32,068
2025	32,164

Since the City is a commercial and government-services center for the region, daytime population estimates may be somewhat higher than the City's resident population.

2.5.1. Population Projections

The SCAG periodically forecasts population growth for incorporated and unincorporated areas within Southern California. In its latest forecast prepared in 2024, SCAG forecasted a 2035 and 2050 number of households for the City at 12,300 and 13,200, respectively. When multiplied by the City's average 2.79 persons per connection, which reflects typical single-family occupancy in the City and is consistent with the 2026 Development Impact Fee Study (DIF), this brings the City's forecasted population for 2035 and 2050 to 34,317 and 36,828. Based on the City's 2025 population, this results in a population growth rate of 320 persons per year from 2025-2035 and 167 from 2035-2050. Two (2) proposed developments, Atwell and Rancho San Gorgonio (RSG), were added to population projections in the 2020 UWMP based of the information available at that time, which included Atwell with 1,543 acres and approximately 4,900 dwelling units. Furthermore, based on the developer's recent data at the end of 2025 1,473 escrows had been closed with another 54 through 5/31/2026, bringing the total to date to 1,527. Assuming conservatively that none of the total 4,900 units are currently occupied, and that this population is not already reflected in the 2025 DOF figures, the maximum Atwell units, along with RSG's 3,385 dwelling units, can then be carried forward in the projection years.

8,285 dwelling units multiplied by the City's average 2.79 persons per connection equates to 23,115 persons that will be added to the City's population in 2050. This results in a population growth rate of 925 persons per year from 2025-2050. When combined with the SCAG population growth rates, this results in a population growth rate of 1,244 persons per year from 2025-2035 and 1,092 from 2035-2050. Population projections for 2050, and every five-year increment from 2025 until then are shown in **Table 2.5**.

Table 2.5 Population Projections

Year	Service Area Population
2030	38,386
2035	44,608
2040	50,068
2045	55,528
2050	60,988

As the City continues to grow the City may likely experience periodic spikes in the number of daytime or short-term residents due to schools or daytime commercial employees.

2.6. WATER SYSTEM

A basic overview of the City's water system is provided in the following sections. More information on the City's water sources, water treatment, and water demands can be found in **Sections 3 through 6**. As this report is a water-resource-management planning document, it does not provide technical or engineering details on water system components.

2.6.1. City Water System Overview

The City's water system consists of the following components:

- Imported Water (used to recharge the City's storage account in the Beaumont Basin)
- Groundwater supply wells with on-site water treatment facilities
- Water distribution pipeline network
- Water storage facilities
- Booster stations
- Pressure Reducing Valve (PRV) stations
- Emergency interconnections

2.6.2. Imported Water

The City purchases State Water Project (SWP) non-potable water from the San Gorgonio Pass Water Agency (SGPWA) a State Water Contractor, which is used to recharge the Beaumont Basin. The recharge points have changed since the 2015 UWMP. Some were located at Beaumont-Cherry Valley Water District (BCVWD) owned percolation ponds, but now City non-potable purchases are being recharged entirely at SGPWA recharge facilities.

Since the 2020 UWMP a new emergency connection has been built along Meadowline Way, referred to as the "Meadowline Interconnect". Temporary construction meter connections are currently being used. This interconnect facility with BCVWD is within the Atwell development and can deliver 1200 gpm to the Foothill West Reservoir. Design of another interconnect called "Highland Springs Interconnect" is currently underway and will be constructed

within the next 2-3 years, delivering 2,200 gpm from the BCVWD co-owned wells. The Highland Springs Interconnect will be located at the northeast corner of Ramsey and Highland Springs Road. These interconnect facilities are for use of co-owned wells, which are in the Beaumont Basin, but are not necessarily in the "imported" water category. While there are still appropriative rights available, the water can be considered a mix of local groundwater and imported water that was recharged into the Beaumont Basin.

The City and BCVWD jointly own and operate three groundwater wells, Wells 24, 25, and 26, in accordance with an agreement between the two parties, dated December 23, 2003. These wells produce water from the Beaumont Basin, and can collectively supply roughly 3,400 gpm. This supply is considered a groundwater supply rather than an imported supply. The City does not have any direct imported water connections.

2.6.3. Groundwater

The City's potable water system is entirely supplied by groundwater from nineteen (19) drinking groundwater wells and one (1) non-potable groundwater well with another under construction (Well NP-1). The City has replaced Well M12 with M12A, which has been redrilled and is currently being equipped. Well M12A's expected operational capacity is approximately 450 gpm. Tri Pointe Homes, a land developer, has dedicated land where the City is currently equipping Well C8, and is expected to have an operational capacity of approximately 1,000 gpm. Construction of these wells will increase the total number of groundwater wells (potable and non-potable, but not including co-owned wells) to twenty-four (24). The groundwater wells are spread out throughout the City, in five (5) basins (also referred to as "storage units"): Beaumont, West Banning (formerly known as the Banning Basin), Cabazon (formerly known as the East Banning Basin), Banning Bench, and the Banning Water Canyon. These basins are described in **Section 3**.

Localized water treatment varies by well site, but can include sand separation and disinfection through chemical addition. The water treatment facilities at the City's groundwater wells consists of the following:

- **Well 1:** Liquid hypochlorite system
- **Well 3:** Liquid hypochlorite system
- **Well C-5:** Liquid hypochlorite system
- **Well C-6:** Liquid hypochlorite system
- **Wells M-3 and M-11:** A sand separator and liquid hypochlorite system

Currently, all potable wells use 12.5% liquid sodium hypochlorite, with sand separators

only being used at wells M3, M10, M11, M12A.

2.6.4. Distribution System

The City distributes water to residential, commercial, and other customers through 13,038 service connections using a 191-mile network of distribution mains averaging 8 inches in diameter. The majority of the City's distribution pipelines were installed between 1981 to 1990. The water system consists of six (6) pressure zones that provide modified pressure to customers. The water service area is shown in **Figure 2.3**.

2.6.5. Water Storage

For water storage, the City maintains ten (10) operating reservoirs with a combined storage capacity of 23.73 million gallons (MG). These reservoirs are shown in **Table 8.4** and include:

- San Gorgonio Reservoirs 1, 2 and 3: Three (3) welded steel storage tanks, a below-grade valve vault, and the Foothill East PRV station within a security fence
- Sunset Reservoirs: Two (2) welded steel storage tanks
- Foothill West Reservoir: One (1) welded steel storage tank is part of the infrastructure improvements for the Atwell Development with a storage capacity of 3.78 MG. Located at the southeast corner of Highland Springs and Meadowline Road, it receives water from the "Meadowline Interconnect"
- Mountain Reservoir & Booster: One (1) welded steel tank, three (3) booster pumps, and three (3) hydropneumatics tanks
- Southwest Reservoir: One (1) prestressed concrete tank that is partially buried, an irrigation pump, and several electrical boxes. It is located inside the Sun Lakes Country Club. The tank was installed around 2003
- High Valley Reservoir: One (1) galvanized bolted steel tank within a security fence
- Brinton Reservoir: The largest of the City's tanks with an above-ground storage capacity of 8 MG

2.6.6. Booster Stations

The City of Banning maintains and operates two (2) booster stations throughout its service area. The first Booster station is located at Well C2. The second is located at the Mountain Reservoir.

The City is currently constructing two (2) non-potable booster stations along Charles and Lincoln Streets, both of which will be fed

from Well NP-1. Once Title 22 RW is made available via the new WWTP upgrade, then they'll be converted to RW system boosters.

2.6.7. PRV Stations

The City maintains and operates six (6) Pressure Reducing Valve Stations throughout its service area. These PRV stations include:

- Sun Lakes PRV station: From the Foothill West Zone to the Main Zone
- Foothill East PRV station: From the Canyon Wells Zone to the Foothill East Zone
- Well 1 PRV: From the Canyon Wells Zone to the Main Zone
- Mountain South PRV: From the Main Zone to the Mountain South Zone
- San Gorgonio & Lincoln PRV: From the Main Zone to the Lower I Zone
- Hargrave & John St PRV station: From the Main Zone to the Lower I Zone

2.6.8. Emergency Interconnections

The City's water system includes two (2) emergency connections. One is a 12-inch emergency interconnection with BCVWD, at the western boundary of the City's service area, at the intersection of Sun Lakes Blvd and Highland Springs Ave. The interconnect was used in the summer of 2020 to meet demands with a comfortable margin. Before 2020 the interconnect had not been used since 2008. During the summer of 2020 four (4) City wells were offline for rehab, and one was offline due to brushfires. The interconnect was used to supplement the loss from these wells. Three (3) of the four (4) wells are back online, and the City has replaced Well M12 with M12A, which has been redrilled and is currently being equipped. Another has been built along Meadowline Way, as described in **Section 2.6.2**.

Figure 2.2 City of Banning: Public Works Department Organization Chart (June 2026)

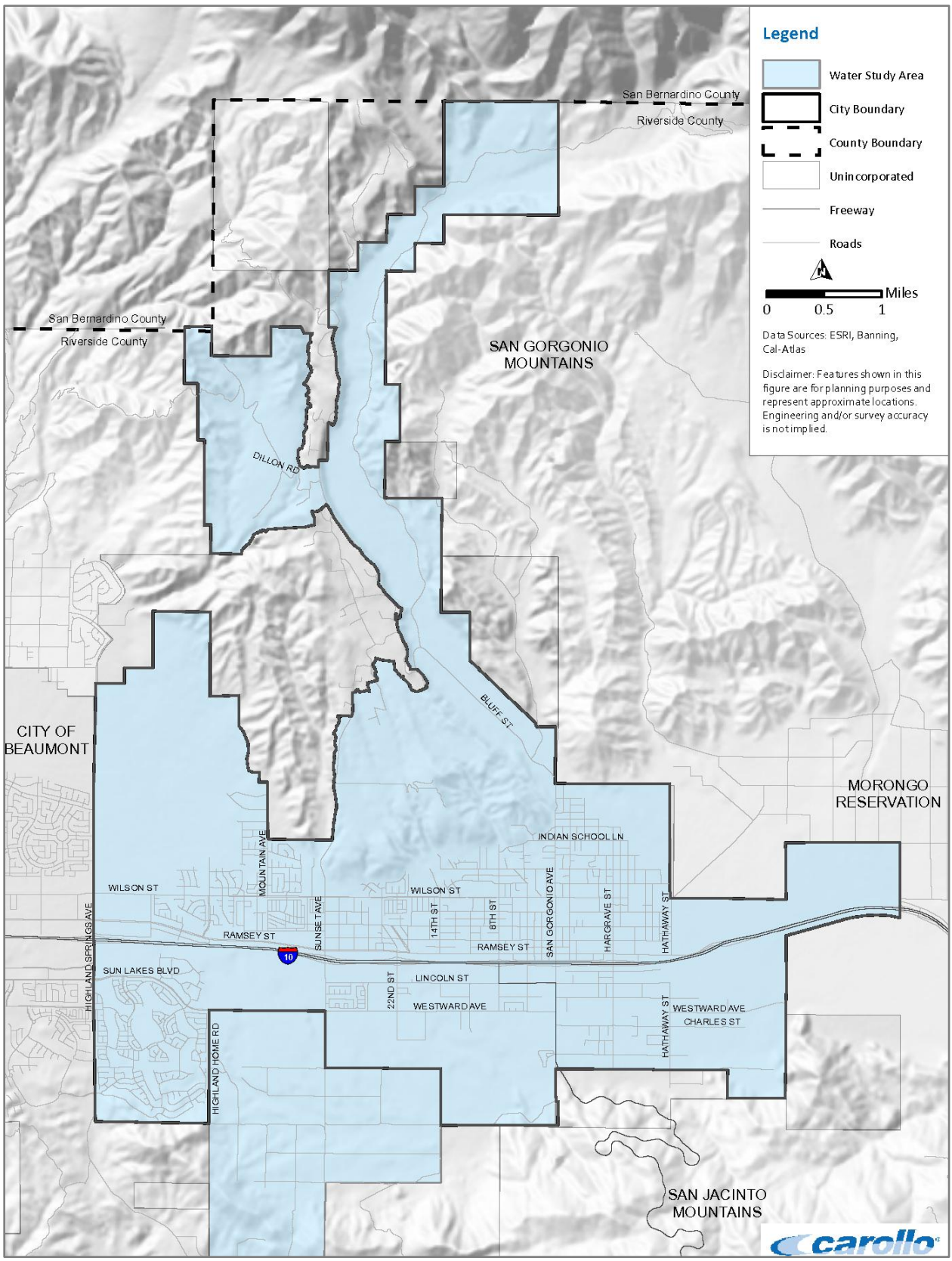

Figure 2.3 City of Banning Water Service Area

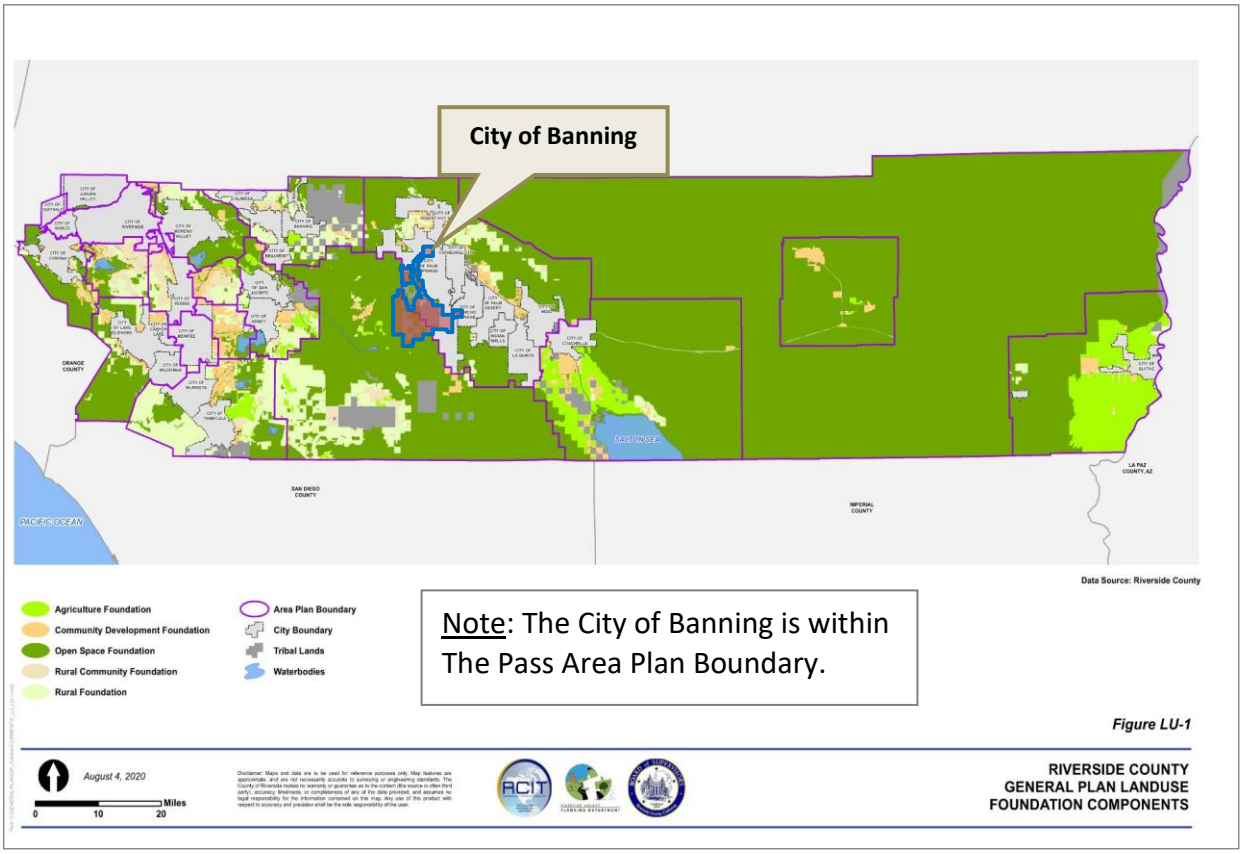

Figure 2.4 Riverside County General Plan Land Use Map (from Riverside County Official Website)

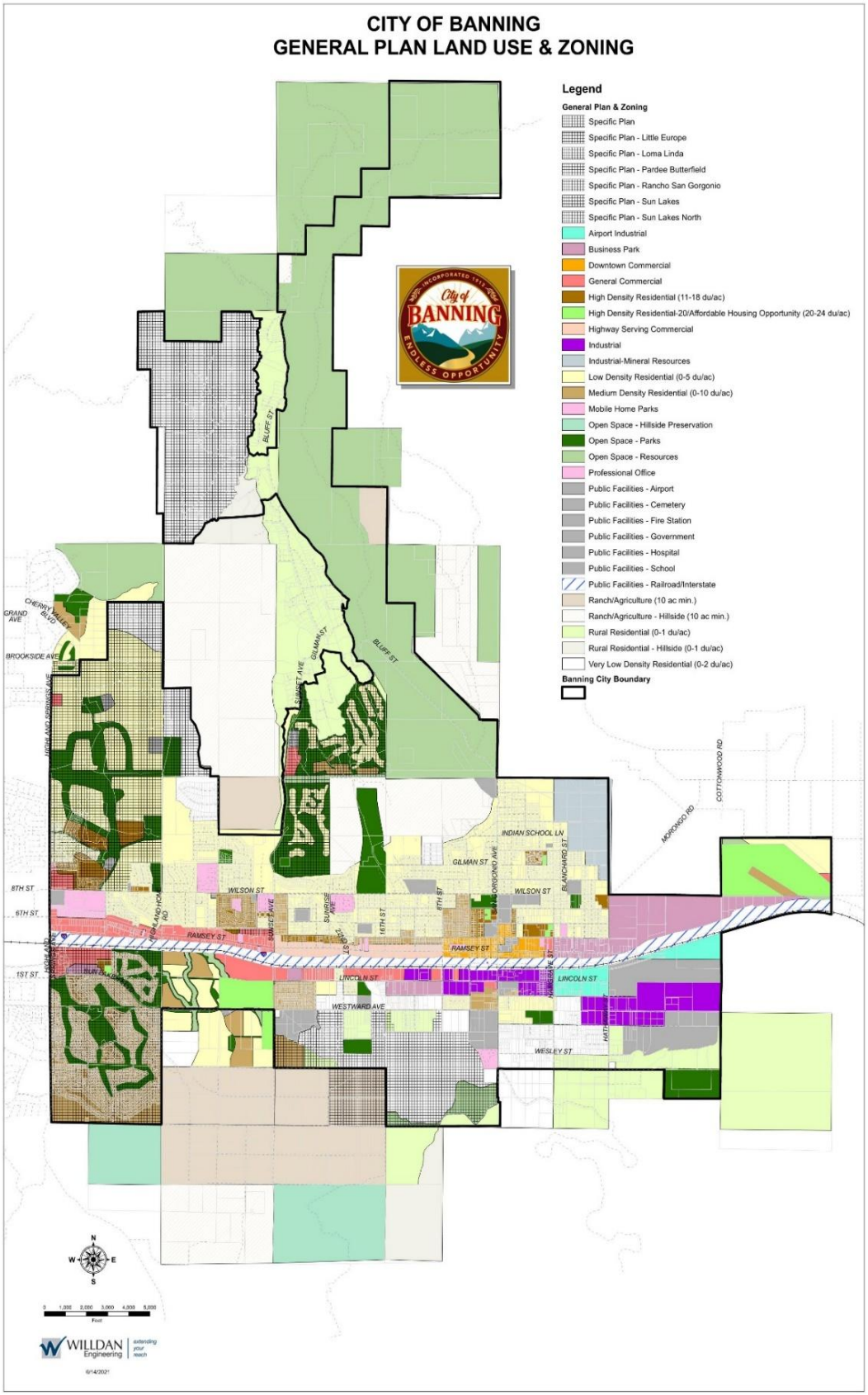

Figure 2.5 City of Banning Zoning Map

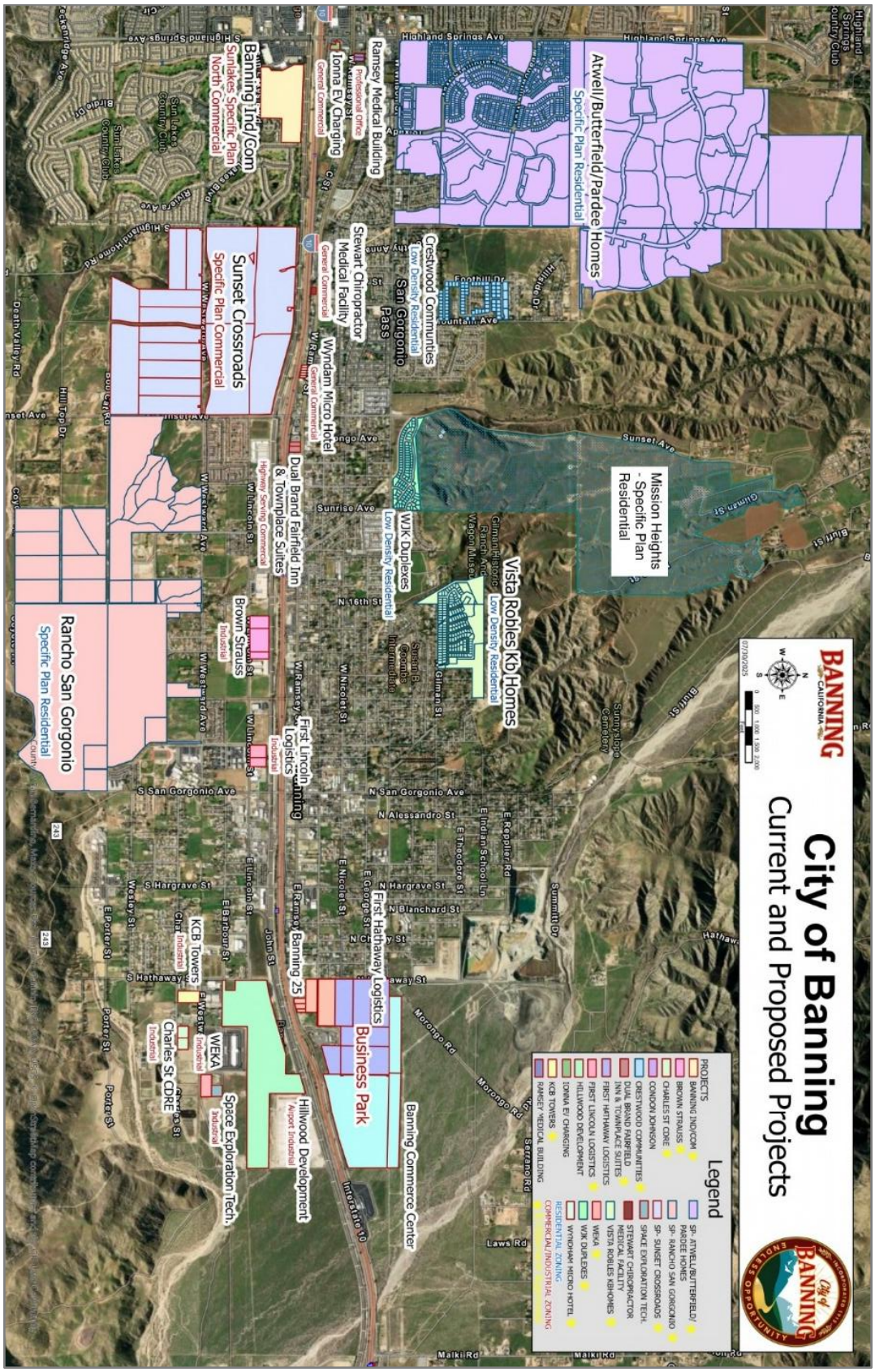

Figure 2.6 City of Banning: Known Developments

3

Section 3: Water Sources and Supplies

The City's water supply consists of local groundwater sources and imported water used to recharge such sources.

3.1. INTRODUCTION

This section describes the current and projected potable water resources available to the City over a 25-year period (from 2030 through 2050). This Section also provides background information on the overall water supplies available to the region. The City currently uses potable water and non-potable water to meet the water needs of its service area. The City's water is obtained entirely from local groundwater basins through nineteen (19) potable groundwater wells, one (1) non-potable groundwater well, and three (3) co-owned wells with the Beaumont-Cherry Valley Water District (BCVWD), for a total of twenty-three (23) wells. As described in **Section 2.6.3**, construction is underway for other wells that will increase the total number of groundwater wells (potable and non-potable) to twenty-seven (27). The City also has access to imported water from the San Gorgonio Pass Water Agency (SGPWA) and surface water from the Whitewater River. Both imported water and surface water are used to recharge the groundwater aquifers.

3.2. IMPORTED WATER SOURCES

3.2.1. Bay Delta

The City has access to imported water from the Sacramento-San Joaquin River Delta in Northern California through SGPWA. The

Figure 3.1 Sacramento-San Joaquin Bay Delta

Bay Delta water system provides Southern California agencies with over 1 million acre-feet (MAF) of water annually. The "Delta" is located at the confluence of the Sacramento and San Joaquin Rivers east of the San Francisco Bay and is the West Coast's largest estuary. The Delta supplies Southern California with over 1 MAF of water annually, which has been significantly reduced in recent years.

Figure 3.2 Bay Delta

The Delta is often considered the nexus of California's statewide water system. Approximately half the total river flow in the State passes through this region, from which water is exported to the San Joaquin Valley, Southern California, and portions of the Bay Area to supply 1,130,000 acres of farmland and 23 million people in central and Southern California. The Delta provides an estimated 7 million acre-feet (MAF) of water per year, of which approximately 100,000 AF is exported to the San Francisco Bay Area, 1.7 MAF is used locally, and more than 5 MAF is exported to the San Joaquin Valley, coastal Central and Southern California via the State Water Project.

3.2.2. Bay Delta Conveyance Project

The Delta Conveyance Project is a modernization effort proposed by the State of California Department of Water Resources (DWR) to change how water is moved through the Sacramento–San Joaquin Delta for the State Water Project (SWP). The Delta Conveyance Project centers around constructing a new, single-tunnel conveyance facility that would divert a portion of Sacramento River flows through new intakes in the North Delta and deliver that water to the existing SWP pumping facilities in the South Delta. The goal is not to increase water exports, but to improve the system's ability to capture water during periods of high availability and maintain water reliability during future droughts.

The Project's received DWR's approval, certification of EIR, and permit from CEQA.

The Delta Conveyance Project is currently in the final stages of regulatory review and permitting, following the DWR's approval of the project and certification of the Final Environmental Impact Report (EIR) in late 2023. During 2024–2025, DWR secured several major environmental permits, including the California Endangered Species Act Incidental Take Permit, and advanced

federal permitting through the U.S. Army Corps of Engineers and NOAA Fisheries. The project continues to move forward but has not received final approval to begin construction.

3.2.3. State Water Project (Aqueduct)

The California State Water Project is a water storage and delivery system of reservoirs, aqueducts, power and pumping plants. Its main purpose is to store water and distribute it to twenty-nine (29) urban and agricultural water suppliers in Northern California, San Francisco Bay Area, San Joaquin Valley, Central Coast, and Southern California. Of the contracted water supply, 70 percent is delivered to urban users and 30 percent is delivered to agricultural users.

In 1947, the California State Legislature funded a water resources investigation that led to the development of the SWP. This investigation resulted in the publication of the California Water Plan. The California Water Plan presented preliminary plans to meet the State's ultimate water needs, including those facility works required for transferring surplus water from Northern California to Southern California. Financing for the construction of SWP facilities was authorized in 1959, when the State Legislature enacted the California Water Resources Development Act (known as the Burns-Porter Act). The Burns-Porter Act, formally known as the California Water Resources Development Bond Act, was placed on the November 1960 ballot and approved by voters. Also known as Proposition One, the initial water projects included Oroville Dam and Lake Oroville, B.F. Sisk Dam (also known as San Luis Dam), San Luis Reservoir, South Bay Aqueduct, North Bay Aqueduct, and the California Aqueduct. Construction on the Oroville site began before the passage of the Burns-Porter Act. A $25 million emergency appropriation was passed in 1957 after a record late 1955 to early 1956 flood, which devastated Northern and Central California. Statewide, 64 deaths were recorded due to the flooding, mostly in Sutter County and Yuba City, and more than $200 million of property damage.

The State Water Project or "SWP" is a result of decades of planning and construction dating back to the 1940s.

The first SWP water deliveries were made in 1962, two years after construction began, DWR and MWD signed the first water supply contract in 1960. Today twenty-nine (29) agencies have long-term water supply contracts with DWR. The service areas of those long-term water supply contractors vary widely in size, location, climate, and population. The contractors' uses for SWP water also differ. SWP water is used primarily for agriculture in the San Joaquin Valley, and urban and industrial needs in Southern California.

Figure 3.3 Aqueduct Systems in California

Figure 3.4 State Water Project

Today, the SWP includes thirty-four (34) storage facilities, reservoirs, and lakes; twenty (20) pumping plants; four (4) pumping-generating plants; five (5) hydroelectric power plants; and approximately 701 miles of open canals and pipelines. The SWP is owned and managed by DWR.

3.3. IMPORTED WATER PURCHASES

In the early 1960s, DWR began entering into individual SWP Water Supply Contracts with urban and agricultural public water supply agencies located throughout Northern, Central, and Southern California for SWP water supplies. The San Gorgonio Pass Water Agency (SGPWA) is one of agencies in the State that have a SWP Water Supply Contract with DWR. SGPWA receives an allocation from the SWP each year. SGPWA also acquires water supplies through contracts with other agencies and annual water transfers and exchanges. SGPWA annually acquires Yuba Accord water as well as water under the Nickel Agreement. SGPWA may also acquire water through an agreement with SBVMWD as well as annual transfers and exchanges with other SWP contractors.

Currently, as a wholesale agency, SGPWA distributes imported SWP water to three (3) member agencies: City of Banning, BCVWD, and Yucaipa Valley Water District.

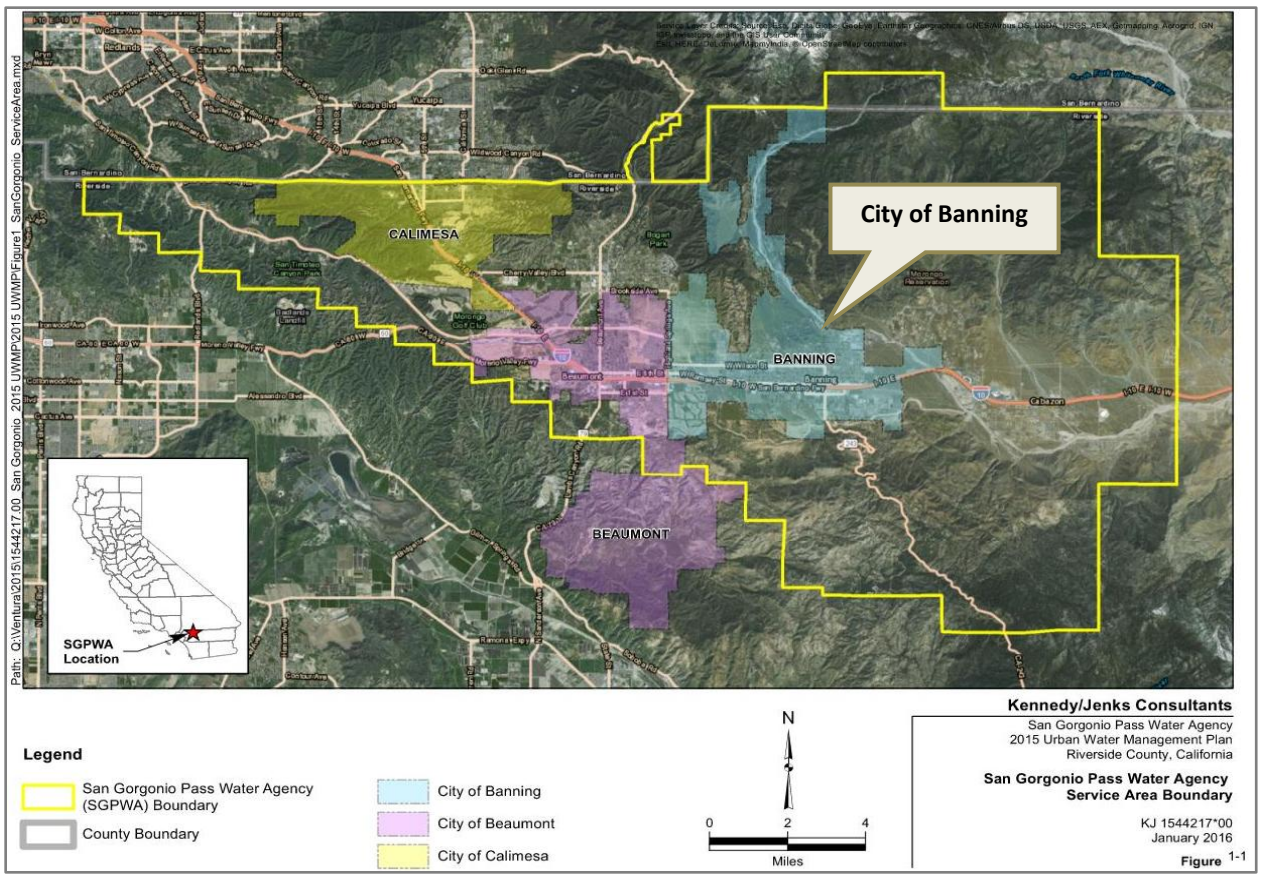

Figure 3.5 SGPWA Service Area

Nine retail purveyors, including the three listed, provide water service to residents and businesses within the SGPWA service area from local groundwater. Banning Heights is the only agency that does not provide water from local groundwater; their primary source is surface water. Groundwater from the City's wells is provided to Banning Heights when surface water is not available to them. The SGPWA Service Area Boundary is shown in **Figure 3.6**. The remaining retail purveyors include the following:

- South Mesa Water Company
- Cabazon Water District
- Banning Heights Mutual Water
- High Valleys Water District
- Mission Springs Water District
- Morongo Band of Mission Indians

SGPWA delivers its SWP supplies through the East Branch to use within the local groundwater basins. Efforts to increase the conveyance capacity of the East Branch extension to 48 cubic feet per second (CFS) were completed in 2017. Past total SWP deliveries to SGPWA are shown in **Table 3.1.**

Table 3.1 Total SWP Deliveries to SGPWA (2015 to 2025)

Year	Purchases (AF)
2015	3,460
2016	10,380
2017	14,705
2018	6,055
2019	12,975
2020	3,460
2021	865
2022	865
2023	17,300
2024	6,920
2025	8,650
Average:	**7,785**
2008 – 2014 Average:	**7,661**

*Source: SWP Final Allocation percentage for each year multiplied by SGPWA's maximum Table A delivery amounts. Percentages taken from 2010-2026 Notices To State Water Project Contractors (**Figure 7.5**).*

SWP supplies delivered to the SGPWA service area are not treated prior to reaching the recharge facilities, except for water delivered to YVWD. The imported water YVWD receives is treated at the Yucaipa Valley Regional Water Filtration Facility (YVRWFF), with a capacity of 12 million gallons per day (MGD).

As stated in **Section 2**, the recharge points into the Beaumont Basin have changed since the 2015 UWMP. Previously, quantities of SWP water purchased were recharged to the Beaumont Basin at BCVWD's Noble Creek spreading facility, which is located in the vicinity of Beaumont Avenue and Cherry Valley Boulevard. The SWP water is now recharged at the SGPWA owned and operated Brookside Recharge Facility, which was completed in 2017, and enables SGPWA to import more water in wet years, when available, and to store it in the local groundwater basin. The new facility consists of five (5) large ponds, a pipeline connecting the ponds to the East Branch Extension of the SWP as well as a new connection to the East Branch Extension. The new facility, shown in **Figure 3.6**, is located adjacent to the existing Noble Creek spreading facility, at Beaumont Avenue and Brookside Avenue. The concrete lined Noble Creek separates the two facilities.

DWR allocates water to 29 SWP contractors on an annual basis, including the San Gorgonio Pass Water Agency.

Table 3.2 presents the City's historic imported water purchases from SGPWA for years 2015 to 2025 and compares them to years 2008 to 2014.

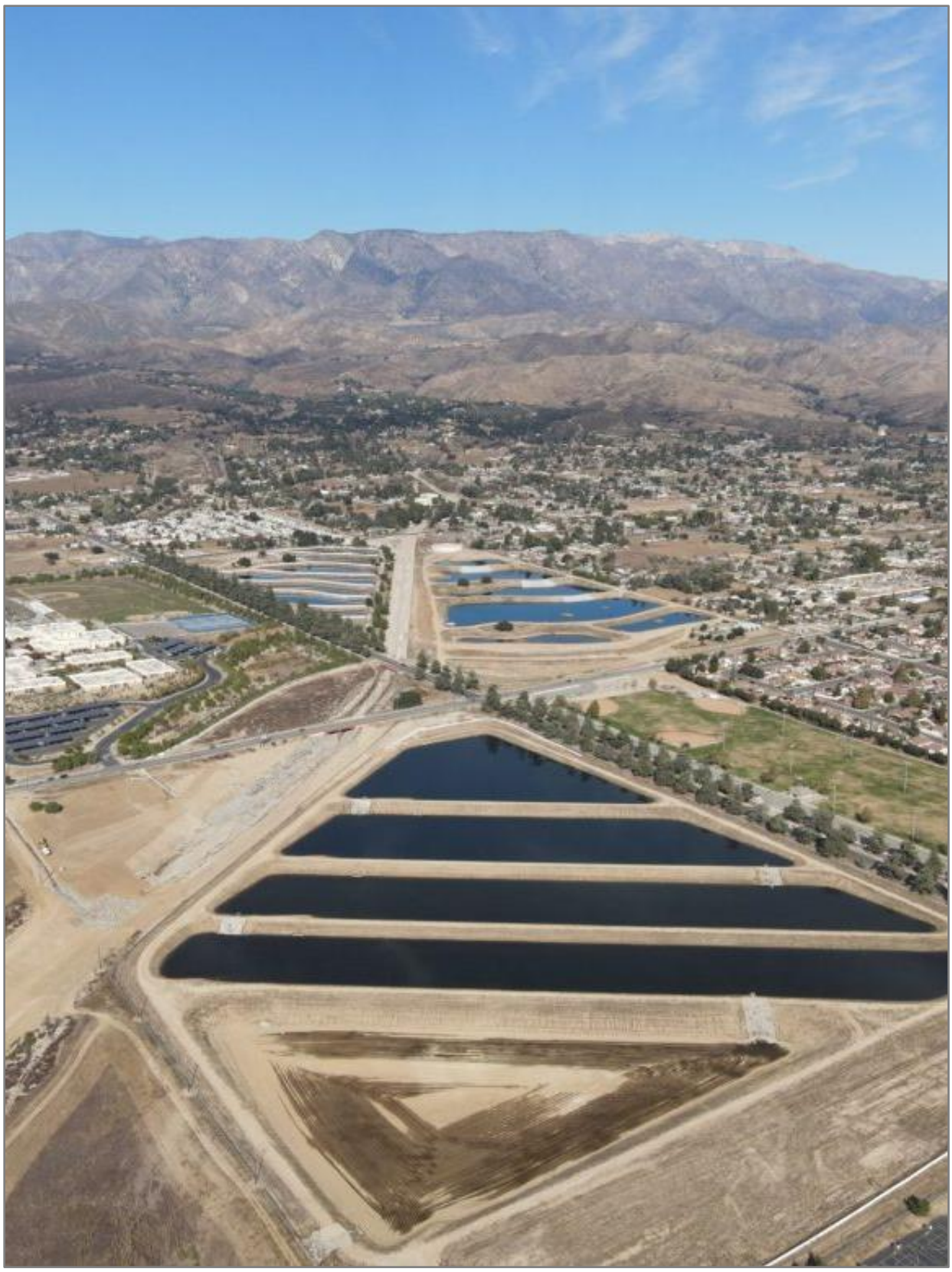

Figure 3.6 Brookside Recharge Facility

Table 3.2 Imported Water Supply for recharge of the Beaumont Basin
(City's Purchases of SWP water from SGPWA)

Year	Purchases (AF)
2015	694
2016	1,477
2017	1,350
2018	500
2019	250
2020	250
2021	0
2022	35
2023	1,000
2024	1,500
2025	1,750
Average:	**801**
2008 – 2014 Average:	**1,346**

Source: Beaumont Basin Watermaster Consolidated Annual Report for 2025.

Although the City purchases imported water, this water is used solely for recharge of the Beaumont Basin. None of the water purchased is supplied directly to the City's customers. The amount of imported water available to the City for groundwater recharge is dependent on SGPWA's available supply from the SWP. According to the water supply contract between DWR and the SGPWA, SGPWA's maximum annual entitlement from the SWP is 17,300 AFY. Under shortage conditions, SGPWA could limit volumes by implementing SGPWA's Water Shortage Contingency Plan (WSCP).

The SGPWA also has a financial plan in place to obtain additional supplies necessary to meet projected demands within its service area. Sources include the dry-year water purchase program, exchanges with the Crestline-Lake Arrowhead Water Agency (CLAWA), and other supplemental water as available. The SGPWA has purchased additional supplies since 2020 to meet demands, as shown in **Table 3.2.**

3.3.1. Projected Imported Water

Although the City may expect variable reliability in availability of SWP water, SWP water is not its primary source of water, as it is used exclusively for recharge. Previous short-term declines in SWP water availability have been, and will continue to be, offset by the City's substantial reserves of stored groundwater and would not affect the City's water supply. Due to the easing of drought conditions, the City received delivery of 100% of the 2023 order, when compared to 0% in 2021. **Table 3.5** shows the City's projected water supplies and available volumes, including the years in which the City's amount of imported water will increase. Beginning in 2030 at 1,250 AF, it will increase in 2035 to 1,500 AF, then to 2,000 AF in 2040, and finally 2,500 AF in 2045 where it will remain through 2050. These quantities are based on the City's internal projections, and have increased due to past SGPWA contracts with Ventura that will

bring in additional water supply for Banning and Yucaipa.

3.4. GROUNDWATER SOURCES

The City is within the boundaries of the Coachella Valley Hydrologic Unit, which encompasses several groundwater basins, including the Coachella Valley Groundwater Basin (Basin), within which the City is located. The Basin is underlain by several large subbasins, the boundaries of which are generally defined by fault lines that restrict the lateral flow of water. The Basin extends from Banning easterly to the Salton Sea.

3.4.1. San Gorgonio Pass Subbasin

The City is underlain by the San Gorgonio Pass Subbasin (SGP Subbasin) portion of the overall Basin per **Figure 3.7**. The SGP Subbasin is further divided into water storage units (also termed "basins") which are not completely independent from each other, as depicted in **Figure 3.8**. The City extracts groundwater from the following five (5) storage units, as shown in **DWR Submittal Table 6-1** in **Appendix E**.

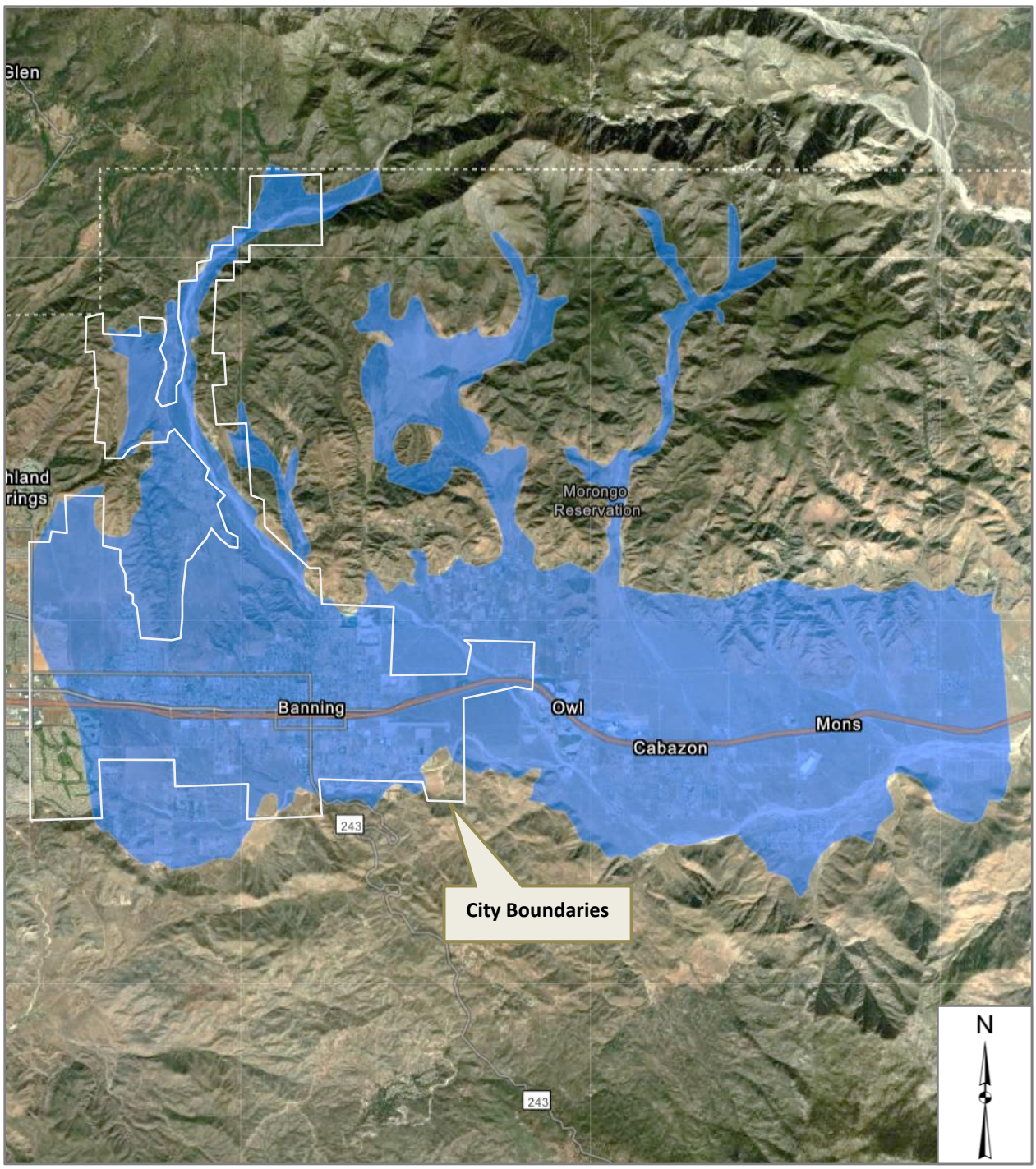

Figure 3.7 San Gorgonio Pass Subbasin

- Beaumont Storage Unit (Beaumont Basin)
- West Banning Storage Unit (formerly known as the Banning Storage Unit)
- Cabazon Storage Unit (formerly known as the East Banning Storage Unit)
- Banning Bench Storage Unit
- Banning Water Canyon Storage Unit,

The storage unit boundaries were defined in a 2006 USGS report on "Groundwater Hydrology in the San Gorgonio Pass Area" (Scientific Investigations Report 2006-5026), prepared by USGS in cooperation with the SGPWA. Since this report was completed, DWR, SGPWA, and the City have refined the details of these storage units. The San Gorgonio Pass is a low-relief highland bordered on the north by the San Bernardino Mountains, on the southeast by the San Jacinto Mountains, and on the west by the San Timoteo Badlands.

Groundwater recharge in the area results from precipitation infiltrating into the ground within surface water catchments and in the canyons north of the City. An additional source of recharge is subsurface inflow (also referred to as underflow) from storage unit to storage unit, infiltration of Whitewater River diversions in the Banning Water Canyon, and from percolation of treated wastewater into the Cabazon Storage Unit. The Banning Water Canyon area receives water from the percolation of canyon flows through the gravel soils of the canyon bottom. The San Gorgonio River running southerly through the Banning Water Canyon provides intake areas for distributing water to spreading ditches that interconnect with spreading ponds located approximately one mile north of the Banning Bench to enhance percolation.

A hydrogeological study was conducted by Geoscience to determine the maximum perennial yield of the groundwater storage units in the vicinity and to determine the anticipated future available water supply from the Beaumont Storage Unit, West Banning Storage Unit, Banning Bench Storage Unit, Cabazon Storage Unit, and Banning Water Canyon Storage Unit. The findings of the study were contained in the Geoscience report, titled "*Maximum Perennial Yield Estimates for the Banning and Cabazon Storage Unit*, and Available Water Supply from the Beaumont Basin", dated March 29, 2011 (referred to as the Geoscience Report). The individual basin safe yields and projected groundwater production (from each basin) are included in **Table 3.5** of this Section and in **Appendix E** as **DWR Submittal Table 6-9** (Projected Water Supplies).

The Maximum Perennial Yield Estimates were recalculated by Geoscience in July, 2019. The recommendation in the analysis was to continue to use the 2011 estimates: "Overall, the maximum perennial yield estimates are similar, but the values derived from using an extended base period including the years 2009 through 2018 result in slightly lower maximum perennial yield values. We recommend using the values previously provided in our 2011 report because the range of years used to calculate the maximum perennial yield represent a hydrology that includes a closer balance of wet and dry years. The maximum perennial yield should be revisited if, and when, future wet years have been added to the hydrologic record."

3.4.2. Sustainable Groundwater Management Act

The Sustainable Groundwater Management Act (SGMA), passed by the California Legislature in 2014, was an effort to regulate the use of groundwater in the state so that it is sustainable into the future. The Act requires all medium basins like the SGP Subbasin, and high priority basins to develop a Groundwater Sustainability Plan (GSP) by January 2022. The 2022 SGP Subbasin GSP was submitted to DWR on 2/7/2022 and approved on 10/26/2023. The SGP Subbasin Groundwater Sustainability Agency has made the 2022 GSP publicly available on its website:

www.sgpgsas.org/

An update is required every 5 years, with the next update due on 1/1/2027. The 2027 GSP update is currently underway, and the effort is led by SGPWA. The 2027 GSP is also addressing the "corrective action items" that DWR had noted from the 2022 GSP. The contents of this plan are prescriptive and well defined by Act. Major components of each plan are a water budget for the subbasin, a hydrogeological conceptual model of the subbasin, and a stakeholder outreach plan. Specifically, if a proposed development/project and/or subdivision will obtain water from a basin that is designated as medium- or high-priority under Act, the following must be included in any Water Supply Assessments/Verifications:

- Information as to whether DWR has identified the subbasin as being subject to critical conditions of overdraft; and
- A copy of the Groundwater Sustainability Plan or alternative plan if a Groundwater Sustainability Agency has adopted such a plan.

According to DWR, the SGP Subbasin is not identified as being subject to conditions of critical overdraft. The SGP Subbasin has three (3) Groundwater Sustainability Agencies and all three worked together to

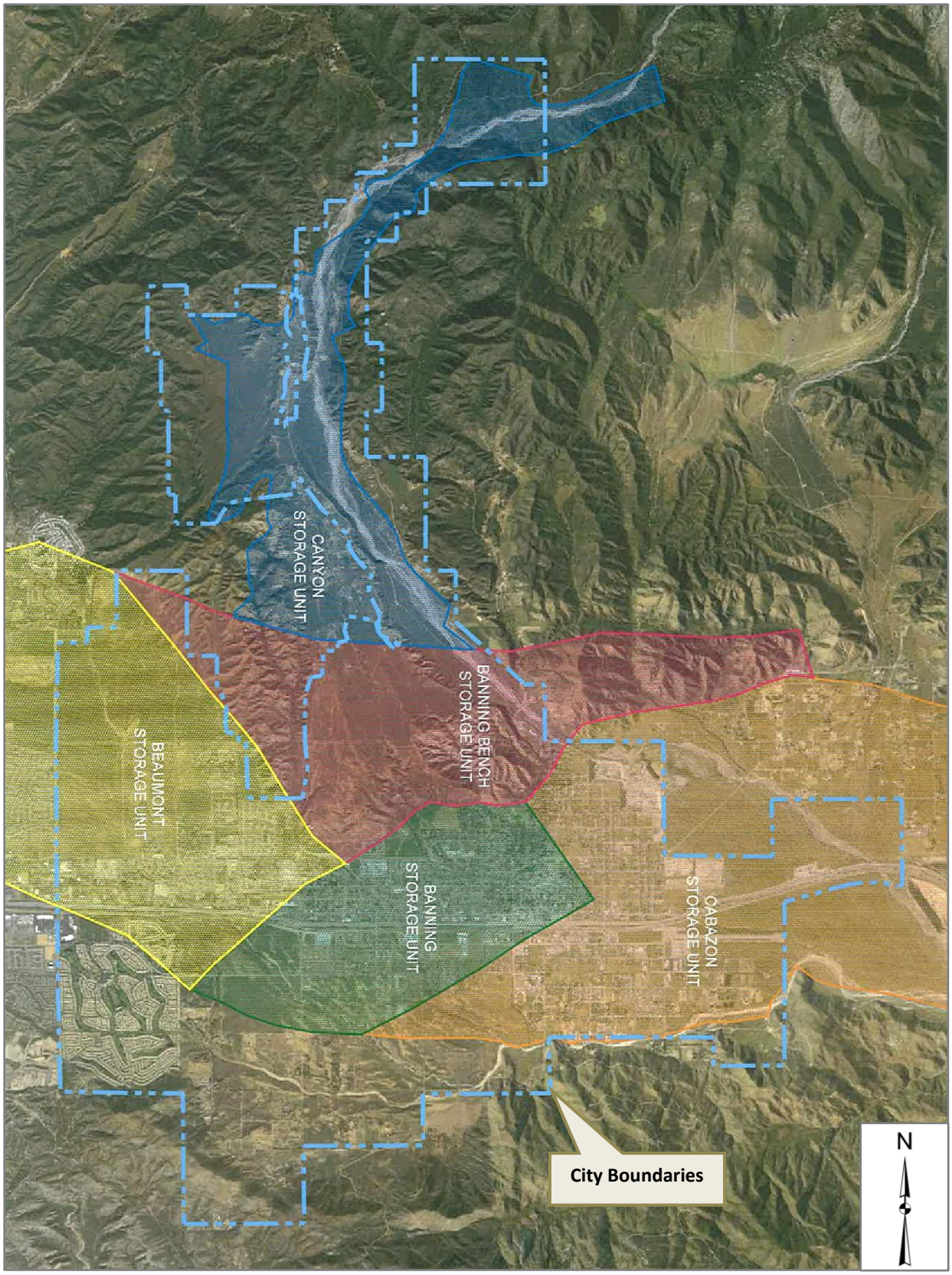

Figure 3.8 Groundwater Basins in the City (Subbasins of San Gorgonio Pass Basin)

produce a GSP. The various water agencies that overlie the subbasin include the Desert Water Agency, Mission Springs Water District, Cabazon Water District, the City of Banning, the Banning Heights Mutual Water Company, and the San Gorgonio Pass Water Agency.

3.4.3. Beaumont Storage Unit (Beaumont Basin)

The Beaumont Storage Unit (also referred to as the Beaumont Basin) is located primarily in the City of Beaumont, with some portions located within Banning, Calimesa, and Cherry Valley, as depicted in **Figure 3.8.** The Beaumont Storage Unit covers approximately 12,480 acres (19.5 square miles). Surface sediment in the Beaumont Basin and the lowlands consist of unconsolidated and semi-consolidated Quaternary alluvium. Surrounding the alluvial sediments are semi-consolidated rocks of the San Timoteo Formation and igneous and metamorphic rocks of the San Jacinto and San Bernardino Mountains. The unconsolidated Quaternary alluvium and upper portion of the underlying San Timoteo Formation constitute the water-bearing aquifer. The boundaries of the Beaumont Basin are based on faults that form barriers to subsurface flow. Major faults in the area include the Banning and Cherry Valley faults, which form the northern boundary of the Beaumont Basin.

The Beaumont Basin is the only adjudicated storage unit within the San Gorgonio Pass Basin.

Groundwater occurs at depth in the Quaternary alluvium and the San Timoteo Formation. The Beaumont Basin is replenished by infiltration of precipitation, subsurface flow across faults, return flow from irrigation and septic, and artificial recharge. The basin discharges via groundwater production, subsurface flow across faults, rising water in San Timoteo Creek, and evapotranspiration.

The City operates four (4) groundwater production wells, designated Wells C2, C3, C4, and M3, within the Beaumont Basin. The City also maintains an additional, non-operating well in the Beaumont Basin (Well M9). The four (4) active wells have a combined nominal capacity of 4,650 gallons per minute (gpm). The City also co-owns with BCVWD three (3) additional groundwater production wells (Wells 24, 25, and 26), with a combined nominal capacity of 6,800 gpm, of which half is allotted to the City. Therefore, the City's total nominal pumping capacity in the Beaumont Basin is 8,050 gpm. As described in **Section 2.6.3**, new Well C8's expected operational capacity is approximately 1,000 gpm, which once online will bring the City's total nominal pumping capacity in the Beaumont Basin to

9,050 gpm. The forementioned Wells in the Beaumont Basin are shown in **Figure 3.9.**

The Beaumont Basin is an adjudicated basin pursuant to the *Stipulation for Entry of Judgment Adjudicating Groundwater Rights in the Beaumont Basin* (the Judgment), a copy is included in **Appendix L**. Pursuant to the Judgment, the Court appointed a five (5) member Watermaster Committee, consisting of representatives from each of the five (5) appropriators, which include City of Banning, City of Beaumont, Beaumont-Cherry Valley Water District, South Mesa Water Company, and Yucaipa Valley Water District.

The safe yield of the Beaumont Basin was initially established at 8,650 AF/yr, to be distributed among the appropriators. The safe yield is to be reevaluated at least once every ten years. Based on the Final 2023 Reevaluation of the Beaumont Basin Safe Yield Report, the Beaumont Basin Safe Yield of the basin was reevaluated in 2024. The Beaumont Basin Watermaster Committee re-determined the Safe Yield of the Beaumont Basin to be 7,100 AF/YR.

Based on a description of the Judgment, a controlled overdraft (also referred to as temporary surplus) was created to allow the appropriators to extract from the Beaumont Basin, during the first ten years after adoption of the Judgment, a maximum of 16,000 AF/yr. The temporary surplus was divided among the appropriators, with the City of Banning receiving 31.43 percent (or 5,029 AF/yr).

After the first 10 years of operation ended in 2014, appropriators no longer received the temporary surplus and were permitted to extract only the amount each had in storage or credited to them. At the end of calendar year 2025, the City had approximately 50,007 AF in its storage account, based on the 2025 Watermaster Report. **Table 3.3** indicates the City of Banning's storage in the basin for the past 10-years according to the Beaumont Basin Watermaster Consolidated Annual Reports 2016 through 2025. The City is permitted to store up to 80,000 AF in the Beaumont Basin.

On an annual basis, the Watermaster determines the amount of groundwater to which each producer is entitled from the Beaumont Basin without incurring a replenishment obligation. The City of Banning is entitled to 31.43% of the unused production in the Beaumont Basin. Quantities to which the City is entitled but does not pump can be credited to the City's storage account.

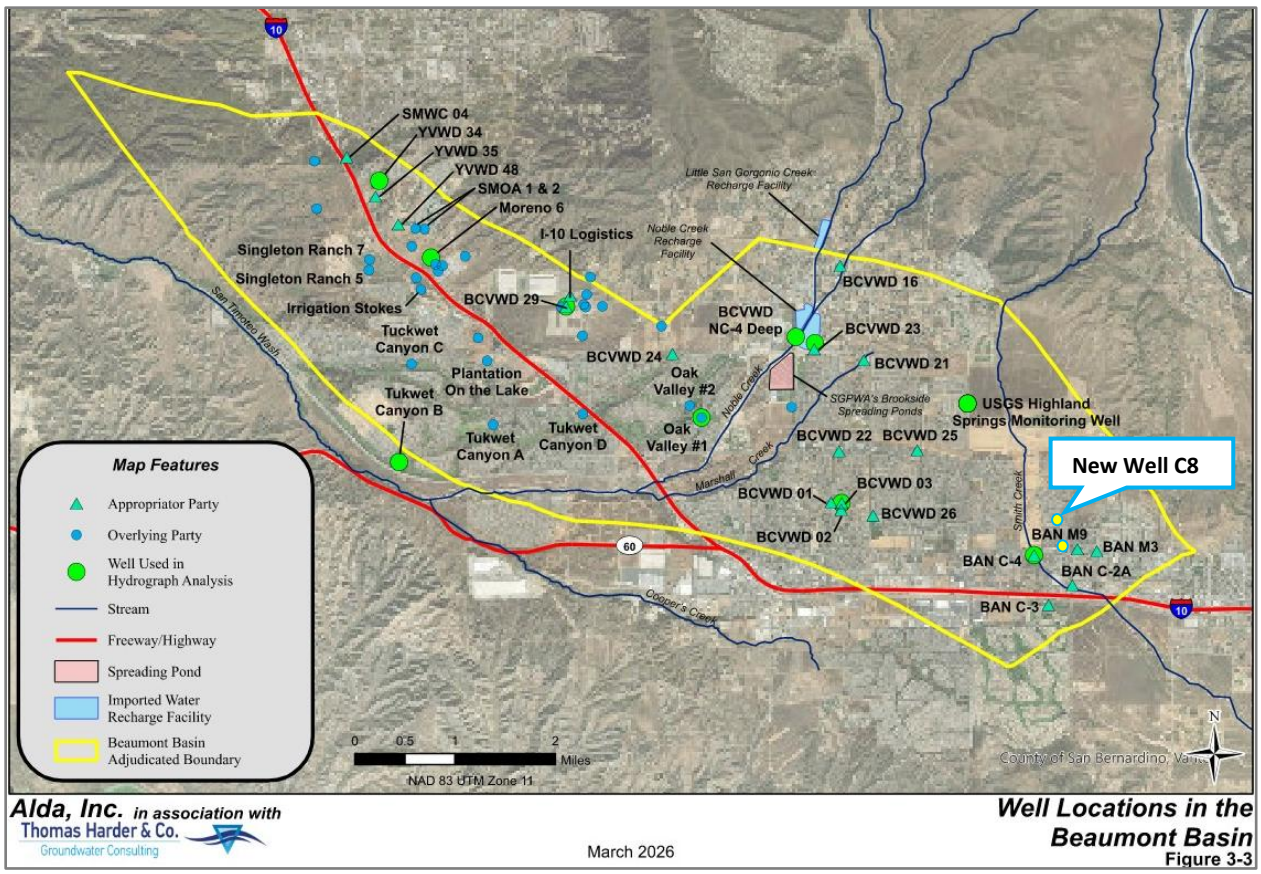

Figure 3.9 Well Locations in the Beaumont Basin

Figure 3.10 Spreading Grounds at WWTP

Table 3.3: Banning Annual Storage Consolidation - Beaumont Storage Unit

Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Storage in AFY	49,991	51,960	52,273	51,737	50,889	48,778	46,751	47,832	49,358	50,007

Source: Beaumont Basin Watermaster Consolidated Annual Reports

3.4.4. West Banning Storage Unit

The West Banning Storage Unit lies south of the Banning Bench Storage Unit and east of the Beaumont Storage Unit, as is depicted on **Figure 3.8**. The total surface area of the West Banning Storage Unit is approximately 2,489 acres (3.9 square miles). The area is underlain by alluvial sediments, with bedrock occurring to the north in the San Bernardino Mountains. The City currently operates four (4) groundwater production wells within the West Banning Storage Unit, designated C5, M7, M10, and M11 with a combined nominal pumping capacity of 2,650 gpm. The City lost Well M12 due to a collapse, and has since replaced Well M12 with M12A, which has been redrilled and is currently being equipped. Well M12A's expected operational capacity is approximately 450 gpm.

3.4.5. Cabazon Storage Unit

The Cabazon Storage Unit is located near the eastern boundary of the City, southeast of the West Banning Storage Unit and the Banning Bench Storage Unit, as depicted on **Figure 3.8.** The Cabazon Storage Unit encompasses a surface area of approximately 17,215 acres (26.9 square miles). The average thickness is 350 feet, the estimate storage is 1,000,000 AF, and the safe yield is 5,265 AFY. The City currently operates one (1) groundwater production well in the Cabazon Storage Unit, designated Well C6, with a nominal pumping capacity of 900 gpm.

Additional groundwater can be produced from the Cabazon Storage Unit. A water balance prepared for the Cabazon Storage Unit, as described in the Geoscience Report, determined that a positive change in storage has occurred as a result of inflow and outflow factors, including effluent from the Wastewater Treatment Plant (WWTP) percolated from the adjacent spreading grounds (**Figure 3.10**). Therefore, future projections of available water from the Cabazon Storage Unit assume that all inflow and outflow values remain the same, with the exception of treated wastewater applied to the basin.

For purposes of projecting Cabazon water supplies into the future, inflow of recycled water increases due to increases in wastewater generated by population

growth, and this recycled water will be percolated into the Cabazon Storage Unit. Once the Phase I expansion of the WWTP is completed, approximately 1,680 AF/yr of recycled water will be available for irrigation purposes, although if demands are less than what's available, as will most likely be the case in the winter months, remaining produced recycled water will be applied to the Cabazon Storage Unit for direct percolation. Full allocation of demands won't occur immediately, but rather progress over time as the demand increases and as the City builds out it's recycled water delivery system.

Non-potable Well NP-1 (designated R1) is near the City's WWTP. It was constructed more than 20 years ago, but only recently been equipped to produce groundwater. It is expected to be in service in 2026 once the non-potable distribution system is complete, prior to the completion of the WWTP expansion. Once the Title 22 improvements at the WWTP are completed, Well NP-1 will serve as a backup and will be used when needed to help the City meet peak irrigation demands.

3.4.6. Banning Bench Storage Unit

The Banning Bench Storage Unit is located to the north of the West Banning Storage Unit, as shown in **Figure 3.8.** The total surface area of the Banning Bench Storage Unit is approximately 3,573 acres (5.9 square miles). The area is underlain by alluvial sediments, with bedrock occurring to the north in the San Bernardino Mountains. The safe yield is 1,130 AFY, the average thickness is 600 feet, and the estimated capacity is 240,000 AF. The City currently operates three (3) groundwater production wells within the Banning Bench Storage Unit, designated Wells 1, 2, and 3, with a combined nominal pumping capacity of 3,650 gpm.

3.4.7. Banning Water Canyon Storage Unit

The Banning Water Canyon Storage Unit is located north of the Banning Bench Storage Unit, as depicted in **Figure 3.8.** The total surface area of the Banning Water Canyon Storage Unit is approximately 1,058 acres (1.7 square miles). The canyon bottom comprises alluvium, and the canyon sides are bedrock. The safe yield is 4,070 AFY, the average thickness is 161 feet, and the estimated capacity is 13,500 AF. The City currently operates eight (8) groundwater production wells within the Banning Water Canyon Storage Unit, designated Wells 4, 5, 7, 8, 9, 10, 11, and 12, with a combined nominal pumping capacity of 8,600 gpm.

Additional recharge occurs in the Banning Water Canyon Storage Unit through the diversion of Whitewater River drainage into Banning Water Canyon. The diverted water flows along steep mountain slopes for

approximately 14 miles in a primarily concrete lined conveyance system known as the San Gorgonio Flume. The San Gorgonio Flume is described in more detail in **Section 3.6**.

3.5. GROUNDWATER PRODUCTION

All wells within the City's service area are equipped with flowmeters to measure water production. Water production is recorded monthly by City water staff and reported annually to DWR. Over the past five years of operation, groundwater extraction has averaged 7,933 AFY. **Table 3.4** shows the City's groundwater supplies for years 2021 to 2025.

Table 3.4 Groundwater-Production

Year	Production (AF)
2021	8,096
2022	7,843
2023	7,301
2024	8,111
2025	8,313
Average	**7,933**
2015-2020 Avg. (2020 UWMP)	**7,826**

This data was reported in the City of Banning's Groundwater Extraction Annual Reports from 2021 through 2025. It Includes water received from BCVWD, through three (3) Co-Owned Wells with the City, that directly pump from the Beaumont Basin. Due to the City's increase in population since 2020, the severe drought of 2020-2022, and the rebounding effects of the mandatory Level 2 shortage response actions, groundwater pumping has increased.

3.5.1. Projected Groundwater Supplies

Currently, the City does not utilize the entire capacity of its storage units (subbasins). The maximum annual amount pumped by the City in the past 10 years is under 9,000 AF. Due to the new planned developments, the City expects pumping to increase by 25% within 10 years and over 50% by the end of this UWMP planning period (2050). The pumping capacity of the City's twenty-three (23) wells, including the City's co-owned wells with BCVWD, is approximately 14,000 AFY. However, this pumping capacity is limited to the safe yields and/or the adjudicated rights of the subbasins. As noted, in some of the storage units, the City does not maximize groundwater resources (i.e., Cabazon Unit). Therefore, the City will be establishing new groundwater resources to meet projected demands. In the interim, the City will need to supplement their current allowable pumping capacity by using water from their Beaumont Basin storage account while the City locates and drills new wells. This will create new resources or establish redundancy in existing resources in order to meet water demands under build-out conditions. **Table 3.5** shows the City's projected water supplies and available

Table 3.5 Projected Water Supply Availability (AF)

Year	2030	2035	2040	2045	2050
Basin	**Projected (Available)**	**Projected (Available)**	**Projected (Available)**	**Projected (Available)**	**Projected (Available)**
Beaumont Basin	1,460	1,241	1,055	897	762
	(7,100)	(7,100)	(7,100)	(7,100)	(7,100)
West Banning Basin	1,405	1,430	1,430	1,430	1,430
	(1,430)	(1,430)	(1,430)	(1,430)	(1,430)
Cabazon Basin	665	723	761	794	822
	---	---	---	---	---
Banning Bench	302	329	346	361	374
	(1,330)	(1,330)	(1,330)	(1,330)	(1,330)
Banning Water Canyon	3,730	3,730	3,730	3,730	3,730
	(3,730)	(3,730)	(3,730)	(3,730)	(3,730)
Imported Recharge	1,250	1,500	2,000	2,500	2,500
WWTP Recharge (Recycled Water)	929	1,245	2,144	2,307	2,307
Additional Supply from Storage	1,286	2,169	2,812	3,362	3,828
Total Available Supply	68,860	68,681	65,338	62,469	58,160
Total Net Storage	49,828	49,649	46,306	42,248	37,939

Note: See notes under **Table 7.1** and notes under **DWR Submittal Table 6.9** in **Appendix E** for a detailed explanation of the volumes above.

volumes. These values are also reflected in **DWR Submittal Table 6.9** in **Appendix E.**

The imported water data will be moved to projected use (**DWR Submittal Table 4-2**) after various working group meetings with DWR and City staff to avoid double counting. Total Right or Safe Yield of the Beaumont Basin Storage Account accounts for additions from Imported Water and subtractions of Supply from Storage for prior years.

To offset dependency on the groundwater supplies listed, the City intends to begin using recycled water within the next 10 years, as described in **Section 4**.

The City will also continue to benefit indirectly from regional conservation efforts and also through SGPWA's efforts to augment its supplies and improve reservoir storage capacities. **Section 7** discusses reliability issues and compares the City's projected water supply availability to projected demands for normal, dry, and multiple dry years through 2050.

3.6. SURFACE WATER

The San Gorgonio Flume was built to provide water and power to the City and Banning Heights Mutual Water Company (BHWMC). BHWMC utilizes approximately 1,000 AF/yr of the Whitewater River diversions in the Flume (**Figure 3.11 and Figure 3.12**), and the remainder of the diverted water flows into the San Gorgonio River below the Banning Heights Mutual Water Company (BHMWC) extraction point. A portion of the natural runoff and the Whitewater River diversions are diverted into spreading ponds located approximately one mile north of the Banning Bench in order to increase groundwater recharge.

Since 1913, surface water from the Whitewater River has been diverted into the Banning Water Canyon Storage Unit, with an average of 1,500 AF/yr diverted into Banning Water Canyon since 1961. The water flowed within the San Gorgonio Flume (mentioned in **Section 3.4.7**), and then through two hydroelectric power plants.

Figure 3.11 San Gorgonio Flume System

Due to damage along sections of the San Gorgonio Flume, surface flow diverted into Burnt Canyon to the north, and then back to the San Gorgonio Flume upstream of

Powerhouse No. 1, where it continued downstream through Powerhouse No. 2 to an above ground reservoir operated by Banning Heights Mutual Water Company (BHMWC). The remaining water flowed to the San Gorgonio River, where it recharged the Banning Water Canyon Storage Unit.

In June of 2010, Southern California Edison (SCE), the City of Banning, BHMWC and the SGPWA entered into an "Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities" which determined that SCE would restore and repair the facilities and transfer ownership to the City and BHMWC.

Figure 3.12 San Gorgonio Flume System

In average years, the Whitewater Flume provides direct water use to the Banning Heights Mutual Water Company, and the rest goes to recharging the Banning Water Canyon, which the City can then pump from as groundwater. A lot of recharged water is received during the Spring.

The Apple Fire of 2020 encompassed the entire Whitewater Flume structure that diverted water to be recharged into the Banning Water Canyon. In December of 2022 water diversion was restored to the Banning Water Canyon, but the system remains damaged and unable to deliver surface water to BHMWC; therefore, BHMWC's water demands are met by water deliveries from the City of Banning. SCE, BHMWC, and the City are working together to put the system back into operation as quickly as possible. Southern California Edison currently owns the Whitewater Flume system.

The City of Banning preserved water stored in the Banning Water Canyon to serve BHMWC by pumping more from the Beaumont Basin Storage Account instead. This was apparent in the amount in storage for years 2021 and 2022 in **Table 3.3**. After the diversion was restored in 2022, additional water was delivered and recharged in the Banning Water Canyon to allow the City to begin pumping from the Banning Water Canyon instead of the Beaumont Basin Storage Account.

The City of Banning plans to conserve stormwater flows from tributary creeks within its service area by allowing water to

percolate into the ground. A preliminary evaluation by the City indicated that a portion of stormwater flows from creeks in the area could be conserved as "new" water to meet future needs. The Atwell Development (previously known as Butterfield) includes design features that are estimated to capture and recharge approximately 1,370 AF/yr of stormwater flows from Smith Creek. The Rancho San Gorgonio Specific Plan includes design features that are estimated to capture and recharge approximately 199 AF/yr of stormwater at full buildout.

3.7. ALTERNATE WATER SOURCES

This section provides an overview of alternative water sources (non-potable supplemental supplies) and their potential uses. Alternative water sources include recycled water or greywater. A more detailed look into recycled stormwater is found in **Section 4**.

3.7.1. Greywater

Greywater systems have been used in California to provide a source of water supply for subsurface irrigation and also as a means to reduce overall water use. Greywater consists of water discharged from sinks, bathtubs, dishwashers, and washing machines. Greywater systems consist of an underground tank and pumping system. Greywater is currently legal for subsurface irrigation in the State of California; however, strict regulations and high installation costs have impeded installation of professional greywater systems and have the unintended consequence of undocumented and noncompliant use of greywater. An example of a Greywater System is shown in **Figure 3.13**.

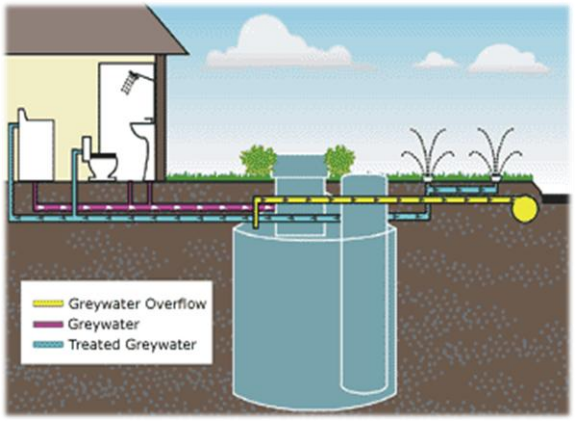

Figure 3.13 Greywater System

The City does not currently have a formal program in place to support greywater use. However, the promotion of greywater systems as a means to reduce the City's overall water use is not recommended since the use of greywater is currently limited to subsurface irrigation and therefore the overall service area-wide reduction in water use (in AF) would be minimal. Additionally, any water diverted to greywater systems would no longer be available for treatment into recycled water.

3.8. TRANSFERS OR EXCHANGES

The City's rights to annual groundwater extraction are shown on **DWR Submittal Table 6-9** of **Appendix E**. In light of pending

housing growth, this table indicates that preservation of the City's groundwater supplies is imperative. Therefore, the leasing of groundwater rights is not feasible for the City. Other than the sale of water to High Valleys Water District, and occasionally to BHMWC, the City is not planning to enter into any groundwater transfer or exchange opportunities with other agencies.

The City's water system includes two (2) emergency connections, as described in **Section 2.6.8.**

3.9. PLANNED SUPPLY PROJECTS

The City continually reviews practices that will provide its customers with adequate and reliable supplies. Trained staff continues to ensure the water quality is safe and the water supply will meet present and future needs in an environmentally and economically responsible manner. The City coordinates its long-term water shortage planning with SGPWA and other local agencies through the development of their respective UWMPs. The City also meets bi-monthly with the San Gorgonio Pass Regional Water Alliance, which is comprised of thirteen (13) local water purveyors, to discuss local issues with different agencies.

Any new City water supply projects will be to add, replace, or upgrade wells to support population growth and new development. The projects that have been identified to improve the City's water supply reliability and enhance the operations of the City's facilities include replacement of water meters, fire hydrants, valves, and pipelines. Future recycled water deliveries will also be able to supplement some potable water demands.

To accommodate the proposed developments in the City (including the Atwell Project), the City is planning to redrill or add new well(s), including Well M7, Well M12A, and a new well (Well C8) within the overall Atwell Project (or within Phases 3B and 4A-1 of the Atwell Project). The existing and future/potential wells are shown in **Figure 3.9**.

Since any new wells would be located in the Beaumont Storage Unit (Basin), which is an adjudicated basin, the City would need to consider operation of the wells such that the combined pumping volume of all wells in the Beaumont Basin does not exceed the City's adjudicated limits (**Section 3.4.3**).

3.10. ENERGY INTENSITY OF SUPPLY

According to the City's groundwater production figures shown in **Table 3.4**, the City pumped an average of 5,154 gpm in 2025. With a total nominal pumping capacity of the combined wells of 23,850 gpm, this means that on average each wells motor ran for a cumulative of 5.2 hours each day. With an average horsepower of 80 HP per well,

the City uses approximately 360 kilowatts hours (kWh) per day per operating well, or approximately 130,000 kWh each year. The current industrial energy cost in the City is $0.1438 per kWh (as of 11/01/2025). The typical annual energy cost to run one of the City's groundwater well motors (one motor) is shown in **Table 3.6**:

Table 3.6 Annual Energy Costs to Run Well Motor in City

Kilowatt-Hours (kWh)	Cost ($) per kWh	Total Cost ($)
130,000	$0.1438	$18,694

The cost shown in **Table 3.6** only includes the energy cost to run the motor of the well. The cost do not include smaller miscellaneous costs such as lighting, control valves, and instrumentation. However, since the motor is the most significant component of the total energy costs, the cost shown in **Table 3.6** provides an annual estimate of the power cost required to operate the City's groundwater wells.

These costs are expected to increase over the next five (5) years as shown in **Table 3.7.**

Table 3.7 Projected Energy Costs to Run Well Motor in City

Year (as of 11/01)	Cost ($) per kWh	Rate Increase (%)
2026	$0.1697	18%
2027	$0.1952	15%
2028	$0.2147	10%
2029	$0.2362	10%

Since the City relies on groundwater for their water supply, the City cannot offset the energy costs required to run the City's water system. In addition, the cost of imported water from a wholesaler are significantly greater than the total production costs of groundwater, which include not only the energy cost shown above, but also additional costs of treatment and distribution. For any water agency that can produce water locally, it is more economical to produce local water than to purchase imported water. Therefore, the City intends to continue to pump groundwater.

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Section 4: Recycled Water Opportunities

Recycled water has increased overall water supply reliability for agencies that have implemented water reclamation projects.

4.1. OVERVIEW

"Recycled" or "reclaimed" water is defined as wastewater purified through primary, secondary, and tertiary treatment. Recycled water is acceptable for irrigation and some industrial processes. The Southern California region discharges nearly 2 billion gallons of treated wastewater per day. The treated wastewater is discharged either to the ocean or to permitted areas such as percolation ponds. Recycled water is considered a reliable and drought-proof water source that reduces reliance on imported water. Recycled water will continue to be a critical part of the California water picture because of the likelihood of droughts. As technological advancements continue to reduce treatment costs and as legislation expands the use of recycled water, more reuse opportunities should develop.

This Section describes the City's existing wastewater collection and treatment system, and identifies existing and future recycled water use opportunities in the City. The section also includes estimates of recycled water supply through 2050.

4.2. WASTEWATER COLLECTION SYSTEM

The City of Banning provides sewer service within City limits and to unincorporated areas of Riverside County that surround the southeast portion of the City, as shown in

Figure 4.1. The City of Banning is responsible for the collection, conveyance, treatment, and disposal of wastewater generated within its service area, as depicted in **Figure 4.2.** Municipal wastewater in the City's service area is generated from residential, commercial, and institutional sewer discharges. The City does not currently have any major industrial sewer discharges (i.e., brine). However, there are some cannabis cultivation facilities that will be operational within the next two years, which will need to be monitored and regulated.

The City's wastewater collection system drains primarily from west to east. The wastewater discharged from the City is collected from a network of 112 miles of gravity sewer mains. The local collector sewers discharge into larger sewer trunk mains along Westward Avenue and Porter Street. The trunk mains then carry the wastewater to the Banning Wastewater Treatment Plant (WWTP), located in the southeast corner of the City (see **Figure 4.3**). The WWTP has a current capacity of 3.6 MGD and is designed to treat wastewater to secondary standards. Primary and secondary treatment consists of the following processes: headworks, screening, grit removal, primary clarification, filtration, and secondary clarification. The secondary-treated wastewater is discharged to percolation ponds which recharge the Cabazon Groundwater Basin (Storage Unit). This recharge is provided only through surface percolation, and no injection wells are used by the City.

4.2.1. Wastewater Flows

The quantities of wastewater generated are proportional to the City' population and the water used by its residents. The wastewater flows are metered at the effluent point to the WWTP, before being discharged to the percolation ponds. However, these values were not available during this UWMP preparation, and an average ratio of 34% based on 2016-2020 values was applied to the recent water use shown in **Table 6.3**. Total wastewater collected in the City over the past five (5) years is shown in **Table 4.1**.

Table 4.1 Wastewater Flows Collected in City

Year	Wastewater (AF)	Wastewater (MG)
2021	2,511	818
2022	2,526	823
2023	2,267	739
2024	2,485	810
2025	2,692	877
Avg:	**2,496**	**813**

Due to projected housing developments within the City's service area, wastewater flows are expected to significantly change

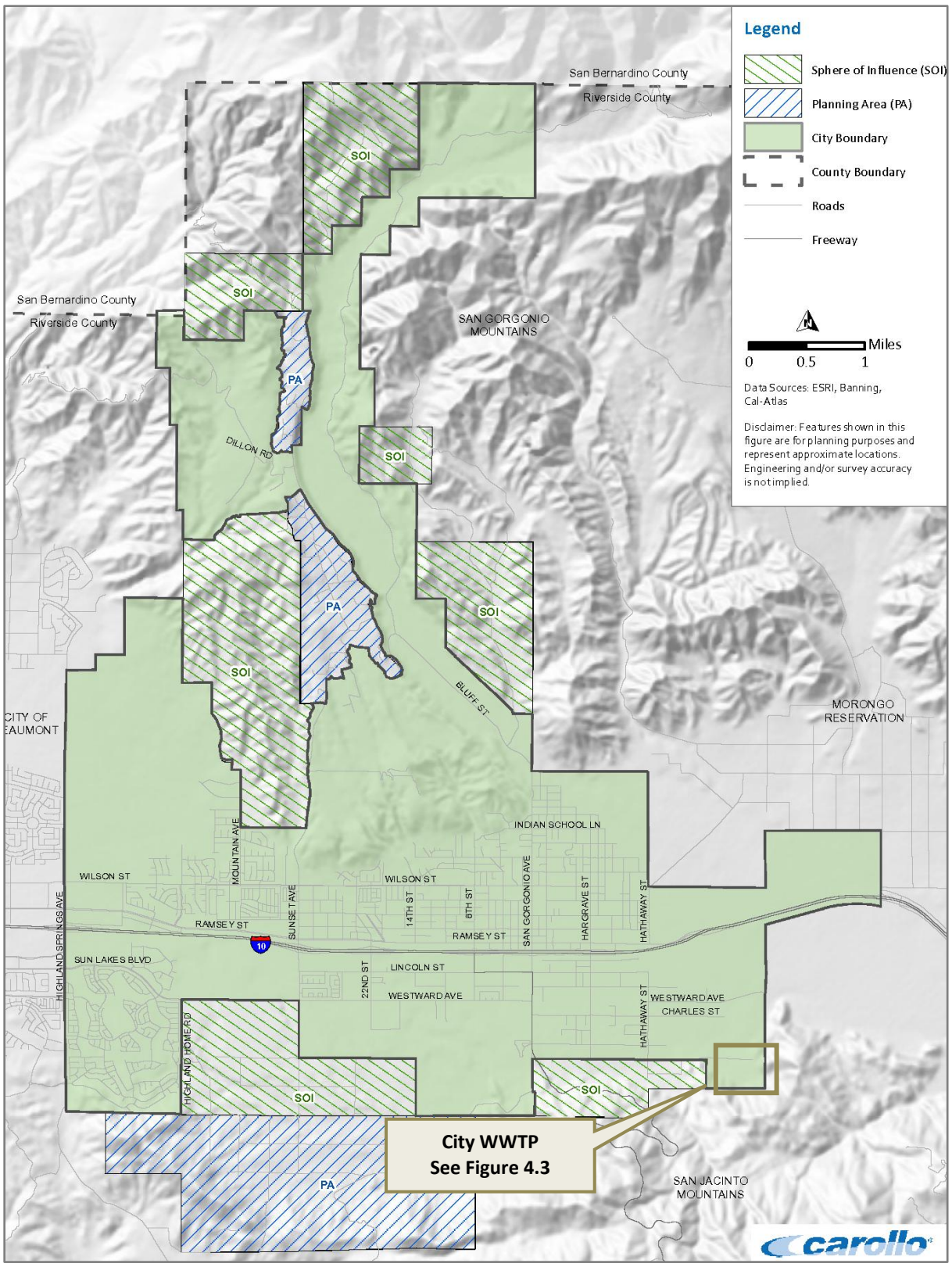

Figure 4.1 City of Banning Wastewater Service Area (with Additional Shaded Planning Areas)

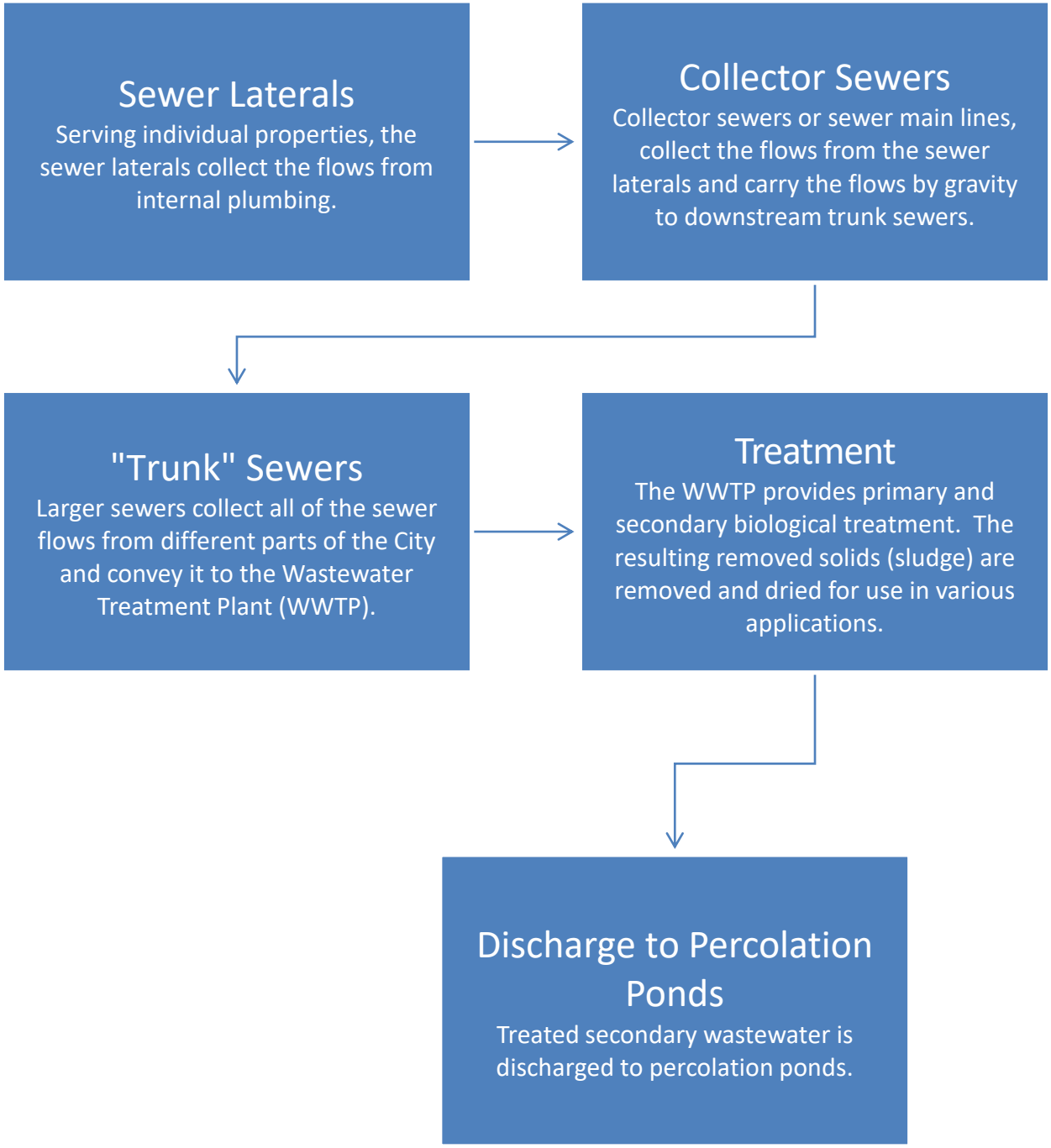

Figure 4.2 Schematic of City's Existing Wastewater Collection and Treatment System

over this UWMP planning period (2050). The City anticipates that future wastewater flows can be estimated using the projected demands shown in **Section 6** multiplied by an increasing return rate from 35 percent (0.35) from 2030 through 2035 to 50 percent (0.50) from 2040 through 2050. **Table 4.2** shows the projected wastewater flows.

Table 4.2 Projected Wastewater Flows Collected in City

Year	Flows (AF)	Flows (MG)
2030	3,096	1,009
2035	3,367	1,097
2040	5,067	1,651
2045	5,287	1,723
2050	5,473	1,783

The estimated 35 percent return rate was based on the observation that the existing City's low-density residential customer base uses a large portion of their daily water demand for outdoor irrigation. Typical higher density urban areas have return rates ranging from 75 percent to 90 percent. The projected 50 percent return rate by 2040 is higher than the City's current return rate since newer developments described in **Section 2** should have higher return rates. As the City's population is expected to increase through these developments, the higher return rates from the newer developments should offset the lower return rates from the existing developments.

Also, as mentioned in **Section 1.3,** the use of potable water to irrigate Nonfunctional turf on all properties owned by the City is required to be phased out by January 1, 2027. A combination of this requirement and new development will result in an estimated aggregate return rate of 0.50 by 2040.

4.3. RECYCLED WATER

The Banning WWTP is the only wastewater treatment facility for the City. The WWTP currently provides only secondary treatment, and the treated wastewater does not meet Title 22 Standards. In addition, the City does not use any recycled water produced by any other neighboring agencies. As a result, no wastewater has been "recycled" (re-used) within the City's service area over the past five years, as shown in **Table 4.3**.

Table 4.3 Recycled Water Produced and/or Used in City

Year	Recycled Water Produced or Used (AF)
2021	0
2022	0
2023	0
2024	0
2025	0

The amounts indicated in **Table 4.3** do not coincide with the projections in the City's 2020 UWMP. The 2020 UWMP projected

recycled water use beginning in the year 2025.

4.3.1. Projected Recycled Water Use

According to the City's 2018 IMP, the 2006 Recycled Water Master Plan, and the 2020 UWMP, the City anticipated implementing upgrades by 2025 to the City's wastewater treatment plant that would allow the WWTP to meet tertiary treatment standards to supply recycled water for irrigation and other allowable uses. Tertiary treatment would be in the form of cloth filters in the near-term (2030) and construction of a recycled water distribution system. Facilities to be constructed would also include recycled water pipelines to transport recycled water to the recycled water customers.

The City now anticipates that the wastewater treatment plant improvements will be completed by late 2028 to early 2029. Upon completion of the upgrades, approximately 2,700 AFY of recycled water would be available to recycled water customers. However, usage of the recycled water within the Beaumont Basin may be limited since it requires salt and nutrient removal which will require the installation of a Reverse Osmosis (RO) system and brine evaporation ponds, which are currently not in the City's budget to upgrade the WWTP. Projected recycled water availability would be as shown in **Table 4.4**:

Table 4.4 Projected Recycled Water Availability

Year	Recycled Water Production (AF)
2030	2,700
2035	2,700
2040	2,700
2045	3,892
2050	3,892

The projected quantities shown in **Table 4.4** are based on a "Phase I" capacity expansion to the WWTP. The 2018 IMP projected up to 5,760 AFY of recycled water production capacity by 2040. However, the 2018 IMP identified only 2,530 AFY of recycled water demand (including the proposed housing developments). Therefore, for conservative planning purposes, the projected recycled water production for this UWMP through the year 2040 is 2,700 AFY and from 2045-2050 is 3,892 AFY. The 2018 IMP described the City's potential recycled water customers and service area in **Figure 4.4**.

4.3.2. Potential Recycled Water Use

There are no physical barriers or constraints which make construction of recycled water facilities unfeasible. The City is relatively flat within the vicinity of potential recycled water customers. The City currently serves one customer (Sun Lakes Golf Course) with non-potable water from Well M7.

Figure 4.3 City of Banning WWTP and Percolation Ponds

Typical annual demand for the Sun Lakes Golf Course is 850 AFY or 0.8 MGD. Since the Sun Lakes Golf Course is located on the westerly end of the City, once the City constructs recycled water pipelines to reach the Sun Lakes Golf Course, other potential customers would be within proximity to receive recycled water. Therefore, construction of recycled water facilities would prove feasible if the funding for an agreement was in place for the use of recycled water.

Other potential users can "tap in" to the proposed recycled water pipeline.

The City's previous 2006 Recycled Water Master Plan identified potential customers north of the Interstate 10 Freeway. However, the 2018 IMP indicated that these potential customers were not feasible, due to the difficulty with crossing the 10 Freeway and the railroad tracks, and since there are other potential customers south of the 10 Freeway. The potential recycled water customers are listed in **Table 4.5**. As noted by **Table 4.5**, the exception to maintaining only recycled water users below the 10 Freeway would be the Atwell Development (previously known as Butterfield), since this is a relatively large development. In addition, it would be within 1-mile from the Sun Lakes Golf Course. Assuming the Sun Lakes Golf Course is provided recycled water service prior to completion of the Atwell Development, the pipeline could be extended to feed the Atwell Development. A recycled water line to the Atwell development may be constructed in the future, but the City does not currently have plans to fund or construct such a project, as reflected in the 2018 Integrated Master Plan.

4.3.3. Recycled Water Alternatives

For the Atwell Development, the City had considered construction of a satellite wastewater treatment facility, but has since moved away from this concept. Instead, Atwell will send all of its sewer flows to the City's WWTP. However, the City is exploring the option of using excess recycled water (amount not used for irrigation) to recharge the West Banning Basin. This would allow the City to make full use of its upgraded treatment capacity.

Table 4.5: Potential Recycled Water Users

Customer	Recycled Water Demand (AF)	Conversion Year (Begin Usage of Recycled Water)
Existing Developments		
Sun Lakes Golf Course	850	2030
Banning High School	175	2035
Dysart Park	87	2035
Lions Park	79	2030
Total	**1,191**	**2035**
Projected Developments		
Atwell Project	864	2040[1]
Rancho San Gorgonio Development	217	2045[2]
Neighborhood Park	35	2040
Total	**1,116**	**2045**
Combined Total (Existing & Projected)	**2,307**	**2045**

(1) City does not currently have a connection planned from the Recycled Water Main to the Atwell project at this time. They are plumbing for recycled water, but it is not planned for construction yet.

(2) By 2035 25% of the Rancho San Gorgonio Development will have converted the desired potable water piping to recycled water.

4.4. ENCOURAGING AND OPTIMIZING RECYCLED WATER USE

Currently, there are no plans in place to encourage the use of recycled water since recycled water infrastructure has not yet been constructed. Once the City has the ability to provide recycle water, then they could consider outreach activities and incentives to encourage and optimize recycled water use. These may include:

- Outreach to general public
- Outreach to potential recycled water customers
- Monitoring, enforcement, and training for recycled water use
- Temporary financial incentives, such as free service for the first month

The exact methods will be developed as the City's recycled water system expands. If the City applies for outside funding to construct recycled water infrastructure, the City will need to also secure funding specifically for the purpose of actively promoting recycled water use.

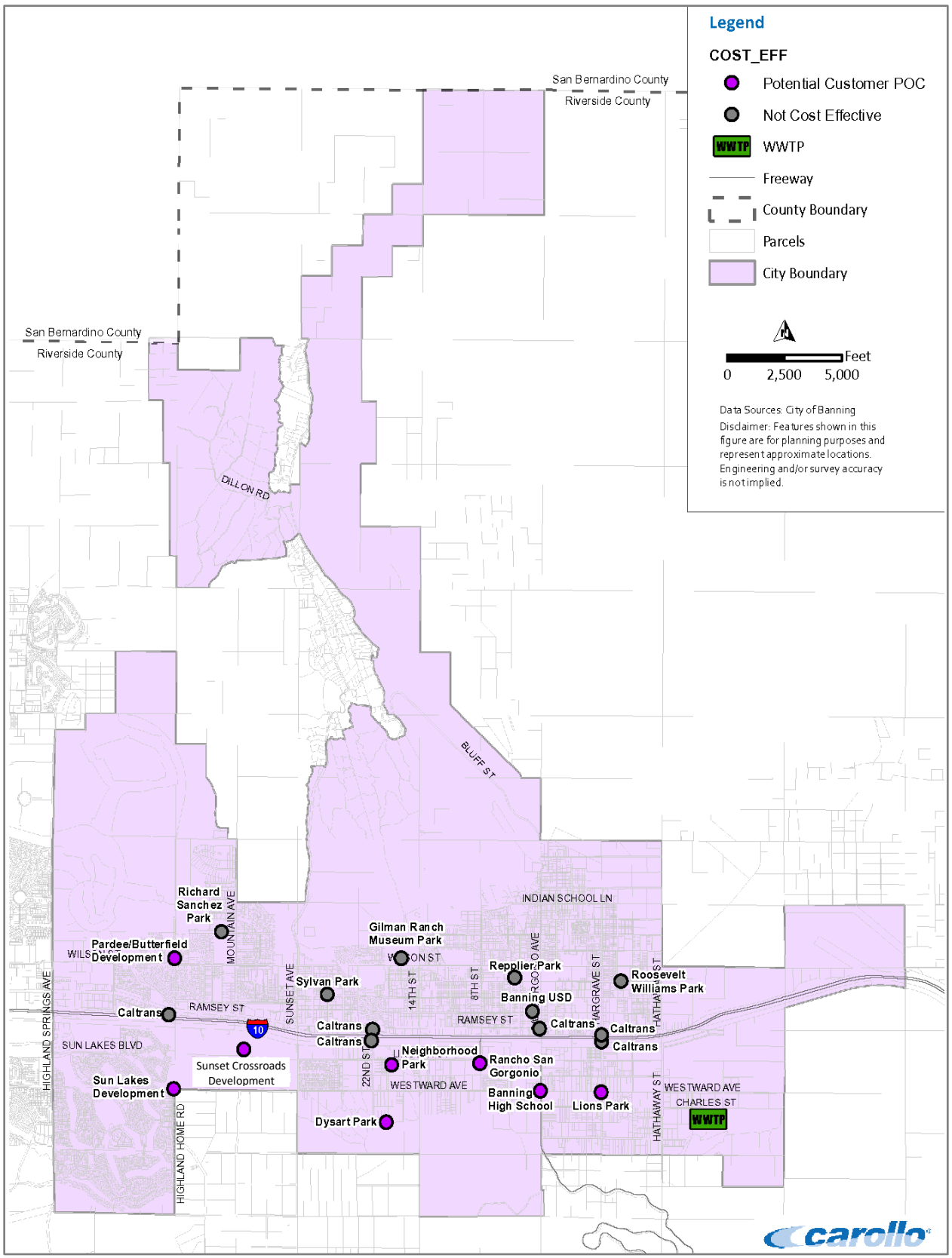

Figure 4.4 City of Banning Potential Recycled Water Customers

5

Section 5: Water Quality

The San Gorgonio Flume (pictured) collects surface water for groundwater recharge.

5.1. OVERVIEW

The quality of a natural body of water varies over time and location, and these variables must be recognized by water agencies. During periods of intense rainfall, contaminants can be washed into receiving waters, although dilution of existing contaminants may also occur. Conversely, during a drought, the concentration of existing contaminants may increase without additional incoming flows. These principles apply to both surface water and groundwater. As groundwater levels fluctuate, groundwater passes through different layers of rock and sediment and receives substances native to those strata. Also, groundwater wells that have not been used over long periods of time can have water quality issues resulting from stagnant water. For these reasons, the City of Banning (City) monitors its wells for water quality as required by State and Federal regulations.

This Section provides a general description of the City's water sources, water quality monitoring and reporting, and water treatment. Groundwater, local surface water, and imported (recharge) water are discussed in this Section. A discussion of potential water quality impacts on the reliability of supplies is also provided.

5.2. WATER QUALITY STANDARDS

5.2.1. Federal Regulations

In 1974, Congress passed the Safe Drinking Water Act (SDWA) in order to protect public health by regulating the nation's municipal

drinking water supply. As part of the SDWA, powers were given to the Environmental Protection Agency (EPA) to regulate drinking water. The 1996 amendment to the SDWA required monitoring of new types of contaminants. Since the 1996 amendment to the SDWA, the EPA has identified over ninety (90) contaminants in its National Primary Drinking Water Regulations (NPDWR) or "primary standards"). The main categories the EPA has identified include: biological microorganisms, disinfectants, disinfection byproducts, inorganic chemicals, organic chemicals, and radionuclides. As required by the SDWA, water agencies must provide annual Water Quality Reports to its customers.

As part of Federal EPA standards, water agencies are required to prepare annual water quality reports.

5.2.2. State Regulations

Water quality regulations have changed since the Safe Drinking Water Act in 1974. Several state, regional and county agencies have jurisdiction and responsibility for monitoring water quality. The actual regulations on water quality have also changed over the years. This is the result of the discovery of new contaminants, changing understanding of the health effects of previously known as well as new contaminants, development of new analytical technology, and the introduction of new treatment technology. All water purveyors are subject to drinking water standards set by the EPA and the State Water Resources Control Board (SWRCB). The California Department of Public Health (CDPH) previously oversaw the water quality of the State's drinking water program and the environmental lab accreditation program. As of July 2014, those programs were transferred to the SWRCB. Under the SWRCB, the Division of Drinking Water (DDW) regulates public drinking water systems, including setting the maximum contaminant levels (MCLs) and regulating the operation of water systems. In addition to the SWRCB, several regional and county agencies have jurisdiction and responsibility for monitoring water quality and contaminant sites.

In 2014, the State's drinking water program was transferred from the Health Department to the State Water Resources Control Board.

5.2.3. State Drinking Water Standards

The State of California has established two (2) main types of drinking water standards:

1. Maximum Contaminant Level (MCL)
2. Public Health Goal (PHG)

MCLs are the drinking water standards to be met by public water systems. The levels set

by the State consider a contaminant's health risk, detectability, treatability, and costs of treatment. MCLs are further broken down into two (2) types:

1. Primary MCL – Health Related
2. Secondary MCL – Taste & Odor

Secondary MCLs are not federally enforceable according to the most recent SDWA amendments. However, they are regulated by the State of California. DDW publishes a list of Secondary MCLs, which include copper, iron, and zinc.

PHGs are established by the Office of Environmental Health Hazard Assessment (OEHHA). They are concentrations of drinking water contaminants that pose no significant health risk if consumed for a lifetime, provided risk levels are not exceeded. Public water systems often use PHGs to provide information regarding drinking water contaminants in their annual water quality reports. PHGs are not regulatory standards. However, state law requires the SWRCB to set drinking water standards for chemical contaminants as close to the corresponding PHG as is economically and technologically feasible.

5.2.4. Hexavalent Chromium (Cr6)

Hexavalent chromium (Cr6) is a heavy metal that has been used in industrial applications and found naturally occurring throughout the environment. While chromium can exist in a nontoxic, trivalent form, the hexavalent form has been shown to be carcinogenic and toxic to the liver (OEHHA, 2011). Hexavalent chromium is among the chemicals known to the state to cause cancer (Title 27, California Code of Regulations, Section 27001), pursuant to California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). The hexavalent chromium Maximum Contaminant Level (MCL) is 0.010 mg/L, 10 µg/L, or 10 parts per billion (ppb) became effective on October 1, 2024 and water systems with 10,000 or greater service connections such as the City are required to comply by with this standard October 1, 2026.

In 2024, the SWRCB lowered the MCL for hexavalent chromium to 10 ppb.

Prior to 2024, hexavalent chromium was regulated under California's total chromium MCL of 50-ppb. The Federal Standard is currently set at 100-ppb. The SWRCB is currently evaluating treatment technologies and cost estimates for Chromium-6 removal.

5.2.5. City Standards

The City's main water supply sources, as described in **Section 3,** are groundwater pumped from one of five (5) subbasins of the Coachella Valley Groundwater Basin, and surface water (for groundwater recharge)

from the State Water Project (SWP) through the San Gorgonio Pass Water Agency. The City provides on-site "wellhead" treatment and tests samples of water in its wells on a regular basis.

To ensure the quality of its water, the City monitors for a number of threats to drinking water, including: microbial contaminants, inorganic contaminants, pesticides and herbicides, organic chemical contaminants, and other contaminants. The City's Annual Water Quality Report (also known as "Consumer Confidence Report") filed with the DDW identifies regulated substances (Primary MCLs), secondary substances (Secondary MCLs), and unregulated substances (PHGs). The City identifies all detected constituents and the concentrations of contaminants when preparing the report.

5.3. QUALITY OF WATER SOURCES

5.3.1. Groundwater

Groundwater underlying the City's water service area has historically been high quality. According to DWR's Groundwater Bulletin 118 (California's Groundwater), water quality in the Coachella Valley basin is characterized as predominantly calcium-sodium bicarbonate type (DWR 1987). Total dissolved solids (TDS) content for selected samples from municipal wells ranged from 100 to 200 mg/L. In the City's most recent Annual Water Quality Report (2024), the average level of TDS detected in the City's drinking water 191.6 mg/L. The secondary maximum contaminant level (MCL) range for TDS concentrations in drinking water is 1,000 mg/L.

The City recently tested all of its twenty-one (21) groundwater wells for hexavalent chromium. Ten (10) wells, including Wells C2A, C3, C4, C5, C6, C8, M3, M10, M11, and M12A tested near or above the new MCL. Subsequently, the City prepared and submitted a revised Chromium-6 Compliance Plan on 1/7/2026 to DDW for their review and approval. The main objective of this Compliance Plan is for the City to come into compliance with the established MCL via Reduction-Coagulation-Filtration (RCF) treatment or non-treatment options (e.g., existing well screen modifications, blending, re-purposing potable wells to non-potable, or drilling new wells). Prior to doing so, the City plans to achieve the following milestones:

The City's Chromium-6 Compliance Plan is pending approval by the DDW.

1. Develop a well profile to determine well screen modification opportunities for reducing levels of hexavalent chromium below the MCL;
2. Hire an owner's advisor (consultant) to evaluate and design treatment and non-

treatment options, prepare plans, specifications, capital and annual operations, and maintenance costs;

3. Raise capital via grants, rate increases, loans, bond issuance, etc., to implement the City's compliance strategy; and

4. Construct the identified water system improvements to comply with the MCL.

Currently, Wells C2A, C3, C6, M10, and M11 have exceeded the Running Annual Average (RAA) MCL of 10 ppb for hexavalent chromium. Although the City's Chromium-6 Compliance Plan is pending approval by the DDW, the City recognizes that operational restrictions may be required if these exceedances persist. In the event the City is directed by DDW to shut down or reduce pumping from these wells, or any additional wells that may exceed the Chromium-6 RAA MCL, the resulting production loss could impact available water supply. Depending on the magnitude of the reduction, the City would implement the Water Shortage Response Actions identified in the 2025 WSCP. As outlined in **Table 8.6**, a Stage 2 Water Shortage (10–20% shortage) includes measures such as suspending the issuance of new temporary or permanent water meters until supply conditions stabilize.

5.3.2. Imported Water

SWP water imported from SGPWA originates from the Bay Delta and some additional downstream California regions. The SWP contains specific contaminants which are characteristic of those areas. Although SWP water meets or exceeds applicable standards, there is concern that some constituents are approaching threshold levels. Some constituents of concern over recent years have been total organic carbon (TOC), bromide, nutrients, and arsenic. These constituents have not been detected at high levels by the City, but they are constituents to be monitored. This will help the City prepare for future intakes from SGPWA should SWP water quality begin to influence the City's groundwater quality to a greater degree.

TOC constituents have not been detected at high levels by the City.

5.4. IMPACTS OF WATER QUALITY

The quality of water dictates the management strategies a water supplier will implement, including, but not limited to, the selection of water sources, treatment alternatives, blending options, and modifications to existing treatment facilities. A direct result of the degradation of a water source, including groundwater, is the need to install wellhead treatment before consumption. The poorer quality of the source water, the greater the need (and cost) for treatment. This can also decrease water supply reliability.

5.4.1. Impacts of Abandoned Wells

The presence of abandoned groundwater wells represents a potential hazard to the quality of groundwater aquifers. Abandoned and improperly destroyed wells can act as conduits for contaminants to reach drinking water supplies. It is vital for the long-term protection of the basin that abandoned wells be located and destroyed. While it is the landowner's responsibility to destroy an abandoned well, local water agencies should be proactive about making sure that abandoned wells are in fact destroyed. The destruction of abandoned groundwater wells should be performed in accordance with state standards. California Water Code Section 13750.5 requires that those responsible for the destruction of water wells possess a C-57 Water Well Contractor's License. Whenever a water well is destroyed, a report of completion must be filed with the California DWR within 60 days of the completion of the work. DDW and Riverside County (County) are responsible for permitting and inspecting construction and destruction of wells.

Abandoned private wells can pose a water quality concern if left unaddressed.

The City's policy for all functional and abandoned wells is to establish a "well site control zone," the area immediately surrounding the well alternatively referred to as the "wellhead." The purpose of this zone is to provide protection from vandalism, tampering, or other threats at the well site. The well site control zone should be managed to reduce the possibility of surface flows reaching the wellhead and traveling down the unprotected casing. SWRCB-DDW regulations recommend a minimum radius of 50 feet for well site control zones for all public water systems in the state. The requirement applies to abandoned wells as well as functional activities that could potentially lead to "source water contamination" according to EPA regulations. (IWRP, 2007).

5.4.2. Groundwater Contamination Response

Currently, the City has a Water Shortage Contingency Plan (WSCP), Hazard Mitigation Plan (HMP), and an Emergency Operations Plan (EOP) in place to deal with the effects of potential groundwater contamination that reduces supplies and mitigate disasters such as sudden water shortages. This information is provided in **Section 8**.

The WSCP can provide guidance for dealing with the effects of a water shortage, which may be due to groundwater contamination. The City also has emergency response policies in place to respond to emergencies. Two recent tests of the City's emergency response network were seen in the year 2020, when the District responded to the

Covid-19 pandemic, and in 2021, when Governor Newsom issued a State of Emergency due to drought that required Statewide compliance with Level 2 of agency's WSCP. In the event of a groundwater contamination shortage, the City will work in conjunction with SGPWA and the County of Riverside's Emergency Operations Center to deal with the effects of potential water shortages.

5.4.3. DDW Sanitary Surveys

A Watershed Sanitary Survey examines the potential sources of contaminants in a watershed and includes recommendations for managing these effects. Per DDW guidelines, the Watershed Sanitary Surveys must be updated every five years. Since the City does not use any surface water directly, the City does not prepare Watershed Sanitary Surveys. However, the City is still subject to periodic inspections by DDW staff every three years.

The City will work with SGPWA and the County's Emergency Operations Center.

The Sanitary Survey Inspection conducted by DDW includes evaluation of the following:

1. Water Sources
2. Treatment
3. Distribution System
4. Finished Water Storage
5. Pumping Facilities
6. Monitoring & Reporting
7. System Management/Operation
8. Operator Compliance

The City's previous Sanitary Survey Inspection occurred in February, 2024.

5.4.4. Impacts on Management & Reliability

As a result of the City's water quality policies, the City has not experienced any water quality issues that would affect water supplies. Groundwater in the basin has been of high quality. The City's *2024 Annual Water Quality Report* is provided in **Appendix K**. The City does not anticipate any significant impacts to water supply reliability due to water quality issues.

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Section 6: Water Use

Water use within the City's service area includes residential indoor use, commercial use, and landscape irrigation use.

6.1. OVERVIEW

As a developing City, water consumption is subject to significant change from year to year. Further, water use within the City's service area is also variable over the course of a given month or due to climate conditions. This section explores the water usage trends within the City and quantifies total water usage per customer type. In addition, the provisions of Senate Bill x7-7 (Water Conservation Act) are explored in detail.

6.2. COVID PANDEMIC'S EFFECT ON THE WATER SYSTEM

As a result of the Coronavirus Disease 2019 (COVID-19) Pandemic, Commercial and Institutional water use had declined. On March 19, 2020, an Executive Order and Public Health Order directed all Californians to stay home, except to go to an essential job or to shop for essential needs. It was then modified on May 4, 2020. The Regional Stay Home Order, announced December 3, 2020, triggered additional restrictions after the region was announced to have less than 15% ICU availability. It prohibited private gatherings of any size, closed sector operations except for critical infrastructure and retail, and required 100% masking (with certain exceptions as indicated in guidance for use of face coverings) and physical distancing. The Regional Stay Home Order was lifted January 25, 2021. During his 2021 State of the State Address Governor, Gavin Newsom reported that California had administered nearly eleven (11) million

doses of the vaccine, and that the State was well on its way to seeing an end to this pandemic.

The DDW has stated that the PWS operations are designated as essential functions and staff and suppliers are not restricted by any current orders. This has allowed water system operators and maintenance workers to keep the PWS providing safe and clean drinking water to its customers.

The COVID-19 pandemic temporarily altered water-use patterns and utility operations across California. Stay-at-home orders in 2020 and 2021 led to higher residential water use, while commercial, industrial, and institutional demand declined due to widespread facility closures. Many agencies observed shifts in peak-hour demand and changes in spatial distribution, with more water used in neighborhoods and less in business districts. Although these patterns gradually normalized as restrictions eased, the pandemic highlighted how quickly demand can shift during major disruptions.

The Covid-19 Pandemic has impacted water use in the residential and commercial sectors.

Water utilities also experienced operational and financial impacts during the pandemic. Many households faced economic hardship, leading to increases in delinquent customer payments and reduced revenue stability for some agencies. Utilities also had to deal with staffing shortages, supply-chain delays, and the need for enhanced safety protocols to maintain essential services. While most systems remained resilient, the pandemic underscored the importance of emergency planning, financial reserves, and operational flexibility for maintaining reliable water service during large-scale disruptions.

6.3. CURRENT CITY WATER NEEDS

Prior to incorporation, the City of Banning served as a stagecoach and railroad stop between the Arizona territories and Los Angeles. In 1913 when the City was incorporated, the City's population was under 10,000 persons. In recent decades, City has grown at an average of approximately 400 persons per year.

From 2015 through 2020, the City's population had increased by approximately 120 persons annually. However, as noted in **Section 2.5**, the City's projected growth rate is expected to be much higher, especially when considering the several new developments. By 2045, the City will be approaching ultimate "build-out" conditions with remaining expected future water demands primarily attributable to possible land use changes in residential densities and in-fill land development projects. As a result

of the City's local groundwater sources and imported recharge capacity from SGPWA, the City is in a position to provide a reliable source of quality water for the build-out conditions.

The City's annual water use over the past 10 years has been increasing and recent total water consumption reported for calendar year 2025 is nearly 1,000 AF more than that reported for 2020. Since the City is zoned mainly for residential use and most of the residential water consumption in the City is used for non-personal purposes (i.e., irrigation, car washing, etc.), the City has a significant number of residential lots which require irrigation to maintain landscaping. Of the water used for personal purposes, most of the water consumed is attributable to personal hygiene and clothes washing.

In the commercial and institutional sectors, water needs vary as customers range from restaurants to offices and from retail stores to schools. Office buildings and retail stores require significantly less water than restaurants and schools and are not usually the key focus of water conservation efforts.

To maintain civic pride and a sense of community, City parks (**Figure 6.1)** and other City right of ways (medians, etc.) require consistent irrigation. To prevent water waste, the City follows an irrigation schedule that limits the length of irrigation to avoid overspray runoff and evapotranspiration from daytime watering.

Figure 6.1 Banning Park

Overall water use characteristics within the City's water service area reflect slightly higher than average regional water use characteristics within Southern California. As a result of the City's water needs, the City has passed a conservation ordinance similar to other agencies which limits or restricts non-personal water use during periods of drought. This will help conserve water use for the more important health and safety needs of its customers. The City's Conservation Ordinance is discussed in greater detail in **Section 8.**

6.4. CLIMATE IMPACTS ON WATER USE

California faces changes in water use habits due to a variety of issues including population growth, regulatory restrictions, and climate change (including the severe drought of 2020-2022). More specifically, weather unpredictability (more extreme drought and flood events) poses additional challenges to water agencies, not only due to

impacts on water supplies but also due to impacts on water demands.

Since the preparation of the 2020 UWMP, there have been local and statewide influences on water use in the City. California experienced a multi-year drought from 2020 through 2022, with precipitation consistently below average and record-high temperatures which exacerbated water scarcity. Water year 2022, covering October 2021 to September 2022, ended with 77% of average precipitation, following an even drier 2021, making the three-year stretch drier than the previous record dry period of 2013–2015. Snowpack, a critical water source, fell to 35% of average by April 1, 2022, despite a strong start in December. Drought severity varied regionally, with the Central Valley and northern basins experiencing the most extreme conditions.

Snowpack, a critical water source, fell to 35% of average by April 1, 2022.

Environmental Impacts: The drought led to dry soils, reduced water availability, and increased wildfire risk. Wildfire activity fluctuated, with 4.3 million acres burned in 2020, decreasing to 2.57 million acres in 2021 and 362,455 acres in 2022, reflecting both drought intensity and mitigation efforts. Reduced snowpack and low precipitation stressed rivers, reservoirs, and groundwater systems, affecting ecosystems and water supply reliability.

Agricultural and Economic Impacts: Agriculture was heavily affected, particularly the Sacramento Valley's rice-producing counties. In 2022, 750,000 acres of farmland were idled, more than half in the Sacramento area. Direct economic losses to farm activity were estimated at $1.2 billion in 2022, up from $810 million in 2021, with additional losses of $845 million in food processing industries, totaling $2 billion in value-added losses and 19,420 jobs lost. Increased evapotranspiration due to higher temperatures further stressed crops, requiring more irrigation to maintain productivity.

Regional and Temporal Variability: Drought intensity varied across the state and over time. In 2020, drought conditions were less severe, while 2021 and 2022 saw widespread and more intense drought, particularly in the Central Valley. Northern California basins faced early water curtailments, and the Sacramento Valley experienced unprecedented climatological stress due to limited groundwater pumping capacity. Despite these challenges, mitigation measures such as land idling, water trading, and increased groundwater pumping helped reduce potential losses.

Changes in water usage habits have a special

concern for the State due to the inter-dependence of many agencies for the transfer and use of water. For example, some agencies are unable to produce water locally and are entirely dependent on imported water sources, while others are able to produce all water locally (i.e., groundwater). Also, some agencies are able to reduce demands with minimal economic impacts (only water sales revenues), while other agencies will suffer economically (i.e., agricultural & industrial users) if required by State or local agencies to reduce water consumption. Therefore, the State will likely face challenges in the near future to find the correct balance of water supply allocations to meet demands under various weather conditions. For State Water Project (SWP) water rights holders, this is an extremely critical issue.

The State will likely face challenges in the near future to find the correct balance of water supply allocations.

6.4.1. California Water Plan Update 2023

DWR's California Water Plan Update 2023 emphasizes the urgency of climate change impacts, the need for watershed resilience, and the importance of equity in water management. It is designed to ensure that all Californians benefit from water resources that are sustainable and resilient to climate change. There are three themes including:

Addressing Climate Urgency: The plan recognizes the increasing variability in California's hydrology due to climate change and promotes adaptive infrastructure and emergency planning to enhance resilience.

Strengthening Watershed Resilience: It encourages coordinated efforts at the watershed level to integrate engineered systems with natural processes, to achieve multiple benefits across water, agriculture, and ecology.

Achieving Equity: For the first time, the update includes a dedicated chapter on the challenges and resources of California Native American Tribes, ensuring that Indigenous knowledge and priorities are integrated into statewide planning.

6.5. WATER USE

Due to increases in water use efficiency and the lingering effects of the mandatory declaration period, overall water use within the City's service area in recent years has decreased mildly. Annual water consumption from 2021 to 2025 listed in **Table 6.1** ranged from a high of 8,023 AF in 2025 to a low of 6,756 AF in 2023, with an average of 7,439 AF. Due to the recent trends in development, demand has been slightly increasing for the past 5 years.

Table 6.1 City Recent Water Use

Year	Total Consumption (AF)	Per Capita (GPCD)
2021	7,482	238
2022	7,529	234
2023	6,756	204
2024	7,407	217
2025	8,023	238
Average (last 5 years):	**7,439**	**227**
Average (last 10 years):	**7,028**	**223**
2020 Water Use Target:		**252**

As indicated by **Table 6.1**, the City has already reached its 2020 water use reduction target. **Table 6.3** shows that the City's water use in recent years has been low due to water conservation. Total Consumption shown in **Table 6.3** does not include water losses, but water losses are included in the determination of per capita consumption.

6.6. WATER USE BY SECTOR

6.6.1. Service Connections/Accounts

The City maintains records of water consumption and bills its customers on a monthly basis for water service. The City maintains approximately 13,000 service accounts with a mixture of residential, commercial, and institutional customers. Although the City does not maintain any industrial service accounts, the 2020 UWMP reflected some in order to fulfill state water reporting requirements. The City includes both single-family and multi-family accounts under a residential sector; however, for billing purposes, the City does separate water use by single-family and multi-family. As of 2025, the current breakdown of accounts is shown in **Table 6.2.**

Table 6.2 Number of Service Connections (2025)

Sector	Service Accounts
Single-family Residential	12,184
Multi-family Residential:	29
Commercial/ Institutional	690
Landscape Irrigation	130
Agricultural Irrigation	5
Total Connections:	**13,038**

Approximately ninety-three percent (93%) of the total service connections are residential (single or multi- family. Commercial and institutional accounts comprise approximately six percent (6%) of the total accounts. Landscape and Agricultural Irrigation accounts comprise approximately one percent (1%) percent of the City's metered connections.

The total number of accounts does not represent the total number of actual service connections tapped into the

Figure 6.2 Sun Lakes Country Club

City's distribution mains. The total number of accounts varies on a monthly basis based on occupancy of a dwelling unit or commercial property.

In addition to the customer types listed in **Table 6.2**, the City also provides water to two (2) agencies, including the High Valleys Water District and the Sun Lakes Country Club (shown in **Figure 6.2**). The total combined water use of these two agencies has been approximately 900 AF/year. However, the City does not account for these two agencies in their demand data since water is considered to be an inter-agency transfer. Also, the water used by Sun Lakes Country Club is considered non-potable and therefore not counted in this section of the UWMP.

6.6.2. Recent Water Use by Sector

The City records water use only per service connection and bills customers based on a single water rate structure. Water sales data is compiled by City water staff and recorded on DWR's Form No. 38 (Public Water System Statistics) and submitted to DWR annually, as well as part of the SAFER Clearinghouse Drought Report submitted to SWRCB monthly (since 2022). The total water consumption by customer

Table 6.3 Recent Water Use by Sector (AF)

Sector	2021	2022	2023	2024	2025
Single-Family Residential	4,113[2]	4,133[2]	3,718	4,004	4,188
Multi-Family Residential	0[2]	43[2]	94	106	122
Commercial	2,377	1,613	872	893	1,184
Institutional/Governmental	39	410	1,013	1,140	1,011
Landscape Irrigation (Potable)	953	1,004	885	1,102	1,417
Landscape Irrigation (Non-Potable)	0	326	175	163	101
Total Water Sales:	**7,482**	**7,529**	**6,756**	**7,407**	**8,023**
Water Losses	672	622	515	399	552[1]
Unbilled Unmetered	19.6	17.2	52	67.8	60.2[1]
Total Water Consumption (Total Supply into System):	**8,174**	**8,168**	**7,323**	**7,874**	**8,635**

(1) Estimated value used since the City has not yet Validated its 2025 Water Loss Audit.

(2) Billing records from 1/1/2021 through 6/1/2022 did not separate Residential users by Multi- and Single-Family. Single-Family values shown are combined total.

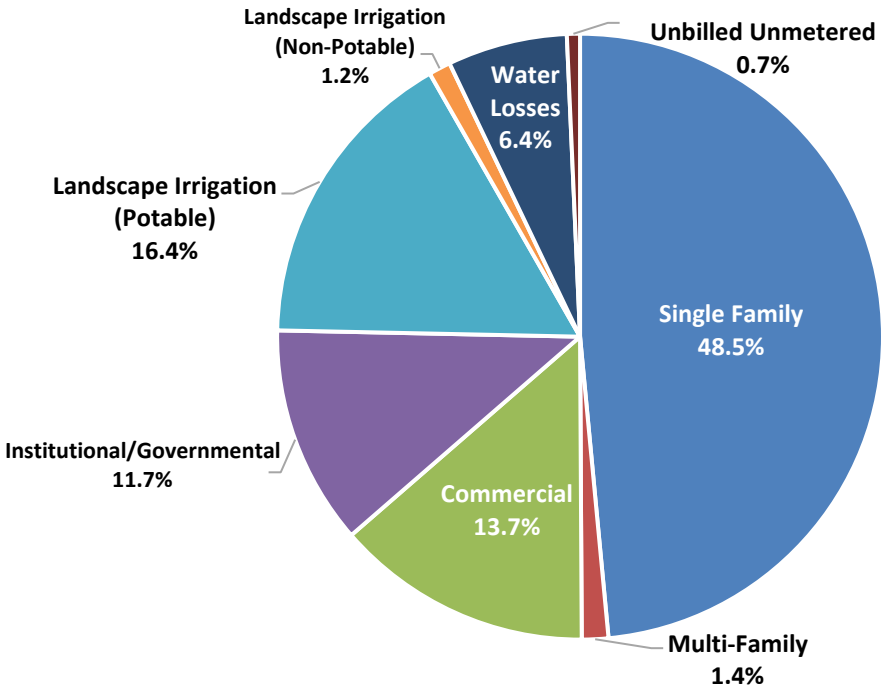

Figure 6.3 Current Water Demand by Sector (2025)

type since 2021 is shown on **Table 6.3**. As identified in **Table 6.3**, Single-Family Residential accounts are the highest consuming sector in the City since most of the City is zoned for single-family accounts (with higher densities for multi-family accounts). **Figure 6.3** also shows the Current Water Demand by Sector (2025).

6.6.3. Distribution System Losses

As indicated in **Table 6.3**, the City's water losses ranged from 399 to 672 AF, which on average is approximately six percent (6%) of the total water supply into the City's distribution system. Water Loss is determined as the sum of apparent loss and real loss, as determined in each years Validated Water Loss Audit. Examples of water loss consist of routine flushing, unmetered use, and main breaks, to name a few. Although water losses have cost impacts on water agencies, they cannot be prevented entirely.

Instead, effort is directed at controlling the quantity of water losses (to a cost-effective extent) in order to reduce the cost impact of water losses on water operations. For this reason, the City's Staff prepares annual Water Loss Audits using AWWA software. The 2024 Audit shows that the City's Leakage Index (the ratio of real loss to unavoidable loss) was 0.8, which is below the 10th percentile of Water Purveyors. The City's Validated Water Loss Audits can be found on DWR's WUE Portal:

wuedata.water.ca.gov/awwa_plans

Since the City has not yet validated its 2025 Water Loss Audit (due January 1, 2027), the Water Loss and Unbilled Unmetered values for 2025 were estimated from City averages from 2023-2025.

6.6.4. Unbilled Unmetered

Unbilled unmetered use includes losses through 4W, which is an emergency pressure relief valve for the Banning Water Canyon transmission main, which discharges water into the Water Canyon where it percolates into the shallow aquifer as recharge. Other use in this category is tracked sewer maintenance (volumetric), flushing (not consistently metered), dewatering pipelines for leak repairs, and fire-fighting efforts and testing of commercial fire sprinklers. However, fire use values have not been provided to the City as outside agencies handle this information.

6.6.5. 2028 Water Loss Standard

California Water Code (CWC) Section 10608.34 requires SWRCB to develop water loss performance standards for urban retail water suppliers. Executive Orders B-37-16 and B-40-17 direct SWRCB and DWR to minimize water waste through system leaks. Water loss performance standards became

effective in 2023. As part of a proposed water conservation regulation, urban retail water suppliers (not individual households or businesses) will be held to "urban water use objectives." An urban water use objective is the sum of standard-based budgets for a subset of water uses, such as residential outdoor use, as further described in **Section 6.7**.

Retail Suppliers must meet water loss standards by January 1, 2028, calculated on a system level. Ongoing compliance will be on a three-year average basis. The baseline period for the 2028 Water Loss Standard is 2017-2020. Real losses and apparent losses used to calculate the standard are the average real losses and apparent losses in the baseline period. SWRCB staff can initiate an adjustment process for any system that has significant changes in data compared to the baseline if at least three (3) compliance assessments have passed. Suppliers can request an adjustment to the baseline period data if significant data improvements have been made.

Suppliers must either meet their apparent loss standard (equivalent to their baseline period (2017-2020) apparent losses) or submit an inventory of all apparent losses. Meeting the apparent loss standard is not required as long as an inventory of apparent losses is submitted.

The City's Baseline Real Loss is 70.1 gallons per service connection per day (GPSCD) and Real Loss Standard is 43.8 gpscd, resulting in a Required Real Loss Reduction from Baseline of 38%. Apparent Loss Standard is 13.3 gpscd.

6.7. URBAN WATER USE OBJECTIVE

The "Making Conservation a California Way of Life" regulation went into effect on January 1, 2025 and established unique efficiency goals for each urban retail water supplier in California and provides those suppliers flexibility to implement locally appropriate solutions. The regulation seeks to cultivate long-term practices that help communities adapt to California's ongoing water challenges. The regulation requires suppliers to:

- Annually calculate urban water use objectives for a subset of urban water uses: residential indoor water use, residential outdoor water use, real water loss, and commercial, industrial, and institutional (CII) landscapes with dedicated irrigation meters (DIMs).
- Carry out performance measures for CII water us.
- Annually report to SWRCB.

The City's Compliance Summary Report, prepared by SWRCB staff on March 4, 2026, summarizes the supplier's compliance with annual reporting requirements under the

"Making Conservation a California Way of Life" regulation for the state fiscal year 2024-2025. This report was due on January 1, 2026.

6.7.1. Key Highlights from the Report

The following points are a summary of Sections 3 through 7 of the City's Compliance Summary Report:

- The report was submitted on time, on December 29, 2025
- The supplier has met its calculated objective for fiscal year 2024-2025
- The supplier has no approved variances or temporary provisions for fiscal year 2024-2025
- The report contains two (2) data quality flags: One or more water systems associated with the supplier did not have a full count of reports with non-zero potable deliveries and the responses to the following BMPs were duplicated:CII_USERS_97.5PCT_OPERATIONAL_BMP

6.7.2. Objectives Calculated with Future Standards

The water use objectives will become progressively lower as standards change through 2040. **Table 6.4** compares the current water use objective and reported water use to future efficiency requirements; the full summary can be found in Section 8 of the City's Compliance Summary Report. While this table does not capture how future water use objectives will be influenced by changes in local climatology, service area population, square footage of irrigated landscapes, and other data that will factor into future water use efficiency objectives, it is provided as a tool for local planning purposes.

Table 6.4 Objectives Calculated with Future Standards

Fiscal Year	FY 24-25 Use (AF)	Calculated/Projected Objective (AF)	Current use lower than objective?
24-25	1,387.2	1,592.5	Yes
25-26	1,387.2	1,545.9	Yes
30-31	1,387.2	1,488.0	Yes
35-36	1,387.2	1,462.3	Yes
40-41	1,387.2	1,398.8	Yes

As **Table 6.4** shows, the District has met its calculated objective for fiscal year 2024-2025. The City's Compliance Summary Report can be located on DWR's WUE Portal:

wuedata.water.ca.gov/uwuo_plans

6.8. WATER CONSERVATION ACT

6.8.1. Act Background (SBx7-7)

Due to reductions of water in the San Joaquin Delta, the California State Legislature drafted the Water Conservation Act of 2009 (SBx7-7) to protect statewide water sources. The legislation called for a twenty percent (20%) reduction in water use in California by the year 2020. The legislation amended the water code to call for 2020 and 2015 water use targets in the 2010 UWMPs, updates or revisions to these targets in the 2015 UWMPs and allows the Department of Water Resources (DWR) to enforce compliance to the new water use standards. Beginning in 2016, failure to comply with interim and final targets will make the City ineligible for grants and loans from the State needed to attain water self-sufficiency by 2020.

In addition to an overall statewide twenty percent (20%) water use reduction, the objective of SBx7-7 was to reduce water use within each hydrologic region in accordance with the agricultural and urban water needs of each region. Currently, the Department of Water Resources (DWR) recognizes ten (10) separate hydrologic regions in California as shown in **Figure 6.4**. Each hydrologic region was established for planning purposes and corresponds to the State's major drainage areas. The City of Banning is in the Colorado River Hydrologic Region (HR), which includes most of Riverside County, San Bernardino County. The Colorado River HR is shown in **Figure 6.5.**

This region is characterized by its arid climate, with an average annual precipitation of 5.5 inches. It includes 71 state-recognized alluvial groundwater basins and subbasins, highlighting the region's importance in California's water management and conservation efforts.

The region's topography consists of flat plains, hills, and mountain ranges, with the San Andreas fault traversing portions of the Coachella and Imperial Valleys. The climate is predominantly subtropical desert, with winter snows generally falling above 5,000 feet, and snow depths reaching several feet at the highest levels during winter.

Per capita water use, measured in gallons per capita per day (GPCD), in the Colorado River HR varies between different water agencies depending on the geographic and

Figure 6.4 California's 2020 Water Conservation Goals

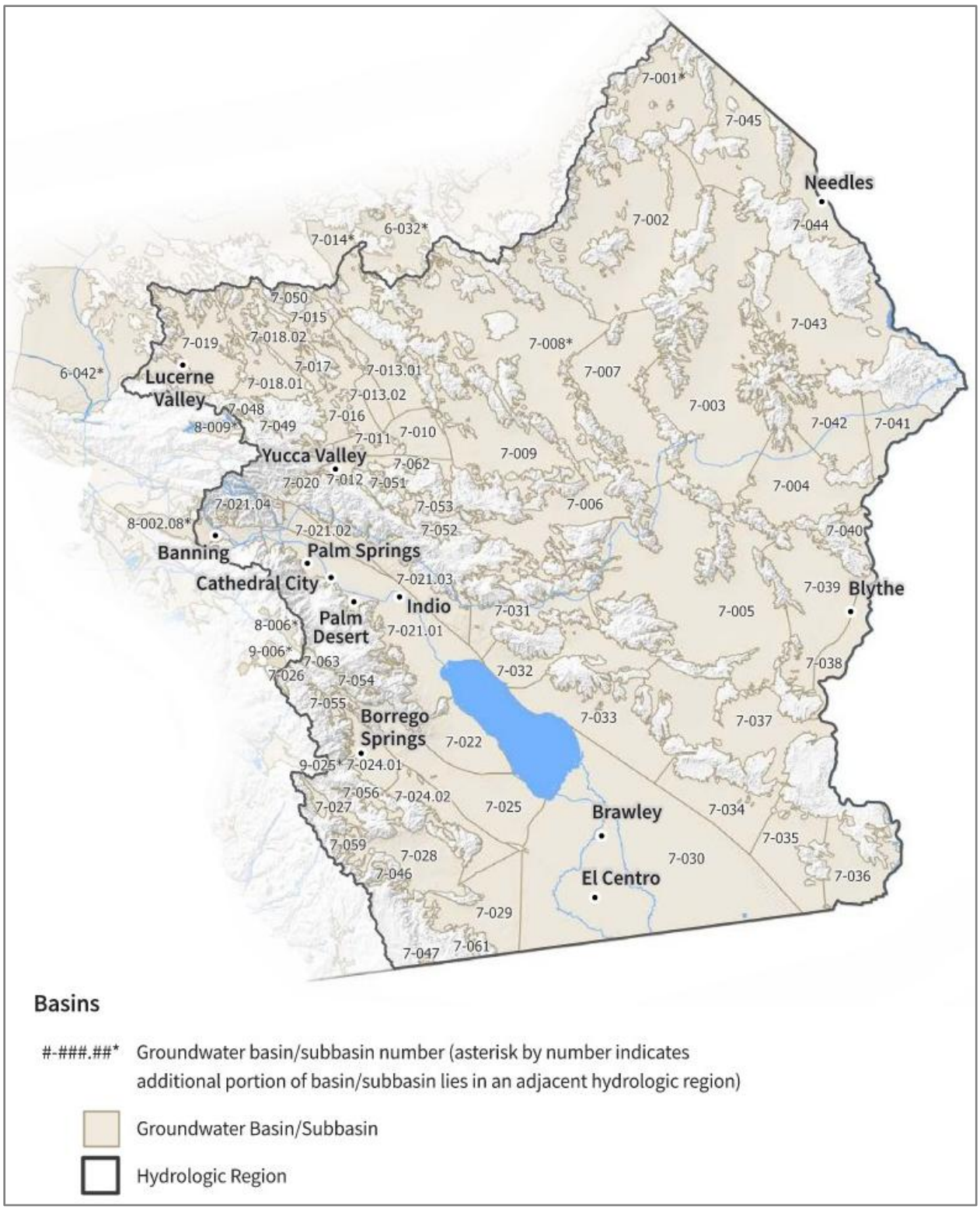

Figure 6.5 Colorado River Hydrologic Region

economic conditions of the agency's service area. The Colorado River HR has an overall baseline per capita water use of 346 GPCD and DWR has established a regional target of 211 GPCD for the region as a compliance target to satisfy SBx7-7 legislation.

The *Methodologies* guidebook made provisions that allowed a water supplier to meet the target requirements by achieving one of four (4) different targets, provided that the water supplier's baseline water use was low enough relative to the region within which it supplies water. For most agencies, the two most common options are 1) 20% reduction, or 2) 5% reduction, from the Hydrologic Region.

6.8.2. Exempt Agencies

If an agency has a baseline per capita water use of 100 GPCD or less, the agency will not have to adhere to any reduction targets as the agency is already considered water efficient. In such a case, the agency must document in subsequent UWMPs that its water usage is still under 100 GPCD.

6.8.3. SBx7-7 Baseline & Target

In the 2015 and 2020 UWMPs, the City's baseline water use and targets were determined based on the procedures shown in **Figure 6.6 and Figure 6.7.**

If an agency's 10-year baseline is slightly higher than the Hydrologic Region's target, that agency still must achieve a five percent (5%) reduction from its 5-year baseline. If an agency has a per capita water use of 100 GPCD or less, that agency will not have to adhere to any reduction targets as that agency is already considered water efficient.

Since the City does not use recycled water, a 10-year instead of a 15-year rolling average baseline was previously calculated. The City's baseline water use is 315 GPCD, which was calculated from the 10-year period January 1, 2001 to December 31, 2010.

Table 6.5 shows historic (2001 to 2010) water use and provides the base period annual water use used to calculate the baseline water use for the City. The data was used to calculate the 10-year and 5-year baselines. Regardless of the compliance method adopted by the City, it will need to meet the minimum water use target of five percent (5%) reduction from a 5-year baseline as calculated.

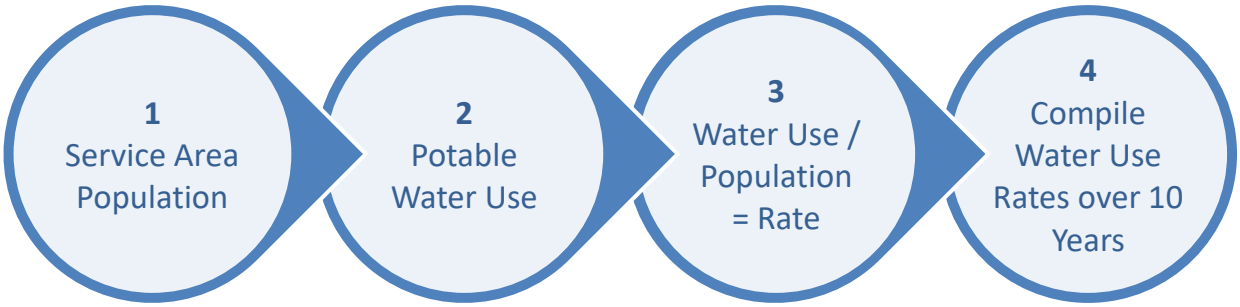

Figure 6.6 Procedure for Determining Baseline Per Capita Water Use

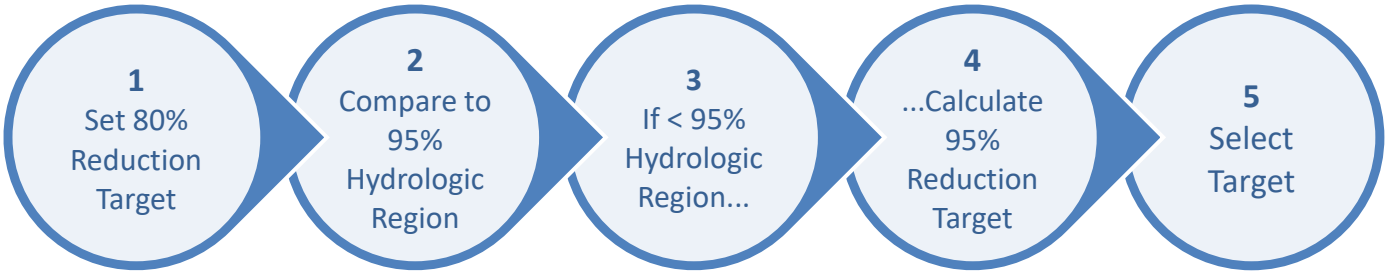

Figure 6.7 Procedure for Determining Target Per Capita Water Use

Table 6.5 City of Banning Water Use (GPCPD)

Year	Total Water Use (AF)	Population	Per Capita (GPCD)
2010	8,485	29,603	256
2009	9,259	28,751	287
2008	9,606	28,551	300
2007	10,245	28,193	324
2006	10,245	28,234	324
2005	9,427	28,250	298
2004	10,424	28,055	332
2003	10,043	27,608	324
2002	9,808	25,662	341
2001	10,032	24,639	363
10-yr. Baseline (2001-2010) (SB7: 10608.20)			**315**
5-yr. Baseline (2006-2010) (SB7: 10608.22)			**298**
Colorado River HR Baseline:			**346**
Colorado River HR Target:			**211**

As shown in **Table 6.5**, the City's 10-yr and 5-yr baselines were determined to be 315 GPCD and 298 GPCD, respectively.

The City's baseline water use was then compared to the regional compliance target to determine the applicable reduction amounts per the SBx7-7 additions to the water code. The legal stipulations applicable to the City and the required target to be enforced by DWR are shown in **Table 6.6.**

Table 6.6 City of Banning SBx7-7 2025 Water Use Targets (GPCD)

Min. Reduction Requirement (10608.22)	20% Target (10608.20) (b)(1)	5% Reduction from Regional Target (10608.20) (b)(3)
283	**252**	**200**
2020 Per Capita Target:		**252**
Interim (2015) Target:		**284**

The selected SBx7-7 target is 252 GPCD [twenty percent (20%) from its 10-year baseline] because this amount is greater than 200 GPCD [five percent (5%) reduction from the Colorado River HR's target]. Since the City's minimum reduction requirement of 283 GPCD is greater than the regional target of 211 GPCD, the City must select **Method 1** (252 GPCD) as its 2020 water use target. Therefore, the City's compliance target for 2020 per capita water consumption was **252 GPCD** in accordance with Section 10608.22 of the Code.

6.8.4. SBx7-7 Target Compliance

Although the requirements of SBx7-7 were stringent, the City has seen an increase in water efficiency since the baseline years of 2001 to 2010. This is due in part to State legislation, stricter conservation measures,

saturation of water-saving plumbing fixtures, and overall water conservation awareness. As indicated by **Table 6.1**, the City's consumption rate for 2025 is **238 GPCD**. The City can maintain its consumption rates below the SBx7-7 target by continuing to focus on water conservation.

6.9. PROJECTED WATER DEMAND

Future water use projections must consider significant factors which will affect water demand, such as development and/or redevelopment, and climate patterns. Although redevelopment is expected to be an ongoing process, it is not expected to significantly impact water use since the City will experience significant development over the next 25 years. Climate conditions will continue to be a major influence on demand as it will lead to more frequent and severe drought conditions, that will increase demand at times when these supplies are limited.

6.9.1. Passive Savings

The City should experience modest increases in its water consumption in spite of significant population increases through 2050. This is due to "passive savings." Passive savings would be realized by more homes being equipped with water-saving fixtures and landscapes. As a result of ongoing water conservation programs to educate the City's water customers, water customers will become more aware of water conservation and City-specific policies such as limitations on landscape irrigation and car washing. These "passive savings" will assist in offsetting a portion of new water demands from anticipated population growth in the City.

For future water demand projections in this UWMP, these "passive savings" were calculated by analyzing the declines in water consumption rates. Beginning with a consumption rate of **234 GPCD** (average of the past 10 years), the rate of decline in GPCD is projected to be one percent (1%) annually. It is assumed that water use efficiency will continue to increase through water code changes over the next twenty-five years.

6.9.2. Low-Income Water Demands

Senate Bill 1087 and Water Code Section 10631.1 require that the water use projections of a UWMP include the projected water use for single-family and multi-family residential housing for lower income households as identified in the housing element of any city, county, or city and county in the service area of the supplier. The City has the responsibility to provide for the water-related health and safety of the community. One of the City's objectives is to provide its customers with an adequate and reliable supply of high-quality water to meet present and future needs in an environmentally and economically

responsible manner. Water use priority does not differ based on income level, but is classified by the type of use.

The residential sector projections include projected low-income housing in accordance with the City's Housing Element (banning.ca.us/428/Housing-Element).

Page 14 of the Housing Element projects the construction of a total of 1,163 additional low-income housing units to meet the City's Housing Needs Assessment. With an estimated 2.5 persons per unit (or approximately 0.6 AFY per unit), the City will need an additional 717 AF of water per year to supply water to these projected lower income housing units. These low-income housing water demands are included in future projections for single family and multi-family homes listed in **Table 6.7**.

6.9.3. Projected Water Use by Sector

For planning purposes, the City's projected water use for 2030-2050 is broken down by sector in **Table 6.7**. The estimates per sector are based on the ratios of the sectors shown in **Table 6.3**, the population projections shown in **Table 2.5,** and a "passive savings" of one percent (1%). **Figure 6.8** also shows the Projected Water Demand by Sector in 2050.

Since the City has not yet Validated its 2025 Water Loss Audit (due January 1, 2027), the Water Loss and Unbilled Unmetered values for 2025 were estimated from City averages from 2023-2025. However, these values cannot be verified until validation of 2025 Water Loss Audit and have therefore been excluded from the ratios.

Some projected potable landscape irrigation demands may be switched to the "non-potable" category when recycled water becomes available.

Table 6.7 Projected Water Demand by Sector

Sector	2030	2035	2040	2045	2050
Water Service Area Population	38,386	44,608	50,068	55,528	60,988
Consumption Rate (GPCD) *Including 1.0% Annual Passive Savings*	212	201	191	182	173
Demands					
Single Family Residential	4,565	5,044	5,384	5,679	5,932
Multi-Family Residential	123	136	145	153	160
Commercial	1,130	1,249	1,333	1,406	1,469
Institutional/Governmental	1,212	1,340	1,430	1,509	1,576
Landscape Irrigation (Potable)	1,304	1,441	1,539	1,623	1,695
Landscape Irrigation (Non-Potable)	168	186	198	209	218
Total Water Sales:	**8,503**	**9,397**	**10,030**	**10,579**	**11,050**
Water Losses	526	581	620	654	683
Unbilled Unmetered	69	76	82	86	90
Total Water Consumption (Total Supply into System):	**9,098**	**10,054**	**10,732**	**11,319**	**11,823**

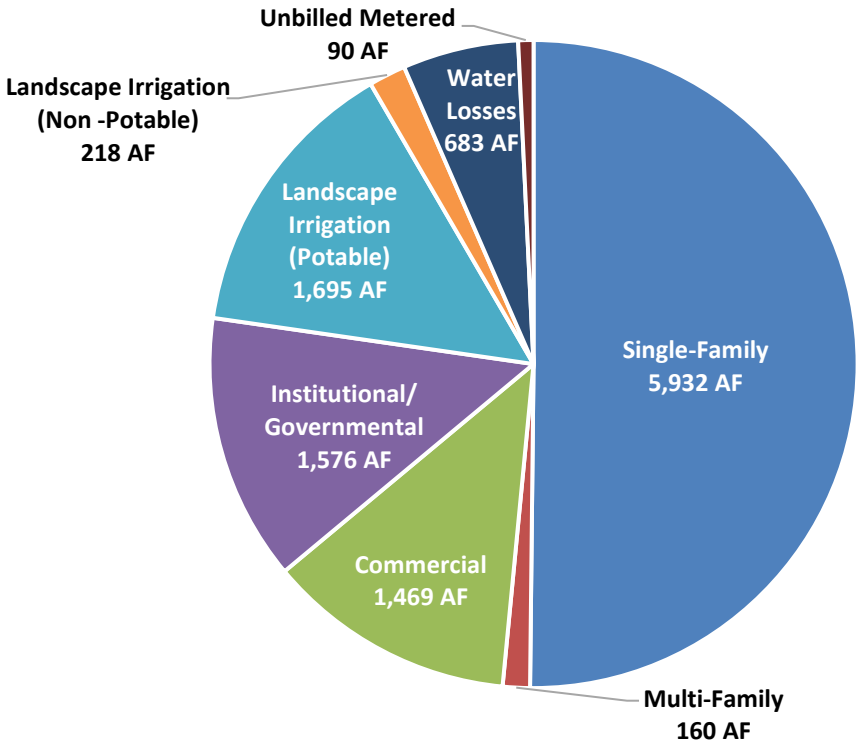

Figure 6.8 Projected Water Demand by Sector (in 2050)

7

Section 7: Reliability Planning

The City's three San Gorgonio tanks (pictured) store up to 5.6 MG (14 AF) of water for the City.

7.1. OVERVIEW

Drought conditions continue to be a critical issue for Southern California's water supply. The drought of 2020-2022 impacted deliveries of imported water to Southern California cities. The documented deliveries of water from the State Water Project (SWP) for Water Year 2022 (October 1st, 2022, to September 30, 2023) indicate that the volume of water delivered to SWP Contractors was the lowest since Water Year 2020. Therefore, it is important that agencies manage water consumption and reduce reliance on imported water through local groundwater and surface water supplies. Water agencies should prepare for prolonged droughts for up to five (5) years to ensure a reliable supply of water.

This Section discusses historic and recent droughts in the State and in the region. This Section also compares projected supply to projected demand over a 25-year planning period (through 2050) for various climate scenarios. Demand and supply projections are provided in **Tables 7.1** - **7.7**.

7.2. HISTORIC DROUGHTS

Climate data has been recorded in California since 1858. Since then, California has experienced several periods of severe drought, including: 1928-34, 1976-77 and 1987-91, 2007-2009, 2011-2017 and most recently in 2020-2022. In addition to these, California has also experienced several periods of less severe drought. Among the previously listed droughts, the year 1977 is

still considered to be the driest year of record in the Four Rivers Basin by DWR (these rivers flow into the Sacramento Delta and are the source of water for the State Water Project) which had an all-time low of 15 million acre-feet of average annual runoff.

In 1983, as a result of previous droughts, the State legislature enacted the UWMP Act, which requires the preparation of an UWMP. Several subsequent amendments have been made to the Act to include such elements as public coordination, recycled water, and contingency response plans are included in UWMPs.

In 1991, as a result of the 1987-1991 drought, over one hundred water agencies and environmental groups came together to form the California Urban Water Conservation Council (CUWCC) to manage the impacts of drought and promote water conservation. In January 2018, the CUWCC became the California Water Efficiency Partnership (CalWEP), and consists of over two hundred water agencies and private companies. CalWEP assists its member agencies with public policy, research, and education tools.

As a result of the drought of 2007-2009, Governor Schwarzenegger signed the Water Conservation Act of 2009 (SBx7-7), requiring mandatory water conservation up to twenty percent (20%) by 2020.

In January of 2014, Governor Brown declared a state of emergency and directed state officials to take all necessary actions to prepare for water shortages. As the drought continued into Water Year 2015, Governor Brown issued an executive order in April 2015, which mandated a statewide twenty-five percent (25%) reduction in water use, with each agency assigned specific target reductions.

At the local level, water agencies have enacted their own ordinances to deal with the impacts of droughts. **Section 13.16 of the City's Municipal Code** deals with Water Conservation. Since then, the City has applied the water use prohibitions of the City's code in response to the recent drought of 2011-2017 and 2020-2022. Additional information regarding the City's code and ordinances are contained in **Section 8**.

7.3. RECENT DROUGHT (2020-2022)

California experienced a significant and prolonged drought in 2020-2022. The drought depleted reservoir levels across the state, as reflected by **Figure 7.1**. On July 8, 2021, Governor Newsom declared a state of emergency and issued an Executive Order calling for a statewide voluntarily reduction of fifteen percent (15%) from consumer's 2020 levels in order to preserve the State's surface and groundwater supplies, better prepare for the potential for continued dry conditions next year, and to join existing

efforts by agricultural water users, public water systems, and governmental agencies to respond to water shortages. On October 19, 2021, Governor Newsom issued an Executive Order declaring a statewide drought emergency.

Figure 7.1 Governor Newsom at Lake Mendocino in Ukiah on April 21, 2021

In May 2022, Governor Newsom ordered the SWRCB to evaluate the adoption of regulations banning irrigation of "non-functional" turf (or grass), such as decorative grass adjacent to large industrial and commercial buildings. The ban would not include residential lawns or grass used for recreation, such as school fields, sports fields, and parks. The DWR estimated this ban alone would result in potential water savings of several hundred thousand acre-feet. An acre-foot of water serves the needs of approximately three households for a year.

In March 2024 DWR finalized the 2024 State Water Project Long-Term Drought Plan. The 2024 State Water Project Long-Term Drought Plan consolidates information and actions taken during past droughts along with descriptions of the actions taken by the SWP to plan for and prepare for future droughts.

The scope of the SWP's drought planning activities is driven by the role the SWP plays within California's water management system during times of drought. The SWP's planning is specific to its role as a wholesale water provider. The SWP's drought planning is different from the planning by other water managers that are responsible for providing water directly to end-use customers. For these water managers, drought planning generally includes identifying a portfolio of different water supplies and demand management actions that ensure a minimum amount of water can be provided with a set degree of certainty. Retail water suppliers have a "duty to serve" water demand within their service areas and must have detailed contingency plans for meeting demand during drought conditions.

2024 SWP Drought Plan consolidates information and actions taken during past droughts.

Although the recent droughts have more significantly impacted northern and central-valley agencies that use SWP water for agriculture, the City is indirectly impacted by the recent drought conditions on Northern California Waters since this water source is

the majority source of water imported from the SGPWA.

7.4. STATE WATER SUPPLY RELIABILITY

As a result of continued drought challenges to the State's water supplies, SWP Contractors understand the unpredictability of imported water allocations from the SWP.

With participation of the SWP Contractors, DWR strives to meet the water needs of Southern California by developing new projects to increase the capacity of its supplies while encouraging its member agencies to develop local supply projects to meet the needs of its customers. Also, DWR is committed to developing and maintaining high-capacity storage reservoirs, including both DWR-owned and Contractor-owned (such as Diamond Valley Lake, an MWD-owned reservoir, the largest in Southern California), to meet the needs during times of drought and emergency.

The large reservoirs help to avoid the repercussions of reduced supplies not only from the SWP but also the Colorado River Aqueduct (CRA). Throughout the Southern California Region, a total of three (3) DWR-owned reservoirs, nine (9) MWD-owned reservoirs, and twenty-four (24) SDCWA reservoirs contain up to 2.2 million acre-feet (MAF) of water storage.

One of the State's largest reservoirs, Lake Oroville in Butte County, experienced low water conditions at Enterprise Bridge (**Figure 7.2**). On this date (October 4, 2022), the water storage was 1.22 MAF, thirty-five percent (35%) of the total capacity.

Figure 7.3 shows an aerial view of high-water conditions at Enterprise Bridge. On this date (June 12, 2023), the water storage was 3.52 MAF, one hundred percent (100%) of the total capacity. Rainfall in 2025 was also below average, with a total recorded rainfall at the nearest CIMIS Station to the City recording 10.0 inches.

7.4.1. State Water Project (SWP) Reliability

As a SWP contractor, SGPWA has a "Table A" allocation of up to 17,300 acre-feet per year (AFY). Since SGPWA began receiving SWP water, however, the average amount of water received each year was roughly 58% of the full Table A amount. On an annual basis, each of the twenty-nine (29) SWP Contractors request amounts of SWP water based on their anticipated yearly demand. Each SWP contractor's Water Supply Contract contains a "Table A" amount that identifies the maximum amount of water that a contractor may request. However, the

SWP supplies are typically less than the maximum "Table A" amounts requested by the Contractors each year.

amount of SWP water actually allocated to contractors each year is dependent on a number of factors that can vary significantly from year to year. The availability of SWP supplies is generally less than their full Table A amounts in many years and can be significantly less in very dry years. After receiving the requests, DWR assesses the amount of water supply available based on precipitation, snow pack on Northern California watersheds, volume of water in storage, projected carry over storage, and Sacramento-San Joaquin Bay Delta regulatory requirements. For example, according to the State Water Project Delivery Reliability Report (2023), the total SWP annual delivery of water to contractors ranged from a low of 278 thousand acre-feet (TAF) in 2022 to a high of 3,094 TAF in 2017.

Due to the uncertainty in water supply, contractors are not typically guaranteed their full Table A amount, but instead receive a percentage of that amount based on available supply. For instance, the current DWR Notice to Contractors 26-01 (January 2026) indicated that the initial allocation is set at thirty percent (30%), which higher than the ten percent (10%) per initial allocation. For SGPWA, the current allocation based on the Notice to Contractors for this year is set at 5,190 AF.

The reliability of the SWP impacts the Contractors ability to plan for future growth and supply. SWP Contractors can seek out other local supply sources or transfer agreements (such as transfers with Colorado River rights holders). Although not directly important for the City, matters involving the SWP do impact the City indirectly.

Figure 7.2 Lake Oroville During Drought of 2020-2022 (October 4, 2022)

Figure 7.3 Lake Oroville After Drought (June 12, 2023)

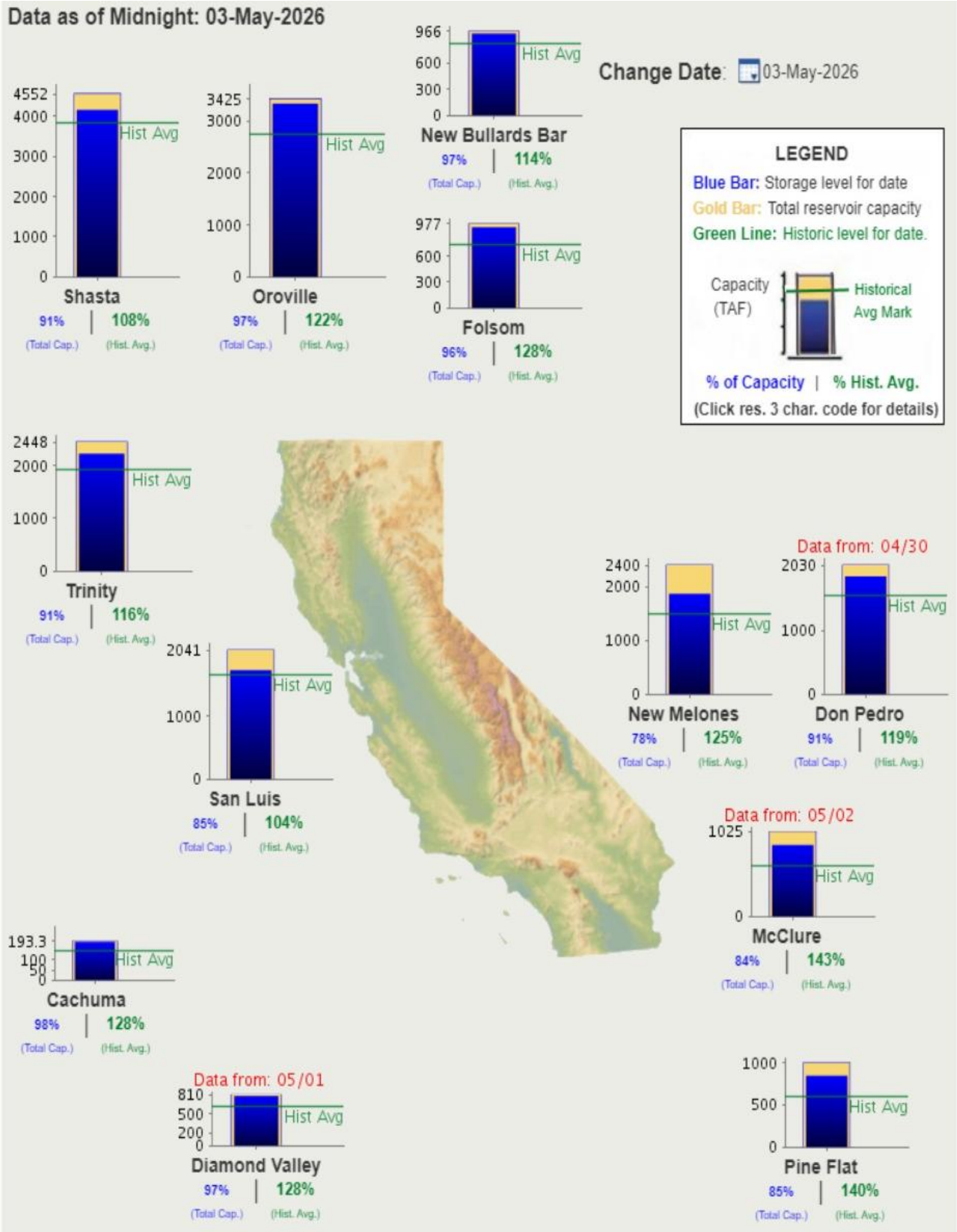

Figure 7.4 California State Reservoir Levels (May 2026)

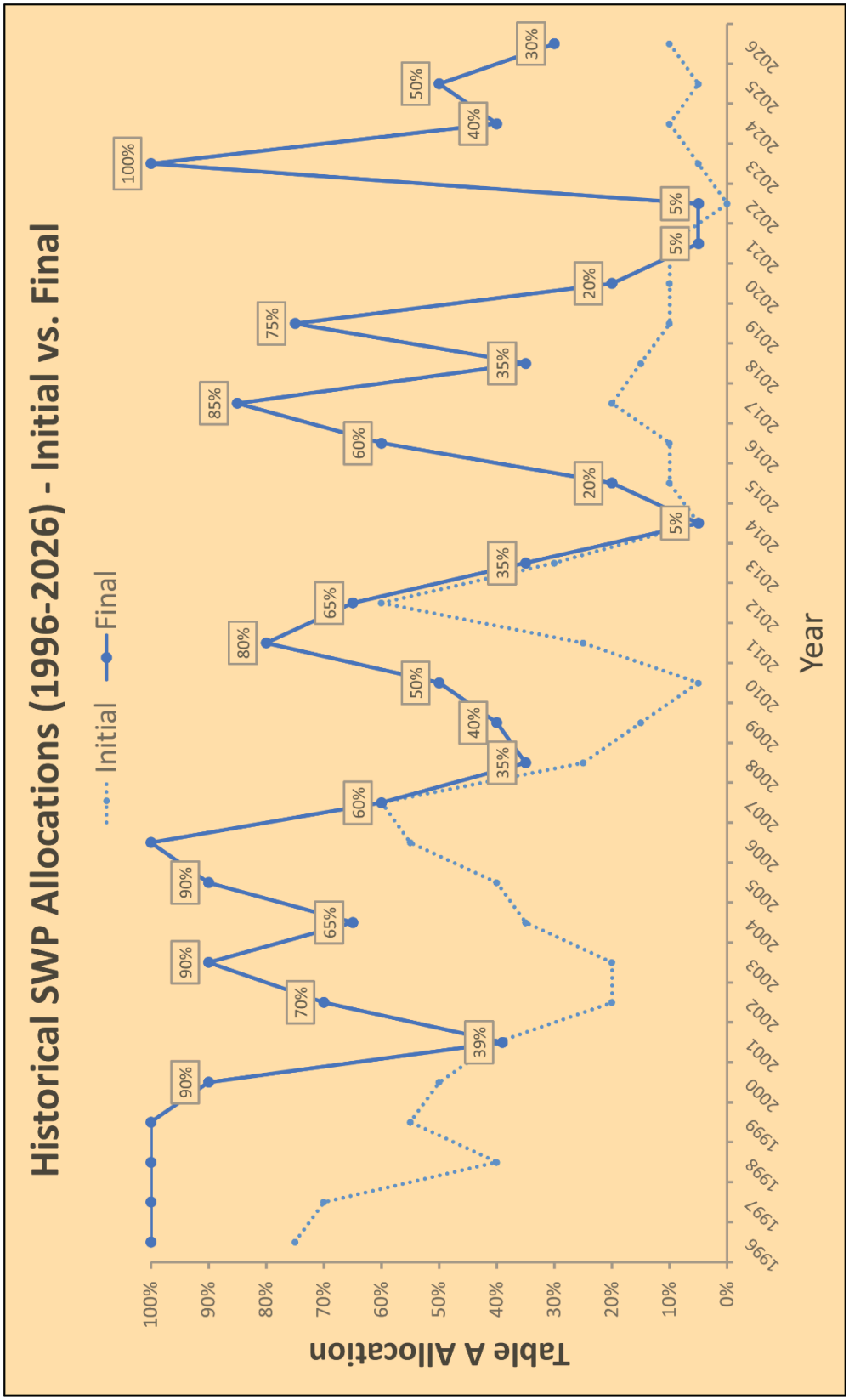

Figure 7.5 SWP Table A Deliveries

7.5. COLORADO RIVER RELIABILITY

Since 2020, the Colorado River has been under severe stress due to more than two decades of drought and very low runoff. Water levels in Lakes Mead and Powell dropped to historic lows in 2021 and 2022, which forced the United States Department of the Interior - Bureau of Reclamation (Reclamation) to take emergency actions to keep the system functioning. These actions included releasing extra water from upstream reservoirs to help stabilize Lake Powell and declaring the first-ever Tier 1 shortage in 2022.

From 2023 through 2025, conditions improved slightly after a strong winter, but long-term challenges remained. The federal government and the seven (7) Basin States began working on new operating rules to replace the current guidelines that expire in 2026. During this period, the Lower Basin states—California, Arizona, and Nevada—agreed to conserve up to 3 MAF of water through 2026, supported by federal funding. These conservation efforts helped slow the decline of Lake Mead but did not solve the long-term supply and demand imbalance in the river.

California, Arizona, and Nevada agreed to conserve up to 3 MAF of water through 2026.

Negotiations for new post-2026 operating guidelines have become the main focus. Modeling has shown that without major changes, the risk of critically low reservoir levels will continue to increase. The new rules, expected to take effect in 2027, will likely reshape how shortages are shared and how the major reservoirs are operated. For California water agencies, these developments highlight the increasing uncertainty of Colorado River supplies and the need to plan for continued conservation, efficiency, and diversified water sources

Over the past six-months, Lake Mead has stayed at approximately thirty-one to thirty-two percent (31–32%) of capacity, with storage measured at approximately 8.3 MAF out of 26.1 MAF as of April 2026. Month-to-month changes have been small, showing a system that is no longer in freefall but still far from recovery. Snowpack feeding the Colorado River has been well below normal, with a snow water equivalent at approximately twenty-one (21%) of median in April 2026, limiting the potential for significant inflows. Reclamation's 24-Month Study continues to project Tier 1 shortage operations through 2026, meaning mandatory reductions will remain in effect.

7.5.1. Competition for Water Rights

For Colorado River rights holders, the "*Law of the River*" is essentially a compilation of numerous compacts, state and federal laws,

court decisions and decrees, contracts, and regulatory guidelines which define rights to water from the Colorado River. These documents apportion the water and regulate the use and management of the Colorado River among the seven basin states and Mexico. A brief listing of these compacts and acts include:

- Colorado River Compact (1922)
- Boulder-Canyon Project Act (1928)
- CA Seven Party Agreement (1931)
- Arizona v. California (1964)
- CO River Basin Project Act (1968)
- Arizona v. California (1979)
- Quantification Settlement Agreement (2003)

Per the 2003 Quantification Settlement Agreement (QSA), California's allocation has been confirmed at 4.4 MAF per year, with MWD maintaining just over 1 MAF in rights. Likewise, the Coachella Valley Water District (CVWD) holds rights to the CRA. As SWP contractors, MWD's and CVWD's extractions from the CRA impact their annual requests for SWP Table A amounts.

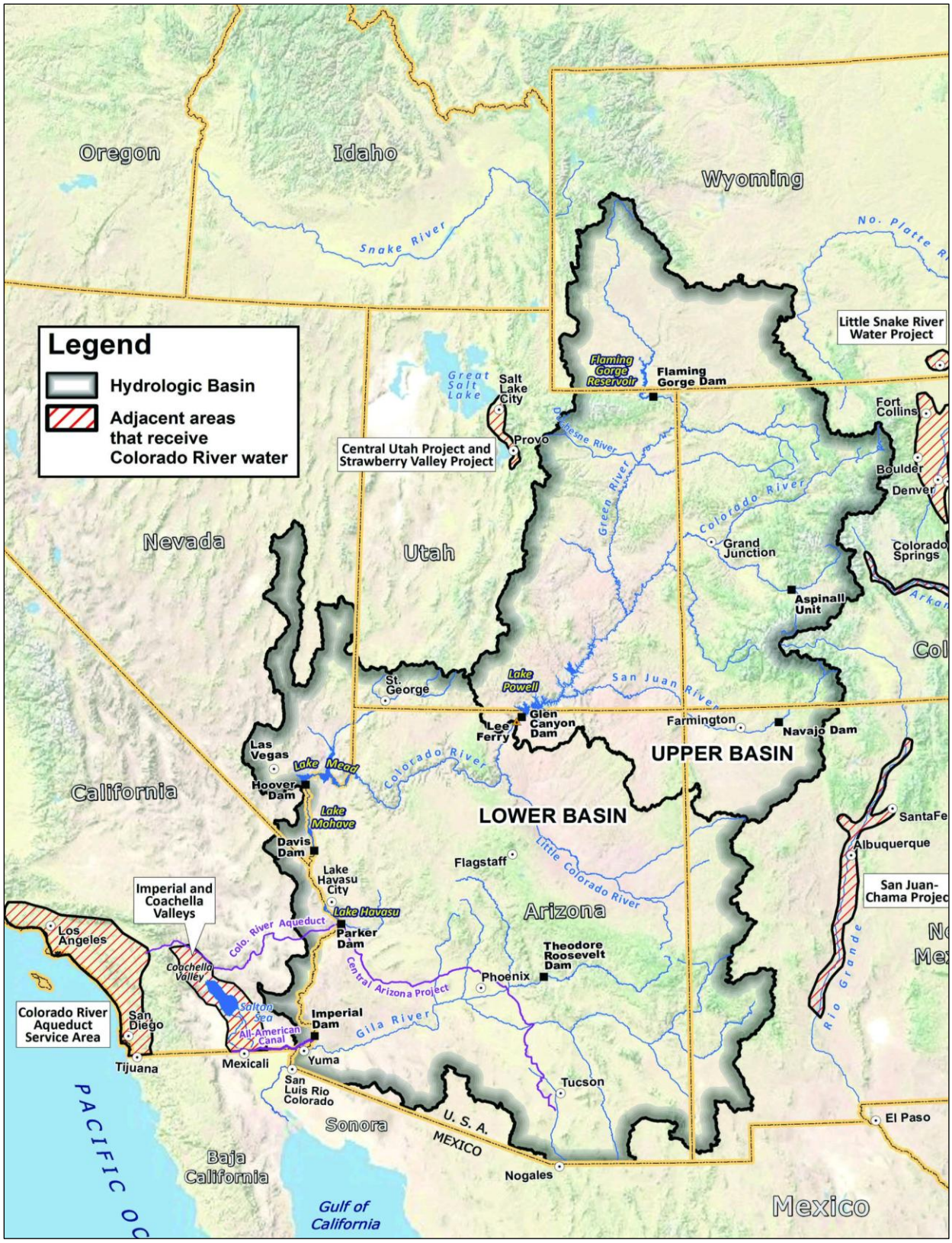

Figure 7.6 Colorado River Basin

7.6. CITY SUPPLY RELIABILITY

Since the City imports State Water Project (SWP) water to replenish groundwater supplies, reliability of the SWP has a direct impact on the City. The reliability of water from the CRA has a lesser, indirect impact on the City, not only due to the annual Table A allocations, but also resulting from potential transfer and exchange agreements between SWP contractors (including SGPWA). During droughts in the Colorado River basin, SWP contractors that also use water from the Colorado River may rely more on the SWP.

Figure 7.7 Suspended Pipe (San Gorgonio Flume System

The City's groundwater is not subject to short-term water shortages resulting from temporary dry weather conditions. Further, as part of the Beaumont Basin adjudication, the City has the option of storing up to 80,000 acre-feet of water in the Beaumont Basin. At the end of calendar year 2025, the City of Banning had approximately 50,007 AF of groundwater available in the Beaumont Basin Storage Account, which is utilized as a buffer to make up for dry weather conditions and will be used in future years to meet demands that exceed local safe yields.

7.6.1. Drought Risk Assessment

The drought risk assessment is an assessment of the reliability of the City's water supplies by comparing projected future water demands with expected available water supplies under three different hydrologic conditions: normal year; a single dry year; and multiple dry years. Future supply and demand conditions can be determined from the following data:

- Population forecasts
- Water supply capacity
- Recent water use trends

The data listed has been provided in the previous sections of this UWMP.

7.6.2. Basis for Projected Demands

To project future demands, it was assumed that total demand will change annually based on changes in population multiplied by the individual demand per-person (also known as the "per-capita" consumption rate -see **Section 6**). The per-capita rates used in the future projections were based on actual water use data from the last ten (10) years. The City's averages for the last ten (10) years were used as the basis to project demands through the year 2050. To project demands and supplies, the following was assumed:

- Starting consumption rate of **222.5** gallons per capita per day (**GPCD**). This is based on the average consumption of the City in the last 10 years

- *Decreasing* consumption rate from 2026 onward with a passive savings of one percent (1.0%) annually (i.e., **220.3 GPCD** in 2026).

Although a constant consumption rate provides a more conservative approach, the decreasing consumption rate scenario provides a more realistic picture for planning purposes since it considers gradual improvements in water-use efficiency. In the past 25 years the City has seen a 1.4% annual decrease in consumption rates (5 gpcd per year). For drought-period demands, it is expected that there will be a small degree of increase due to the lack of rainfall on landscapes. To project demands during single and multiple (five) year drought periods, the following increase factors were assumed:

- Dry Year: Five percent (5%)
- Multiple Dry Years: Five percent (5%), eight percent (8%) and two percent (2%)

7.6.3. Basis for Projected Supplies

To project future supplies, the City can expect groundwater supplies to be based on the combined capacity of its groundwater wells, with a maximum safe yield for each subbasin. The City's groundwater basins have a combined safe yield capacity of approximately 13,590 AFY, excluding the Cabazon Basin. Further, as part of the Beaumont Basin adjudication, the City has the option of storing up to 80,000 AF of water in the Beaumont Basin.

Although the City can pump up to the safe yield limits, for conservative planning purposes, projected groundwater supplies will be based off the average (proportion) of supplies used by the City (water demands) in the past 10 years. Due to the recent trends in development, demands have been slightly increasing for the past 5 years. As demands increase, the City's production will increase up to the City's safe yield. This will also be limited to actual production capacity. During times when local safe yields are exceeded, the City will pump from its storage account in the Beaumont Basin, which will be recharged by various sources. This will allow the City to continually rely on groundwater pumping to meet increased demands.

7.6.4. Tabular Comparisons

Table 7.1 to **Table 7.7**, provide an analysis of the City's supply and demand projections to the year 2050. **Figure 7.9** shows a visual pie-chart for the Normal Water Year 2050. The data compiled in these Tables reflects the data presented in DWR Submittal Table 6-9 of **Appendix E**.

Figure 7.8 River Along the Beaumont Basin

"Reasonably Available Volume Per Basin" is calculated as the total projected water use in Acre-Feet (AF) multiplied by average percentage of total production over last ten years. The City of Banning will pull the differential amounts between the Projected reasonably available volume and safe yield from the Beaumont Basin Storage Account. For example, it is projected that the City will pull 3,885 AF from the Banning Water Canyon in 2030, but the Safe Yield is only 3,730 AF. Therefore, the City will only pull 3,730 AF from the Banning Water Canyon, and will rely on pulling the remaining 155 AF (3,885- 3,730 AF) from the Beaumont Basin Storage Account.

Water recharged (e.g., imported water, storm water, return flows, etc.) in the Beaumont Basin will also be credited in the City's storage account, allowing for the Reasonably Available Volume to increase. The City also anticipates that it would recharge more water during wet years. Per the Final 2023 Reevaluation of the Beaumont Basin Safe Yield Report, the Beaumont Basin Safe Yield of the basin was reevaluated in 2024. The Beaumont Basin Watermaster Committee re-determined the Safe Yield of the Beaumont Basin to be 7,100 (AF/YR).

The amount of unused safe yield not produced in the Beaumont Basin by the Overlying Water Right holders is allocated to the retail agencies, with the City of Banning receiving 31.43% of the unused safe yield. 1,460 AF was used as the safe yield value in 2030, because this is the amount of Unused Overlying Water from the Beaumont Basin that will be allocated to the City of Banning in 2030 (2025 Beaumont Watermaster Annual Report) and is projected to decrease by fifteen percent (15%) every five years from then on.

Water recharged in the Beaumont Basin is credited in the City's storage account.

For the Banning Bench Basin and Banning Water Canyon Basin it is assumed to be the most conservative safe yield value from Table 4-1 of the Geoscience Support Services, Inc. 2019 Technical Memorandum (shown in **Figure 7.8**). The West Banning Basin safe yield value was determined from the same table, but the 2019 updated value determined by the Zero Net Draft was used

because it was closer to the actual operating amount for the City.

Historically, large storm events have significantly recharged the Cabazon Basin. Current water levels within the Cabazon Basin are declining, and only by assuming that a future large storm event will occur can any safe yield be determined. The Cabazon Basin's steady declining water levels are not a result of anthropogenic actions but the natural process of draining and filling of the basin, which is on a multi-decade cycle.

Based on the data in these tables, the City can expect to meet future demands for all climate conditions through 2050. The surplus in available supply for the City indicates that the City can focus its efforts more on water conservation as opposed to new water supply projects.

Table 4-1. Maximum Perennial Yield Estimates for Banning Storage Units

Storage Unit	Method	2011 Estimate (acre-ft/yr)	2019 Update (acre-ft/yr)
Banning	Zero Net Draft	1,580	1,430
	Hill	680	580
Banning Bench	Zero Net Draft	1,980	1,740
	Hill	1,930	1,330
Banning Canyon	Zero Net Draft	4,310	3,985
	Hill	3,830	3,730

Figure 7.9 Table 4-1 of the Geoscience Support Services, Inc. 2019 Technical Memorandum

The following is noted in DWR Submittal Table 6-9 of **Appendix E**, and repeated here for clarity:

Table 7.1 City of Banning Water Supply Availability & Demand Projections Normal Water Year (AF)

Water Sources	2030	2035	2040	2045	2050
Population					
Water Service Area Population	38,386	44,608	50,068	55,528	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	212	201	191	182	173
Supply					
Groundwater Pumped (Total)	7,812	7,886	7,920	7,957	7,995
Pumped from Beaumont Basin Storage Account[2]	1,286	2,169	2,812	3,362	3,828
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,098**	**10,054**	**10,732**	**11,319**	**11,823**
Total Available Supply[3]	59,529	59,448	56,818	52,764	48,321
Demand					
Total Estimated Demand[1]	**9,098**	**10,054**	**10,732**	**11,319**	**11,823**
Compare to Avg. Demand for Previous 10 Yrs. (7,028 AF)	129%	143%	153%	161%	168%
Supply/Demand Comparison					
Supply-Demand (Difference)	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	50,432	49,393	46,086	41,445	36,498

Footnotes (see number references in table above):

1. Total Demand = Consumption Rate x Population.
   a. Average consumption rate of last 10 years = 222.5 gallons per capita per day.
   b. Consumption rate in 2001: 363 gpcd.
   c. Consumption rate in 2025: 238 gpcd.
   d. Approximate "passive" savings over past 25 years: 5 gpcd per year.
   e. Projected "passive" savings: 1 gpcd per year = 173 gpcd by 2050.
2. The Beaumont Basin Storage Account currently (at end of 2025) contains approximately 50,007 AF of groundwater.
3. Total Available Supply = [Safe Yield for each Basin (Beaumont Basin's reasonably available volume for that year; Cabazon Basin's maximum reasonably available volume, which takes place in 2050) + Beaumont Basin Storage Account].
   a. Imported water purchased from SGPWA is recharged into the Beaumont Basin, and will be credited to the City in their storage account, allowing for the Reasonably Available Volume to increase. The projections for Imported water purchased is based on the City's recent purchases from SGPWA:
      i. 2030: 1,250 AF
      ii. 2035: 1,500 AF
      iii. 2040: 2,000 AF
      iv. 2045: 2,500 AF
      v. 2050: 2,500 AF
4. The data compiled in these Tables reflects the data presented in DWR Submittal Table 6-9 of **Appendix E**.

Table 7.2 City of Banning Water Supply Availability & Demand Projections Single Dry Year (AF)

Water Sources	2030	2035	2040	2045	2050
Population					
Water Service Area Population	38,386	44,608	50,068	55,528	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	212	201	191	182	173
Supply					
Groundwater Pumped (Total)	7,812	7,886	7,920	7,957	7,995
Pumped from Beaumont Basin Storage Account[3]	1,741	2,671	3,348	3,928	4,419
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,553**	**10,557**	**11,268**	**11,885**	**12,414**
Total Available Supply[4]	58,515	58,184	55,054	50,500	46,057
Normal Year Supply	9,098	10,054	10,732	11,319	11,823
% of Normal Year	105%	105%	105%	105%	105%
Demand					
Total Dry Demand[1]	**9,553**	**10,557**	**11,268**	**11,885**	**12,414**
Normal Year Demand	9,098	10,054	10,732	11,319	11,823
% of Normal Year	105%	105%	105%	105%	105%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	48,963	47,627	43,785	38,615	33,643

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Single Dry Year Increase of 105%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during a Single Dry Year will be 236 AF.
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.3 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2026-2030) (AF)

Water Sources	2026	2027	2028	2029	2030
Population					
Water Service Area Population	33,408	34,653	35,897	37,142	38,386
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	220	218	216	214	212
Supply					
Groundwater Pumped (Total)	7,812	7,812	7,812	7,812	7,812
Pumped from Beaumont Basin Storage Account[3]	1,286	1,330	1,042	1,258	1,468
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,098**	**9,141**	**8,854**	**9,070**	**9,280**
Total Available Supply[4]	49,971	50,338	49,245	48,439	48,126
Normal Year Supply	9,098	9,098	9,098	10,054	10,054
% of Normal Year	100%	100%	97%	90%	92%
Demand					
Total Dry Demand[1]	**8,655**	**9,141**	**8,854**	**9,070**	**9,280**
Normal Year Demand	8,243	8,464	8,681	8,892	9,098
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	443	0	0	0	0
Supply/Demand (%)	105%	100%	100%	100%	100%
Available Leftover Supply Capacity	41,316	41,640	40,391	39,369	38,846

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.4 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2031-2035) (AF)

Water Sources	2031	2032	2033	2034	2035
Population					
Water Service Area Population	39,630	40,875	42,119	43,364	44,608
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	209	207	205	203	201
Supply					
Groundwater Pumped (Total)	7,812	7,812	7,812	7,812	7,886
Pumped from Beaumont Basin Storage Account[3]	1,952	2,442	2,068	2,258	2,370
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,764**	**10,254**	**9,880**	**10,070**	**10,255**
Total Available Supply[4]	49,792	49,493	47,287	45,455	44,142
Normal Year Supply	10,054	10,054	10,732	10,732	10,732
% of Normal Year	97%	102%	92%	94%	96%
Demand					
Total Dry Demand[1]	**9,764**	**10,254**	**9,880**	**10,070**	**10,255**
Normal Year Demand	9,299	9,495	9,686	9,873	10,054
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	40,029	39,239	37,407	35,385	33,887

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.5 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2036-2040) (AF)

Water Sources	2036	2037	2038	2039	2040
Population					
Water Service Area Population	45,700	46,792	47,884	48,976	50,068
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	199	197	195	193	191
Supply					
Groundwater Pumped (Total)	7,886	7,886	7,886	7,886	7,920
Pumped from Beaumont Basin Storage Account[3]	2,822	3,278	2,796	2,930	3,026
Total Anticipated Use of Supplies ***(Estimated Production)***	**10,707**	**11,164**	**10,682**	**10,816**	**10,946**
Total Available Supply[4]	48,980	47,812	44,770	42,210	40,225
Normal Year Supply	10,732	10,732	11,319	11,319	11,319
% of Normal Year	100%	104%	94%	96%	97%
Demand					
Total Dry Demand[1]	**10,707**	**11,164**	**10,682**	**10,816**	**10,946**
Normal Year Demand	10,197	10,337	10,472	10,604	10,732
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	38,273	36,648	34,089	31,394	29,279

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.6 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2041-2045) (AF)

Water Sources	2041	2042	2043	2044	2045
Population					
Water Service Area Population	51,160	52,252	53,344	54,436	55,528
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	189	188	186	184	182
Supply					
Groundwater Pumped (Total)	7,920	7,920	7,920	7,920	7,957
Pumped from Beaumont Basin Storage Account[3]	3,479	3,935	3,396	3,512	3,588
Total Anticipated Use of Supplies ***(Estimated Production)***	**11,399**	**11,855**	**11,316**	**11,433**	**11,545**
Total Available Supply[4]	45,495	43,669	39,969	36,809	34,242
Normal Year Supply	11,319	11,319	11,823	11,823	11,823
% of Normal Year	101%	105%	96%	97%	98%
Demand					
Total Dry Demand[1]	**11,399**	**11,855**	**11,316**	**11,433**	**11,545**
Normal Year Demand	10,856	10,977	11,094	11,208	11,319
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	34,096	31,813	28,653	25,377	22,697

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.7 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2046-2050) (AF)

Water Sources	2046	2047	2048	2049	2050
Population					
Water Service Area Population	56,620	57,712	58,804	59,896	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	180	178	177	175	173
Supply					
Groundwater Pumped (Total)	7,957	7,957	7,957	7,957	7,995
Pumped from Beaumont Basin Storage Account[3]	4,040	4,495	3,906	4,006	4,064
Total Anticipated Use of Supplies ***(Estimated Production)***	**11,997**	**12,452**	**11,863**	**11,963**	**12,059**
Total Available Supply[4]	41,386	38,999	34,739	31,069	28,009
Normal Year Supply	11,823	11,823	11,823	11,823	11,823
% of Normal Year	101%	105%	100%	101%	102%
Demand					
Total Dry Demand[1]	**11,997**	**12,452**	**11,863**	**11,963**	**12,059**
Normal Year Demand	11,426	11,530	11,631	11,728	11,823
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	29,389	26,546	22,876	19,107	15,950

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

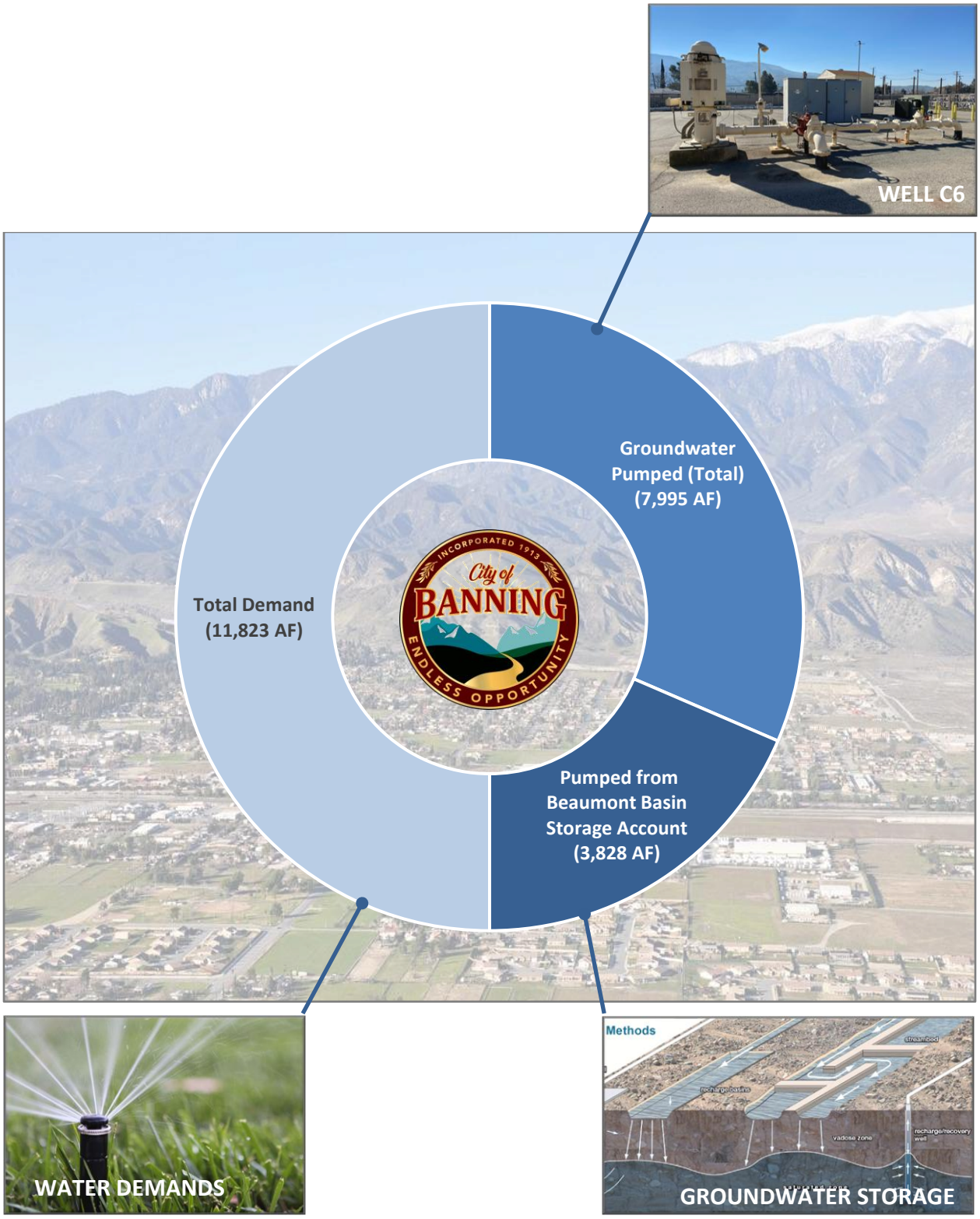

Figure 7.10 Projected Supply v. Demand Scenario: Normal Water Year 2050

Figure 7.11 Whitewater River Near City of Banning

7.7. ENSURING ADEQUATE SUPPLY

As indicated by **Table 7.1** to **Table 7.7**, the City does not expect to have a water supply shortage through 2050. Furthermore, the City's subbasin safe yield and storage account volumes are not expected to be affected during droughts lasting up to five years. Finally, droughts will be addressed by following the criteria of the City's Water Shortage Contingency Plan (WSCP) along with implementation of the regional contingency plans. These programs are discussed in **Section 8**. For these reasons, the City is confident that water supplies are adequate to meet demands for all weather conditions through 2050.

7.8. WSCP SUPPLY AUGMENTATION

Although the City does not expect to have a water supply shortage through 2050, as indicated by **Table 7.1** to **Table 7.7**, severe and extent droughts may cause the WSCP to be enacted. The City will rely on the implementation of the WSCP to augment the City's reduced supply during consecutively dry years. The WSCP supply augmentation benefits during a five-year drought are shown in DWR Submittal Table 7-5 in **Appendix E.**

8

Section 8: Contingency Planning

Diesel-powered pumps provide emergency water supplies during sudden catastrophes.

8.1. INTRODUCTION

In addition to prolonged droughts that can gradually decrease water supplies, water supplies may be interrupted in a number of sudden, catastrophic ways. Sudden catastrophes may include earthquakes, power outages, pumping equipment failures, or spikes in groundwater contaminants that cannot be remedied quickly. Water shortages can also be a result of intentional or accidental manmade catastrophes, such as acts of terrorism or chemical spills into nearby canals or groundwater spreading grounds. It is important that the City has a plan in place to manage its water system during short or long-term water shortages. Long term, water shortages can be addressed through conservation and supply augmentation. Short-term water shortages are best handled though a "Contingency Plan." A Water Shortage Contingency Plan (WSCP) is a required component of the City's UWMP, which provides guidance on stages of action to be undertaken by the City in response to water supply shortages. A WSCP is an independent document that is incorporated into the City's UWMP.

This Section serves as the City's WSCP. The City's response to water shortages will be a coordinated effort between City staff and other local and regional water agencies. During a water shortage emergency, the City will activate this WSCP, which coincides with

Section 13.16.020 of the City's Municipal Code. The intent of the plan is to reduce the effect of shortages on the City's customers. In compliance with the Water Code requirements, this plan imposes a maximum fifty percent (50%) reduction in the total water supply on the City's customers. Further Response Actions for the City's Water Department are to be carried out past fifty percent (50%).

8.2. NEED FOR CONTINGENCY PLANS

The recent drought of 2020-2022 significantly depleted the State's supply of water and posed a challenge to many agencies throughout the State. Following the drought, the State experienced a wet winter in 2022. Climate-driven weather extremes, long-term water supply uncertainty, and aging infrastructure are stressing a system built for a different era. The modernized California Water Plan 2028 is allowing the state's opportunity to respond with a clear, actionable, and durable approach to statewide water planning.

The modernization of the California Water Plan 2028 is being directed by Senate Bill 72 (SB 72). This legislation provides a clear directive: move statewide water planning from description to direction. The Water Plan will be modernized to:

- Identify and evaluate effective water management strategies, informed by economic considerations
- Quantify beneficial uses of water at a watershed scale throughout California
- Expand engagement across all sectors as DWR develops the Water Plan
- Establish clear water supply targets that help align state, regional, and local actions

8.2.1. Recent California Water Code Amendments

There have been minor changes to the Water Code affecting the 2025 UWMPs, with only some affecting WSCPs. The changes are described in **Section 1.3**. In addition, the following measures were taken in recent years that affect WSCPs:

Starting January 1, 2025, major water suppliers were required to significantly reduce water delivery by 2040 to build drought resilience into everyday life.

The 2025 update to Title 24 (including the forthcoming enforcement beginning January 1, 2026 for many permit-applications) introduces a number of changes targeting reducing water consumption and improving system efficiency. Among the most important provisions:

- Lower maximum flow-rates for toilets, showerheads, and faucets (for example,

toilets continue to be capped at approximately 1.28 gallons per flush in many cases).

- Requirements to reduce pipe sizing and hot-water wait times to reflect lower-volume fixtures and shorter delivery distances.
- Enhanced documentation and compliance measures: designers must show that plumbing layouts meet both water efficiency and energy criteria under Title 24 Part 6 and CALGreen (Title 24, Part 11).
- Greater emphasis on seismic bracing of plumbing and efficient plumbing system design, reflecting California's dual challenges of drought and quake-risk.

The SWRCB has adopted emergency regulations to encourage Californians to use water wisely and make conservation a way of life.

8.3. LEGAL AUTHORITY

As indicated by **Sections 8.1** and **8.2**, the City has the legal obligation to prepare and implement a WSCP during times of drought or sudden supply interruptions. Response to water shortages is also codified into City Municipal Code (**Section 13.16**, "Water Conservation"). **Section 8.6.5** and **Tables 8.8 and 8.9** of the WSCP include a listing of shortage response actions per CWC § 10632 (a)(3)(A), including the means by which the City will declare a water shortage and authorize response actions. The remaining Sections of the WSCP describe the City's response actions in greater detail.

8.4. WATER SUPPLY RELIABILITY ANALYSIS

Groundwater is considered a drought-resistant source of supply. The City also maintains a current storage of 50,000 AF in the Beaumont Basin. For this reason, the City's UWMP does not anticipate a water supply shortage due to drought conditions through 2050. To mitigate loss of storage, the City can implement the provisions of the WSCP. The results of the City's Drought Risk Assessment (DRA) are shown in **Table 7.1** to **Table 7.7**, (also **Appendix E**, Table 7-5).

Due to the number of groundwater wells in the City's water system, the City has redundancy in the event of water quality impairments with a particular well. **Figure 8.2** shows a general procedure that the City can take if any wells are discovered to have water quality concerns. If necessary, the City has the ability to increase pumping from other wells to account for loss of production. The City may also construct additional wells over the course of this UWMP planning period (2050), to improve operational flexibility and redundancy. Therefore, the City does not anticipate any significant impacts to water supply reliability as a result of water quality.

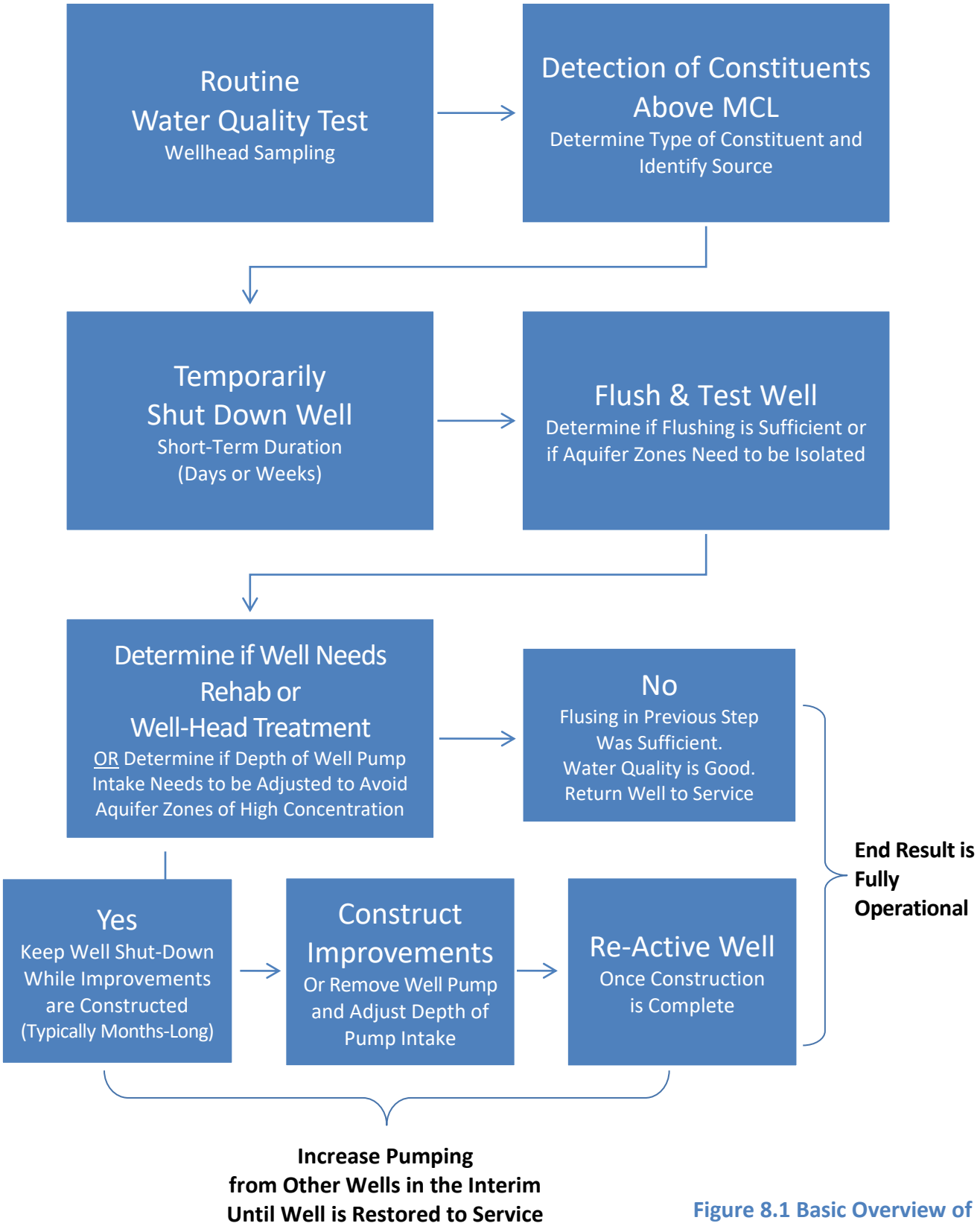

Figure 8.1 Basic Overview of Water Quality Contamination Response for City Wells

Other events which may create a water shortage condition are discussed in **Section 8.7** of the WSCP. These events may include, but not be limited to:

- Regional Power Outage
- Earthquake
- Terrorism Incident

If any of the above events occur, the City will work in conjunction with the County of Riverside (County) and the neighboring agencies listed in **Section 8.7** (Page 8-15) to address the effects of potential water shortages. **Section 8.7** of the WSCP provides a brief overview of the City's response actions to these types of emergencies. Regional response actions are also outlined in Regional Planning documents on the County's website, and as referenced in this WSCP.

8.5. ANNUAL ASSESSMENTS

Agencies typically prepare Water Supply Assessments (WSAs) when housing developments are proposed by developers. WSAs provide an estimate of available supplies for a proposed development in order to confirm the ability to serve water to a specific development. Within the planning period of this UWMP the City's water service area population will nearly double due to housing development. As a result, the City will need to refine its procedure for developing WSAs and for assessing water demands in its service area.

Similar to a development-driven WSA, a system-wide assessment of supplies and demands will be required of all water agencies in the State. According to CWC § 10632 (a)(2), the City will be required to prepare an "Annual Assessment" of supplies and demands, including an Annual Water Shortage Assessment Report, by July 1st of each year. At this time, DWR requires the City to include guidelines for the preparation of an Annual Assessment in the WSCP.

8.5.1. Decision Making Process

The City's Annual Assessment will be based on metered data from active wells and from customer meters. These figures are available to the City on a monthly basis, or more frequently if the City desires. The City can also rely on quarterly or annual reports. With AMI technology, the City can adjust to changing conditions (such as rainfall) and can adjust its reporting leading up to the submittal of the Annual Assessments. As of 2022, City staff has reviewed water production data and water consumption data starting in January of that year, with the intent to prepare an Annual Water Shortage Assessment Report to the City Council by May each year. The Final Report can then be submitted to DWR by July 1 of each year, which are shown on DWR's WUE Portal:

wuedata.water.ca.gov/wsda_plans

8.5.2. Key Data Inputs

The Annual Assessment will be based on the forecasted demands and estimated water supply availability, including any known infrastructure constraints. The Annual Assessment will also consider weather, population growth, and other influencing factors, such as state or local policies that will impact water demands, or regulations affecting water supplies.

The following data are typically available to City staff and can be relied on when preparing the Annual Assessments:

- Estimated dry-year demand without any conservation measures. Dry-year demands will be determined by adding an increase factor of five percent (5%) to normal demands.
- Estimated total water supply availability under dry-year scenarios. The water supply available will be based on what is available to the City, regardless of pumping capacity. Groundwater supplies can be estimated from annual WRD Basin Reports prepared under the 2014 Sustainable Groundwater Management Act (SGMA) and from local groundwater level monitoring by WRD.
- Estimated capacity of water production infrastructure. Any known or forecasted issues affecting the City's water production infrastructure can be considered, such as:
    - Mechanical or electrical issues with groundwater well pumps
    - Possible power outages for operation and maintenance
    - New construction and repairs

The potential constraints on supply capacity listed under Item 3 are subject to change from year to year. Therefore, the City should inspect its water system review the condition of its groundwater wells before making a determination on potential restrictions in groundwater supplies. In addition, the City should coordinate with the San Gorgonio Pass Water Agency (SGPWA) and/or DWR to determine the projected imported water allocations from the State Water Project (SWP). This is an important step in the preparation of a water supply assessment since imported water provides recharge to local groundwater spreading grounds in the Beaumont Basin.

8.5.3. Current Forecast

In general, the total available water supply for the City will be based on either the capacity of its wells or pumping rights (safe yields), whichever is more restrictive. At this time (2026), the total groundwater pumping safe yield is roughly 9,000 AFY. This is based on the most-recent reports prepared on the

City's groundwater basins. The actual supply into the City's water system will be based on the projected demands. **Table 7.1** provides the projected supply capacity volumes along with the projected water demands. The projected supplies in other years shown in. **Table 7.1** also exceed the City's total safe yield. To compensate for exceeding the safe yield(s) of the individual basins, the City anticipates using groundwater from its storage account in the Beaumont Basin, and passively or actively recharging the basin(s) during wet years. This is described in further detail in **Sections 3 and 7** of the UWMP.

8.6. CONTINGENCY PLANS

Currently the City relies entirely on local groundwater to meet its demand. The City's purchase of imported water (i.e., State SWP), private contracts, Yuba Water) from SGPWA is used only to recharge the City's storage account in the Beaumont Basin. In the short term, the City's groundwater supplies can be pumped as needed, within the safe yields, to meet demands. In the long term, the supply from SGPWA can be used as a supplementary source if demands exceed local supplies. Therefore, only in the long-term shortage scenario will the reliability of the City's water supply be affected by (i.e., contingent upon) the actions of the SWP Contractors.

8.6.1. City Contingency Plan

Since the drought period of the early 1990s, the City has implemented a water conservation plan to reduce water use during shortages. The "Water Conservation Plan" was originally adopted as **Section 13.16** of the City's Municipal Code. The Plan is currently being updated to provide the City with the authority and guidance to implement a phased approach depending on the severity of a water shortage. In the event of a water shortage, the City Council will implement the appropriate water conservation phase by resolution. The objectives of the response plan are to:

1. Prioritize essential uses of water
2. Maximize local municipal water supplies
3. Eliminate water waste city-wide
4. Minimize adverse financial effects

Regarding Objective No. 1, priorities for use of available potable water during shortages are based partly on California Water Code, Sections 350-358. Water allocations are established for all customers according to the following ranking system:

1. **First Priority**: Minimum health and safety allocations for interior residential needs
2. **Second Priority**: Commercial, industrial, institutional/governmental operations

3. **Third Priority**: Existing landscaping

4. **Fourth Priority**: New customers, proposed projects, etc.

Regarding the 1st Priority specified, as noted in **Section 6.6.1**, approximately ninety three percent (93%) of the City's water service connections consist of residential accounts. As a result, the City can use its population estimates to assess water use needs during a shortage.

8.6.2. Health & Safety (1st Priority)

In 2018, the State adopted Assembly Bill 1668, which amends Section 10608.20 of the Water Code to stipulate an indoor water use standard of 55 gallons per capita per day (GPCD). However, as reported in **Section 1.3** this value has changed, and will decrease over time. The City is obligated to determine the minimum health and safety water needs for its residents. To assess the minimum amount of water that should be available (1st Priority Level), the amount of personal hygiene household water use must be quantified. Based on common indoor residential water use in the United States, health and safety water use is estimated to be as shown in **Table 8.1**:

Table 8.1 Health & Safety Personal Use

Item	Regular (gal/day)	Voluntary Conservation (gal/day)
Toilet	14	10.5
Shower	15	12
Washer	12	11
Kitchen	4	3
Other	4	4
Total	**49**	**40.5**

Since the City has a population of approximately 32,000 residents, at a rate of 40 GPCD, the City will need up to **3.9 AF (1.3 MG) per day** to provide for the health and safety of its residents (if conservation is voluntary). Based off the City's above-ground total storage capacity, as shown in **Section 2.6.5**, the City can provide for two (2) weeks of water supply to its residents. However, the ability to meet the most basic water needs of its residents during a severe shortage may be difficult unless the City's citizens are aware of the water supply shortage. Therefore, public outreach must be a top priority for the City during a water shortage.

8.6.3. Stages of Action

The City's Annual Assessments prepared under **Section 8.5** can be used to predict shortages. The City's WSCP imposes six (6) stages of response actions based on the severity of the City's water supply shortage.

The stages are based on DWR's established criteria as shown in **Table 8.2**:

Table 8.2 Water Shortage Stages & Reduction Targets

Shortage Stage	Restriction Type	Water Supply Reduction Target
I	Mandatory	10%
II	Mandatory	20%
III	Mandatory	30%
IV	Mandatory	40%
V	Mandatory	50%
VI	Mandatory	>50%

To lessen confusion on City customers, the first four stages (Stages 1 to 4) regulate customer responses to shortages, while the latter two stages (Stages 5 to 6) regulate City water staff response efforts. The Banning City Council will formally declare the stage of the water shortage, following a public hearing, upon determination from City water staff that a water shortage exists and the WSCP should be implemented. Following Council declaration of a shortage stage, the WSCP will become effective no sooner than the first billing period on or after the date of publication of the Council Resolution.

Figure 8.2 City Council Can Declare Shortage Stages

The WSCP will remain in effect until Council declares the water shortage emergency has ended. Alternatively, Council may also change the water shortage stage as appropriate. However, Council will not impose mandatory measures without first conducting a duly-noticed public hearing pursuant to CWC § 350 or § 375.

8.6.4. Communication Protocols

A common understanding of the water supply situation is essential for the WSCP to be effective. During a water shortage, the City must allocate staffing and resources to inform its customers of the Council-declared water shortage. Specifically, the City must inform its water service customers of the following:

- Water Shortage Stage
- Water Use Prohibitions
- City Water Staff Response Actions

The communication protocol will be in place prior to formal declaration of a water supply

shortage. The frequency and extent of coordination will be based on the shortage severity. The City will use the following resources to communicate with its customers:

- City Website
- Social Media (i.e., Twitter/Facebook)
- Bill Inserts/Postcard Notices
- Billboard or Digital Message Boards
- Advertisements (Radio & Print)

The goal of the communication efforts will be to raise awareness of the drought and to motivate customers to conserve water. The City should also prepare customers for possible increases in water shortage severity. Finally, as mentioned under Priority 1 in **Section 8.6**, the key goal of communication is to promote available water resources, provide specialized outreach for impacted industries, including instructions on how to receive bottled water, and how to participate in public hearings with City staff.

8.6.5. Limitations/Prohibitions

Per **Section 13.16** of the City's Municipal Code, prohibitions on water use, include, but are not limited to, the following:

1. Irrigation runoff
2. Landscape irrigation for more than 15 minutes (except drip irrigation)
3. Irrigation on rainy days or within specified hours of a rain event
4. Failure to repair leaks in a timely manner
5. Washing of automobiles without a bucket or hand-held hose equipped with a positive shutoff nozzle
6. Restaurants serving water to their customers, except when specifically requested by their customers
7. Operating a decorative water fountain without re-circulated water
8. Operating a commercial car wash without re-circulated water
9. Hotels, motels, and other commercial lodging establishments shall not launder towels and linens daily, except when specifically requested by their customer

Additional prohibitions may also be enforced, depending on the declared stage shown in **Table 8.1**. Moreover, the prohibitions listed may also be adjusted depending on the severity of the declared stage, or until the shortage is rescinded by City Council.

8.6.6. Penalties for Non-Compliance

Per City Code 13.16.020:

"Civil proceedings for violation. In addition to criminal penalties, violators of the

mandatory provisions of this section shall be subject to civil action initiated by the City"

1. **First violation**. For a first violation, the city shall issue a written notice of violation to the water user violating the provisions of this chapter

2. **Second violation**: Twenty-five percent (25%) surcharge

3. **Third violation**: Fifty percent (50%) surcharge; installation of flow restrictor

4. **Subsequent violations**: Discontinuance of service

The penalties listed may be waived if a customer completes an application for an exception permit. Hardship, safety, or health conditions are among the reasons that could justify granting an exception.

8.7. DISASTER MANAGEMENT

During a water shortage, the City has the following tools available to restrict water use to health and safety uses only:

- Expanding public outreach
- More frequent meter readings
- Fines and penalties
- Flow-restriction devices
- Moratorium on service connections

The City's Local Hazard Mitigation Plan (LHMP) in **Appendix N**, prepared in May of 2017, addressed the planned response to extraordinary emergencies associated with natural disasters, including seismic risks. Other City planning tools, such as the City's Emergency Operations Plan (EOP), updated in 2012, provides for the most effective and economical allocation of resources for the maximum benefit and protection of life, property, and the environment during an emergency. The EOP supersedes the City's prior Multi-Hazard Functional Planning Guidance document that was prepared in 1996. These documents provide the City with: 1) An Emergency Plan; 2) Functional Annexes that describe the emergency response organization; and 3) Listing of operational data such as resources, key personnel, and essential facilities and contacts. During a disaster, the City's water department staff will maintain water operations as follows:

The City's LHMP & EOP provide guidance for the City in dealing with local disasters.

- All on-duty personnel will remain on duty until relieved of duty
- Off-duty personnel will be expected to return to work or be "on-call"

- While in a disaster mode, working shifts will be 12 hours

In the event that any portions of the City's water system are without water, the City's water department staff will act as a "field response unit" under the City's EOP in order to begin "Response Phase" and "Recovery Phase" activities, including:

- Assess impact of incident
- Communication with adjacent water agencies
- Identify need for and prioritize locations for water distribution
- Provide for water quality assurance or prepare notices for water quality
- Evaluate, plan, and implement actions to acquire and distribute water
- Determine the need to staff a water task group and to secure resources
- Provide informational status to nearby water agencies, including:
  - SGPWA
  - BCVWD
  - Cabazon Water District
  - Yucaipa Valley Water District
  - Morongo Band of Mission Indians
  - Banning Heights Mutual Water
  - High Valleys Water District
- Provide information to media as appropriate

This WSCP provides a general guide of City response actions to catastrophes. Other planning documents, including the City's LHMP, provide additional details which supplement this UWMP.

8.7.1. Seismic Risk and Emergency Backup

According to the maps provided on the California Office of Emergency Services' online planning tool (My Plan) and the California Geological Survey's online earthquake hazards zone application (EQ Zapp), several faults, including the Banning Fault and portions of the San Gorgonio Fault Zone, are present within the City's sphere of influence. The known fault lines are shown in **Figure 8.4.**

An earthquake has the potential to damage to drinking water and wastewater utilities. Impacts to the City's water system may include, but not be limited to:

- Damage to wells/well houses
- Water tank damage or collapse
- Damage to water distribution system

Damage to distribution lines due to shifting ground and soil liquefaction can result in potential water loss, water service interruptions, low pressure, contamination

and sinkholes and/or large pools of water throughout the service area. For these reasons, earthquakes can potentially restrict water supplies for a longer period of time than a power outage or man-made catastrophe. In the event that an earthquake damages portions of the City's pumping or distribution system, the City can provide temporary drinking water to customers through potable water trucks as noted in **Section 8.7.2.**

Even if an earthquake does not result in damage to water production or distribution facilities, an earthquake could result in a power outage or damage to the water system facilities. The City's water operations staff will be on standby alert during an emergency to respond promptly to water supply interruptions. The City's water operations staff will work with SCE to restore power to water supply facilities.

In the interim, the City's Wells 8, 9, 10, C-2, and C-4 have an emergency power source available to continue to operate when the power fails. Wells 1, 3, 4, and 5 do not have an emergency power supply, but they have the ability to provide water during an emergency. **Table 8.3** summarizes the City's wells with an emergency power source and anticipated capacity during auxiliary backup. The total water available from the use of these nine wells is 7,110 gpm (31.4 AF/day),

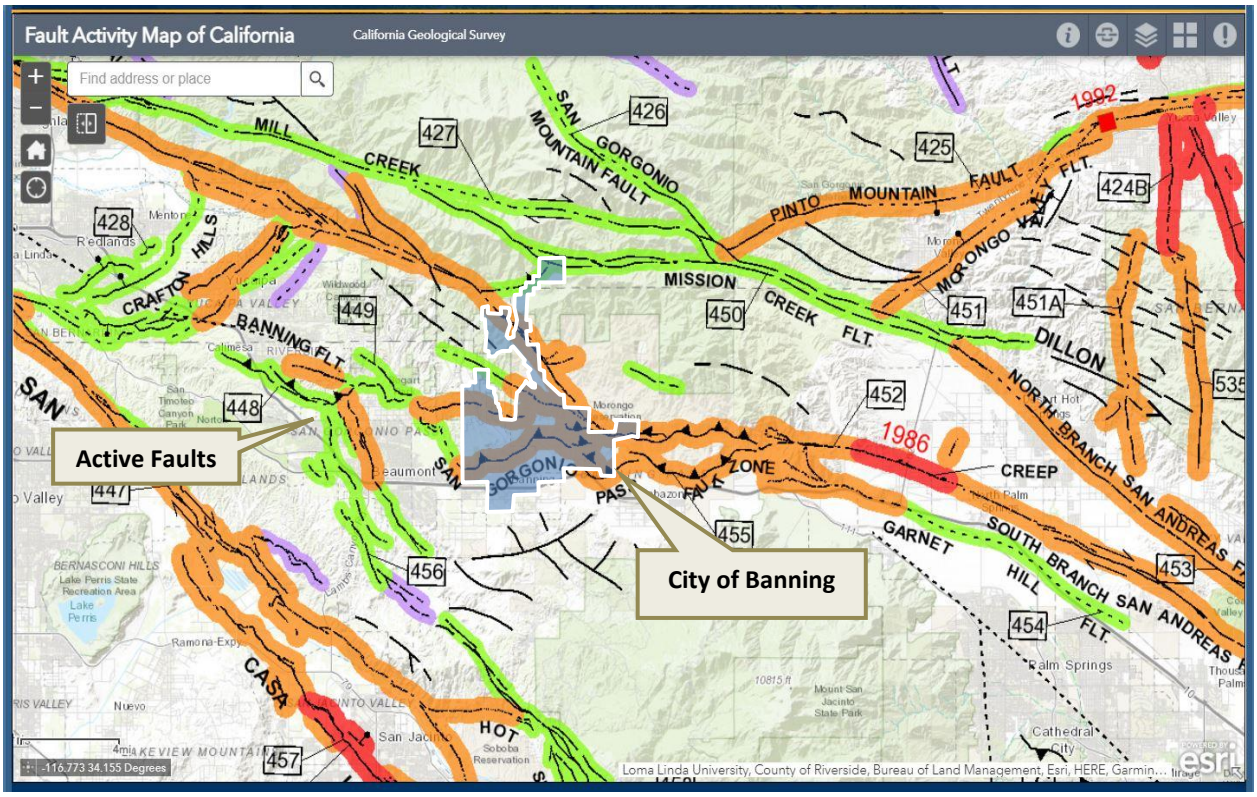

Figure 8.3 Fault Zones Near the City

based on City of Banning dry-year capacities, City of Banning Public Works (2011). These quantities would be sufficient to meet the maximum day demand of approximately 30 AF/day. If however additional water supply capacity is needed, portable generators can be obtained to operate other remaining wells and booster stations.

It should be noted that the backup systems for Wells 8, 9, and 10 require manual turn on. Additionally, Wells 1 and 3 are equipped with both electric pumps and Pelton wheels, and Wells 4 and 5 are equipped with only a Pelton wheel pump (see **Figure 8.5**), which also allows these wells to provide water in the event of an emergency. Pelton wheel pumps allow these wells to be operated by a hydraulic-driven pump using existing water under pressure in the distribution system.

Table 8.3 Wells with Emergency Generators and Backup Systems

Well	Location	Total Capacity		Remarks
		GPM	AF/Day	
1	Banning Bench Storage Unit	950	4.2	Pelton Wheel
3	Banning Bench Storage Unit	660	2.9	Pelton Wheel
4	Banning Water Canyon Storage Unit	600	2.7	Pelton Wheel
5	Banning Water Canyon Storage Unit	550	2.4	Pelton Wheel
8	Banning Water Canyon Storage Unit	1,000	4.4	Backup Portable Generator
9	Banning Water Canyon Storage Unit	1,000	4.4	Backup Portable Generator
10	Banning Water Canyon Storage Unit	600	2.7	Diesel Engine Drive
C-2	Beaumont Basin	650	2.9	Generator, Manual Switch Overs, Not ATS Equipped
C-4	Beaumont Basin	1,100	4.9	Generator, Manual Switch Overs, Not ATS Equipped
C-8	West Banning Storage Unit			ATS and Diesel Generator
M-12A	West Banning Storage Unit			ATS and Diesel Generator
	Total (Active Wells)	**7,110**	**31.4**	-

Note: City is currently equipping Wells M-12A and C-8.

Table 8.4 Available Emergency Reservoir Storage

Available Reservoirs	Total Aboveground Storage (MG)	Total Aboveground Storage (AF)
Brinton Reservoir	8.0	24.6
C2 Tank	0.22	0.7

C3 Tank	0.06	0.2
C4 Tank	0.05	0.2
C5 Tank	0.05	0.2
Mountain Tank	0.25	0.77
Well 1 Receiving	0.024	0.1
San Gorgonio Reservoir No. 1	2.60	8.0
San Gorgonio Reservoir No. 2	2.00	6.1
San Gorgonio Reservoir No. 3	1.00	3.1
Southwest Reservoir	1.50	4.5
Sunset Reservoir No. 1	2.1	6.4
Sunset Reservoir No. 2	2.1	6.4
Foothill West Reservoir	3.78	11.6
Total	**23.73**	**72.8**

Figure 8.4 Pelton Wheel Pump

8.7.2. Emergency Water Supply

If necessary, additional water is available in the City's storage tanks, as listed in

Note: *City is currently equipping Wells M-12A and C-8.*

Table 8.4 on the preceding page. The total water storage capacity is approximately 61.2 AF. Combined with a total backup pumping capacity of 31.4 AF/day (**Table 8.3** wells with emergency power), the combined emergency supply from production wells and aboveground storage reservoirs/tanks is approximately 93 AF.

In addition to the City's own sources, the City has a 12-inch emergency interconnection with the Beaumont Cherry Valley Water District (BCVWD) at the western boundary of the City's service area, located at the intersection of Highland Springs Avenue and Sun Lakes Boulevard. In the event of damage to any of the City's wells, water could be supplied from BCVWD until the well(s) are back online.

If an earthquake renders the adjacent agencies unable to provide emergency water to the City, the City can obtain emergency water through portable means. This would involve vehicles equipped with potable water tanks. The City would have to obtain potable water trucks from nearby suppliers.

The California Department of Public Health maintains a list of Licensed Water Haulers that includes Riverside County. According to the most recent data provided by the State, the closest supplier of potable water tanks and trucks in Riverside County is Mack's Water Trucks® of Temecula, located approximately 45 miles from the City. In San Bernardino County, there is T&B Water Trucks® of Rialto, located approximately 35 miles from the City.

Figure 8.5 Potable Water Tank Trailer

The City can also consider purchasing large tanks (500 gallons or more), and securing them to the back of City trucks. This will allow the City to distribute water to customers during an emergency.

8.7.3. Additional Aid

Additional emergency services in the State of California include the Master Mutual Aid Agreement and the California Water Agency Response Network (CalWARN). The Master Mutual Aid Agreement includes all public agencies that have signed the agreement and is planned out of the California Office of Emergency Services. CalWARN includes all public agencies that have signed the agreement to WARN and provides mutual

aid assistance. CalWARN provides member utilities with:

- Mutual assistance agreement and process for sharing emergency resources
- Resources to respond and recover more quickly from a disaster
- Mutual assistance program consistent with other statewide mutual aid programs and the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS)

In addition to CalWARN, the City of Banning also has a mutual aid agreement in place with the Morongo Band of Mission Indians, who own and operate their own water system and Fire Department.

8.8. WSCP ENFORCEMENT & EVALUATION

To properly assess the effectiveness of this WSCP, the City will need to monitor metered consumption and production. The City will also need to track its billing system to see if fines for violations of water-use prohibitions have been issued.

8.8.1. Monitoring

Using the City's water billing records, the City will be able to identify not only the conserved volumes, but also the customers which are in violation of the provisions of this chapter. In particular, the City can review data from the following sources:

- **Production Meters**: Provides an account of daily water production
- **Customer Meters**: Provides an account of monthly consumption

With AMI/AMR meter technology, if the City desires to determine irrigation violations, the City can monitor meters which will allow the City to view consumption on a daily or hourly basis.

In addition to monitoring customer use, the City also has the ability to monitor production volumes to determine if the well supplies have been reduced. Under normal conditions, potable water production figures are recorded daily. Weekly and monthly reports are prepared and monitored. This data will be used as a baseline to measure the effectiveness of any water shortage contingency stage that may be implemented.

During rationing conditions, the water budget will be monitored on a weekly, daily, or hourly basis depending on the severity of the drought. During a disaster shortage, production figures will be monitored on an ongoing basis. The City's Supervisory Control and Data Acquisition (SCADA) system will warn of any critical conditions instantly. In addition, manual meter readings will be

performed more frequently than the normal monthly schedule.

8.8.2. Enforcement

During shortage conditions, the City can implement water-waste patrols, or increase the frequency of existing water waste patrols. If City staff are unable to conduct additional water waste patrols, the City can contract with outside support to conduct water waste patrols. However, contracting with an outside firm would incur additional costs at a time when revenue is impacted. If violations are observed, fines/penalties per **Section 8.6.6** can be applied.

8.8.3. Reporting

During a declared water shortage, City water staff will report water production and consumption figures to City Council on a monthly basis. Pending regulations from the SWRCB will also require the City to report data to SWRCB on a monthly basis. Therefore, during a declared shortage of the WSCP, City staff will report water production and consumption figures to both City Council and the SWRCB on a monthly basis.

8.9. FISCAL IMPACTS

8.9.1. Impacts to Revenue

Based on the City's total water revenue and operating expenses, demand reductions will potentially result in negative net cash flow from operating activities. **Table 9.1** lists the current residential water rates per hundred-cubic foot (HCF).

Based on the rates shown, a fifty percent (50%) decrease in residential use (approximately 2,200 AF or 960,000 HCF) would result in:

- **$272,200** in lost revenue per month
- **$3.27 million** annual lost revenue

The City has fixed base charges currently in the rate structure that generates some revenue even if no water is used. These rates range from $33.64 per month for a 5/8-inch meter to $1,237.34 per month for an 8-inch meter. Most residential customers use a 3/4-inch meter, which has a rate of $33.64 per month. The base rates allow the City to avoid being impacted by revenue losses during water shortages. The following actions could take place under such circumstances:

- Implement a conservation surcharge
- Delay capital improvement projects
- Consider temporary increase of water rates to meet operation and maintenance costs

A combination of the measures outlined may be used to offset or diminish the effects of lost revenues. However, any increases in the City's water rates would require a Prop 218 process to implement the rates. For this reason, the City has included the implementation of temporary rate increases

(and temporary fees & surcharges) in its rate studies.

8.9.2. Impacts to Reserve Funds

The City carries reserves in the water system accounts, to fund for needed improvements to its water system. The balance of reserves for the City is maintained primarily for facility repair and replacement. Under a shortage crisis, some flexibility would exist to use these reserves to help offset loss of revenue.

8.10. WSCP ADOPTION AND REFINEMENT

8.10.1. Council Resolution

On June 23, 2026, the City Council adopted Resolution No. 2026-## (included in **Appendix B**) approving this WSCP. The City will be updating **Section 13.16** of the City's municipal code in the following weeks to coincide with this WSCP. **Table 8.5 & Table 8.6** provide a summary of the prohibitions and City response actions to the water shortage stages listed in **Table 8.2**.

8.10.2. WSCP Refinement Procedures

The City intends to update and refine this WSCP, as necessary. The WSCP can be updated in one of the following ways:

- Cyclical Updates
- Data-Driven Updates
- Externally-Driven Updates

The following is a guideline for how the City will update this WSCP.

8.10.3. Cyclical Updates

The cyclical updates will be handled by City staff internally with the assistance of an outside engineering consultant. Once the WSCP is implemented, the City will document the effectiveness of the customer water use prohibitions listed in **Table 8.5** and the City water staff response actions listed in **Table 8.6**. The effectiveness will be evaluated using the methodologies described in **Section 8.8**. The WSCP effectiveness will be documented over the course of five (5) years, until the next UWMP update. It is the City's intent to update the WSCP every five (5) years, along with the City's UWMP. The City will conduct an internal review of the WSCP prior to releasing a Request for Proposals (RFP) for the UWMP and WSCP. The RFP process will provide the City with an opportunity to revise the WSCP as-needed.

Figure 8.6 High Valleys Tank

8.10.4. Data-Driven Updates

Data-driven updates to the WSCP will occur mid-cycle or at some point between the 5-year cycle. The data-driven updates can be prepared entirely by City staff (internally) due to the urgency of such updates. For example, if the City finds that the fines/penalties covered under **Section 8.6.6** are not effective at reducing overall demand, the City may increase the fines through an amendment to **Section 13.16** of the City Municipal Code, and revise **Section 8.6.6** (Code Section 13.16.020) to reflect the new fines. Other items of this WSCP can be updated in a similar manner.

Highlighted response actions listed in **Table 8.5** and **Table 8.6** actions show changes from the previously adopted WSCP.

8.10.5. Externally-Driven Updates

Conversely, if the fines are found by the City's customers to be too punitive, and Council is petitioned to reduce the fines, the City can adjust **Section 13.16** of the City Municipal Code, and revise **Section 8.6.6** herein to reflect the new fines. Other items of this WSCP can be updated in like manner.

8.10.6. WSCP Re-Adoption

Once the WSCP is revised, the City Council will be required to re-adopt the revised WSCP. This will require a public hearing to receive public comments on the WSCP. The revised WSCP will replace the former WSCP, and will then remain effective until the City elects to update the WSCP

A WSCP previously submitted in 2020 or later may be reused; however, it must first be reviewed, and if no updates are needed, it can be readopted as is. It must be indicated in the UWMP that a review was conducted and that a previous WSCP is being readopted. Even when no changes are made, the WSCP must undergo a new review and adoption process as part of the 2025 UWMP document. **Section 7** of the 2025 UWMP may be used as a reference to the re-adopted WSCP.

Perhaps the most critical task in the City's response to shutdowns in water is the distribution of water to customers. As noted in the caption to the cover of this Section, portable pumps and water trucks can be used to distribute water to customers. Due to the time and planning involved in procuring these types of vehicles, this task is identified only in the most severe type of shortage (Stage VI).

Table 8.5 City Code Prohibitions on Water Use During Water Shortages

Stage	Prohibition/Restriction	Penalty
Stage 1 (<10%)	• No Irrigation between 10 am to 8 pm • No Person Shall Operate a Decorative Water Feature (Fountains, Ponds, etc.) that Does Not have a Recirculating System • All Landscape Irrigation Limited to No More than Three (3) Days per Week • All Landscape Irrigation Limited to No More than 15 minutes per Station per Watering Day • Repair or Isolate Leaks within 72 Hours of Notification by the City • No Washing Sidewalks and Driveways with Water • Car Washing Only with Bucket or a Hose with Shutoff Valve or Nozzle • Excess Irrigation Runoff is Prohibited • No Landscape Irrigation During or Within 48 hours of a Rain Event • Restaurants to Serve Water Only Upon Request • Restaurants to Wash Kitchen and Dining Room with Bucket or Specialized Water Broom Only • Hotels/Motels to Provide Customer Option of Daily Laundry • Automobile Wash Business Must Use Water Recycling Systems	Yes
Stage 2 (10% to 20%)	• All Landscape Irrigation Limited to No More than Two (2) Days per Week from June 1 to October 31 and No More than Once per Week from Nov 1 to May 31 • All Landscape Irrigation Limited to No More than 10 Minutes per Station per Watering Day • No Filling or Refilling of Ornamental Lakes or Ponds, Except to Sustain Aquatic Life • Repair or Isolate Leaks within 48 Hours of Notification by the City • Pools or Spas to have a Cover to Prevent Evaporation • Cease all Operation of Decorative Water Features (Fountains, Ponds, etc.) • No Landscape Irrigation during or within 72 Hours of a Rain Event • Commercial Nurseries Shall Use Water during the Hours from Midnight to 6am • Commercial Landowners to Allow Tenants the Option of Replacing Lawns & Landscapes	Yes
Stage 3 (20% to 30%)	• All Landscape Irrigation Limited to No More than 2 Days per Week from June 1 to Oct 31 and No More than Once per Week from Nov 2 to May 31 • All Landscape Irrigation Limited to No More than 10 minutes per Station per Watering Day • Repair or Isolate Leaks within 24 Hours of Notification by the City • Car Washing Limited to Only Automobile Washes that use Water Recycling Systems • No Landscape Irrigation during or within 1 Week of a Rain Event • Restaurants to Wash Dining Room Once Daily (After Close of Business) and Only with Bucket or Specialized Water Broom • Restaurants to Pre-Soak Dishes • Restaurants to Install Solenoid Valve for Sinks with Garbage Disposals • No Commercial Window Washing	Yes

Stage	Prohibition/Restriction	Penalty
Stage 3 (20% to 30%)	• Apartment Buildings to Certify Low-Flow Fixtures (Showerheads and Faucets) are Installed Prior to Leasing Apartments • Commercial Buildings and Restaurants to Replace/Install Waterless Urinals • Commercial Buildings and restaurants to Replace/Install Low-Flow Toilets • Hotels/Motels to Wash Laundry Only after Change of Customer	Yes
Stage 4 (30% to 40%)	• Cease all Irrigation Except by Reclaimed Water or Except for Crops or Horticulture (Nurseries) for Fire or Erosion Maintenance • No Refilling of Pools or Spas • Commercial Landscape to be Replaced with CA-Friendly Landscape	Yes
Stages 5 & 6 (50% or more)	• N/A (Same Requirements as Stages 1 to 4 Above) • This Stage Involves Only Operational/Management Response Actions	Yes

Table 8.6 City Water Department Response Actions

Stage	City Water Department Response Action	Additional Info
Stage 1 (<10%)	• Begin an Enhanced Public Awareness Campaign	Increased Expense for City Use Financial Reserve Funds
Stage 2 (10% to 20%)	• No Filling or Refilling of Municipal Ornamental Lakes or Ponds, Except as Necessary to Sustain Aquatic Life • Reduced Flushing Frequency • Notify Customers Immediately of Suspected Leaks in their Plumbing	Increased Expense for City Use Financial Reserve Funds
Stage 3 (20% to 30%)	• Increase Groundwater Pumping • No New Temporary Meters or Permanent Meters • No Statements of Immediate Ability to Serve or Provide Potable Water Service • Establish a Water Allocation for Certain Properties within the City's Jurisdiction • Repair or Isolate Water Main Leaks within 24 Hours • Provide Letters to Certain Properties for Allocations Established in this Stage Informing Reduction of 10% in Allocation of Tiered Rate • Elimination of Specific Municipal Uses such as Hydrant Flushing, Street Cleaning, and Water-Based Recreation	Increased Expense for City Use Financial Reserve Funds

Stage	City Water Department Response Action	Additional Info
Stage 4 (30% to 40%)	• Rate Increase Study to Mitigate Loss of Revenue • Prop 218 process to implement rates increases • Increase Frequency of Meter Readings to Twice Monthly in Order to Allow Staff and Customers to Track Progress • Implement Water Waste Patrols (Once Monthly) • Coordinate with Adjacent Agencies to Receive Emergency Water via Emergency Interconnections • Defer Flushing of Mains Until Maximum Allowable Time for Quality/Safety • Coordinate with Manufacturers and/or Governing Agencies to Receive Fleet of Potable Water Trucks	Increased Expense for City Use Financial Reserve Funds Defer Capital Projects
Stage 5 (40% to 50%))	• Systemwide Rate Increase to Achieve Necessary Reduction and to Mitigate Loss of Revenue • Notices on Government Access Channel (TV) • Hand-Post Drought Notices on all Customer Properties (Residential Homes & Commercial Buildings)	Increased Expense for City Use Financial Reserve Funds Defer Capital Projects
Stage 6 (>50%)	• Mobilize Potable Water Trucks • Decrease Pressure in Water Mains	Increased Expense for City Use Financial Reserve Funds Defer Capital Projects

9

Section 9: Conservation Measure

Conservation measures are an essential part of the City's policies.

9.1. OVERVIEW

As a result of seasonal droughts and continued urban development, water conservation is important to California's sustainability. To help conserve California's water resources, several public water agencies came together to form the California Urban Water Conservation Council (CUWCC). The CUWCC was officially formed in 1991 when the agencies signed a Memorandum of Understanding (MOU) on urban water conservation. In January 2018, the CUWCC became the California Water Efficiency Partnership (CalWEP). Currently, over two hundred (200) water agencies are members of CalWEP. The main focus of CalWEP is to assist its member agencies with public policy, research, and education tools. Regarding the UWMPs, CalWEP works with DWR in order to help form BMP/DMM policies contained in the UWMPs.

The CUWCC MOU established fourteen (14) Best Management Practices (BMPs) which were defined roughly as policies, programs, practices, rules, regulations, or ordinances that resulted in a more efficient use or conservation of water. The BMPs were equivalent to the fourteen (14) Demand Management Measures (DMMs) defined in the UWMP Act, until 2015. As of the 2015 UWMPs, the Department of Water Resources (DWR) streamlined the 14 DMMs into six (6) generalized categories, with an additional seventh (7th) optional category. The 2025 UWMP Guidebook contains the same DMM categories for the 2025 UWMPs.

The City acknowledges that efficient water use is the foundation of its current and future water planning and operations policies. The City implements water conservation through a combination of programs, resources, and policies.

9.2. DWR DMMs FOR 2025 UWMPs

The DMMs are intended to reduce long-term urban demands from what they would have been without their implementation. The DMMs are in addition to programs which may be instituted during occasional water supply shortages.

i. Water Waste Prevention Ordinances

ii. Metering

iii. Conservation Pricing

iv. Public Education & Outreach

v. Programs to Assess and Manage Distribution System Real Loss

vi. Water Conservation Program Coordination and Staffing Support

vii. Other Demand Management Measures that have a significant impact on water use

As with previous UWMPs, agencies that are members of CalWEP can submit the BMP annual reports in lieu of providing a description of each DMM in the UWMP.

9.3. CalWEP BMPs

An active member of the CalWEP has signed the MOU and implements the water conservation measures stipulated by the CalWEP (**Figure 9.1**). According to CalWEP, an agency "implements" a conservation measure by achieving *and* maintaining the level of activity called for in each BMP's definition, as described in the MOU. This requires a minimum level of staffing and funding efforts. To document the implementation of a BMP, an agency is required to submit annual BMP reports to CalWEP that document the implementation of each BMP.

CALIFORNIA WATER EFFICIENCY PARTNERSHIP
A Chapter of the Alliance for Water Efficiency

Figure 9.1 CUWCC became CalWEP in January 2018

The City is not currently a member of CalWEP. However, the City is implementing the same conservation measures as described in the previous sub-section.

9.4. CITY CONSERVATION MEASURES

The City of Banning (City) is committed to implementing water conservation programs and encourages its customers to conserve water whenever possible. The CalWEP BMPs are broad measures aimed at reducing water use either directly (rebates and fixture

changes), or indirectly (through awareness). As a smaller, low-density community surrounded by significant open space, the City is unique compared to many of the other urban, "built-out" member agencies. As such, the City's conservation efforts are tailored to address the characteristics of their specific community. Over the past several years, the City has focused primarily on public information efforts, irrigation, and landscape limitations, and reducing water losses/waste. The City has focused less on rebates and retrofits as water efficient appliance and fixtures have saturated the market over the past few decades. Nevertheless, the City is committed to using "good faith effort" to implement all of the BMPs as described in this section.

9.4.1. DMM No. 1 Water Waste Prevention Ordinances

City Ordinance No. 1039 was adopted by the City Council in 1991, prohibiting the waste of water. Ordinance No. 1039 describes actions that are considered a waste of water and the subsequent penalties if a violation were to occur. In 1998, this Ordinance was incorporated into City Ordinance No. 1231.

In 2006, Assembly Bill No. 1881 was passed, requiring local agencies, beginning January 1, 2010, to adopt a model water efficiency landscape ordinance that is at least as effective as the State's model water efficiency landscape ordinance. The City Council adopted Resolution No. 2010-06 on January 26, 2010 to meet this requirement.

Figure 9.2 Water Waste

Most recently, the City adopted Ordinance No. 1489 pertaining to drought water conservation. This ordinance sets forth mandatory prohibitions and additional restrictions on water use during drought conditions to comply with the executive orders issued by former Gov. Brown related to the declared drought emergency and with the emergency water conservation regulations promulgated by the State Water Resources Control Board. This resolution was codified into **Section 13.16 of the City's Municipal Code**. That section of the Municipal Code with **Section 8** establishes a "Water Shortage Contingency Plan" which stipulates specific prohibition on water use, with penalties for non-compliance.

9.4.2. DMM No. 2: Metering

All of the City's water service connections, for all customer sectors, are metered. The City has investigated the feasibility of

separately metering each of the multi-family dwelling units in its Water Service Area; however, it was determined that doing so was not feasible. The City has also installed dedicated landscape irrigation meters for Sun Lakes Country Club, Caltrans, the City park system, and City school district facilities. New non-residential developments are also now required to have a separate water meter dedicated for landscape use. The City will continue to meter all new water service connections.

The City previously debated transitioning to either a fixed base or drive-by Automatic Meter Read (AMR) system that allows the City to monitor each individual customer account for water conservation. The fixed base system, often referred to as Advanced Metering Infrastructure (AMI), involves placing antennas throughout the City that collect data from the water meters at set intervals. The data is then transferred to a desktop computer. The data is used for individual users for billing purposes or for alerting the City if a set water use threshold has been exceeded, signaling a possible leak on the property. If this condition arises, the owner of the property would be notified by either email or a phone call.

Figure 9.3 AMI-Style Water Meter

The drive-by system is similar to the fixed base system, but instead of using a network of antennas, meter readings are picked up by driving by the meters with specially equipped vehicles and then downloading the readings after returning to the office. This delays the ability to collect the information immediately and be able to alert the customer of possible leaks within the shortest amount of time. The implementation of either AMR system would facilitate the review of water records and evaluation of the effectiveness of conservation programs.

The City's AMI program was completed in 2022. This included installing new "Zenner" brand Stealth AMI meters. Meters smaller than 4-inches are the "multi-jet" design. Meters 4-inches and larger are ultrasonic meters. All work was done in-house, with the exception of software programming to integrate the AMI and Billing Systems.

9.4.3. DMM No. 3: Conservation Pricing

The City has a three-tiered increasing rate structure that applies to all customers. The City's current water rates per hundred-cubic feet (HCF) as of July 2026 are shown in **Table 9.1**:

Table 9.1 City of Banning Current Water Rates

Tier	Pricing (per HCF)
Tier 1 (0-7 HCF)	$3.48
Tier 2 (8-15 HCF)	$3.72
Tier 3 (16+ HCF)	$4.31

The measure of effectiveness of the rate structure, in terms of acting as a catalyst for water conservation, will be assessed based on decreases in the total amount of consumption, since the charges are based on total consumption rates.

9.4.4. DMM No. 4: Public Education & Outreach

The City has initiated several water conservation programs to educate its water service customers regarding various approaches to conserve water. At City Hall, water conservation pamphlets are displayed year-round as well as at public City-wide events. Public Works Department staff plan to visit school classrooms and make presentations on water conservation and distribute brochures with additional conservation information. The Public Works Superintendent is in continuous contact with the staff of Sun Lakes Country Club golf course to manage water more efficiently. The City will continue to expand public education on water resources.

Additionally, the City makes an effort to have Public Works staff visit local schools to make presentations on water conditions in the San Gorgonio Pass area, emphasizing the value of water and water conservation. Educational brochures are also made available to the students.

9.4.5. DMM No. 5: Programs to Assess and Manage Distribution System Real Loss

The City's surveillance of its water system to detect leaks is an on-going operation. The City recognizes the urgency of repairing leaks and responds to any leak in an expedient manner. Field employees are trained in detecting leaks and signs of unauthorized uses of water. In addition, the customer billing system flags high or unusual water bills, which are then investigated for possible leaks in customer's piping. When a leak is first noticed, the pipeline is inspected and promptly repaired.

The City has prepared water audits since the 2015 UWMP. The audits were prepared in accordance with CWC Section 10631(e)(3), using methods and a worksheet developed by the American Water Works Association

(AWWA). The AWWA audit worksheets require a detailed approach to separate apparent water losses from overall water loss totals to reveal the actual "Real Losses" as well as the "Non-Revenue Water." The AWWA audit defines the following:

- Water Losses: Water supplied minus authorized (metered) consumption
- Apparent Losses: Unauthorized or un-metered consumption and inaccuracies or errors
- Real Losses: Water losses minus apparent losses, equaling the actual volume of water lost through leaks, breaks, etc.
- Non-Revenue Water: Real water losses plus apparent losses plus unbilled metered and unbilled unmetered consumption

Based on the results of the 2021-2024 water audits, as described in **Section 6.6.3,** the City's water system losses are shown in **Table 6.3.** The results of recent audits indicate that the City has made improvements on testing, repairs, and record keeping. In addition, the City has recently replaced older, leaking water mains and purchased a meter test bench to enable the City to test meters in-house. In-situ flow testing is being completed annually for several of its meters.

9.4.6. DMM No. 6: Water Conservation Program Coordination and Staffing Support

The City's Superintendent of Water & Wastewater serves as a part-time water conservation coordinator. The City's Public Works staff also assists with coordinating conservation efforts and providing public information about water conservation. Should the need arise, the City will designate the following full-time positions: water conservation coordinator, additional staff support, or both.

9.4.7. DMM No. 7: Other Demand Management Measures

In addition to the DMMs described, the City posts water conservation tips and other information on its website, www.banningca.gov. Although the website page may be updated, the following URL currently provides water conservation tips and other information:

Making Water Conversation a Way of Life | Banning, CA - Official Website
(www.ci.banning.ca.us/451/Water-Conservation)

The City provides additional conservation information and answers questions from its customers upon request. The City has developed a hotline for customer use in reporting leaks, overwatering, and other misuses of water.

9.5. CONTINUED IMPLEMENTATION

As described in **Section 6.8.4**, the City's per capita water use in 2025 was 238 GPCD, which demonstrates that the **City continues to meet its 2020 urban water use target** of 252 GPCD. Although the City has met its target year water use, the City plans to continue its conservation efforts described herein for at least the next five (5) years. The City will continue to track all program activities. Program effectiveness and per capita water use will be monitored through the billing system. For example, the City can measure impacts of infrastructure, repairs, and replacements, including leaking mains, by comparing apparent water losses from the previous month. For this reason, the City will continue to develop its AMI system as a tool to measure effectiveness of all the DMMs.

WEST&ASSOCIATES
ENGINEERING, INC.

JOHN
ROBINSON
CONSULTING, INC.

Table 7.1 City of Banning Water Supply Availability & Demand Projections Normal Water Year (AF)

Water Sources	2030	2035	2040	2045	2050
Population					
Water Service Area Population	38,386	44,608	50,068	55,528	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	212	201	191	182	173
Supply					
Groundwater Pumped (Total)	7,812	7,886	7,920	7,957	7,995
Pumped from Beaumont Basin Storage Account[2]	1,286	2,169	2,812	3,362	3,828
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,098**	**10,054**	**10,732**	**11,319**	**11,823**
Total Available Supply[3]	59,529	59,448	56,818	52,764	48,321
Demand					
Total Estimated Demand[1]	**9,098**	**10,054**	**10,732**	**11,319**	**11,823**
Compare to Avg. Demand for Previous 10 Yrs. (7,028 AF)	129%	143%	153%	161%	168%
Supply/Demand Comparison					
Supply-Demand (Difference)	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	50,432	49,393	46,086	41,445	36,498

Footnotes (see number references in table above):

1. Total Demand = Consumption Rate x Population.
   a. Average consumption rate of last 10 years = 222.5 gallons per capita per day.
   b. Consumption rate in 2001: 363 gpcd.
   c. Consumption rate in 2025: 238 gpcd.
   d. Approximate "passive" savings over past 25 years: 5 gpcd per year.
   e. Projected "passive" savings: 1 gpcd per year = 173 gpcd by 2050.
2. The Beaumont Basin Storage Account currently (at end of 2025) contains approximately 50,007 AF of groundwater.
3. Total Available Supply = [Safe Yield for each Basin (Beaumont Basin's reasonably available volume for that year; Cabazon Basin's maximum reasonably available volume, which takes place in 2050) + Beaumont Basin Storage Account].
   a. Imported water purchased from SGPWA is recharged into the Beaumont Basin, and will be credited to the City in their storage account, allowing for the Reasonably Available Volume to increase. The projections for Imported water purchased is based on the City's recent purchases from SGPWA:
      i. 2030: 1,250 AF
      ii. 2035: 1,500 AF
      iii. 2040: 2,000 AF
      iv. 2045: 2,500 AF
      v. 2050: 2,500 AF
4. The data compiled in these Tables reflects the data presented in DWR Submittal Table 6-9 of **Appendix E**.

Table 7.2 City of Banning Water Supply Availability & Demand Projections Single Dry Year (AF)

Water Sources	2030	2035	2040	2045	2050
Population					
Water Service Area Population	38,386	44,608	50,068	55,528	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	212	201	191	182	173
Supply					
Groundwater Pumped (Total)	7,812	7,886	7,920	7,957	7,995
Pumped from Beaumont Basin Storage Account[3]	1,741	2,671	3,348	3,928	4,419
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,553**	**10,557**	**11,268**	**11,885**	**12,414**
Total Available Supply[4]	58,515	58,184	55,054	50,500	46,057
Normal Year Supply	9,098	10,054	10,732	11,319	11,823
% of Normal Year	105%	105%	105%	105%	105%
Demand					
Total Dry Demand[1]	**9,553**	**10,557**	**11,268**	**11,885**	**12,414**
Normal Year Demand	9,098	10,054	10,732	11,319	11,823
% of Normal Year	105%	105%	105%	105%	105%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	48,963	47,627	43,785	38,615	33,643

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Single Dry Year Increase of 105%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during a Single Dry Year will be 236 AF.
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.3 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2026-2030) (AF)

Water Sources	2026	2027	2028	2029	2030
Population					
Water Service Area Population	33,408	34,653	35,897	37,142	38,386
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	220	218	216	214	212
Supply					
Groundwater Pumped (Total)	7,812	7,812	7,812	7,812	7,812
Pumped from Beaumont Basin Storage Account[3]	1,286	1,330	1,042	1,258	1,468
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,098**	**9,141**	**8,854**	**9,070**	**9,280**
Total Available Supply[4]	49,971	50,338	49,245	48,439	48,126
Normal Year Supply	9,098	9,098	9,098	10,054	10,054
% of Normal Year	100%	100%	97%	90%	92%
Demand					
Total Dry Demand[1]	**8,655**	**9,141**	**8,854**	**9,070**	**9,280**
Normal Year Demand	8,243	8,464	8,681	8,892	9,098
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	443	0	0	0	0
Supply/Demand (%)	105%	100%	100%	100%	100%
Available Leftover Supply Capacity	41,316	41,640	40,391	39,369	38,846

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.4 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2031-2035) (AF)

Water Sources	2031	2032	2033	2034	2035
Population					
Water Service Area Population	39,630	40,875	42,119	43,364	44,608
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	209	207	205	203	201
Supply					
Groundwater Pumped (Total)	7,812	7,812	7,812	7,812	7,886
Pumped from Beaumont Basin Storage Account[3]	1,952	2,442	2,068	2,258	2,370
Total Anticipated Use of Supplies ***(Estimated Production)***	**9,764**	**10,254**	**9,880**	**10,070**	**10,255**
Total Available Supply[4]	49,792	49,493	47,287	45,455	44,142
Normal Year Supply	10,054	10,054	10,732	10,732	10,732
% of Normal Year	97%	102%	92%	94%	96%
Demand					
Total Dry Demand[1]	**9,764**	**10,254**	**9,880**	**10,070**	**10,255**
Normal Year Demand	9,299	9,495	9,686	9,873	10,054
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	40,029	39,239	37,407	35,385	33,887

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.5 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2036-2040) (AF)

Water Sources	2036	2037	2038	2039	2040
Population					
Water Service Area Population	45,700	46,792	47,884	48,976	50,068
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	199	197	195	193	191
Supply					
Groundwater Pumped (Total)	7,886	7,886	7,886	7,886	7,920
Pumped from Beaumont Basin Storage Account[3]	2,822	3,278	2,796	2,930	3,026
Total Anticipated Use of Supplies ***(Estimated Production)***	**10,707**	**11,164**	**10,682**	**10,816**	**10,946**
Total Available Supply[4]	48,980	47,812	44,770	42,210	40,225
Normal Year Supply	10,732	10,732	11,319	11,319	11,319
% of Normal Year	100%	104%	94%	96%	97%
Demand					
Total Dry Demand[1]	**10,707**	**11,164**	**10,682**	**10,816**	**10,946**
Normal Year Demand	10,197	10,337	10,472	10,604	10,732
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	38,273	36,648	34,089	31,394	29,279

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.6 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2041-2045) (AF)

Water Sources	2041	2042	2043	2044	2045
Population					
Water Service Area Population	51,160	52,252	53,344	54,436	55,528
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	189	188	186	184	182
Supply					
Groundwater Pumped (Total)	7,920	7,920	7,920	7,920	7,957
Pumped from Beaumont Basin Storage Account[3]	3,479	3,935	3,396	3,512	3,588
Total Anticipated Use of Supplies ***(Estimated Production)***	**11,399**	**11,855**	**11,316**	**11,433**	**11,545**
Total Available Supply[4]	45,495	43,669	39,969	36,809	34,242
Normal Year Supply	11,319	11,319	11,823	11,823	11,823
% of Normal Year	101%	105%	96%	97%	98%
Demand					
Total Dry Demand[1]	**11,399**	**11,855**	**11,316**	**11,433**	**11,545**
Normal Year Demand	10,856	10,977	11,094	11,208	11,319
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	34,096	31,813	28,653	25,377	22,697

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Table 7.7 City of Banning Water Supply Availability & Demand Projections Multiple Dry Years (2046-2050) (AF)

Water Sources	2046	2047	2048	2049	2050
Population					
Water Service Area Population	56,620	57,712	58,804	59,896	60,988
Consumption Rate (GPCD) *Including 1% Annual Passive Savings*	180	178	177	175	173
Supply					
Groundwater Pumped (Total)	7,957	7,957	7,957	7,957	7,995
Pumped from Beaumont Basin Storage Account[3]	4,040	4,495	3,906	4,006	4,064
Total Anticipated Use of Supplies ***(Estimated Production)***	**11,997**	**12,452**	**11,863**	**11,963**	**12,059**
Total Available Supply[4]	41,386	38,999	34,739	31,069	28,009
Normal Year Supply	11,823	11,823	11,823	11,823	11,823
% of Normal Year	101%	105%	100%	101%	102%
Demand					
Total Dry Demand[1]	**11,997**	**12,452**	**11,863**	**11,963**	**12,059**
Normal Year Demand	11,426	11,530	11,631	11,728	11,823
% of Normal Year	105%	108%	102%	102%	102%
Supply/Demand Comparison					
Supply-Demand (Difference)[5]	0	0	0	0	0
Supply/Demand (%)	100%	100%	100%	100%	100%
Available Leftover Supply Capacity	29,389	26,546	22,876	19,107	15,950

Footnotes (see number references in table above):

1. Total Dry Demand = Consumption Rate x Population x Multiple Dry Year Increases of 105%, 108%, and 102%.
4. Imported water purchased from SGPWA and recharged into the Beaumont Basin during Multiple Dry Years will be as follows:
    a. Dry Year 1: 1,653 AF
    b. Dry Year 2: 236 AF
    c. Dry Year 3: 236 AF
    d. Dry Year 4: 945 AF
    e. Dry Year 5: 1,653 AF
5. A net-zero Supply-Demand (Difference) reveals that an additional amount of groundwater will be taken out of the Beaumont Basin Storage Account to meet the Total Dry Demand, on top of the Normal Water Year amount. A positive difference will be added to the Available Leftover Supply Capacity (Total Available Supply - Total Dry Demand + Difference) of subsequent years, as a surplus of water that was not pumped due to a low Total Dry Demand. For all cases there is more than enough in storage, as shown by the Available Leftover Supply Capacity.
6. All other items derived in similitude to **Table 7.1**.

Column

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Notice of Public Hearing
For 2025 Urban Water Management Plan and
2025 Water Shortage Contingency Plan
Availability of Draft Plan for Review

The City of Banning hereby releases its Draft 2025 Urban Water Management Plan (UWMP) and 2025 Water Shortage Contingency Plan (WSCP) for public review. The UWMP and WSCP will be available through June 23, 2026 at the City's Council Chambers (located at 99 East Street, Banning, CA 92220). An electronic (PDF) copy can also be obtained by contacting the City and requesting a PDF copy.

A Public Hearing will be held as an agenda item of the City's regularly scheduled Council Meeting on Tuesday, June 23, 2026 to consider comments on the Draft 2025 UWMP and WSCP, and to formally adopt the UWMP and WSCP by separate resolutions. The Council Meetings are held at the City's Council Chambers. The time of the Public Hearing will be posted on the Council Agenda which will be released a few days prior to the June 23, 2026 Council meeting.

The City encourages the active involvement of its citizens. If you have any questions concerning the 2025 UWMP and WSCP, please contact: Art Vela, Director of Public Works by email at avela@banningca.gov.

The Press-Enterprise
Published: 6/9, 6/16/26

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Notice of Public Hearing
For 2025 Urban Water Management Plan and
2025 Water Shortage Contingency Plan
Availability of Draft Plan for Review

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The Press-Enterprise
Published: 6/9, 6/16/26

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Jennifer Terry, Finance Director** **Elizabeth Gibbs, City Manager**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution No. 2026-102, Declaring a Fiscal Emergency Due to Extraordinary Financial Circumstances Threatening the City's Ability to Maintain Essential Municipal Services**

STAFF RECOMMENDATION:

Adopt Resolution No. 2026-102 declaring a Fiscal Emergency, which publicly explains the City's fiscal predicament, acknowledges the severity of the crisis, and directs the City Manager to pursue a defined set of actions to immediately stabilize the City's financial condition.

BACKGROUND:

The City's financial challenges have been developing over a number of years. Over the past six fiscal years, the City adopted budgets that were not structurally balanced, relying on one-time revenues to offset ongoing expenditures. As a result, the General Fund balance declined from a $13.1 million beginning balance in FY 2019/2020 to a projected negative $12.8 million by June 30, 2026. The adopted FY 2024/2025 and FY 2025/2026 operating budgets included unrealistic revenue assumptions and continued reliance on non-recurring resources, further exacerbating the City's financial position.

While staff was aware that the City's finances were in a distressed state, specifics were difficult to pin down due to wholesale turnover in the Finance Department and the lack of current accounting records. This context informed the phased approach now underway.

On February 24, 2026, the City Council adopted a Strategic Plan that included the top priority Strategic Initiative 4a — Banning's Workout Plan to Sustainability.

On May 14, 2026, the City Council conducted a budget workshop titled "Banning's Workout Plan to Sustainability," during which staff presented detailed General Fund and Internal Service Fund projections, including a 10-year fiscal forecast. Staff estimated that the current fiscal year will end with a General Fund negative fund balance of approximately $12.8 million. Without immediate corrective action, that deficit is projected to grow to approximately negative $26 million in FY 2026/2027. The magnitude of the structural deficit — approximately $14 million relative to a $37 million General Fund budget — requires immediate and decisive action.

The Workout Plan to Sustainability is structured in phases. Phase 1 focuses on stabilizing the General Fund through immediate budget reductions and other corrective measures — the equivalent of "stopping the bleeding." All options are on the table. However, Banning's economy is not robust enough to resolve this deficit through revenue increases alone. The ultimate solution is three-fold: (1) some tax and fee increases, (2) cost reductions, and (3) assertive actions to grow the local economy.

PURPOSE OF THE RESOLUTION:

Declaring a fiscal emergency formally acknowledges the severity of the City's financial condition and establishes a framework for implementing the necessary fiscal recovery strategies. The proposed Resolution serves two purposes.

First, it ensures transparency with Banning residents about a fiscal problem that has festered without clear public communication for six or more years. Residents deserve to understand what has happened, why difficult actions are necessary, and how they will be affected.

Second, it provides City Council's explicit direction to the City Manager to pursue a defined set of corrective actions. It is important for residents to hear directly from their elected officials that the City Council and City Manager are aligned and moving in the same direction. The fiscal recovery measures authorized under the Resolution include:

- Development of a structurally balanced FY 2026/2027 General Fund budget
- Multi-year financial planning to eliminate negative fund balances
- Expenditure reductions and cost containment measures
- Evaluation of staffing levels and organizational restructuring
- Identification of new revenue opportunities and cost recovery strategies
- Pursuit of economic development initiatives
- Deferral or reprioritization of capital projects and non-essential spending
- Collaboration with labor groups in compliance with applicable laws
- Pursuit of grants and external funding sources

JUSTIFICATION:

The City is experiencing a severe structural deficit that threatens its ability to maintain essential municipal services and protect public health, safety, and welfare. Declaring a fiscal emergency is necessary to acknowledge the urgency of the situation, to communicate transparently with the public, and to establish the formal authority needed to implement immediate corrective actions. The Resolution is a foundational step in the FY 2026/2027 budget process and the first phase of Banning's path to long-term fiscal sustainability.

FISCAL IMPACT:

Adoption of this resolution does not, by itself, have a direct fiscal impact. However, it authorizes and directs the implementation of fiscal recovery measures necessary to stabilize the City's financial

condition and prevent further deterioration of the General Fund.

ATTACHMENTS:

1. Resolution No. 2026-102_Declaraction of Fiscal Emergency 06.23.2026.pdf
2. Banning Revised_Fiscal_Policies_May 14 2026.pdf

RESOLUTION NO. 2026-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DECLARING A FISCAL EMERGENCY DUE TO EXTRAORDINARY FINANCIAL CIRCUMSTANCES THREATENING THE CITY'S ABILITY TO MAINTAIN ESSENTIAL MUNICIPAL SERVICES

WHEREAS, the City of Banning is committed to maintaining essential municipal services for the protection of the public health, safety, and welfare of its residents; and

WHEREAS, the City Council recently conducted a May 14, 2026, Workshop--Banning's Workout Plan to Sustainability, where it received financial information demonstrating significant fiscal challenges affecting the City's General Fund and overall financial condition; and

WHEREAS, the City has been operating with annual General Fund budgets that were not structurally balanced for the last six years, which resulted in a reduction of a healthy FY 19-20 $13.1 million Beginning Fund Balance (savings account) to what we expect to be a negative $12.8 million by June 30, 2026, a dramatic $25.9 million reduction; and

WHEREAS, in the past, the City relied on one-time resources, which made it inaccurately appear the annual budgets were structurally balanced (ongoing revenues cover ongoing expenses), thus avoiding the very conversations that we are having today; and

WHEREAS, the one-time resources have simply disappeared this fiscal year, and with unrealistic revenue projections in a budget that was adopted back in June 2024, resulting in an untenable General Fund--Fund Balance estimate of negative $12.8 million at June 30, 2026, and if no dramatic action is taken now this deficit will likely more than double to negative $26 million through Fiscal Year 26-27; and

WHEREAS, the previous annual budgets lacked the appropriate level of transparency on the finances of the City; and

WHEREAS, the City Council discussed a comprehensive new Budgetary and Fiscal Policy at their May 14th Workshop that would reduce the likelihood of repeating the past; and

WHEREAS, the City Manager has provided City Council with a Workout Plan to Sustainability with a Phase 1, which would include immediate but difficult budget reductions and other measures to "stop the fiscal bleeding" and eliminate the FY 26-27 General Fund budget operating deficit; and

WHEREAS, given the size of this inherited operating deficit, $14 million as a percentage of the current General Fund budget ($37 million), this will be a very difficult process leading to unprecedented budget reductions to stabilize the City's General Fund; and

WHEREAS, the City Manager is working with City staff and consultants to develop a FY 26-27 Annual Operating Budget; and

WHEREAS, the City Council finds that the preservation of essential governmental services and the protection of the public health, safety, and welfare constitute important public purposes requiring immediate but very difficult action; and

WHEREAS, it is very apparent that Banning's current economy cannot sustain an appropriate level of City services, and it produces a higher unemployment rate and lower per household income for its residents when compared statewide or regionally; and

WHEREAS, the City cannot solely tax its way out of this predicament; and

WHEREAS, this Council further finds that extraordinary measures are necessary to stabilize the City's finances, preserve essential public services, improve long-term fiscal sustainability for our children, and protect the interests of the residents of the City of Banning; and

WHEREAS, the City Council desires to formally recognize the severity of the City's financial condition and establish a framework for evaluating and implementing appropriate fiscal recovery measures; and

WHEREAS, the City Council is directing the City Manager to initiate decisions, proposals, and conversations that will be difficult and controversial; and

NOW THEREFORE, the City Council of the City of Banning does hereby ordain as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. DECLARATION OF FISCAL EMERGENCY. Based upon the foregoing recitals, the City Council hereby finds and declares that a fiscal emergency exists within the City of Banning due to extraordinary financial circumstances that threaten the City's fiscal stability and its ability to provide essential municipal services and protect the public health, safety, and welfare.

SECTION 3. PERIODIC REVIEW. The City Council directs the City Manager to continue providing periodic reports regarding the City's financial condition and the status of efforts undertaken to address the fiscal emergency.

SECTION 4. FISCAL RECOVERY MEASURES. The City Council directs the City Manager and City staff to evaluate, develop, and implement lawful measures necessary to address the fiscal emergency, including but not limited to:

a. Proposing a FY 26-27 General Fund budget that is structurally balanced, i.e., ongoing expenditures are covered by ongoing revenues and conforms with the attached Draft Budgetary and Fiscal Policy.
b. Proposing additional multi-year strategies that will result in eliminating negative Fund Balances and pivoting to appropriate positive amounts.
c. Seek immediate economic development opportunities that contribute to Banning's economy and resources to the City.
d. Expenditure reductions and cost-containment measures.

e. Seek partnerships with our labor representatives and comply with State law, e.g., Meyers-Milias-Brown Act (MMBA).
f. Operational efficiencies and organizational restructuring.
g. Review of staffing levels, vacancies, and personnel expenditures.
h. Deferral, modification, or reprioritization of capital projects and non-essential expenditures.
i. Identification of new revenue opportunities and cost-recovery measures.
j. Pursue grants, outside funding sources, and other financial assistance; and
k. Any other lawful actions deemed necessary or beneficial to preserve essential municipal services and improve the City's financial condition.

SECTION 5. CONTINUING EFFECT. This declaration shall remain in effect until terminated by resolution of the City Council upon a determination that the fiscal emergency no longer exists.

SECTION 6. SEVERABILITY. If any provision of this Resolution or its application to any person or circumstance is held invalid, the remainder of this Resolution, including the application of its provisions to other persons or circumstances, shall not be affected and shall continue in full force and effect.

SECTION 7. EFFECTIVE DATE OF RESOLUTION. That this Resolution shall take effect immediately upon its adoption.

SECTION 8. CERTIFICATION. That the City Clerk shall certify the passage of this Resolution and shall cause the same to be published according to law.

[SIGNATURES ON FOLLOWING PAGE]

PASSED, APPROVED, AND ADOPTED this 23rd day of June, 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that Resolution 2026-102 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of June, 2026, and was duly adopted at a regular meeting of said City Council on the 23rd day of June 2026, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

CITY of BANNING

Budgetary and Fiscal Policies

I. PURPOSE

To satisfy our fiduciary responsibilities of being Transparent and Accountable in our use of public resources and to ensure Fiscal Sustainability in supporting our continued delivery of reliable services to our residents and visitors to our City.

II. METHODS FOR COMPLIANCE

City Council Periodic Review

The City Council shall conduct an annual review of this policy document to evaluate its effectiveness, consider any necessary refinements and formally adopt it. As part of this review the City Manager and Finance Director will present an overview of the City's compliance with this Policy and commit to continual compliance.

Budget Development & Operational Policies

Budget Message

1. The City Manager is ultimately responsible for ensuring that a Budget Document is presented to the City Council and the public in a manner that is clear, understandable, and comprehensive to all stakeholders, including City staff, City Council, and residents. The City Manager's Budget Message will highlight key assumptions of the proposed budget, any explicit or implicit policy decisions, and, if the budget is adopted by the City Council, the short and long-term implications to the City's current fiscal position and long-term fiscal sustainability.

   The City Manager's Budget Message should include an affirmation that the Proposed Budget conforms with the entirety of these Budgetary and Fiscal Policies. If any exceptions to this policy are proposed, they should be clearly identified, evaluated alongside alternatives, and accompanied by proposed plan to reach full conformance.

Structurally Balanced Budget

2. The City Manager is to propose a "structurally balanced" budget (i.e., ongoing expenditures are funded by ongoing revenues) for the General Fund and all other Funds. To the extent the City Manager requests a deviation from this requirement, it should be clearly highlighted and discussed in the Budget Message. Preferably, any such deviations from policy should be identified and addressed prior to the Budget being presented to the City Council for adoption. The discussion shall outline, the reasons for the exception(s), the short and long-term implications, and how/when the City will return to compliance with this policy.

Budget Controls

3. The City will maintain a budgetary control system to ensure compliance with the adopted budget. The City will prepare quarterly status reports comparing actual revenues and expenditures to budgeted amounts. Where practical, the City will develop performance measures to be included in the operating budget.

Mid-Year Budget Review

4. The City will provide a detailed mid-year review that compares the Adopted Budget to actual revenue/expenditure activity. The review will clearly communicate the City's level of conformance with the original Adopted Budget and expected year end fiscal position. This mid-year review will also include presentation of the Audited Annual Comprehensive Financial Report (ACFR) from the previous fiscal year with a layperson's assessment of key findings within the ACFR. At a minimum, this assessment should include material fund balance deviations between budgeted vs. audited actual balances as well as any relevant audit findings identified in the Management Letter, the Single Audit Report, the ACFR auditor's opinion letter or other applicable source.

Budget Planning Workshop

5. The City will conduct an annual City Council workshop with the purpose of reflecting on the City's current and expected long-term fiscal position for the General Fund, Utilities, and other Funds; current service levels and perceived needs of the community; and the parameters for the City Manager's upcoming Proposed Budget. A 5 or 10-year fiscal forecast should be completed and discussed at this workshop.

Other Budget Goals

6. The City will strive to provide adequate maintenance of facilities, plant, and equipment and for the orderly replacement. If this is not occurring, this fact should be communicated with the City Council.
7. The City will project its equipment replacement and maintenance needs for the next several years and will update these projections annually. For this projection, a maintenance and replacement schedule will be developed and followed.
8. During the budget process, the City will reassess services and service levels. Staff may seek citizen input by surveys, public forums, and similar methods to accomplish this evaluation.

Capital Improvement Policies

1. The City will maintain a rolling 5-year capital improvement plan presented annually with the adoption of each annual budget.
2. Capital improvements are to be funded primarily by user fees, service charges, development impact fees, assessments, special taxes, or developer agreements as appropriate.
3. The City will require that project costs and related funding be submitted with requested capital projects. "Full life" costs including operating, maintenance and demolition, if any, should be identified.

4. Although the City will strive to finance projects on a pay-as-you-go basis, the City Manager may recommend, and the Council may conclude that issuance of debt is the preferred alternative. This will be based on a study of the economy and other matters discussed below. The City will use the following criteria to evaluate the use of long-term financing vs. pay-as-you-go funding for capital projects:

Factors favoring pay-as-you-go.

- current revenues and excess reserves are available now and into the foreseeable future, or project phasing can be accomplished.
- debt levels adversely affect credit rating or there is unacceptable risk to the budget.
- market conditions are unstable, or marketing difficulties exist for the debt.

Factors favoring long-term financing.

- the most equitable way of financing a project that benefits the entire community would be debt financing (pay-as-you-use) to provide the services in a timely manner.
- revenues available for debt service are determined to be sufficient and reliable to provide funding for long-term financing which can be marketed with investment grade credit ratings. The assumption for the future revenue projections should include a conservative fiscal forecast (e.g., impacts of recessionary cycles, etc.).
- the facility and underlying fiscal security for the financing is of the type that will support an investment grade credit rating.
- market conditions present favorable interest rates and demand for City financing.
- a project is mandated by state and/or federal requirements and current revenues or fund balances are insufficient to "pay-as-you-go".
- the facility is immediately required to meet or relieve capacity needs.
- the life of the asset financed is equal to or longer than the life of the debt service.
- the proposed long-term financing must conform with the Debt Management Policies below.

Revenue Policies

1. The City will strive to maintain a diversified revenue system to protect it from short-run fluctuations in any one revenue source.
2. State and Federal funds may be pursued and utilized, but only when the City can be assured that the total costs and requirements of accepting funds are known and judged not to adversely impact the City's General Fund and other Funds.
3. The City, where allowed by law, will review all fees for licenses, permits, fines, and other miscellaneous charges on a 3–5-year rotating basis. They will be adjusted as necessary after considering inflation, cash flow needs, direct and indirect costs to provide the services, the need to meet Fund Balance policies, and any other factors pertinent to the specific item. A regular review and implementation of index escalators will be applied wherever authorized by resolution or ordinance.

4. The City shall review enterprise rates (i.e., rate studies, cost of service analysis) every 5 to 6 years, or earlier if needed, to ensure revenues are sufficient to cover operations, capital, reserves, and debt obligations.
5. An administrative fee will be charged where allowed by law for administrative services, provided the fee is based on the reasonable estimated costs incurred.
6. All proposed capital projects will have a detailed capital budget specifying total costs and total revenues and shall identify the source of proposed revenues.

Debt Management Policies

1. The City will not use long-term debt to finance current operations. Long-term borrowing will be confined to capital improvements or similar projects with an extended life which cannot be "pay-as-you-go" financed from current and conservatively expected revenues over the life of the asset.
2. Debt payments shall not extend beyond the estimated useful life of the project being financed. The City will try to keep the average maturity of bonded debt at or below 20 years.
3. The City will maintain good communications with bond rating agencies and the bond market concerning its financial condition consistent with best practices and SEC guidelines.
4. The City may utilize lease purchasing with specific approval of the City Manager. The useful life of the item must be equal to or greater than the length of the lease. A lease purchase will require City Council approval beyond a five-year lease term, or the principal amount is over the City Manager's authorized contract signing level.
5. The City will not obligate the General Fund to secure financing unless the marketability of the issue will be significantly enhanced resulting in lower interest costs, and there is appropriate review of the risk to the General Fund. This assessment of risk should be independently affirmed by the Municipal Financial Advisor.
6. A feasibility analysis shall be prepared for each request for long-term financing which analyzes the impact on current and future fiscal year budgets for debt service and operations. The analysis shall also address the reliability of revenues supporting annual debt service along with the risk of inevitable economic cycles that could impact that reliability.
7. The City shall conduct financing on a competitive basis unless, for reasons of market volatility, the use of an unusual financing structure or a complex security structure indicates the negotiated financing is preferred. These options should be evaluated with our contracted Municipal Financial Advisors.
8. The City will monitor all forms of debt on an annual basis and report concerns or suggested restructuring, if any, to the City Council as part of the annual Budget Planning Workshop process.
9. Enterprise and Property owner-based financing will only be issued under the assumption that the issue is self-supporting from user fees and charges, assessments, and special taxes without impacting the General Fund.

10. Appropriate credit enhancements, such as insurance or letters of credit shall be considered for marketing purposes, availability, and cost effectiveness.
11. The City shall diligently monitor its compliance with bond covenants and ensure its compliance with federal arbitrage regulations. Any current or expected non-compliance needs to be communicated to Council along with a plan to address it.
12. The City may issue interfund loans, but they must comply with the City of Banning current Interfund Advances or Loan Policy.

Fund Balance Policy For the General Fund

The Fund Balance (like household savings) of the General Fund is a critical buffer for the inevitable emergencies (e.g., recessionary impact on revenues, etc.), for an unexpected crisis, (e.g., uninsured loss, legal and/or court decisions), and to address operating cash flow needs. Because the General Fund is so foundational to the City's ability to provide services, the Policy goals discussed here, and the following section are extremely important.

<u>The City's Fund Balance available for emergencies and to meet cash needs should be a minimum 17% with a target range of 17% to 30% of operating appropriations.</u>

This Fund Balance Policy establishes the desired funding level to ensure fiscal sustainability, protection against the unexpected and to meet cash flow needs. The following section sets out the procedures for reporting fund balance in the General Fund financial statements. The policy also authorizes and directs the Finance Director to prepare financial reports which categorize fund balance as per Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions.

During the Mid-Year Budget Review, the Budget Planning Workshop, and the Budget presentation to City Council, the Finance Director, in conjunction with the City Manager, will report on the condition of the Fund Balances and provide an assessment of their compliance with this Policy. To the extent there is non-compliance, a plan shall be presented to achieve compliance in a timely fashion. Failure to do so presents an unacceptable risk to the City.

III. ACCOUNTING PROCEDURES FOR POLICY COMPLIANCE

Fund Balance is essentially the difference between the assets and liabilities reported in a governmental fund. There are five separate components of fund balance, each of which identifies the extent to which the City is bound to honor constraints on the specific purpose for which amounts can be spent.

- Nonspendable Fund Balance (inherently nonspendable, will not convert to cash in the following year; thus, cannot be used as an available resource in the budget)
- Restricted Fund Balance (externally enforceable limitations on use)
- Committed Fund Balance (City Council self-imposed limitations on use)
- Assigned Fund Balance (limitations resulting from City Council intended use)
- Unassigned Fund Balance (residual net resources available for use)

The first two components listed above are not addressed in this policy due to the nature of their restrictions. An example of Nonspendable Fund Balance is inventory or other asset that will not

convert to spendable cash in the next year. Restricted fund balance is either imposed by law or constrained by grantors, contributors, contracts, or regulations of other governments. This policy is focused on financial reporting of Fund Balance that can be controlled by City Council decision, the last three components listed above (Committed, Assigned and Unassigned). These three components are further defined below.

Committed Fund Balance

The City Council, as the City's highest level of decision-making authority, may commit Fund Balance for specific purposes pursuant to constraints already imposed by formal actions taken, such as an ordinance or resolution. These committed amounts cannot be used for any other purpose unless the City Council removes or changes the specified use through the same type of formal action taken to establish the commitment. City Council action to commit Fund Balance needs to occur within the fiscal reporting period; however, the amount can be determined subsequently.

The Finance Director is the subject matter expert and is expected to ensure compliance with the following Fund Balance policy. If noncompliance occurs or is expected to, this fact will be reported to the City Manager. These two are then expected to report out to the Council at the earliest possible time as to why there is noncompliance and propose a plan for eventual compliance.

- General Fund Emergency Contingency

  The City's General Fund balance committed for emergency or inevitable economic cycle contingencies is established at a minimum of 17% or up to 30% of operating appropriations. The Emergency Contingency is reserved for economic uncertainties, local disasters, recession, or other financial hardships; to subsidize unforeseen operating or capital needs; and for cash flow requirements. The City Council may, by the affirming vote of three members, change the amount of this commitment and/or the specific uses of these monies.

  To the extent the General Fund does not have adequate funds to achieve the minimum 17%, the City Manager will immediately offer a plan with options, to reach that amount. The City Manager will not propose a budget that causes non-compliance with this Policy without a substantive staff report that highlights proposed options to continue compliance vs. options to temporary fall outside this range along with a plan to get back into compliance. This discussion will occur well before the budget is submitted to Council for adoption, preferably during the Budget Planning Workshop.

  The status of the General Fund-Fund Balance will be discussed as part of the City Manager's Budget Message, in the Budget document.

Assigned Fund Balance

Amounts that are constrained by the City's intent to be used for specific purposes, but are neither restricted nor committed, should be reported as assigned fund balance. This policy hereby delegates the authority to assign amounts to be used for specific purposes to the Finance Director, with concurrence from the City Manager, for the purpose of reporting these amounts in the annual financial statements. A few examples of assigned fund balance follow.

- Continuing Appropriations

  This is sometimes called "carryover appropriations" which reflects unspent funds for unfinished capital projects that must be carried forward into the new fiscal year to complete the project.

- Debt Service

  Established to provide for future debt service obligations.

Unassigned Fund Balance

These are residual positive net resources of the General Fund more than what can properly be classified in one of the other four categories.

Fund Balance Classification

The accounting policies of the City consider Restricted Fund Balance to have been spent first when an expenditure is incurred for purposes for which both Restricted and Unrestricted Fund Balance is available. Similarly, when an expenditure is incurred for purposes for which amounts in any of the Unrestricted classifications of fund balance could be used, the City considers Committed amounts to be reduced first, followed by Assigned amounts and then Unassigned amounts.

This policy is in place to provide a measure of protection for the City against unforeseen circumstances and to comply with GASB Statement No. 54. No other policy or procedure supersedes the authority and provisions of this policy.

Available Fund Balance Policies

Available Fund Balance is a term used in budgets and essentially is the sum of Committed, Assigned and Unassigned Fund Balance. It is this number that when added to Revenues describes the total Resources available to fund the budget.

1. Each Fund shall maintain, if necessary, an appropriate Available Fund Balance reserve to fund prior year's incomplete capital projects, continuing appropriations, cash flow needs and any other financial need not included in the current fiscal year budget.
2. The BUA Water and Wastewater operational funds shall maintain a minimum Available Fund Balance reserve equal to 90 days of the operating and maintenance expenses and debt service payments.
3. The Electric operational fund shall maintain a minimum Available Fund Balance reserve of 10% of the upcoming fiscal year's total operating appropriations and debt service payments. The Available Fund Balance for the Electric Rate Stability Fund shall be maintained at a minimum of 20% of the upcoming fiscal year's total operating appropriations and debt service payments.
4. The Self-Insurance Fund shall maintain a $1 million minimum Available Fund Balance reserve after fully funding the Accrued Claims Liabilities as determined by the actuary at an 80% confidence factor.

Budget and Budgetary Accounting Policies

The City uses the following procedures in establishing the budget:

1. Before the beginning of the budget cycle, the City Manager facilitates a Budget Planning Workshop to discuss the City's finances, both current and long-term, current service levels, perceived needs of the community and the parameters of the City Manager's upcoming Proposed Budget commencing July 1. The Council will provide general direction.
2. A budget workshop(s) may be conducted every two years or as needed to obtain citizen comments.
3. The budget is subsequently agendized, thoroughly discussed and adopted through passage of a resolution.
4. For a given fiscal year, all appropriations are as originally adopted or as amended by the City Council. At year end, all unencumbered budgeted amounts lapse, subject to requests for continuing appropriations. Outstanding encumbrances may be carried forward into the new fiscal year upon the Finance Director's review and City Manager approval.
5. Continuing Appropriations requests and Authorized Capital Projects are approved by the City Manager after the adoption of the original budget. The original budget is then adjusted accordingly.
6. The legal level of budgetary control is at the fund level. A Department Head may transfer budget appropriations within a major category in a department or Fund under his authority. The City Manager's approval must be obtained when a budget appropriation transfer request moves from one major appropriation category to another within a department.
7. The City Council may, at any time, amend the budget or delete appropriations, transfer appropriations within a fund, or change appropriation transfers between funds.

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

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

MEETING DATE: **June 23, 2026**

SUBJECT: **Consideration of Resolution 2026-71, Approving Amendment No. 2 to the Landscape Operation and Maintenance Contract for Landscape Maintenance District No. 1 with Mariposa Landscapes, Inc. of Irwindale, California for Fiscal Year 2026/2027 in the Amount of $92,114.65**

STAFF RECOMMENDATION:

Adopt Resolution 2026-71

BACKGROUND:

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

LMD No. 1 currently consists of seventeen (17) accepted tracts in eleven (11) Zones: Tract Nos. 21882, 22810, 22811, 22913, 23446 (including the median on Highland Home Road), 23598, 28252, 29721, 30186, 30222, 30793, 31833, 31834, 31835, 32109, 30906 and 32370.

The purpose of LMD No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, retention basins, and the irrigation of the above facilities all of which are part of residential development projects. LMD No. 1, by special benefit assessments, provides funding for the servicing and maintenance of designated landscape areas within the City of Banning.

A Request for Proposals (RFP) No. 24-061 for the Operation and Maintenance of LMD No. 1 was prepared and released through the OpenGov program on April 5, 2024. On June 25, 2024, the City Council approved Resolution No. 2024-108, awarding the contract for the Operation and Maintenance of LMD No. 1 to Mariposa Landscapes, Inc, shown as Attachment 3. As originally approved, the Contract Agreement was for a term of twelve (12) months ($6,517.61/month; $93,211.26/year including the $15,000 for additional repairs) with the possibility of an option to renew for up to four (4) single additional years (for a total of five (5) single years) upon a satisfactory yearly review of the previously provided services. The total "not to exceed" amount for the Contract was $93,211.26, which included $15,000 for miscellaneous expenses.

An annual cost increase equal to the increase in the Consumer Price Index (CPI) percentage for all Urban Consumers in the Riverside-San Bernardino-Ontario, CA area, published by the United States Department of Labor, Bureau of Labor Statistics during the preceding calendar year is applied each year. Therefore, for this FY 2026/2027 Cost Proposal, a 3.25% CPI increase over last year's costs was incorporated and is attached.

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

For Fiscal Year 25/26, Richard Sanchez Park was removed from the Scope of Work in Zone 1 and is now maintained by the Parks Department, reducing the contract costs, and annual tree trimming within the retention basin in Zones 10/11 was added. On May 27, 2025, City Council approved Resolution 2025-67, Amendment No. 1, which was for a term of twelve (12) months, ($5,416.84/month; $90,002.08/year including the $25,000 miscellaneous repair costs, with the possibility of an option to renew for up to three (3) more single additional years (for a total of five (5) single years) upon a satisfactory yearly review of the previously provided services.

Amendment No. 2, shown as Attachment 5, will extend the current Contract through June 30, 2027. The cost proposal for FY 2026/2027, included as Attachment 6, is for $5,592.89/month ($67,114.68/year) with the addition of $25,000 for miscellaneous repairs and new plants, the total "not to exceed" amount is $92,115/year.

The estimated expenses for operating LMD No. 1 for FY 26/27 are $183,492 (based on FY 2025/2026 actual costs), which includes landscape maintenance, repairs and utilities. About $40,000 of these expenses are from each Zones' reserves in Zones 2, 6 and 10 and are being used for projects that have not previously been done and include: removal of diseased trees and sidewalk repair in Zone 2; converting to a drip irrigation system and refreshing plants in Zone 6; and tree trimming along Mountain Ave. in Zone 10. The revenues collected are $164,031.63, a shortfall of approximately $19,461 for the overall District. It should be noted that each zone within the District has its own fund balance and budget separate from other zones.

Attachment 7 identifies funding reserve balances in each zone. Some of the zones (Zones 3,4,5 and 9) do not have sufficient reserves to cover the projected expenses next year; therefore, a further reduction in maintenance services is imminent to reduce costs.

As requested by City Council, a RFP that combines all three of the City's landscape maintenance contracts is in the process of being prepared. This will include LMD No. 1, City parks and City facilities to determine if economies of scale could lead to cost savings. In the meantime, staff is recommending approval of Resolution 2026-71 to renew the current landscape maintenance services contract for the upcoming fiscal year. This contract will be for one year with the stipulation currently in the Agreement that it can be terminated with or without cause, subject to 30 days of written notice to Mariposa Landscapes, Inc. if the RFP yields a bid proposal for the City properties landscape maintenance services for a lesser cost.

Zones 1-5 of the LMD do not have an annual CPI escalator built into their authorizations. In effect, that means that revenue from those zones have been flat for 36 years. During that time CPI has increased where $100 in 1990 would require $259.19 in today's dollars. Costs for labor, water, power, and materials has increased over that period, while revenue has been flat. The only option to balance revenues and expenses is to cut services. The bid schedule included in this resolution for those zones reflects a maintenance schedule commiserate with the revenues generated by each zone.

JUSTIFICATION:

The Public Works Department does not have the required staff to fulfill the landscape needs of the LMD, and cannot provide the service at a rate below that proposed by the selected vendor. Therefore, it is necessary to retain a landscape maintenance contractor to provide these services.

FISCAL IMPACT:

Fund No. 111 (Landscape Maintenance Assessment District No.1) will be utilized to fund this contract for Fiscal Year 2026/2027 in the amount of "not to exceed" $92,114.65. Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $67,114.65 will fund the monthly operation and maintenance portion of the Contract Amendment and also be used to fund miscellaneous "as-needed" expenses related to irrigation repairs and landscaping replacement in the amount of up to $25,000. The completion of miscellaneous repairs and replanting will be dependent on funding available in each individual zone.

ATTACHMENTS:

1. Resolution 2026-71 - LMD Maint. Mariposa Landscaping.docx
2. Resolution 2027-71 Exhibit A, Amendment No. 2.pdf
3. LMD No.1 Map of Zones 1 thru 11 Combined.pdf
4. Reso. 2024-108, CC Meeting on 6.25.24.pdf
5. Reso. 2025-67, CC Meeting on 5.27.25.pdf
6. FY 26 27 Cost Proposal.pdf
7. Zone Funding.pdf
8. Photos.pdf

RESOLUTION 2026-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 2 TO THE LANDSCAPE OPERATION AND MAINTENANCE CONTRACT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 1 WITH MARIPOSA LANDSCAPES, INC. OF IRWINDALE, CALIFORNIA, FOR FISCAL YEAR 2026/2027 IN THE AMOUNT OF $92,144.65

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

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

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

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

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

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

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

WHEREAS, on May 27, 2025, the City Council approved Resolution No. 2025-67, extending the term through Fiscal Year 2025/2026 for an additional one-year period with the option to renew for three (3) additional single years; and

WHEREAS, Mariposa Landscapes, Inc. has provided satisfactory work and the Second Amendment to the Agreement will extend the term through Fiscal Year 2026/2027 for an additional one-year period with the option to renew for two (2) additional single years; and

WHEREAS, Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $67,144.65 ($5,592.89/month) will fund the monthly operation and maintenance portion of the agreement and Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of $25,000 will also be used to fund miscellaneous operations related to irrigation repairs and landscape replacement.

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

SECTION 1. The Banning City Council approves Resolution 2026-71, approving the Second Amendment to the LMD No. 1 Operation and Maintenance Agreement with Mariposa Landscapes, Inc., extending the term through Fiscal Year 2026/2027 and increasing the compensation in the amount of "not to exceed" $92,144.65 for FY 2026/27 with the option to renew for an additional two (2) single years, subject to a Consumer Price Index increase adjustment and satisfactory performance.

SECTION 2. The City Manager or her designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Second Amendment, for the Operation and Maintenance of LMD No. 1 with Mariposa Landscapes, Inc. for Fiscal Year 2026/2027.

SECTION 3. The City Manager or her designee is authorized to make necessary non-substantive adjustments to the Second Amendment and to execute the Second Amendment with Mariposa Landscapes, Inc. for Fiscal Year 2026/2027.

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 9th day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-71, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of June, 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit "A"

Amendment No. 2 with Mariposa Landscapes, Inc.

FY 2026/2027 Landscape Maintenance of LMD No. 1

AMENDMENT NO. 2 TO AGREEMENT FOR CONTRACT SERVICES (C01040) FOR LMD NO. 1 LANDSCAPE MAINTENCE SERVICES BY AND BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE CONTRACT SERVICES AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("CITY") and **MARIPOSA LANDSCAPES, INC.,** a California Corporation ("Contractor") is effective as of this day: _____.

RECITALS

A. City and Contractor entered into that certain Contract dated June 25, 2024 for the purpose of providing Landscape Maintenance District No. 1 ("LMD No. 1") Landscape Maintenance Services, pursuant to Request for Proposals("RFP") No. 24-061 , titled Operation and Maintenance of Landscape Maintenance District No. 1. For purpose of clarification, any reference within the Agreement or related documents to RFP No. 23-061 was included in error. The correct RFP number is RFP No. 24-061

B. City and Contractor have entered into an Amendment No. 1 to the Agreement dated May 27, 2025 to modify the Scope of Services, extend the Term of the Agreement to June 30, 2026, and increase the Contract Sum to One Hundred Eighty-Three Thousand Two Hundred Thirteen Dollars and Thirty-Four Cents $183,213.34, as approved by City Council Resolution 2025-067.

C. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to June 30, 2027, and increase the Contract Sum to Two Hundred Seventy-five Thousand Three Hunred Twenty-Seven Dollars and Ninty-Nine Cents ($275,327.99).

The Parties therefore agree follows:

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

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 2 shall not exceed Ninty-Two Thousand One Hundred Fourteen Dollars ($92,114.65) thereby increasing the Contract Sum, as set forth in Section

2.1 of the Agreement, to Two Hundred Seventy-five Thousand Three Hunred Twenty-Seven Dollars and Ninty-Nine Cents ($275,327.99).

1.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2027, unless sooner terminated or extended as provided in the Agreement under Section 6.7.

1.3 Exhibit C-1 to the original Agreement is hereby amendedas set forth in Attachment 1, which is attached hereto and incorporated herein.

1.4 Correction to RFP Number. Any reference within the Agreement or any related documents to RFP No. 23-061 is hereby acknowledged to have been a clerical error. The Parties agree that the correct reference is RFP No. 24-061, and all such references shall be deemed amended accordingly.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2, all provisions of the Agreement, as amended by Amendment Nos. 1 and 2, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 and 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendments No. 1, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING	CONTRACTOR
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval: _____	_____ NAME: TITLE:
ATTEST:	
_____	
Sandra B. Calderon Deputy City Clerk	
APPROVED AS TO FORM: Slovak Baron Empey Murphy & Pinkney	
_____	
John Pinkney City Attorney	

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

ATTACHMENT NO. 1

FY 2026-2027 BID SHEET PROPOSAL

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

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
1	22810, 22811, 22913	Oregon Trail, east side, per site visit with staff	Shrubs and ground cover quarterly.	$335.07
1	30186	Mountain Avenue, Wilson Street and Oregon Trail west side, does **not** include Retention Basin, per Plans and site visit with staff	Shrubs and ground cover quarterly.	$763.84
1	30222	Mountain Avenue, per Plans and site visit	Shrubs and ground cover quarterly.	$222.26
2	21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$656.74
2	23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$656.74
3	29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$102.17
4	32109	Wilson Street and Alder Court, west side, per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$191.70

5	23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$464.26
6	28252	Hathaway Street, west side, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$309.00
6	28252	Retention Basin, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$250.94
7	30793	Wilson Street, Foothill Drive, includes portion of Omar Street, per Site Visit with staff and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$187.10
8	31833	Charles Street, north side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$114.18
8	31834	Charles Street, south side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$114.18
9	31835	Charles Street, Hargrave Street and Victory Avenue, (tract perimeter) per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$534.67
10	30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April	$413.89

			1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	
10/11	30906, 32370	Retention Basin, per Site Visit and per Plans	Tree trimming annually.	$197.69
11	32370	Mountain Avenue, west side, North and South of Cedar Lane, frontage along the tract, per Site Visit and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$78.45
		GRAND TOTAL: (Cost/month)	**$5,592.89**	

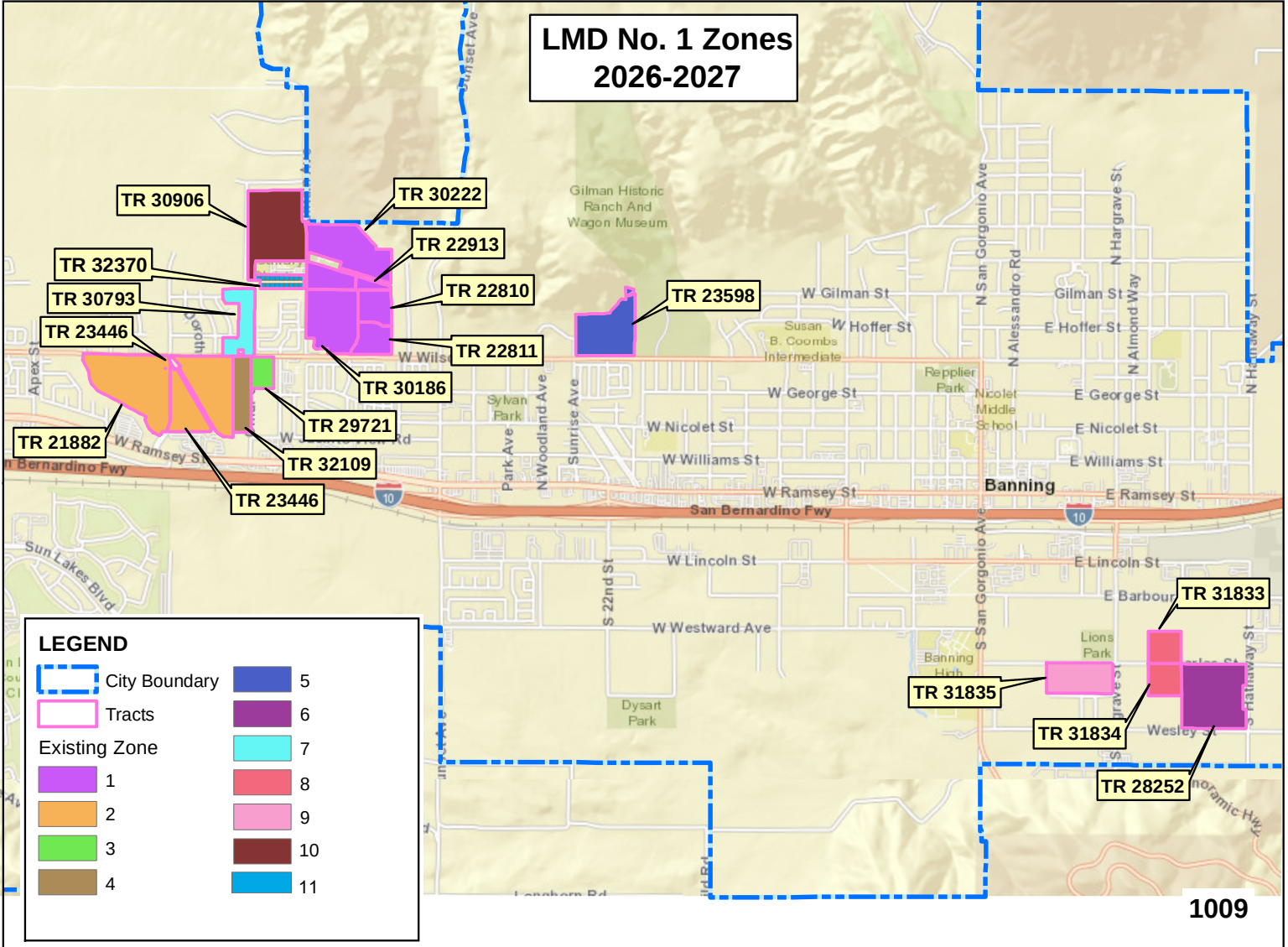
Note:"Per plans" means the Tract has improvement plans on file.

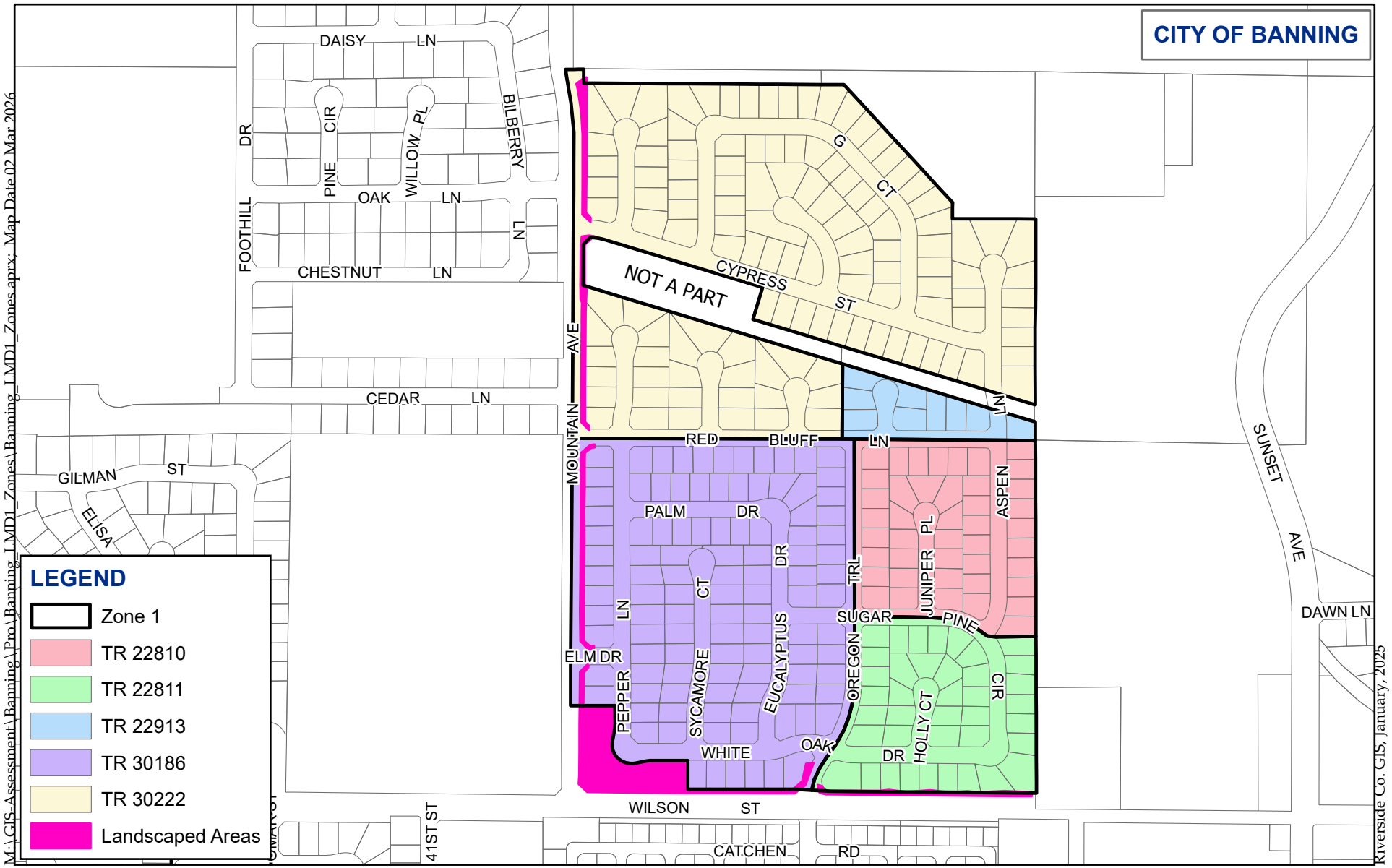
Retention Basins in Zone 1 will include trash pickup and weed abatement twice per year in price above for Zone 1. The frequency may be reduced in a Zone depending on the budget for that Zone during the term of the contract or Fiscal Year.

CPI OF 3.25% was applied to the last Bid Sheet cost submitted in the FY 25/26 proposal, per the Contract.

TOTAL ANNUAL COST FOR LMD NO. 1 FY 26/27: $67,114.65

LMD No. 1 Zones 2026-2027

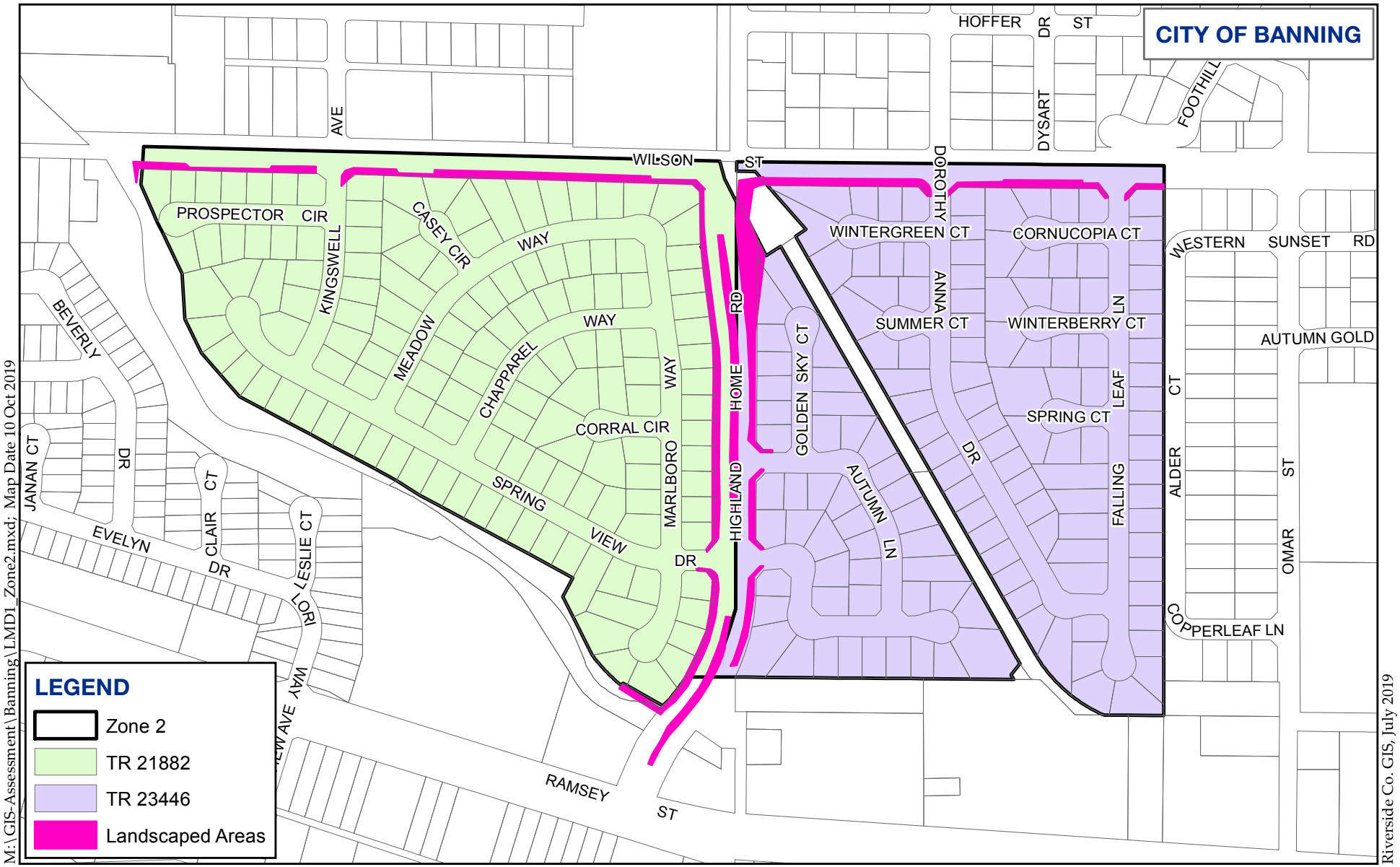




Landscape Maintenance Areas
LMD 1 Proposed Zone 1

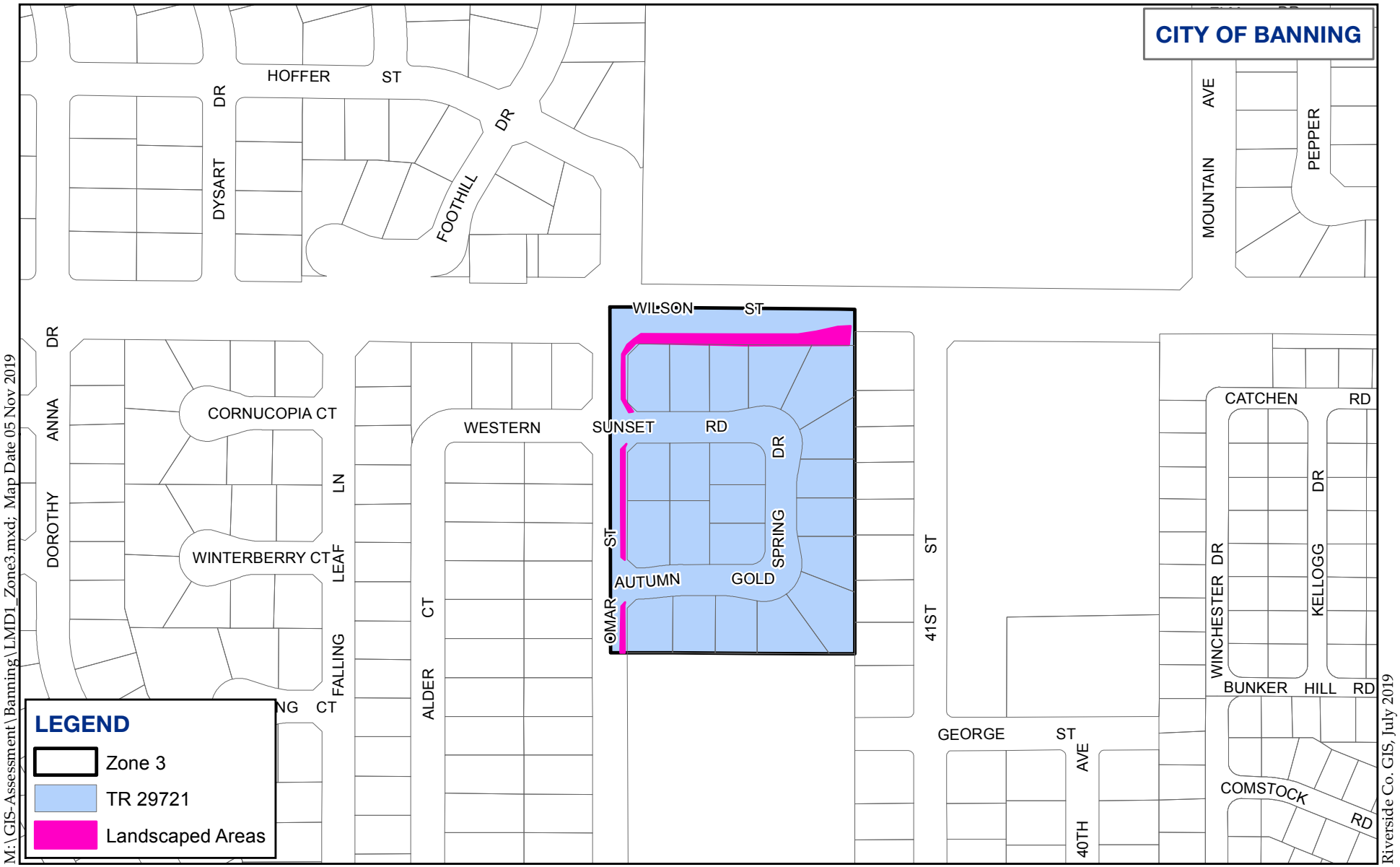
0 500 1,000 1,500 Feet

Webb MUNICIPAL FINANCE



Landscape Maintenance Areas
LMD1 Proposed Zone 2

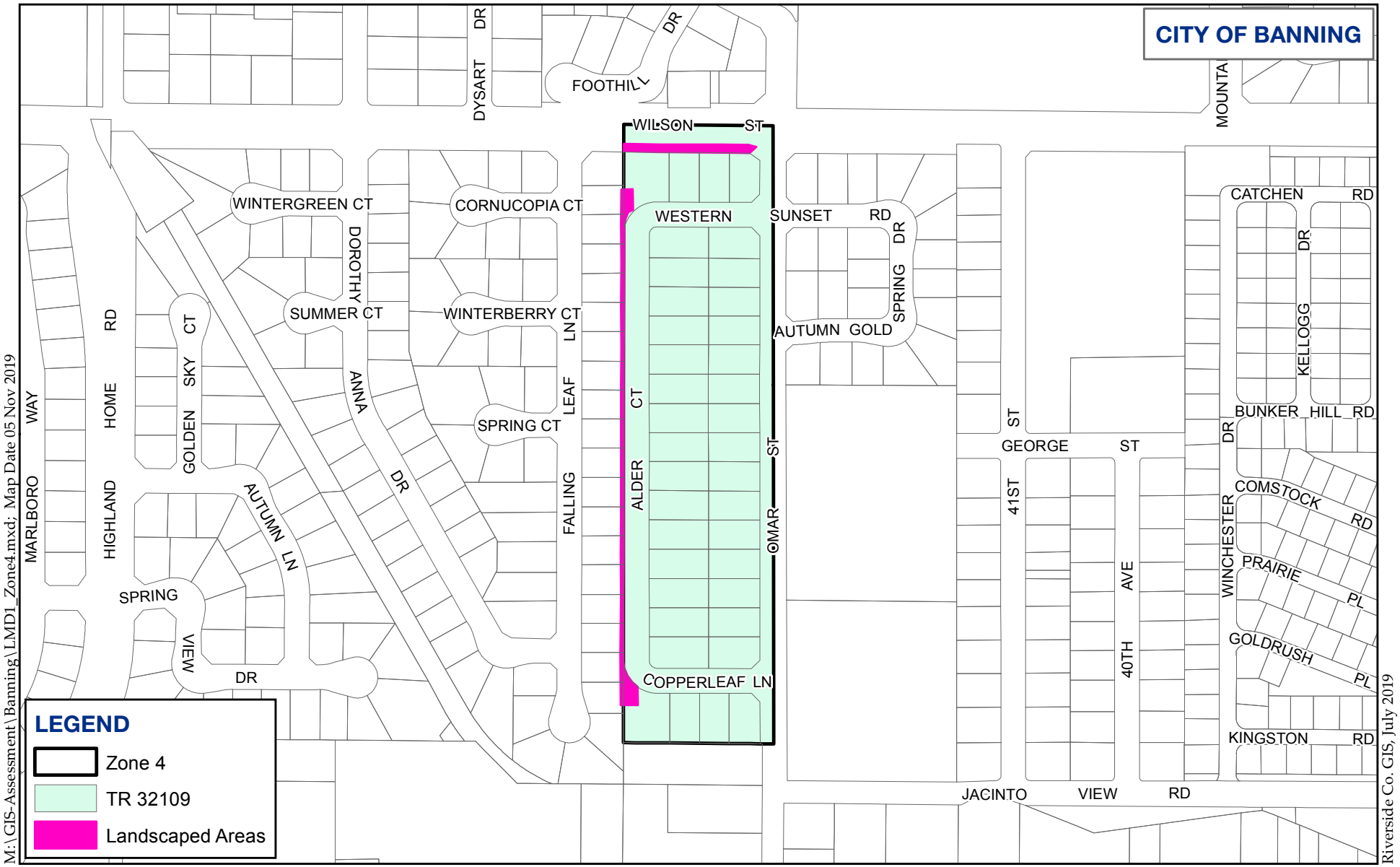
ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 3

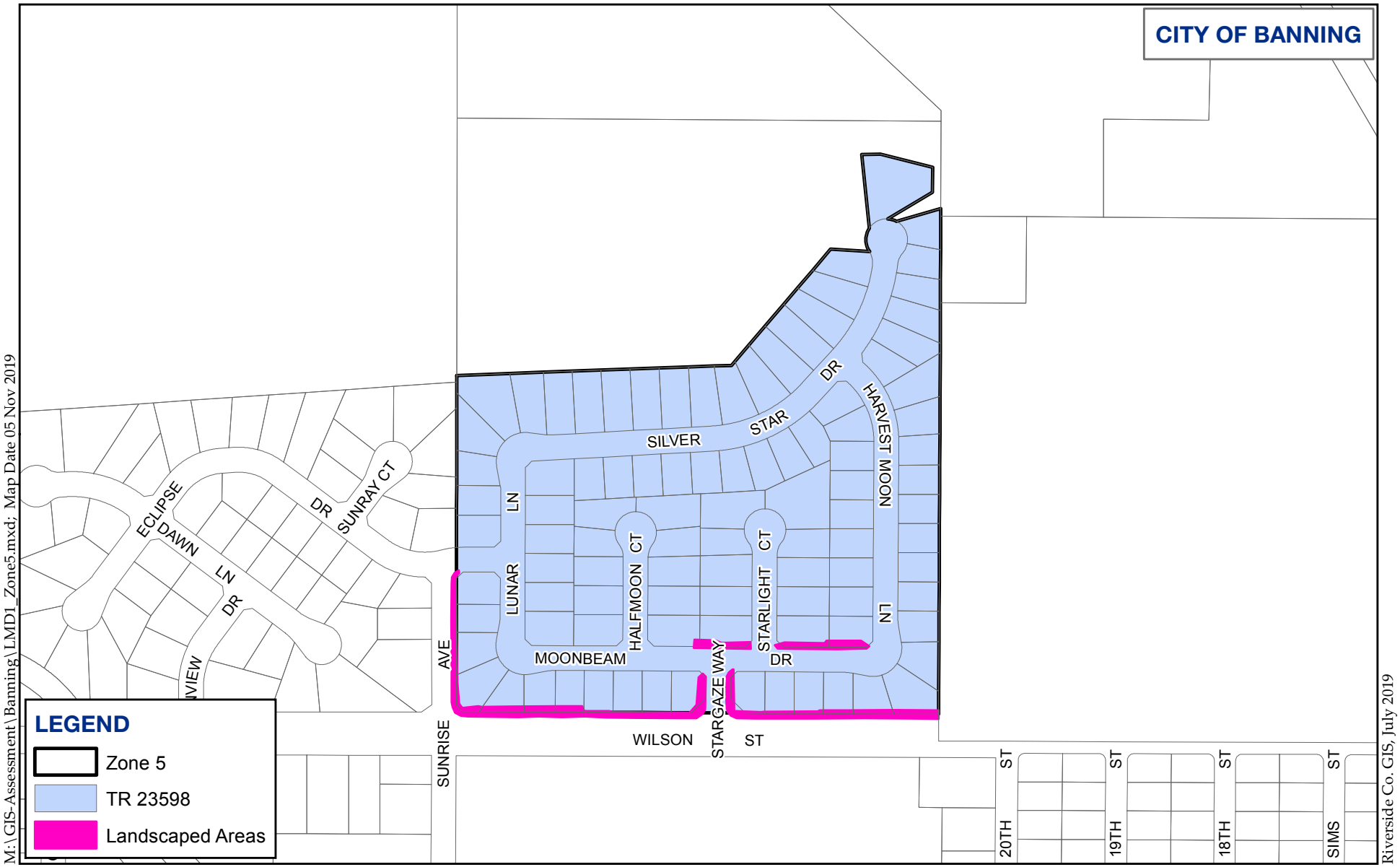
0 250 500 750 Feet

ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 4

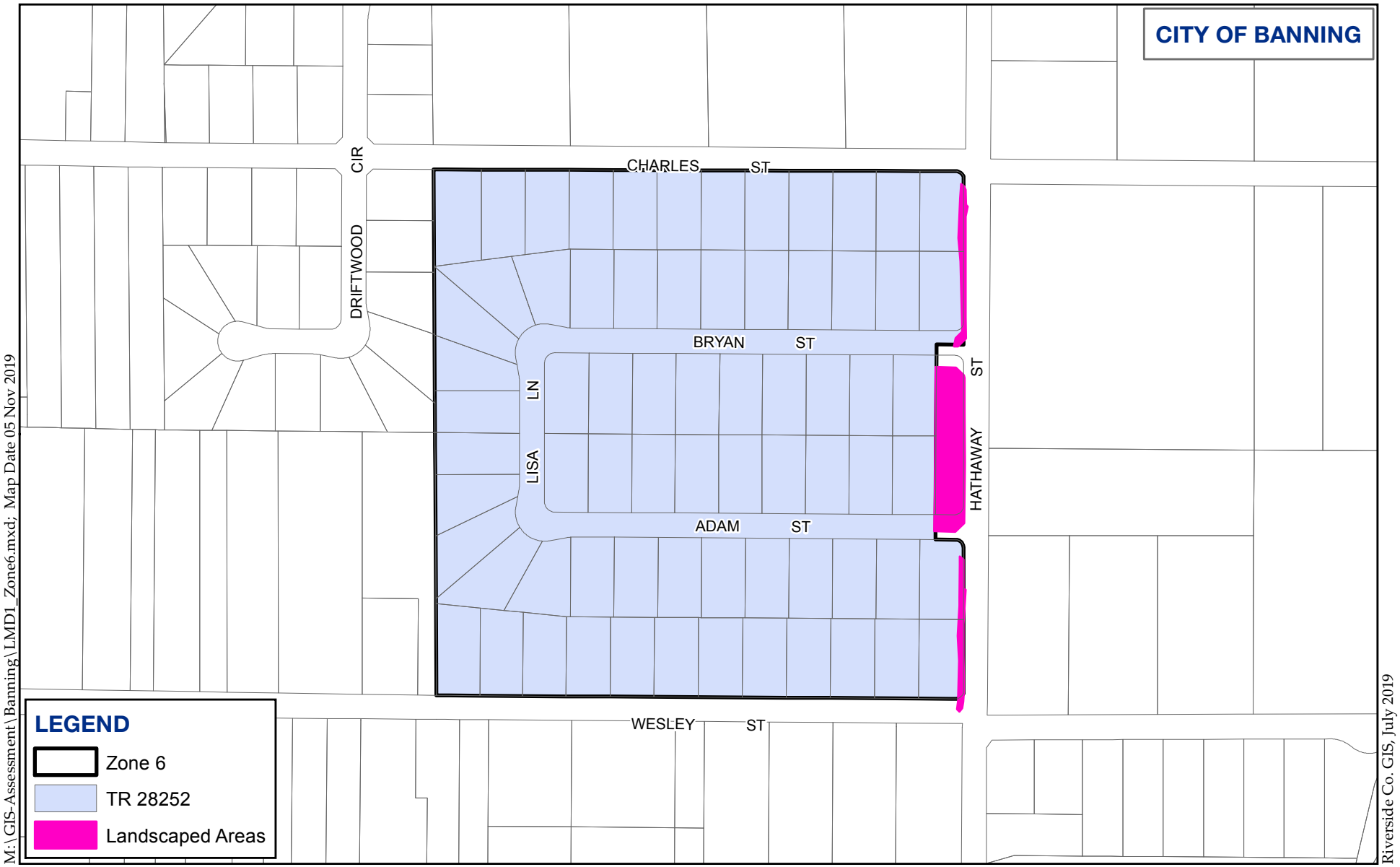
ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 5

0 250 500 750 1,000 Feet

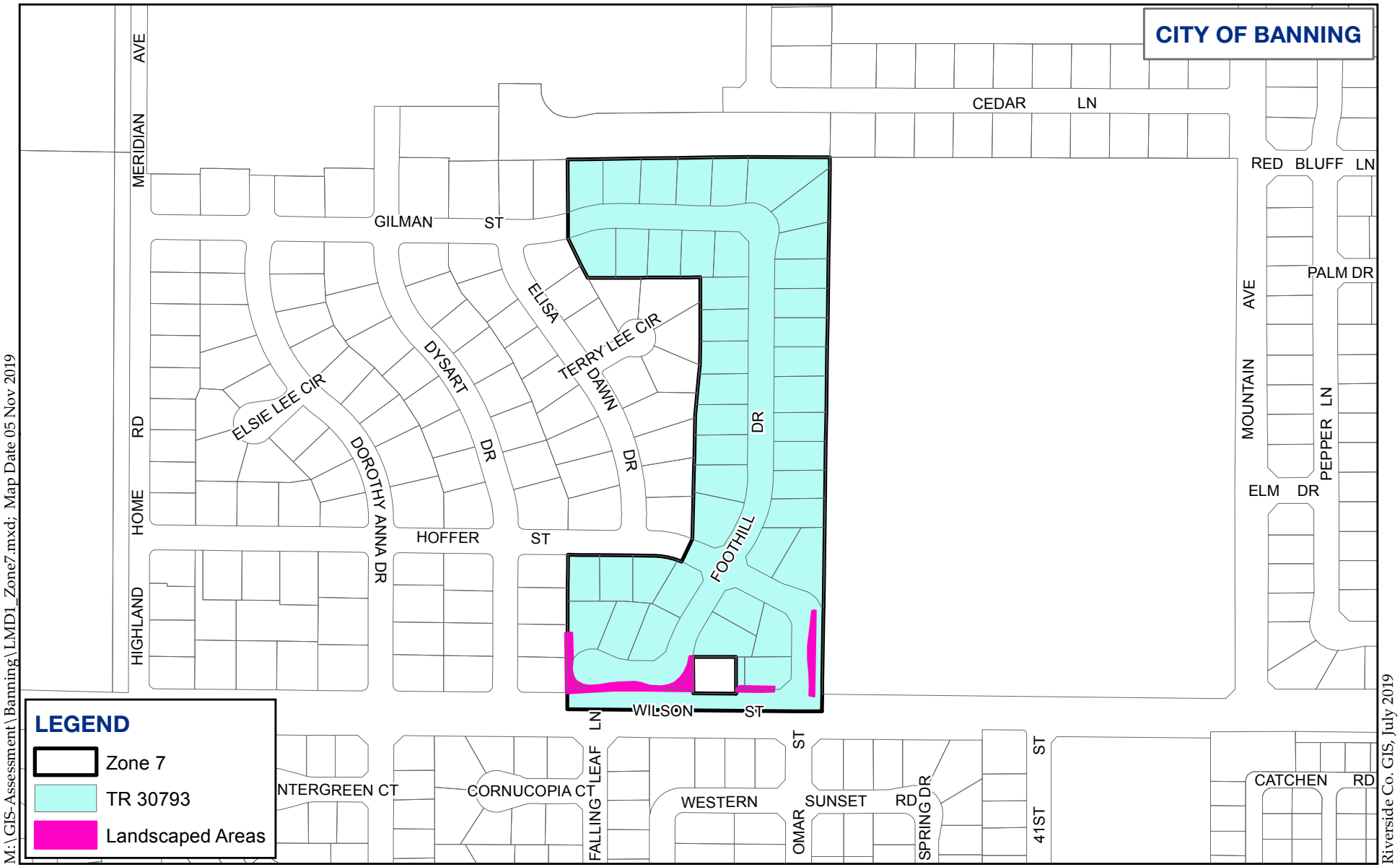
ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 6

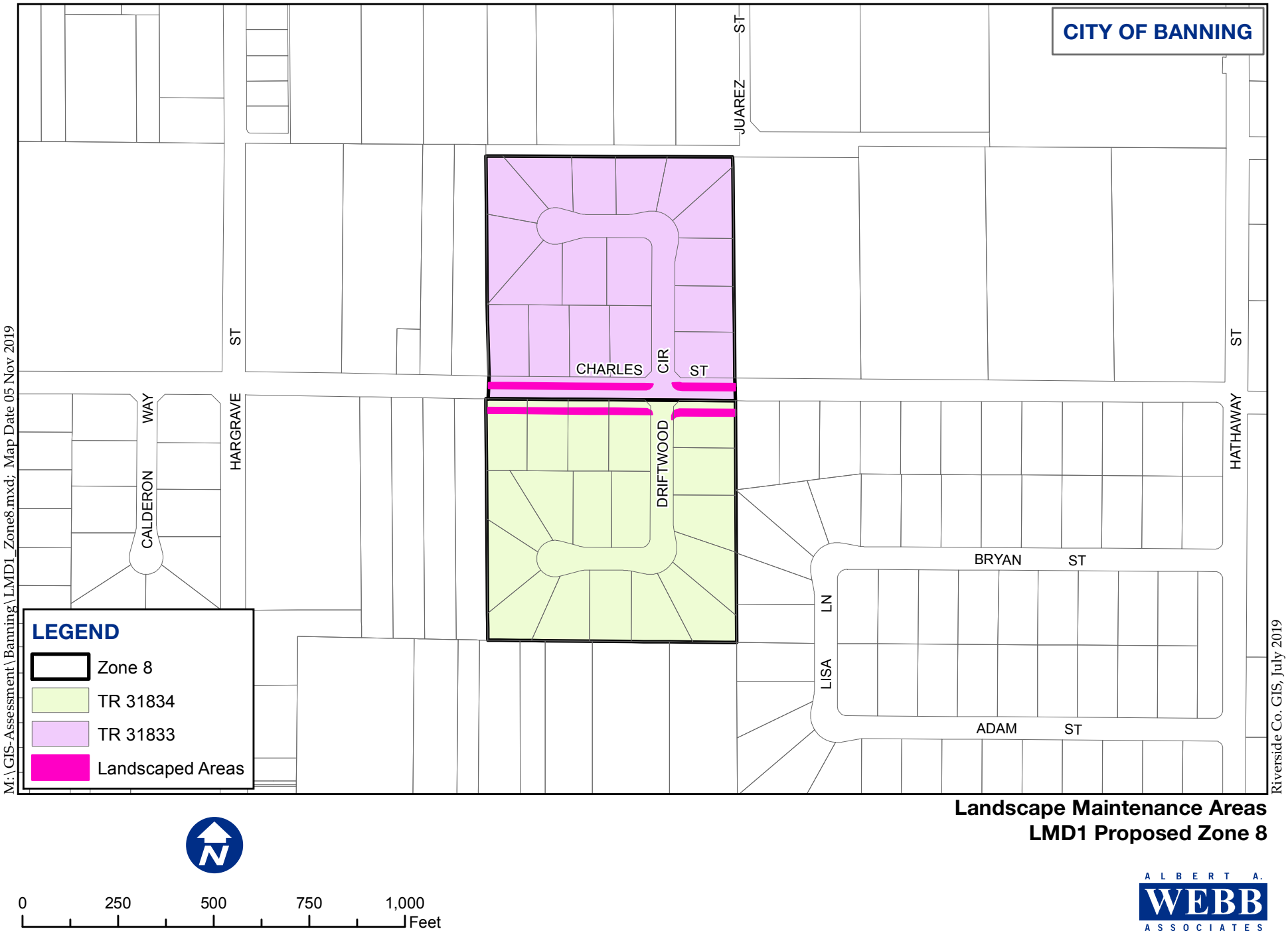
0 250 500 750 1,000 Feet

ALBERT A. WEBB ASSOCIATES



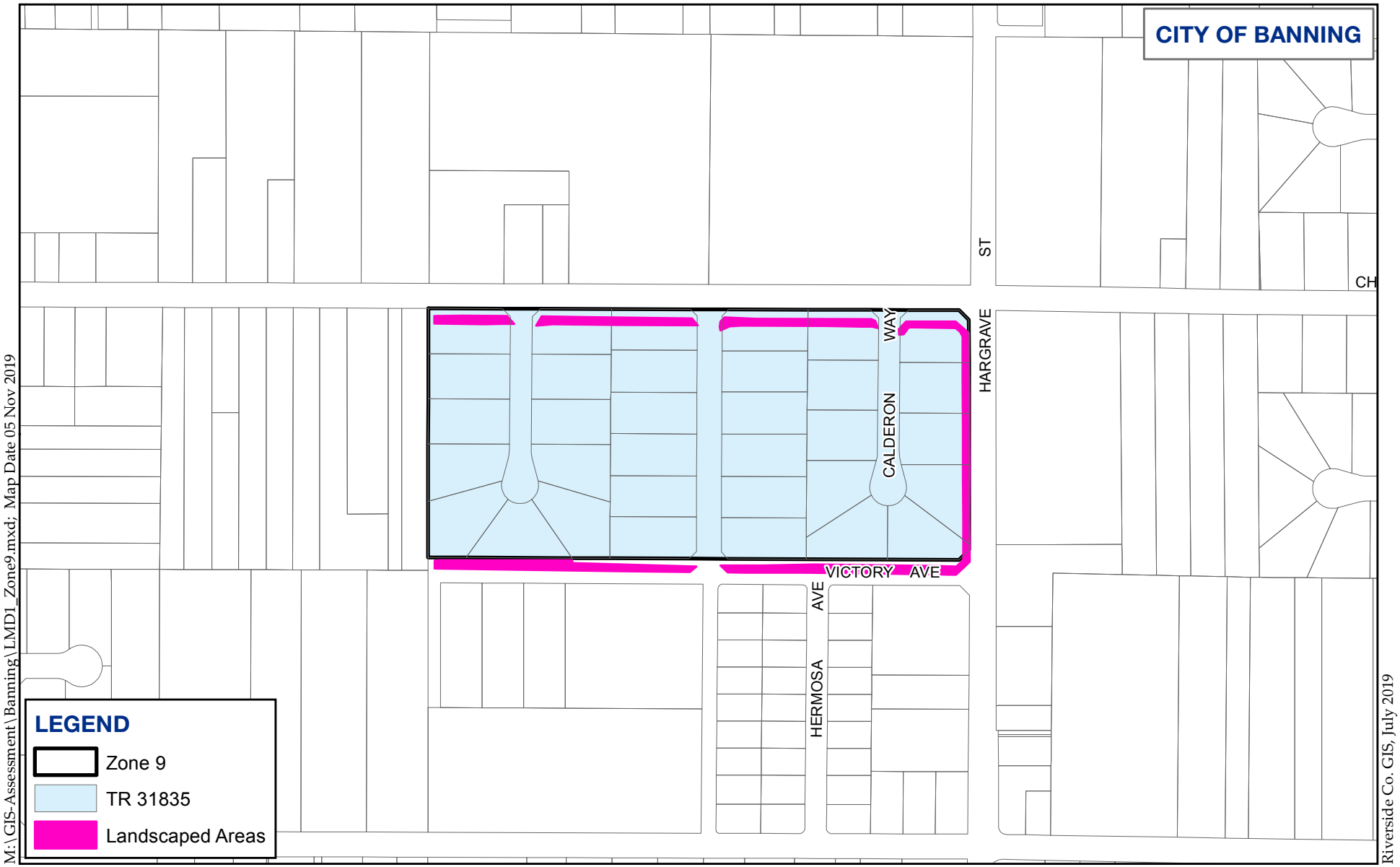
Landscape Maintenance Areas
LMD1 Proposed Zone 7

ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 8

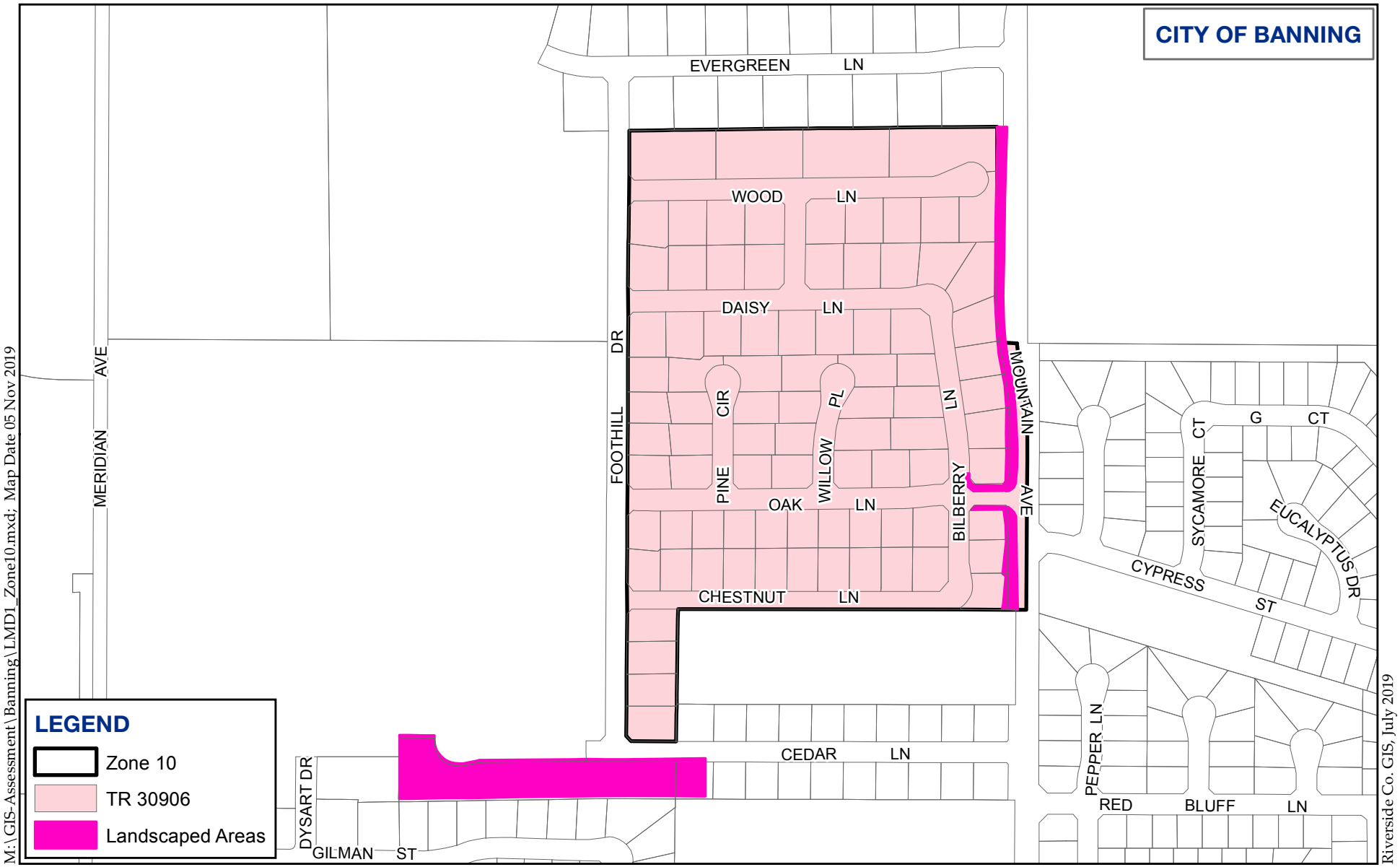
ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 9

0 250 500 750 1,000 Feet

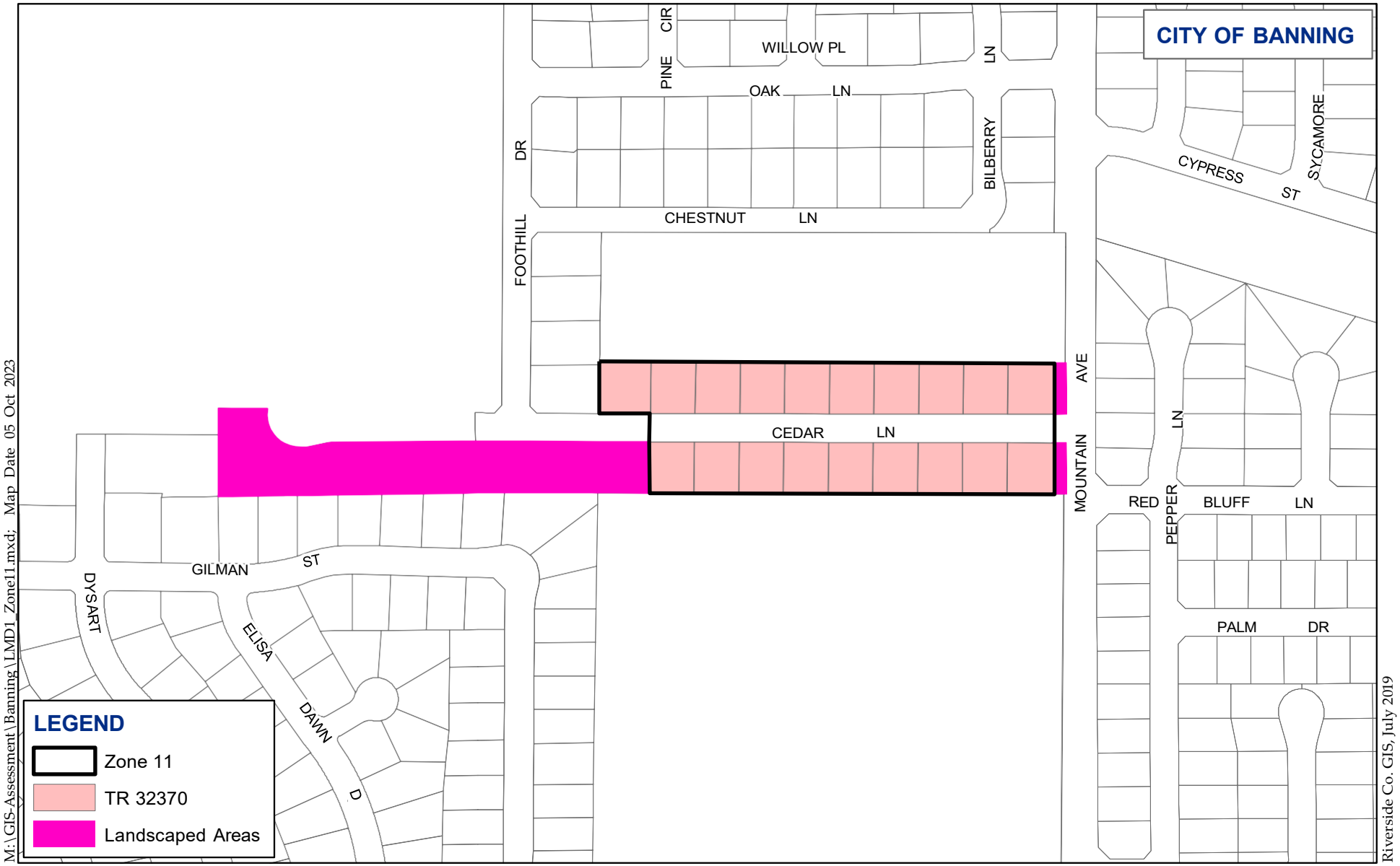
ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 10

0 400 800 1,200 Feet

ALBERT A. WEBB ASSOCIATES



Landscape Maintenance Areas
LMD1 Proposed Zone 11

0 400 800 1,200 Feet

Webb MUNICIPAL FINANCE

RESOLUTION 2024-108

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

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

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

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A

Professional Services Agreement with Mariposa Landscapes, Inc.

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

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

RECITALS

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

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

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

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

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

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

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

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

1.2 Contract Documents and Exhibits.

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

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Services.

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

1.6 Prevention of Loss and Damages.

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

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

1.7 Further Responsibilities of Parties.

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

1.8 Additional Services.

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

1.9 Facilities and Equipment.

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

1.10 Special Requirements.

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

1.11 Corrections.

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

1.12 Party Representatives.

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

B. Principals and Personnel of Contractor.

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

Name	Title
Larry Rudd	VP of Sales and Marketing

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

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

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

1.13 Independent Contractor.

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

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

1.14 Prohibition Against Subcontracting or Assignment.

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

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

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

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

2.2 Method of Compensation.

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

2.3 Reimbursable Expenses.

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

2.4 Unauthorized Services and Expenses.

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

2.5 Invoices.

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

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

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

2.6 Waiver.

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

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

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

3.2 Schedule of Performance.

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

3.3 Force Majeure.

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

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

3.4 Term.

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

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

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

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

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

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

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

4.2 Acceptability of Insurers.

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

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

4.3 Additional Insured.

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

4.4 Primary and Non-Contributing.

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

4.5 Contractor's Waiver of Subrogation.

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

4.6 Deductibles and Self-Insured Retentions.

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

4.7 Cancellations or Modifications to Coverage.

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

4.8 City Remedy for Noncompliance.

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

4.9 Evidence of Insurance.

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

4.10 Indemnity Requirements not Limiting.

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

4.11 Sub-contractor Insurance Requirements.

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

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

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

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

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

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

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

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

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

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

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

5.2 Reports.

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

5.3 Ownership of Documents.

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

5.4 Confidentiality and Release of Information.

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

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

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

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

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

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

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

6.2 Disputes; Default.

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

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

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

6.3 Retention of Funds.

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

6.4 Waiver.

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

6.5 Rights and Remedies are Cumulative.

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

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

6.6 Legal Action.

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

6.7 Termination Prior to Expiration of Term.

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

6.8 Attorneys' Fees.

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

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

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

7.2 Conflict of Interest.

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

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

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

7.3 Covenant Against Discrimination.

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

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

7.4 Unauthorized Aliens.

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

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

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

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

8.2 Interpretation.

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

8.3 Counterparts.

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

8.4 Integration; Amendment.

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

8.5 Severability.

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

8.6 Mutual Cooperation.

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

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

8.7 No Third Party Beneficiaries Intended.

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

8.8 Final Payment Acceptance Constitutes Release.

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

8.9 Non-Appropriation of Funds.

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

8.10 Headings.

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

8.11 Word Usage.

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

8.12 Business Days.

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

8.13 Corporate Authority.

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

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

8.14 Electronic Signatures.

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

[SIGNATURES ON FOLLOWING PAGE]

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

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

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

EXHIBIT "A"
SCOPE OF SERVICES

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

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

M A R I P O S A
L A N D S C A P E S I N C

April 29, 2024

Cover Letter

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

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

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

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

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

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

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

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

Sincerely,

Terry Noriega – President

A. Statement of Understanding and Approach

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

Implementation

Project Startup and Quality Control Coordination Meeting

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

Documentation

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

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

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

Preparatory Site Inspection

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

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

Scheduling

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

Labor

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

Description of Efforts

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

Quality Control

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

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

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

Monthly Work Plans

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

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

Irrigation Reports

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

Account Manager/Client Meeting Work Quality Evaluations

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

Action Item Lists

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

Work Quality Evaluation Form

Mariposa Landscapes, Inc.

SITE INSPECTION EVALUATION FORM

Inspection Date: _____ Job: _____

Mariposa Account Manager _____ Job Number: _____

Client Representative: _____

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

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

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

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

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

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

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

Action Items Form

Mariposa Landscapes, Inc.

ACCOUNT MANAGER INSPECTION ACTION ITEMS

Job:

Today's Date: Job Number:

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

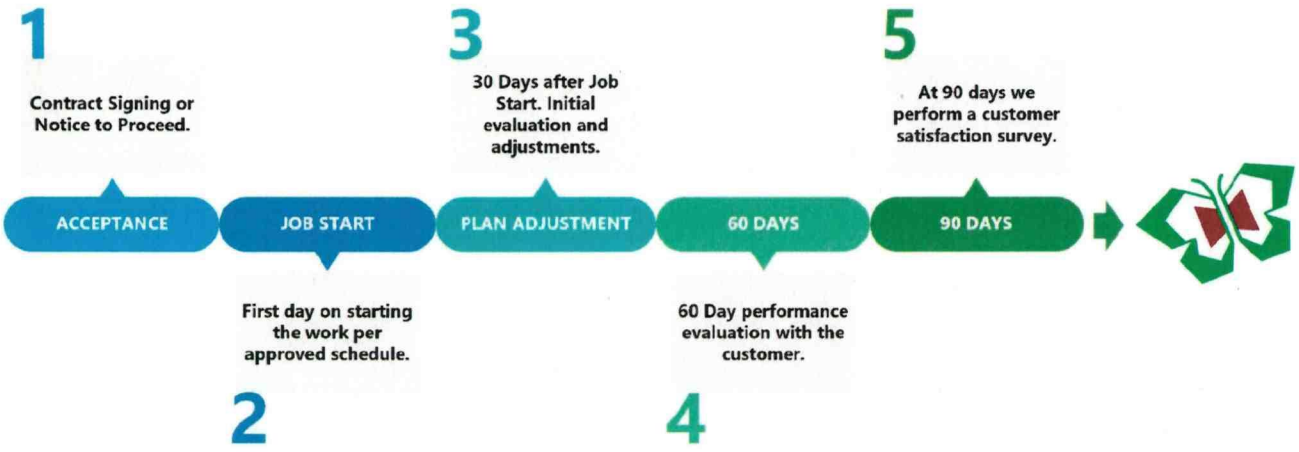
Mariposa Account Manager Signature/Date

Client Representative Signature/Date

Detailed project schedule

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

Transition Plan



Contract Executed or an Official Notice to Proceed

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

Job Start

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

30 Day Evaluation

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

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

60 Day Evaluation

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

90 Day Evaluation

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

Price Fluctuation

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

Required from the City

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

Innovative

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

Proposer's Green Initiative and Environmental Sensitivity

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

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

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

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

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

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

The key points of its strategy to achieve this are:

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

City Owned Facilities

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

B. Company Information

Proposer Identification

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

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

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

a. In-person meetings and/or teleconferences.

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

c. Conference calls.

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

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

Date_____ **Signature**_____

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

EXHIBIT "C"
SCHEDULE OF COMPENSATION

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

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

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

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

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

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

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

EXHIBIT "C-1"

ZONE 1

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

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

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

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

ZONE 2

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

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

ZONE 3

Mowing Frequencies

EXHIBIT "C-1"

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

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

ZONE 4

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

ZONE 5

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

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

ZONE 6

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

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

EXHIBIT "C-1"

ZONE 7

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

ZONE 8

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

ZONE 9

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

ZONE 10 & 11

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

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

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

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

EXHIBIT "C-1"

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

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

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

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

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

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

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

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

MEETING DATE: **May 27, 2025**

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

RECOMMENDATION:

Adopt Resolution 2025-67.

BACKGROUND:

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

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

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

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

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

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

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

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

JUSTIFICATION:

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

FISCAL IMPACT:

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

ALTERNATIVES:

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

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

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

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

FY 2026-2027 BID SHEET PROPOSAL

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

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
1	22810, 22811, 22913	Oregon Trail, east side, per site visit with staff	Shrubs and ground cover quarterly.	$335.07
1	30186	Mountain Avenue, Wilson Street and Oregon Trail west side, does **not** include Retention Basin, per Plans and site visit with staff	Shrubs and ground cover quarterly.	$763.84
1	30222	Mountain Avenue, per Plans and site visit	Shrubs and ground cover quarterly.	$222.26
2	21882	Wilson Street and Highland Home Road west side, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$656.74
2	23446	Wilson Street and Highland Home Road east side, includes median on Highland Home Road, per Site Visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$656.74
3	29721	Wilson Street and Omar Street, east side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$102.17
4	32109	Wilson Street and Alder Court, west side, per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$191.70

5	23598	Wilson Street, Sunrise Ave. and includes Moonbeam Drive frontage per site visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30. Shrubs frequency: quarterly.	$464.26
6	28252	Hathaway Street, west side, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$309.00
6	28252	Retention Basin, per Plans and site visit with staff	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April 1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$250.94
7	30793	Wilson Street, Foothill Drive, includes portion of Omar Street, per Site Visit with staff and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$187.10
8	31833	Charles Street, north side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$114.18
8	31834	Charles Street, south side, per Site Visit with staff and per Plans	Mowing frequencies: Biweekly during May 1 through Aug. 31; Monthly Sept. 1 through April 30.	$114.18
9	31835	Charles Street, Hargrave Street and Victory Avenue, (tract perimeter) per Site Visit with staff and per Plans	Shrubs and ground cover quarterly.	$534.67
10	30906	Mountain Avenue, west side and interior Oak Lane, per Site Visit and per Plans	Mowing frequencies: Weekly during May 1 through Aug. 31; Biweekly during Sept. 1 through Oct. 31 and April	$413.89

ZONE	TRACT NO.	SPECIFIC LOCATION	FREQUENCY	UNIT COST (PRICE/ MONTH)
			1 through April 30; Monthly Nov. 1 through March 31. Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	
10/11	30906, 32370	Retention Basin, per Site Visit and per Plans	Tree trimming annually.	$197.69
11	32370	Mountain Avenue, west side, North and South of Cedar Lane, frontage along the tract, per Site Visit and per Plans	Shrub frequencies: Biweekly May 1 through Aug. 31, then monthly.	$78.45
		GRAND TOTAL: (Cost/month)	**$5,592.89**	

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

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

CPI OF 3.25% was applied to the last Bid Sheet cost submitted in the FY 25/26 proposal, per the Contract.

TOTAL ANNUAL COST FOR LMD NO. 1 FY 26/27: $67,114.65

Accepted by Mariposa Representative: Antonio Valenzuela

ANTONIO VALENZUELA

Date: 3-22-2026

Title: SECRETARY

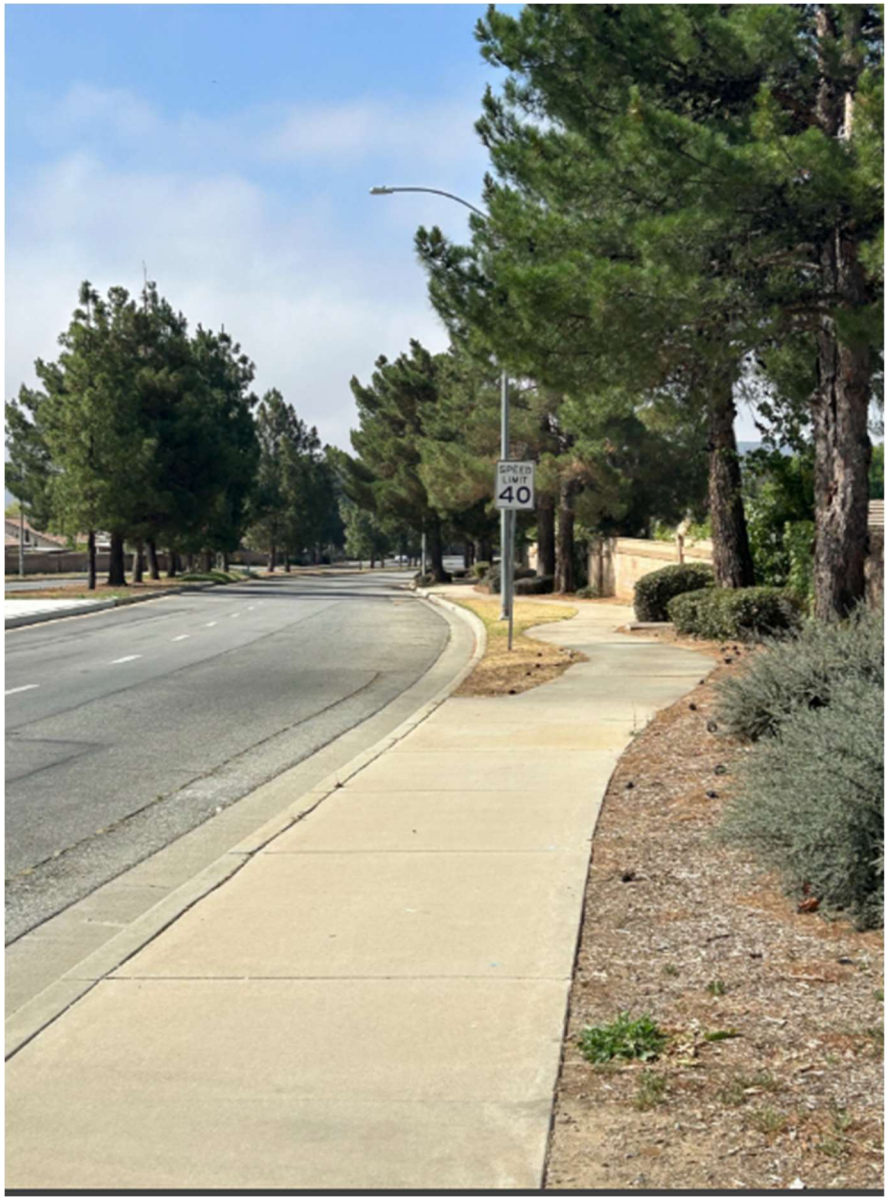
ATTACHMENT 7

PROJECTED ZONE RESERVE BALANCES

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8	Zone 9	Zone 10	Zone 11
26/27 Reserve Balance Available	$12,697.06	$33,138.21	$2,883.20	$4,358.83	$8,511.94	$27,402.42	$18,177.96	$9,857.79	$6,815.37	$32,272.08	$11,611.98
26/27 Total Costs	$24,004.84	$49,588.56	$3,427.42	$6,883.34	$12,730.43	$18,398.39	$6,251.78	$8,413.59	$11,014.66	$36,815.61	$5,963.76
26/27 Total Revenue	$34,739.10	$30,820.32	$2,379.51	$4,305.78	$9,594.27	$19,337.50	$11,878.75	$9,668.75	$9,116.25	$24,033.75	$8,157.65
26/27 Rev. – Expenses (Costs)	$10,734.26	($18,768.24)	($1,047.91)	($2,577.56)	($3,136.16)	$939.11	$5,626.97	$1,255.16	($1,898.41)	($12,781.86)	$2,193.89
27/28 Reserve Balance	**$23,431.32**	**$14,369.97**	**$1,835.29**	**$1,781.27**	**$5,375.78**	**$28,341.53**	**$23,804.93**	**$11,112.95**	**$4,916.96**	**$19,490.22**	**$13,805.87**

Note: Zones 3,4,5, and 9 have an annual structural deficit. Zones 2 and 10 will have improvement projects performed in FY 26/27 and will use their reserve balance to fund these projects.

Zone 1 Tract 30186



Zone 2 Tract 21882

Zone 5 Tract 23598

Zone 6 Tract 28252

Zone 9 Tract 31835

Zone 9 Tract 31835

Zone 10 Tract 30906

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-72, Approving Amendment No. 8 to the Professional Services Agreement with Mariposa Landscapes, Inc. for Landscape Maintenance Services at City properties in the Amount of $200,128 for FY 2026/2027**

STAFF RECOMMENDATION:

Adopt Resolution 2026-72

BACKGROUND:

On June 28, 2022, Resolution 2022-86 was approved, awarding a Landscape Maintenance Agreement with Mariposa Landscapes, Inc. to provide landscape maintenance services at various City properties for an annual amount of $140,807, with the option to renew for four (4) additional single years, based on satisfactory performance.

On February 14, 2023, Amendment No. 1 to the agreement was approved, adding service locations to the agreement, including Fire Station 89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street. Amendment No. 1 increased the annual agreement amount by $7,248 for a total agreement amount of $148,055.

On May 23, 2023, Amendment No. 2 to the agreement was approved by the City Council, extending the term and increasing the agreement compensation in the amount of $139,794 for Fiscal Year (FY) 2023/2024. During this renewal period, locations under the Community Services Department were removed and added to a separate contract.

In August of 2023, Amendment No. 3 to the agreement was administratively approved, adding annual maintenance of the Highland Spring Avenue underpass in the amount of $4,224 through FY 2023/2024.

On June 11, 2024, Amendment No. 4 to the agreement was approved by the City Council, extending the term and increasing the agreement compensation in the amount of $148,372 for FY 2024/2025.

On March 26, 2025, Amendment No. 5 to the agreement was approved under the Master Agreement, increasing compensation by $15,000.

On May 27, 2025, Amendment No. 6 to the agreement was approved by City Council, extending the term and increasing the agreement compensation in the amount of $171,320 for FY 2025/2026.

In June of 2025, Amendment No. 7 to the agreement was administratively approved, adding annual

weed abatement at six (6) substations and around the base of over 200 electric poles for the Electric Dept. in the amount of $22,744 for FY 2025/2026.

This Amendment No. 8 will extend the term by one year and increase the agreement compensation in the amount of $200,128 for FY 2026/2027.

At this time, staff has evaluated and confirmed that the contractor continues to provide satisfactory services; therefore, staff recommends a term extension for FY 2026/2027. This will be the last year of the five (5) years maximum contract term.

The scope of work for landscape maintenance services is listed in the Original Agreement (which includes the Request For Proposals (RFP) No. 22-015) and includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; irrigation equipment and operations for the City properties listed below:

- West Ramsey Street Medians, from Highland Springs Avenue to Highland Home Road.
- West Ramsey Street Medians from Highland Home Road to Sunset Avenue.
- East Ramsey Street Medians (West and East of N. Hathaway Street)
- Banning City Hall (99 East Ramsey Street) landscaping around building and parking lot.
- Banning Police Station (125 East Ramsey Street).
- Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)
- Fire Station Building (5261 W. Wilson Street)
- Former Armory National Guard Properties (2041 W. Nicolet Street)
- Brinton Reservoir (1700 N. Mountain Avenue)
- Sunset Reservoir (1202 N. Sunset Avenue)
- San Gorgonio Ave. Parking Lot
- Fire Station 89 (172 N. Murray Street)
- Fire Administration Building (3900 W. Wilson Street)
- Highland Spring Avenue Underpass

The Cost Proposal for FY 2026/2027 includes an increase in fees to include the change in Consumer Price Index (CPI) (from January 2024 to January 2025), increasing the annual service fees by 3.25%. An annual cost increase equal to the increase in the CPI percentage for all Urban Consumers in the Riverside-San Bernardino-Ontario, CA area, published by the United States Department of Labor, Bureau of Labor Statistics during the preceding calendar year, is applied each year. Following this approval, there are no remaining options to renew this Contract; the original five-year maximum term expires on June 30, 2027.

Since the maximum five-year term for the City Properties Landscape Maintenance contract expires on June 30, 2027, these services will need to have an RFP and be bid out before next spring. As requested by the City Council, an RFP that combines all three of the City's landscape maintenance contracts is in the process of being prepared. This will include LMD No. 1, City parks, and the City properties contracts to determine if economies of scale could lead to cost savings. In the meantime, staff is recommending approval of Resolution 2026-72 to renew the current landscape maintenance services contract for the upcoming FY. This contract will be for one year, with the stipulation currently in the Agreement that it can be terminated with or without cause, subject to 30 days of written notice to Mariposa Landscapes, Inc., if the RFP yields a bid proposal for the City's properties' landscape maintenance services for a lesser cost.

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain the identified landscape areas, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Upon evaluating the existing services provided by Mariposa Landscapes, Inc., staff recommends the contract renewal and processing of Amendment No. 8.

FISCAL IMPACT:

Amendment No. 8 will increase the monthly landscape maintenance services agreement for FY 2026/2027 to an annual amount of $200,128. The Building Maintenance Division Account No. 704-3200-412-23.29 will fund $144,112 of the costs. The Water Fund Account No. 660-6300-471-45.07 in the amount of $25,032 will fund landscape maintenance services at the reservoirs. Electric Division Account No. 670-7000-473.45-05 in the amount of $8,037 will fund the annual weed abatement at the substations, and Electric Division Account No. 670-7000-473.45-02 in the amount of $15,447 will be used for annual weed abatement around the poles. Funding sources for services "as needed" in the amount of $7,500 will be defined on a case-by-case basis and later determined. A budget appropriation for services in this agreement will be included in the proposed FY 2026/2027 Operating Budget.

ATTACHMENTS:

1. Resolution 2026-72.docx
2. Resolution 2026-72 Exhibit B - Mariposa Proposal For FY2026-2027.pdf
3. Original Agreement Mariposa.pdf
4. Amend No. 1 Mariposa.pdf
5. Amend No.2 Mariposa.pdf
6. Amend No. 3 Mariposa.pdf
7. Amend No. 4 Mariposa.pdf
8. Amend No.5 Mariposa.pdf
9. Amend No.6 Mariposa.pdf
10. Amend No.7 Mariposa.pdf
11. Amend No.8 Mariposa Landscape DRAFT 6.15.26.doc
12. Photos.pdf

RESOLUTION 2026-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 8 WITH MARIPOSA LANDSCAPES, INC. FOR LANDSCAPE MAINTENANCE SERVICES AT CITY PROPERTIES IN THE AMOUNT OF $200,128 FOR FISCAL YEAR 2026/2027

WHEREAS, on June 28, 2022, Resolution 2022-86 was approved awarding a Landscape Maintenance Agreement with Mariposa Landscapes, Inc. to provide landscape maintenance to various City properties for an annual amount of $140,807 with the option to renew for an additional four (4) single years based on satisfactory performance; and

WHEREAS, on February 14, 2023, Amendment No. 1 to the agreement was approved adding service locations to the agreement including Fire Station 89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street increasing the annual agreement amount by $7,248 for a total agreement amount of $148,055; and

WHEREAS, on May 23, 2023, City Council approved Amendment No. 2 to the agreement with Mariposa Landscapes, Inc. extending the term of the agreement through Fiscal Year 2023/2024 for an additional amount of $139,794 and leaving possible three (3) additional single year agreement renewals; and

WHEREAS, in August of 2023, Amendment No. 3 to the agreement was administratively approved adding annual maintenance of the Highland Spring Avenue underpass in the amount of $4,224 through Fiscal Year 2023/2024; and

WHEREAS, on June 11, 2024 Amendment No. 4 was approved and increased the monthly landscape maintenance services agreement for FY 2024/2025 in the annual amount of $148,372 with the possibility to renew the contract for two (2) more single years; and

WHEREAS, on March 26, 2025, Amendment No. 5 to the agreement was a approved under the Master Agreement increasing compensation by $15,000; and

WHEREAS, on May 27, 2025, Amendment No. 6 was approved for FY 2025/2026 in the amount of $172,320 with the possibility to renew the contract for one (1) more single year; and

WHEREAS, in June of 2025, Amendment No. 7 to the agreement was administratively approved, adding annual weed abatement at six (6) substations and around the base of over 200 Electric poles for the Electric Dept. in the amount of $22,744 for Fiscal Year 2025/2026; and

WHEREAS, on June 23, 2026, under this Resolution, Amendment No. 8 is approved for FY 2026/2027 in the amount of $200,128 and this is the last year of the maximum five (5) year contract term; and

WHEREAS, Account No. 704-3200-412-23.29 (Building Maintenance Division) will fund $144,112 of the contract for landscape maintenance services as described in the Original Agreement for City properties and Account No. 660-6300-471-45.07 (Water Division) will fund a portion of the agreement in the amount of $25,032 for landscape maintenance services at reservoirs and Electric Division Account No. 670-7000-473-45.05 (in the amount of $8,037) and 670-7000-473-45.02 (in the amount of $15,447) will fund the annual weed abatement at the substations and around electric poles, respectively; and

WHEREAS, the funding source for services as needed in the amount of $7,500 will be defined on a case-by-case basis and determined at a later date.

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

SECTION 1. The Banning City Council approves Amendment No. 8 to the City Properties Landscape Maintenance Agreement with Mariposa Landscapes, Inc., extending the term through Fiscal Year 2026/2027 and increasing the compensation in the amount of "not to exceed" $200,128 for Fiscal Year 2026/2027.

SECTION 2. The City Council authorizes the City Manager, or her designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution and Amendment No. 8.

SECTION 3. The City Council authorizes the City Manager, or her designee, to make necessary non-substantive adjustments to the Eighth Amendment and to execute the Eighth Amendment with Mariposa Landscapes, Inc. for Fiscal Year 2026/2027.

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

PASSED, APPROVED AND ADOPTED this 23th day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-72, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit A

Amendment No. 8 with Mariposa Landscapes, Inc.
FY 2026/2027 Landscape Maintenance of City Properties

Exhibit B

Rate and Location Sheet

Line Item	Location	Quantity	Unit of Measure	FY 25-26 Monthly Rate	FY 25-26 Annual Rate	CPI 3.25% Monthly Adj	Monthly Rate FY 26-27	Annual Rate FY 26-27
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$2,020.36	$ 24,244.32	$ 65.66	$2,086.02	$ 25,032.26
2	Banning City Hall (Civic Center)	12	Month	$1,346.91	$ 16,162.92	$ 43.77	$1,390.68	$ 16,688.21
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,571.40	$ 18,856.80	$ 51.07	$1,622.47	$ 19,469.65
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$336.72	$ 4,040.64	$ 10.94	$347.66	$ 4,171.96
5	Fire Station (5261 W. Wilson Street)	12	Month	$673.39	$ 8,080.68	$ 21.89	$695.28	$ 8,343.30
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$897.94	$ 10,775.28	$ 29.18	$927.12	$ 11,125.48
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,122.43	$ 13,469.16	$ 36.48	$1,158.91	$ 13,906.91
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$897.94	$ 10,775.28	$ 29.18	$927.12	$ 11,125.48
11	San Gorgonio Parking Lot	12	Month	$224.49	$ 2,693.88	$ 7.30	$231.79	$ 2,781.43
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$959.30	$ 11,511.60	$ 31.18	$990.48	$ 11,885.73
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$959.30	$ 11,511.60	$ 31.18	$990.48	$ 11,885.73
14	West Ramsey Street Medians	12	Month	$662.83	$ 7,953.96	$ 21.54	$684.37	$ 8,212.46
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$406.59	$ 4,879.08	$ 13.21	$419.80	$ 5,037.65
16	Ramsey Street Medians from Highland Home Road to Sunset Avenue (added Amend 5)	12	Month	$1,572.00	$ 18,864.00	$ 51.09	$1,623.09	$ 19,477.08
17	Services As Needed (Locations to be determined)				$ 7,500.00	$ -	$0.00	$ 7,500.00
			Totals >>>	$13,651.60	$171,319.20	$443.677	$ 14,095.28	$ 176,643.32

Line Item	Location	Quantity	Unit of Measure	FY 25-26 Monthly Rate	FY 25-26 Annual Rate	CPI 3.25% Monthly Adj	Monthly Rate FY 26-27	Annual Rate FY 26-27
1	22nd Street Substation	1	Per Year	$485.00	$ 485.00	$ 15.76	$500.76	$ 500.76
2	Mildway Substation	1	Per Year	$823.00	$ 823.00	$ 26.75	$849.75	$ 849.75
3	Sunset Substation	1	Per Year	$1,540.00	$ 1,540.00	$ 50.05	$1,590.05	$ 1,590.05
4	Main Office Substation	1	Per Year	$1,856.00	$ 1,856.00	$ 60.32	$1,916.32	$ 1,916.32
5	Ivy Substation	1	Per Year	$1,540.00	$ 1,540.00	$ 50.05	$1,590.05	$ 1,590.05
6	Stagecoach Substation	1	Per Year	$1,540.00	$ 1,540.00	$ 50.05	$1,590.05	$ 1,590.05
7	238 Electric poles at various sites	1	Per Year	$14,960.00	$ 14,960.00	$ 486.20	$15,446.20	$ 15,446.20
8						$ -		$ -
9						$ -		$ -
10						$ -		$ -
11						$ -		$ -
12						$ -		$ -
13						$ -		$ -
14						$ -		$ -
15								
16						$ -		
			Totals >>>	$22,744.00	$22,744.00	$739.18	$ 23,483.18	$ 23,483.18

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AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 7/6/2022, ("Effective Date") by and between the **CITY OF BANNING, a California municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 22-015), the performance of the services for landscaping maintenance services for the City properties prepared in connection therewith, and as further defined and described particularly in Article 1 of this Agreement.

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

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

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

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

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

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

for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Contractor shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

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

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Services.

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

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1.6 Prevention of Loss and Damages.

Contractor shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

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

1.8 Additional Services.

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

1.9 Facilities and Equipment.

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

1.10 Special Requirements.

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

1.11 Corrections.

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

1.12 Party Representatives.

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

B. Principals and Personnel of Contractor.

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

Name	Title
Andres Perez	Account Manager

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

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the Contract Officer is kept informed of the progress of the performance of the Services, and Contractor shall refer any decisions which must be made by City to the Contract Officer.

2) Contractor's Personnel: Contractor has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Contractor or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of all changes in Contractor's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Contractor, City shall give notice as set forth in Section 8.1. Contractor shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

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

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

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, the Contractor Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer

to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Contractor at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Contractor be paid more than One Hundred Forty Thousand Eight Hundred Seven Dollars ($140,807.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

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

2.3 Reimbursable Expenses.

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

2.4 Unauthorized Services and Expenses.

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

2.5 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. Contractor shall not invoice City for any duplicate Services performed by more than one person.

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

2.6 Waiver.

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

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

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

3.2 Schedule of Performance.

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

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Contractor. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Contractor shall within ten (10) days of the commencement of such delay notify the

Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Contractor's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be one (1) year from the date of execution with the option to extend for four (4) additional one-year terms, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

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

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

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

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

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

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4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

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

4.4 Primary and Non-Contributing.

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

4.5 Contractor's Waiver of Subrogation.

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

4.6 Deductibles and Self-Insured Retentions.

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

4.7 Cancellations or Modifications to Coverage.

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

4.8 City Remedy for Noncompliance.

If Contractor does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Article, City may either immediately

terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

4.9 Evidence of Insurance.

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

4.10 Indemnity Requirements not Limiting.

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

4.11 Sub-contractor Insurance Requirements.

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

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Contractor, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

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

3) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

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

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

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

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

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Contractor shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Service Records may be given to City, and access shall be provided by Contractor's successor in interest ("Contractor's Successor"). If custody of the Service Records is given to Contractor's Successor, Contractor shall give written notice to City of the transfer of the Service Records to Contractor's Successor. The notice shall include contact information (address and telephone number) for Contractor's Successor, and access shall be provided to City by Contractor's Successor.

5.2 Reports.

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

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Contractor Documents") prepared by Contractor, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract

Officer or upon the termination of this Agreement. Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Contractor Documents hereunder. Any use, reuse or assignment of such completed Contractor Documents for other projects and/or use of uncompleted Contractor Documents without specific written authorization by Contractor will be at City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use or assignment. Contractor may retain copies of such Contractor Documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Contractor Documents prepared by them; and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

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

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

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

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of

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

6.2 Disputes; Default.

A. In the event that City determines Contractor is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, City may serve Contractor with written notice of the default. Contractor shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Contractor fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

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

6.3 Retention of Funds.

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

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6.4 Waiver.

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

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

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

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Contractor. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of Contractor, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Contractor has initiated termination, Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Contractor has initiated termination, Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section,

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the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

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

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

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

7.2 Conflict of Interest.

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

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

Contractor and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Contractor may perform

similar services for other clients; but Contractor and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Contractor is not currently performing services that would require Contractor or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a clause substantially similar to this Section into any subcontract that Contractor executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

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

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

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

If to City	Attn: Carl Szoyka Public Works Superintendent City of Banning 99 East Ramsey Street Banning, California 92220 Email: cszoyka@banningca.gov

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With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Contractor:	Attn: Terry Noriega President Mariposa Landscapes, Inc. 6232 Santos Diaz St Irwindale, CA 91702 Email: terry@mariposa-ca.com

8.2 Interpretation.

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

8.3 Counterparts.

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

8.4 Integration; Amendment.

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

8.5 Severability.

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

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8.6 Mutual Cooperation.

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

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

8.7 No Third Party Beneficiaries Intended.

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

8.8 Final Payment Acceptance Constitutes Release.

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

8.9 Non-Appropriation of Funds.

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

8.10 Headings.

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

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8.11 Word Usage.

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

8.12 Business Days.

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

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

DocuSigned by:
Doug Schulze 7/6/2022
0AD14BA217CE497...
Douglas Schulze, Date
City Manager

CONTRACTOR

DocuSigned by:
Terry Noriega 7/5/2022
073E1ED56B08405...
NAME: Terry Noriega Date
TITLE: President

DocuSigned by:
Antonio Valle 7/5/2022
C43353EH2U7E4UH...
NAME: Antonio Valenzuela Date
TITLE: Secretary

ATTEST:

DocuSigned by:
7/6/2022
72C57B436CA24C7...
Caroline Patton Date
Deputy City Clerk

95-4245898
Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
KEVIN G ENNIS 7/6/2022
940BF72E9b4348C...
Kevin G. Ennis, Esq., Date
City Attorney

City Council Approval: 06/28/2022

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

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services in connection with providing landscape maintenance services for city properties, prepared in connection therewith:

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

- RFP22-015, Landscape Maintenance Services for City Properties, Exhibit A-1
- RFP22-015, Landscape Maintenance Services, Addendum One, Exhibit A-1
- Reference Submitted RFP 22-015 dated 05/31/022, Exhibit A-1

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

a. In-person meetings and/or teleconferences.

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

c. Conference calls.

IV. All work product is subject to review and acceptance by City and must be revised by Contractor without additional charge to City until found satisfactory and accepted by City.

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REQUEST FOR PROPOSAL

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

RFP-22-015

CITY OF BANNING, CA

http://www.banningca.gov

RELEASE DATE: May 3, 2022
DEADLINE FOR QUESTIONS: May 17, 2022
RESPONSE DEADLINE: May 31, 2022, 2:00 pm

RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:
https://secure.procurenow.com/portal/banning-ca

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City of Banning
REQUEST FOR PROPOSAL
LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

I. Notice .....
II. Introduction .....
III. Prerequisites .....
IV. Scope of Work .....
V. Vendor Questionnaire .....
VI. Pricing Proposal .....
VII. Submission Instructions And Inquiries .....
VIII. Evaluation Criteria .....
IX. Resulting Contract .....
X. Terms And Conditions .....

Attachments:

A - Professional Services agreement (with prevailing wage language) Sample

B - Banning Prevailing Wage Checklist Acknowledgement

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I. NOTICE

REQUEST FOR PROPOSALS (RFP)

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

Dear Proposers:

The City of Banning (hereinafter referred to as the "City") is requesting proposals from a qualified public entity or private firm, to establish a contract for the scope of services outlined in this request for proposals.

NOTICE IS HEREBY GIVEN that online price and document submittals must be uploaded to the online bidding system in accordance with the instructions included herein, on or before the time and date set forth in the schedule of events. It shall be the responsibility of the proposer to upload their proposal before the announced time. However, responses may be submitted at any time prior to the deadline. (Submitted proposals may be withdrawn and resubmitted at any time prior to the deadline, and cannot be viewed by City staff until the close date and time.)

SOLICITATION DOCUMENTS: To obtain a copy of the solicitation documents, please visit https://secure.procurenow.com/portal/banning-ca. If you are not currently registered with the City of Banning through ProcureNow, please create an account and subscribe to this project for notifications. Proposals may only be submitted by companies who are listed as a prospective bidder on the electronic bidding website for each project that they wish to submit a response to. Firms must also check the web site periodically for addenda information as failure to download and acknowledge any and all addenda in the submittal will result in proposer disqualification.

RESPONSIVE PROPOSALS: Once listed on the prospective bidders list, companies may submit their proposals on the electronic bidding system. The City will not accept proposals submitted by companies who are not on the prospective bidders list, or from companies who have submitted a proposal via facsimile, email, mail, or any other format not permitted by this solicitation. Further instructions for submitting proposals are explained in this solicitation. Companies are to adhere to all of the submittal instructions and requirements outlined in this solicitation in order to be considered responsive to this request for proposals.

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II. INTRODUCTION

II.A Summary

The City of Banning ("City") is seeking a qualified entity or individual ("Company") to provide the services listed in the Scope of Work.

The City anticipates selecting one firm to perform the services.

Proposals are requested from Companies that have a demonstrated ability to perform the tasks identified in this Request for Proposal ("RFP").

II.B Background

The City of Banning is strategically located astride Interstate 10 between the Inland Empire and the Coachella Valley in the San Gorgonio Pass. The City, incorporated in 1913, has a rich and colorful history.

Initially Banning served as a stagecoach and railroad stop between the Arizona territories and Los Angeles. This history has contributed to the present-day spirit of pioneer resourcefulness and "can do" attitude that is so prevalent in the community.

Banning is a friendly and wholesome place to work and raise a family. Desirable executive housing is available, as well as moderate and lower income housing. Clean air, ample water supplies and the memorable and inspiring scenic vistas of both Mt. San Gorgonio and Mt. San Jacinto, the 2 tallest peaks in Southern California, are additional amenities which make the City of Banning a logical choice as a development opportunity in the Southern California area.

II.C Contact Information

Tisha Jacobs
Buyer
99 E Ramsey St
Banning, CA 92220
Email: tjacobs@banningca.gov
Phone: (951) 922-3151
Department:
Public Works

II.D Timeline

This request for proposal will be governed by the following tentative schedule. All dates are subject to change at the discretion of the City.

Release Project Date	May 3, 2022

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Pre-Proposal Meeting (Non-Mandatory)	May 10, 2022, 10:00am Corner of Wilson St and Highland Home Rd
Question Submission Deadline	May 17, 2022, 4:00pm
Question Response Deadline	May 24, 2022, 5:00pm
Proposal Submission Deadline	May 31, 2022, 2:00pm
Interviews, If Needed	Week of 06/13/2022
Tentative City Council Meeting to Consider Awarding Contract	June 28, 2022

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III. PREREQUISITES

Proposals will only be considered from Companies that meet the following prerequisites:

III.A Years of experience

Have at least **five (5)** years' of experience, within the past **five (5)** years under a legally registered business name, in providing services of a similar type and scope as described in the Scope of Services. Have not filed for bankruptcy under any business name over the past five (5) years.

III.B ProcureNow Registration

Have created an account on ProcureNow. Companies can register at: https://secure.procurenow.com/portal/banning-ca

Once registered, Companies must download this solicitation in order to appear on the Bidder's List as a "Prospective Bidder." Companies that fail to specifically download this solicitation will not appear on the Bidders' List and will be unable to participate or be considered for this RFP.

III.C Non-Mandatory Pre-Proposal Meeting

All prospective Companies are strongly encouraged to attend the non-mandatory pre-proposal meeting on Tuesday, May 10, 2022 at 10:00 am to be held at:

Corner of Wilson St and Highland Home Rd

III.D Licenses

If applicable, Company and/or its key personnel, shall hold an appropriate license for the Company's discipline and the Services on the date the Proposal is submitted.

III.E Department of Industrial Relations Registration

Company shall have registered with the Department of Industrial Relations and any other required organizations.

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

  A. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

  B. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

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C. Registration can be accomplished through the DIR website by using this link: http://www.dir.ca.gov/Public-Works/PublicWorks.html.

- Contractor is aware of and stipulates that Contractor will also comply with the following sections of the California Labor Code:

  A. Sections 1771, 1774, and 1775 prescribing prevailing wage rage requirements and sanctions for failure to pay prevailing wage rates;

  B. Section 1776 requiring the making, keeping and disclosing of detailed payroll records and prescribing sanctions for failure to do so;

  C. Section 1777.5 prescribing the terms and conditions for employing registered apprentices;

  D. Section 1810 providing that eight hours of labor shall be a day's work; and

  E. Section 1813 and 1815 prescribing sanctions for violations of the provisions concerning eight-hour work days and forty-hour work weeks.

    1. A schedule of prevailing wage rates as published by the California Department of Industrial Relations for the types of work to be done under these Special Provisions can be found on the DIR's website: http://www.dir.ca.gov/OPRL/PWD/index.htm. The Contractor and all subcontractors shall pay not less than these rates. The Contractor shall submit certified payroll records electronically to the DIR.

    2. The possibility of wage increases is one of the elements to be considered by the Contractor in determining Contractor's bid. No additional compensations will be made for any increases in prevailing wage rates in excess of those set forth in the Contract. However, if the job is prolonged as a result of construction change order(s) or delayed by the City beyond the specified days in the Time of Completion, reimbursements may be made for increases in prevailing wage rates, but only for the working days beyond that stipulated.

See attachment B - Banning Prevailing Wage Checklist Acknowledgement

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IV. SCOPE OF WORK

IV.A SCOPE OF WORK

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Ramsey Street Medians (Ramsey Street) from Highland Springs Avenue to Highland Home Road.
- Banning City Hall (99 East Ramsey Street) landscaping around building and in parking lot.
- Banning Police Station (125 E. Ramsey Street)
- Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)
- Fire Station (5261 W. Wilson Street)
- Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)
- Aquatic Center (749 N. San Gorgonio Avenue) landscaping around the immediate exterior vicinity around the center as well as the landscaping inside the center.
- Former Army National Guard property (2041 W. Nicolet Street)
- Brinton Reservoir (1700 N. Mountain Avenue)
- Sunset Reservoir (1202 N. Sunset Avenue)
- San Gorgonio Parking Lot

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

A. Lawn Mowing

1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2 ½" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising,

tearing, and shredding are to be prevented. Mowing pattern will be varied where possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

B. Edging and String Trimming

1. All sidewalks, curb lines, concrete slabs, tree circles, and bed edges will be edged as often as necessary to maintain a neat and manicured appearance. String trimming will be performed around all trees, shrubs, road signs, guard posts, utility poles, and other obstacles.

C. Clearing of Walks

1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

A. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.

B. Planter beds will be groomed to promote an attractive, fresh appearance.

C. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.

D. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.

1. Pruning shall be performed by Contractor's designated staff member who is trained and demonstrated competency in proper pruning techniques.
2. Prune shrubbery and hedges at established maintenance height.
3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.

IV.D TREE CARE & PRUNING

A. All trees will be "skirted" as needed per the City's request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

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B. All trees under 12” total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.

   1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant’s dormant season.

   2. Pruning to be performed by Contractor’s designated staff member who is trained and demonstrates competency in proper pruning techniques.

C. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support.

IV.E FERTILIZATION

A. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.

   1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to “Winter” and “Summer” and different fertilizers will be used based on ground temperature.

   2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

A. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture’s labels.

B. Broadleaf turf weeds will be treated as needed.

C. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

D. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.

E. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations.

F. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

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IV.G IRRIGATION EQUIPMENT AND OPERATION

A. Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City's representative.

B. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.

C. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor's control will be submitted as an extra. Damage caused to the irrigation system by Contractor shall be repaired with three (3) days, unless otherwise agreed to, at no charge.

IV.H GENERAL CONDITIONS

A. City is responsible for all cost associated with water.

B. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.

C. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. Written, comprehensive inspection reports will be provided upon request.

D. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

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V. VENDOR QUESTIONNAIRE

Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Responses should emphasize the Company's demonstrated capability to perform work of this type. Emphasis should be concentrated on completeness and clarity of content. Proposals shall adhere to the following format for organization and content. Proposals must be typed and arranged/divided in the following sequence to facilitate evaluation.

V.A Cover Letter*

The cover letter shall include a brief general statement of intent to perform the services and confirm that all elements of the RFP have been reviewed and understood. The letter shall include a brief summary of Company's qualifications and Company's willingness to enter into a contract under the terms and conditions prescribed by this RFP and in the Sample Agreement. The letter must identify a single person for contact during the RFP review process.

*Response required

V.B Proposal*

A. Statement of Understanding and Approach

- This section must demonstrate an understanding of the Services. It should describe the general approach, organization and staffing required for the Services requested. If necessary, preliminary investigations, due diligence, and research shall be discussed in this section.
- This section should include the following:
  - An implementation plan that describes in detail (i) the methods, including controls by which your firm or entity manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
  - Detailed description of efforts your firm or entity will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
  - Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments. The Contractor shall provide a project schedule indicating monthly and project activities. The schedule shall reflect a tentative start date of July 1, 2022 through June 30, 2023 with the option to renew upon satisfactory review and request of the City.

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- Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.
- Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.
- Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City, if applicable.

B. Company Information

- This section shall include contact person information, address and telephone number of the company main office and branch offices. Each Company shall identify itself as to the type of organizational entity (corporation, sole proprietorship, partnership, joint venture, etc.). Any supplemental information that Company believes may be pertinent to the selection process may be provided.
  - How long the company has been in business, plus a brief description of the company history, size and organization.
- The proposer should provide an affirmative statement that it is independent of the City as defined by generally accepted auditing standards/the U.S. General Accounting Office's Government Auditing Standards (1994).
- The Proposal shall identify any litigation, mediation, or arbitration, regarding the performance of any services similar to the Services, in which the Company has been involved in the past five (5) years. If the Services require a license or certification, the Proposal shall include any claims or disciplinary action taken against Company or any of Company's key personnel within the past five years.

C. Company Personnel

- This section shall contain names, contact numbers and description of experience, including licenses and/or certifications, of all key personnel who would be assigned to perform the Services. Members of the Company's professional team (managers, contact person, etc.) should be identified by name, title, phone number, and description of the portion of work they will be assigned to perform under this Agreement. Also include major subcontractors (if any) and their degree of involvement in this program. If the Company is including any subcontractors, the Company shall identify how long the Company has worked with the subcontractor.

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- An affirmative statement should be included that the proposer and all assigned key professional staff are properly licensed to practice in California.

D. Disclosure

- Please disclose any and all past or current business and personal relationships with any current Banning elected official, appointed official, City employee, or family member of any current Banning elected official, appointed official, or City employee. Any past or current business relationship may not disqualify the firm from consideration.

E. Experience and References

- The Proposal must demonstrate that the Company, or its key personnel, meets the minimum experience requirement in #Prerequisites with a legally registered business name, that provides services of a similar type and scope as described in the Scope of Services. A Company shall not have filed for bankruptcy under any business name over the past five (5) years.
- Company shall provide at least 3 references, within the past 5 years, of clients for whom services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include client names, addresses, telephone numbers and e-mail addresses of the clients for whom prior work was performed and include an explanation of the services provided along with project start and end dates.

*Response required

V.C Price Proposal*

All proposals submitted shall have a stated dollar bid amount for providing the services outlined in the Scope of Services. The total shall be an all-inclusive maximum price and to contain all direct and indirect costs including all out-of-pocket expenses with a full and complete breakdown of all said costs, and proposed fees including but not limited to hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, miscellaneous fees, etc., for the first year's audit engagement.

In addition, a statement must be included in this section that if the proposer is charging travel costs, the proposer's charges invoiced to the City for travel, lodging and subsistence shall not exceed the current IRS rates.

*Response required

V.D Value Added Services

Please describe any value-added services your company offers that may be of use to the City

V.E Evidence of Insurance*

In addition, the Company shall provide evidence of possession of insurance in the coverage and amounts listed in the Sample Agreement.

City requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Proposer must furnish the City with the Certificates of Insurance proving coverage as specified in contract sample.

*Response required

V.F Vendor Forms

Please download the below documents, complete, and upload.

- New_Vendor_Packet.pdf

V.G Type of Business*

☐ C Corporation
☐ S Corporation
☐ Limited Liability C Corporation
☐ Partnership
☐ Limited Liability Partnership
☐ Sole Proprietor/Individual
☐ Other
*Response required

V.H Type your Legal Company Name Here*

State your Company's Name Here. This will be verified against the California Secretary of State's Website.

*Response required

V.I Contractors State License Board (CSLB) Number*

Contractors State License Board (CSLB) Number*

Please enter your License Number here. This will be verified against the state database

*Response required

V.J California Department of Industrial Relations Registration*

California Department of Industrial Relations Registration*

Please enter your Public Works Contractor Registration Number. This will be verified against the state database.

*Response required

V.K PREVAILING WAGE REQUIREMENT*

Please upload pages 1-5 of attachment B - Banning Prevailing Wage Checklist Acknowledgement

*Response required

V.L EX PARTE COMMUNICATIONS CERTIFICATION*

I certify that Bidder and Bidder's representatives have not had any communication with a City Councilmember concerning this IFB at any time after the date and time that this IFB was publicly advertised.

☐ Yes
☐ No
*Response required

V.M EX PARTE COMMUNICATION CONTINUED*

EX PARTE COMMUNICATION CONTINUED *

If stated "Yes" above, please explain the circumstances in the following space, or state "None.

*Response required

V.N DISQUALIFICATIONS QUESTIONNAIRE*

Has the Company, any officer of the Company, or any employee of the Company who has proprietary interest in the Company, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

☐ Yes
☐ No
*Response required

V.O DISQUALIFICATIONS QUESTIONNAIRE CONTINUED*

If stated "Yes" above, please explain the circumstances in the following space, or state "None."

*Response required

V.P DISCLOSURE OF GOVERNMENT POSITIONS*

Each Bidder shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

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☐ Yes
☐ No
*Response required

V.Q DISCLOSURE OF GOVERNMENT POSITIONS CONTINUED*

If stated "Yes" above, please disclose any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months, or state "None."

*Response required

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VI. PRICING PROPOSAL

RATE SHEET

Line Item	Location	Quantity	Unit of Measure	Monthly Rate	Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	12	Month		
2	Banning City Hall (Civic Center)	12	Month		
3	Banning Police Station (125 E. Ramsey Street)	12	Month		
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month		
5	Fire Station (5261 W. Wilson Street)	12	Month		
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month		
7	Aquatic Center (749 N. San Gorgonio)	12	Month		
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	12	Month		
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month		
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month		
11	San Gorgonio Parking Lot	12	Month		
TOTAL					

CLEAN-UP

Line Item	Location	Unit of Measure	Monthly Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	One Time	
2	Banning City Hall (Civic Center)	One Time	
3	Banning Police Station (125 E. Ramsey Street)	One Time	

Line Item	Location	Unit of Measure	Monthly Rate
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	One Time	
5	Fire Station (5261 W. Wilson Street)	One Time	
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	One Time	
7	Aquatic Center (749 N. San Gorgonio)	One Time	
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	One Time	
9	Brinton Reservoir (1700 N. Mountain Avenue)	One Time	
10	Sunset Reservoir (1202 N. Sunset Avenue)	One Time	
11	San Gorgonio Parking Lot	One Time	

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VII. SUBMISSION INSTRUCTIONS AND INQUIRIES

VII.A Inquiries

If prior to the date fixed for submission of Proposals, a prospective Company discovers any ambiguity, conflict, discrepancy, omission or other errors in this RFP or any of its appendices, exhibits or attachments, the Company shall immediately notify the City of such error in writing and request modification or clarification of the document. Modifications shall be made by written Addenda to the RFP.

If a Company fails to notify the City, prior to the date fixed for submissions of Proposals, of an error in the RFP known to the Company, or an error that reasonably should have been known to the Company, the Company shall submit its Proposal at its own risk, and if the Company is awarded a Contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

All communications regarding technical, scope, and/or project related questions and requests for clarifications, changes, exceptions, and deviations to the terms and conditions set forth in this RFP **shall be submitted via "Q&A"** through the City's Electronic Bidding System, ProcureNow, before the deadline and according to these specifications herein. Any and all other bidding communications shall only be with **Nicole Jews, Purchasing Manager**, at (951) 922-3121.

The Final day for receipt of questions from the Proposer shall be on or before the due date indicated in the schedule of events section. To ensure fairness and avoid misunderstandings, **all communications must be in written format** and submitted only in the format set forth above. Any verbal communications will not be considered or responded to. All questions received by the due date will be logged and reviewed and if required, a response will be provided via an addendum to the RFP that will be posted on the City's website. **Any communications, whether written or verbal, with any City Councilmember, City staff, or RFP evaluation panel member other than the individual indicated above, prior to award of a contract by City Council, is strictly prohibited and the Proposer shall be disqualified from consideration.**

VII.B Completion Of Proposal

Proposals shall be completed in all respects as required by this RFP. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity can materially affect the quality of the proposal. Proposals which contain false or misleading statements may be rejected. If, in the opinion of the City's Selection Committee, such information was intended to mislead the City in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of this RFP, the proposal will be rejected. Statements made by a Company shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

Unauthorized conditions, exemptions, limitations, qualifications, or provisions attached to a Proposal will render it non-responsive and will cause its rejection.

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The Company, in responding to this RFP, must submit Proposals in the format identified in this RFP. The Proposal must address all requirements of the RFP even if a "no response" is appropriate.

Costs for developing Proposals are entirely the responsibility of the Company and shall not be chargeable to the City. The City shall not be liable for any costs incurred in response to this RFP, including but not limited to, costs for any interviews, presentations, or other follow-up information necessary as part of the selection process. All costs shall be borne by the Company responding to this RFP. The Company responding to this RFP shall hold the City harmless from any liability, claim, and expense whatsoever incurred by or on behalf of the Company.

VII.C Delivery / Submission Of Proposals

The Final day for submission of proposals shall be on or before the due date indicated in the schedule of events section.

Companies shall register on the City's Electronic Bidding System, https://www.banningca.gov/bids. Once registered, Companies must download the RFP while logged in under their own name and identification number to appear on the Current Prospective Bidders List as a "Prospective Bidder." Companies that fail to download the RFP will not appear on the Current Prospective Bidders List and their proposals will be considered non-responsive. If a Company is unable to register or download the RFP from the bidding website, a representative may contact ProcureNow.

All proposal documents and supplementary documents must be uploaded using the City's bidding website prior to event date and time as instructed in this solicitation. Once file(s) have been uploaded and the Submission Status shows as "Submitted" the submission is complete. At that point respondents will receive an email confirmation from the bidding website.

The City reserves the right to reject any and all proposals and to waive information and minor irregularities in any proposal received.

Acceptance of Terms and Conditions - Submission of a proposal pursuant to this RFP shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth in this RFP.

The time and date are fixed, and extensions will not be granted unless specifically stated by the City in an addendum to this RFP. Proposals not received before the bid event time will not be accepted.

VII.D Alternative Proposals

Only one proposal is to be submitted by each Company for this RFP. Multiple simultaneous proposals will result in rejection of all Proposals submitted by Company. A Company may, prior to the proposal due date and time, withdraw a proposal and submit a new proposal, so long as the new proposal is submitted before the proposal due date and time.

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VII.E Examination Of RFP And Sites Of Work

The Company shall carefully examine the RFP and all sites, if applicable, of the work contemplated. The submission of a Proposal shall be conclusive evidence that the Company has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, the difficulties to be encountered, and to the requirements of the Proposal, RFP, and other Contract Documents.

By submitting a Proposal, the Company hereby certifies that it has: examined the local conditions, read each and every clause of this RFP, included all costs necessary to complete the specified work in its proposed prices, and agrees that if it is awarded the Contract it will make no claim against the City based upon ignorance of local conditions or misunderstanding of any provision of the Contract. Should the conditions turn out otherwise than anticipated by it, the Company agrees to assume all risks incident thereto.

VII.F Addenda

Unless otherwise specified, any addenda issued during the time of bidding must be acknowledged electronically via the City's Bidding Website, which will be made part of the proposal. Addenda notifications will be provided to those listed on the Electronic Prospective Bidder's List via email.

VII.G Withdraw Of Proposals

All proposals shall be firm offers and may not be withdrawn for a period of one hundred twenty (120) days following the deadline date for submission of proposals noted herein. Submitted Proposals may be withdrawn at any time prior to the submission deadline.

VII.H Pre-Proposal Meeting

There will be an optional pre-proposal meeting Tuesday, May 10, 2022 at 10:00 am. The meeting will be located at Corner of Wilson St and Highland Home Rd.

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VIII. EVALUATION CRITERIA

The City reserves the right to amend, withdraw, and cancel this RFP. The City also reserves the right to reject all responses to this RFP at any time prior to agreement execution. Furthermore, the City reserves the right to request additional information about any and all Proposals, that in City's opinion, is necessary to assure that the Company's competence, number of qualified employees, business organization, experience, and financial resources are adequate to perform the Services.

All Proposals shall be reviewed to verify that the Company has met the minimum requirements as stated in this RFP. Proposals that have not followed the rules, do not meet minimum content and quality standards, and/or do not provide references will be rejected as non-responsive.

Responsive proposals will be evaluated on the basis of the criteria below. **If needed, interviews will be scheduled during or after the week indicated in the "Schedule of Events" section.** If needed, interviews will be conducted by the same members on the proposal evaluation panel. Dates, times, and a location will be coordinated at that time if interviews are deemed necessary after the evaluation of responsive proposals. If interviews are deemed necessary, candidates who have submitted the highest scoring proposals within a competitive range as determined by the City will be invited to participate in the interview process.

The selected Company shall then enter into exclusive negotiations with the City to formalize the Scope of Service and Compensation. Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If the City is unable to obtain a fair and reasonable price or cannot reach agreement regarding the terms for the Scope of Services, then the City will end negotiations with that Company and begin negotiations with the next Company which best meets the needs of the City, and so on until a City and the Company reach agreement.
The City intends to select the Company that offers the best value to the City based on the criteria outlined above.

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	**Qualifications**	0-5 Points	25 *(25% of Total)*
2.	**Pricing**	0-5 Points	20 *(20% of Total)*
3.	**Experience (Projects of similar size and scope)**	0-5 Points	25 *(25% of Total)*
4.	**Professional References**	0-5 Points	20 *(20% of Total)*

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5.	**Approach and Methodology**	0-5 Points	5 *(5% of Total)*
6.	**Value Added Services**	0-5 Points	5 *(5% of Total)*

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IX. RESULTING CONTRACT

IX.A CONTRACT TERM

The initial term of the Agreement shall last **one (1) year from the date of execution with the option to extend for four (4) additional one-year terms not to exceed five (5) years** based upon acceptable performance by the Company, acceptable fees and subject to the same terms and conditions of the Agreement.

Pricing is to remain firm for the initial contract term. Should the option to renew for additional years be exercised, City and Company may negotiate any and all price modifications.

IX.B CONTRACT DOCUMENTS

In submitting a Proposal, the Company agrees to enter into an Agreement with the City ***without exceptions to the City's standard agreement***. The City's standard agreement is **non-negotiable**, and a copy of the standard agreement is attached herein. **Any change to the standard agreement will deem the Proposal non-responsive**. In the event of a conflict exists between documents the following order of precedence shall apply:

- Agreement
- City of Banning's Request For Proposals
- Company's Response to the Request For Proposals

IX.C EXECUTION OF AGREEMENT

After contract award, the following shall be signed and returned to the City within fourteen (14) calendar days from the date the City mails, or by other means delivers said documents to the Company:

- The Agreement in the form included herein, properly executed by the Company.
- Certificates of Insurance and Additional Insured Endorsement evidencing coverage as specified in the sample agreement.
- Confirmation of current business tax certificate.
- Bonds, if required.

In any event that day fourteen (14) of calendar days falls on Saturday, Sunday, a legal holiday for the State of California, or on days when the City is closed, the Contract Documents shall be delivered by the following working day.

No Agreement shall be binding upon the City until all documents are fully executed by the Company and the City.

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IX.D FAILURE TO EXECUTE THE AGREEMENT

Failure to execute the Agreement and furnish the required insurance and business tax certificate, within the required time period shall be just cause for the rescission of the award. If bonds are also required, failure to furnish sufficient bonds shall cause rescission of the award. If the successful Company refuses or fails to execute the Agreement, the City may award the Agreement to the next qualified Company.

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X. TERMS AND CONDITIONS

X.A Contract Terms And Conditions

The successful company will be required to execute the City's standard agreement ("Agreement"). A sample is attached herein. The successful company must meet all insurance requirements in the Agreement. All terms and conditions of the Agreement are non-negotiable. Companies must possess valid City of Banning Business License throughout the term on the contract. Failure to execute the Agreement and furnish the required insurance within the required time period shall be just cause for the rescission of the award. If any of the successful Companies refuse or fail to execute the Agreement, the City may award the Agreement to the next most qualified Company.

X.B Public Records

All Proposals submitted in response to this RFP become the property of the City and pursuant to the Public Records Act (Gov. Code, § 6250 et seq.) are public records, and as such may be subject to public review at least 10 days before selection.

The Company must notify the City in advance of any proprietary or confidential materials contained in the Proposal and provide justification for not making such material public. The City shall have sole discretion to disclose or not disclose such material subject to any protective order that the Company may obtain. Note that under California law, price proposal to a public agency is not a trade secret.

Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

The City reserves the right to make use of any information or idea contained in the Proposal. All materials, ideas and formats submitted in response to this RFP will become the property of the City upon receipt.

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X.C Conflict Of Interest

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

X.D Rejection Of Proposals

The City may reject any/or all Proposals and may waive any immaterial deviation in a Proposal. The City's waiver of an immaterial defect shall in no way modify this RFP or excuse the Company from full compliance with this RFP and/or the Contract Documents if awarded the Contract. Proposals that include terms and conditions other than City's terms and conditions may be rejected as being non-responsive. The City may make investigations as deemed necessary to determine the ability of the Company to perform the work, and the Company shall furnish to the City all such information and data for this purpose as requested by the City. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Company fails to satisfy the City that such Company is properly qualified to carry out the obligations of the Agreement and to complete the work described herein.

X.E Protest Procedures

Failure to comply with the rules set forth herein may result in rejection of the protest. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the RFP Facilitator at least 10 calendar days prior to the deadline for receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the RFP Facilitator, within forty-eight hours from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The RFP Facilitator will respond to the protest in writing at least three days prior to the meeting at which staff's recommendation to the City Council will be considered. Should Proposer decide to appeal the response of the RFP Facilitator, and pursue its protest at the Council meeting, it will notify the RFP Facilitator of its intention at least two days prior to the scheduled meeting.

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X.F Cancellation

The City retains the right to cancel this RFP at any time, should it be deemed to be in the best interest of the City. No obligation either expressed or implied exists on the part of the City to make an award based on the submission of any proposals.

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

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

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

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ADDENDUM NO. 1

May 24, 2022

REQUEST FOR PROPOSALS

FOR PROFESSIONAL SERVICES

FOR

LANDSCAPE MAINTENACE SERVICES FOR CITY PROPERTIES

RFP No. 22-015

The referenced Request for Proposals solicitation (RFP) has been modified via this addendum. The following may include vendor questions, answers, added/removed information, and/or changes to the RFP hereby officially established by the City.

This addendum is hereby made part of the referenced RFP as though fully set forth therein, and supersedes any conflicting statements previously advertised in this RFP solicitation. All other provisions of the RFP shall remain in their entirety.

Companies submitting a proposal response shall acknowledge any and all addenda electronically via the OpenGov Procurement electronic bidding system. Companies who fail to acknowledge any and all addenda will be deemed non-responsive to this RFP, and their proposal response will not be considered for evaluation.

Addendum Detail:

Please refer to the following page(s) for the details of this addendum.

1. All appropriately submitted Questions are included below along with the City's corresponding answers.
   a.
   b.

	QUESTION	ANSWER
1	**During todays Landscape walk, we walked both Brinton and Sunset reservoir properties. Both locations have a tremendous amount of overgrowth. The amount of overgrowth seems as the properties are not being maintained. Will the current contractors do a clean up before contract is over ?**	We are currently working with the existing contractors to clean up, maintenance the irrigation system and get the site back up to maintenance ready condition. An additional pricing chart has been added for bidders to supply an option to perform the clean-up, if this is not complete at start of contract
2	**What is the current price for this bid?**	$53,460 was the base bid amount for the most recent contract which includes the following locations: 1. Ramsey Medians 2. Banning City Hall 3. Banning Police Station 4. Banning Police Stations Northeast Parking Lot 5. Fire Station 6. Community/Senior Centers 7. Aquatic Center 8. Former Armory 9. Brinton Reservoir 10. Sunset Reservoir 11. San Gorgonio Parking Lot
3	**Is a bid bond required for this bid?**	No bonds required.
4	**What was to total dollar amount paid for this contract during the most recently completed fiscal year?**	FY 2021: $52,260 Contract excluded the San Gorgonio Parking Lot
5	**What was the original base cost**	$52,260

Addendum Detail:

	submitted by the current contractor?	
6	**What year and month was the current contract started?**	July 1, 2020
7	**Is there a change in scope of work when comparing the current contract to this contract going out to bid?**	Yes. Service location added.
8	**Will the new contractor receive the contract in a condition that meets the requirements of the specifications?**	If not, please provide an optional cost to meet specifications. An additional pricing chart has been added for bidders to supply an option to perform the clean-up
9	**Can the city provide a map with boundaries for each location?**	Maps have been attached to this addendum. **Except for site 1 - Ramsey St Median**
10	**How many trees are a part of this contract that are under 12 Ft. tall?**	None
11	**Is a Bid Bond required for this contract?**	Please refer to question 3
12	**After seeing the sites, it is clear that some locations are in bad condition. Will the new contractor be expected to improve the current condition?**	Please refer to question 9 above
13	**Will this contract be awarded to the lowest bidder, or will the proposals go through a grading process to select the most qualified bidder?**	Evaluation Criteria identified in solicitation as outlined below: 1. Qualifications (25%) 2. Pricing (20%) 3. Experience (20%) 4. Professional References (20%) 5. Approach/Methodology (5%) 6. Value Added Services (5%)
14	**How many irrigation controllers will we be responsible for?**	1. Ramsey Medians: Zero (0) 2. Banning City Hall: One (1) 3. Banning Police Station: One (1) 4. Banning Police Stations Northeast Parking Lot: Zero (0) 5. Fire Station: One (1) 6. Community/Senior Centers: Two (2)

Addendum Detail:

		7. Aquatic Center: One (1) 8. Former Armory: One (1) 9. Brinton Reservoir: One (1) 10. Sunset Reservoir: One (1) 11. San Gorgonio Parking: Lot One (1)
15	**If any, what improvements would the city like to see?**	Sites and water system brought back to specifications.
16	**How much extra work was awarded during the last fiscal year?**	None
17	**Can the city please provide a map showing the boundary lines for each area? after seeing the sites, some of the areas are difficult to tell there the boundaries are.**	Refer to question 9 and see attached.
18	**Are we supposed to use the Journeyman ($60.09 per hr) classification or the Tender ($21.34 per hr)?**	Pay prevailing wage utilizing the "Landscape Maintenance Laborer" classification.

2. See OpenGov Procurement sections listed below for following changes:
    a. Section 4 – Scope of work adding San Gorgonio Parking Lot to list of locations.
    b. Section 6 – Pricing Proposal addition of line 11 for the additional site location and second chart for the option to preform clean up on needed locations.

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Search Maps

RM

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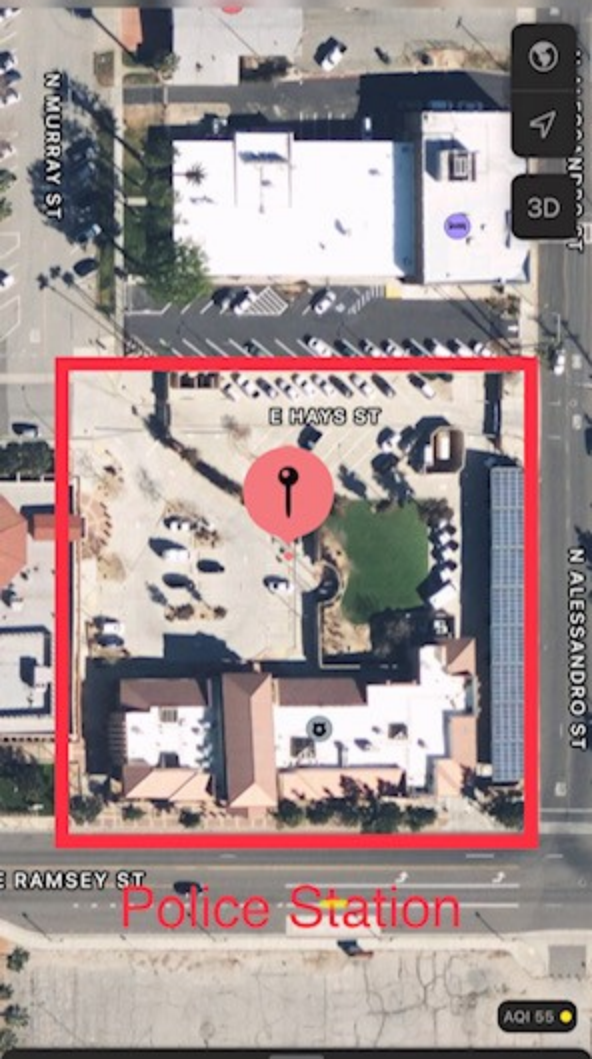

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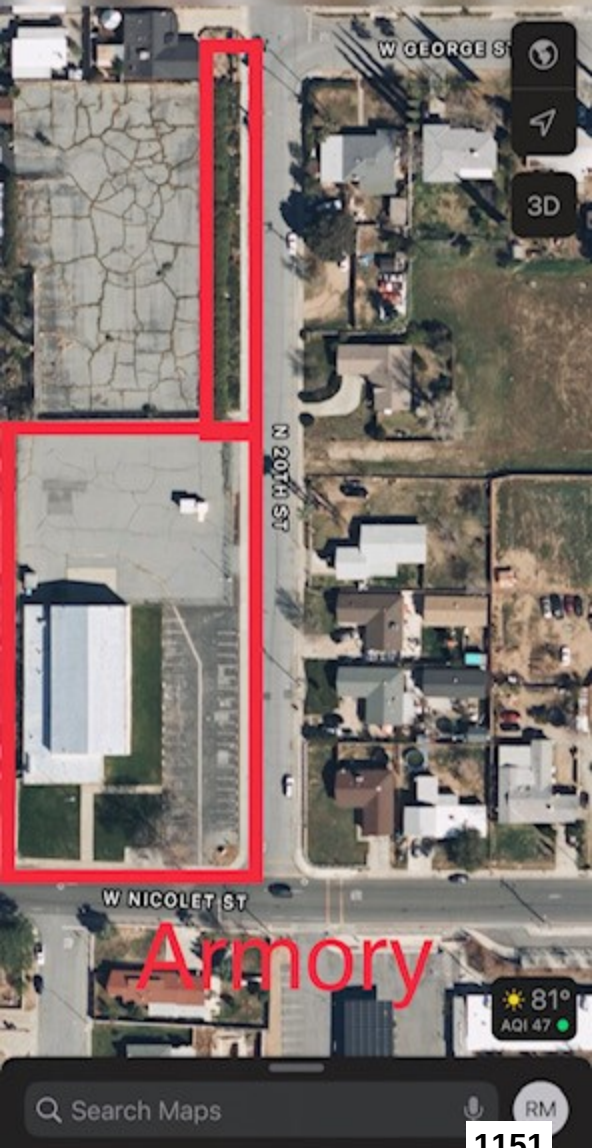
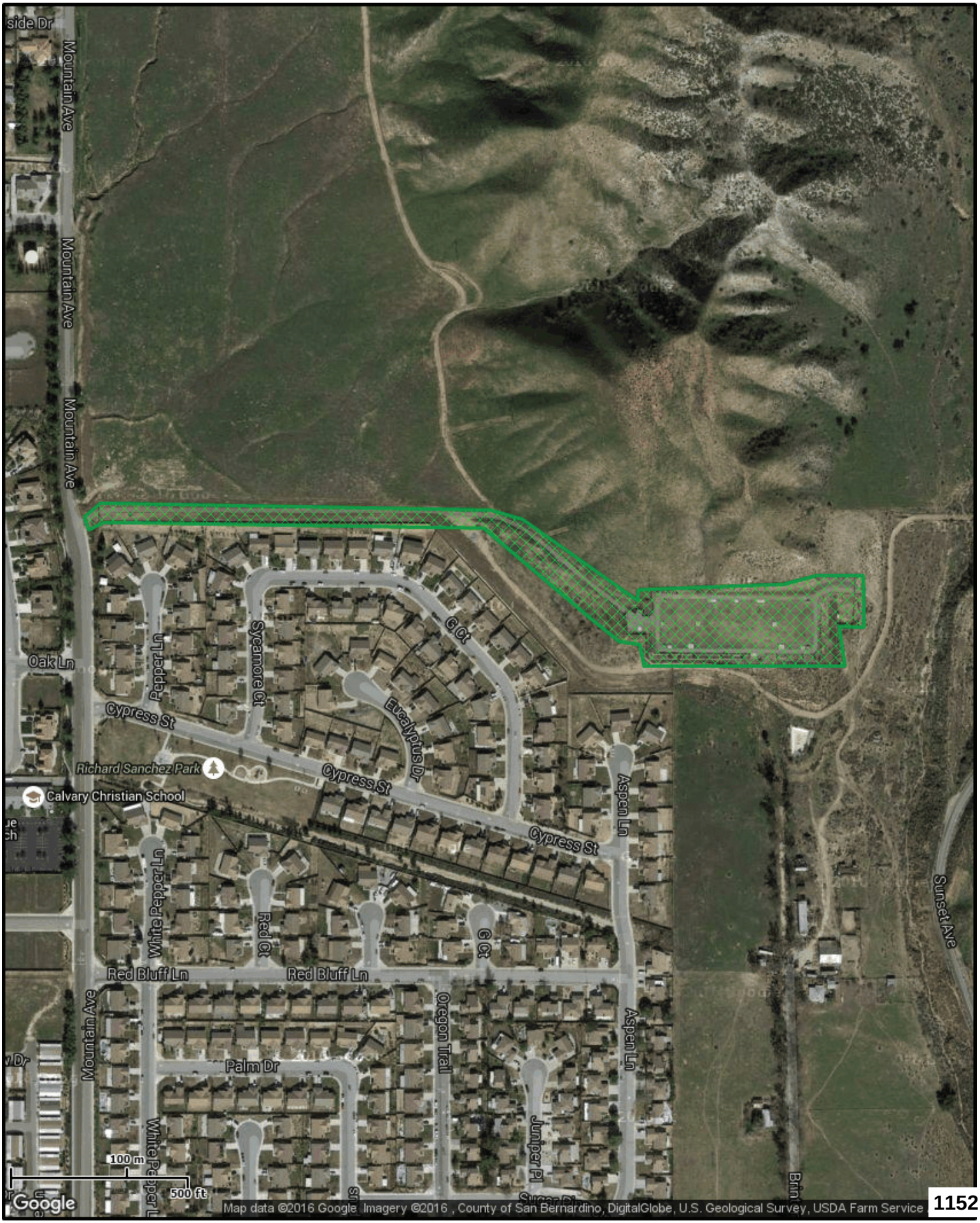


Brinton Reservoir



Sunset Reservoir

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Landscape Maintenance Request for Proposal

City of Banning RFP-22-015

Landscape Maintenance Services for City Properties

MARIPOSA LANDSCAPES INC

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MARIPOSA
LANDSCAPES INC

May 31, 2022

City of Banning – Public Works
99 E Ramsey St, Banning CA 92220
Attn: Tisha Jacobs - Buyer
915-922-3141 tjacobs@banningca.gov

RE: Request for Proposal, Landscape Maintenance

Mariposa Landscapes, Inc. has continuously been in business since 1977. Growing from a single truck in Rosemead, California to a fleet of trucks and equipment with 600 employees covering all of Southern California and Arizona. With over 95 awards for project excellence, we take pride in the quality of our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

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

We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

We would be honored to work for you and beautify the City of Banning properties.

Sincerely,

Larry Rudd – Director of Estimating

TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRWINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49, C-61, C-31

Our Core Values – Safety • Teamwork • Quality • Integrity

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"We blend Nature and Craftsmanship to create ultimate outdoor settings and extremely satisfied customers"

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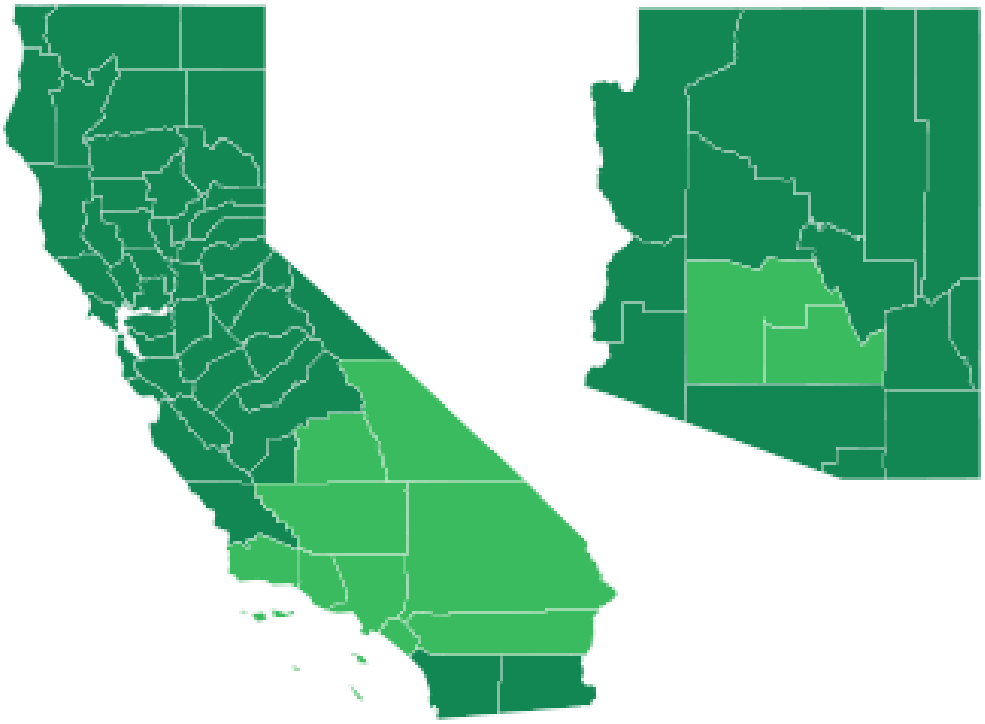
COMPANY INTRODUCTION

Mariposa is a landscape contractor working in both Southern California and Arizona.
With our staff experience dedicated professionals, we have developed a long history of excellence performing work on hundreds of landscape construction, maintenance and tree care projects.



Current areas of operation.

Highlights

- Over 40 years in business
- Contractor's license in two states
- Over 600 employees
- Insured – $1 million workers comp, $2 million in aggregate general liability
- $100 million in bonding capacity
- Over 95 awards for project excellence

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Company Values

Safety This is the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents, as well as provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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Proposer Identification

Legal Name: Mariposa Landscapes, Inc.
Street/Mailing Address: 6232 Santos Diaz St., Irwindale, CA 91702
Telephone Number: (626) 960-0196
Fax Number: (626) 960-8477
Bid Contact: Brandon Park
Email Address: brandon.park@maripsa-ca.com
President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	89126	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

Minority Business Enterprise

MBE Certification, File No. CCA-7150 for the City of Los Angeles, The Women and Minority Business Enterprise Clearing house has audited and verified our eligibility as a MBE pursuant to the California Public Utilities Commission General Order 156.

Financial Resources

Mariposa has been capable of meeting all financial obligations for over 40 years. A strong balance sheet supports $100 Million bonding capacity.

Green Waste Processing Capability

Mariposa Landscapes, Inc. has a recycling program for green waste and paper products. We implement this program at our local offices and at all job sites. Mariposa currently uses hybrid vehicles and electric equipment where required. Mariposa notifies all project managers of the green initiatives prior to the award of contract.

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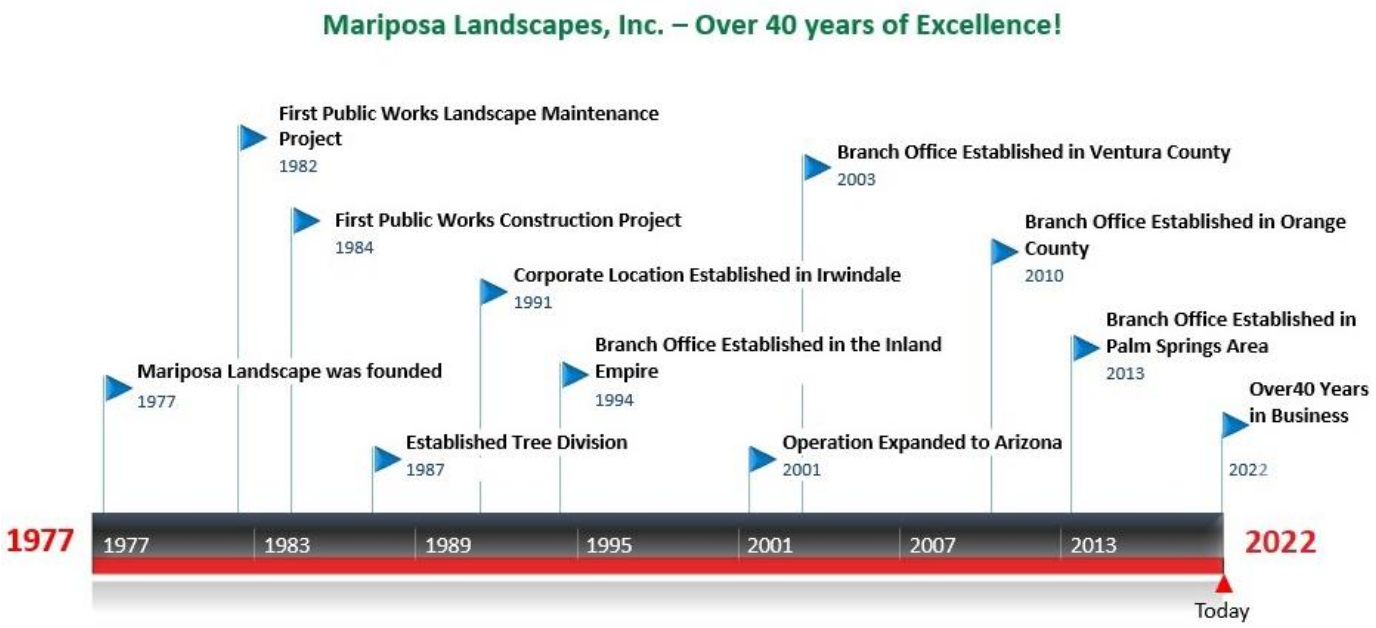
Office Locations

Corporate Headquarters

6232 Santos Diaz Street
Irwindale, CA 91702
Phone 626 960-0196
Fax 626 960-8477

Irwindale 15529 Arrow Highway Irwindale, CA 91706 Phone 626 960-0397 Fax 626 960-3809	**Orange County** 1107 E. Walnut St Santa Ana, CA 92701 Phone 626 960-0196 Fax 626 960-8477	**San Bernardino County** 11093 Almond Avenue Fontana, CA 92335 Phone 909 429-2546 Fax 909 429-2749
North L.A. Ventura 4790 E. Los Angeles Ave. Somis, CA 93066 Phone (800) 794-9458 Fax 805-386-4140	**Palm Springs** 78355 Darby Rd Bermuda Dunes, CA 92203 Phone 626 960-0196 Fax 626 960-8477	**Arizona** 7677 N. 67th Avenue Glendale, AZ 85301 Phone 623 463-2200 Fax 623 463-2223



QUALIFICATIONS

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. Many of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Playground Equipment Inspectors
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

Corporate Tax I.D. Number: 95-4245898 California Corporate Tax I.D.: C1469653
California State Contractor's License Number: 592268 A, C-27 DIR Number: 1000005079
Pest Control Advisor's License: 74416 MBE Clearinghouse #: 20000326
Pest Control Business License: 30977 LA County LBE (LABAVN): 106243

Management Staff Experience and Qualifications

Terry Noriega – President

- 45+ years of experience in landscape installation and maintenance
- B.S. in Ornamental Horticulture: California State Polytechnic University, Pomona
- California Contractors License: C-27 Landscape, A – Engineering, C61/D49 Tree Trimming
- Pest Control Advisor in 6 Categories
- Qualified Pest Control Applicator in 7 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- ISA Certified Arborist WE-1182A
- Arizona Contractor's License: ROC178088 K-21
- Arizona Qualifying Party License: 8263
- Arizona Pest Control Business License: 8246

Antonio Valenzuela – VP Operations

- Over 30 years of experience in landscape maintenance and irrigation troubleshooting
- Pest Control Qualified Applicator in 3 Categories
- **Certified Landscape Technician** in Ornamental and Turf Maintenance
- Certified Landscape Professional
- Backflow Certification in Los Angeles County
- Landscape Water Auditor: Cal Poly SLO
- Past affiliation – Certified Playground Inspector

Larry Rudd – Director of Estimating

- 45 years in landscape installation, maintenance operations and estimating
- Landscape Sales and Operations Experience in California, Arizona, Texas and Oklahoma
- B.S. in Business Management, University of Phoenix
- **Certified Landscape Technician**: Hardscape Install, Softscape install, Ornamental & Turf Maintenance
- Chino Basin Water Conservation District – Water Efficient Landscaper (WaterSense Certified)
- Arizona Certified Landscape Professional
- CPR Safety Trained
- Associate instructor with Dr. Fred Roth "Landscape Contracting & Estimating" Cal Poly Pomona
- Instructor "Landscape Planning for Project Management & Maintenance" Cal State Fullerton
- Instructor "Business Practices in Landscape Planning and Management" Cal State Fullerton
- Affiliations Past and Present:
    - California Contractors License: C-27 Landscape, A – Engineering
    - California Qualified Pest Control Applicator License
    - CAI California, Arizona & Texas, CACM, AAM Arizona, BOMA Dallas Chapter – Member
    - California Landscape Contractors Association (San Gabriel Valley) – Board Member
    - Certified Professional Estimator – American Society of Professional Estimators
    - International Society of Arboriculture Certified Arborist WE-11744A

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Maintenance Operations Staff Experience and Qualifications

Luis Valenzuela – Landscape Maintenance Division Manager, Southern California

- Over 25 years of experience in landscape and construction operations
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- ISA Certified Arborist WE-8713A
- Certification – Effective Business Leadership & Development – PDC/GCC

Michael Williams – Area Manager

- Over 45 years of experience in landscape management, irrigation design and retrofit, maintenance and arbor care.
- BS in Ornamental Horticulture, Cal Poly San Luis Obispo
- CPR Safety Trained
- Qualified Applicator License 133955

Roberto Perez – Area Manager

- Over 25 years of experience in landscape maintenance
- Graduate of the Pacific Southwest Maintenance Management School
- MSAC Irrigation Design and Plant ID Certificate
- Leadership Academy Certificate, Cal Poly Pomona
- Calsense 3000 Certified
- Qualified Applicator License – In Process
- Cal State Fullerton Water Auditor – In Process

Tony Valenzuela – Area Manager

- Over 12 years of experience in landscape management
- Harvard Management Essentials Certified – Harvard Business School
- Qualified Applicator Certificate, Category B, C
- Pesticide IPM and Safety Schools Act trained
- Certified Landscape Technician, Exterior Maintenance
- Certified Landscape Manager, Exterior Maintenance
- EPA WaterSense – Qualified Water Efficient Landscape
- SDCWA San Diego – Recycled Water Site Supervisor Certified
- Irvine Ranch Water District Water Management Certified
- CIRT – Certified Irrigation Water Auditor
- CIRT – Certified Irrigation Installer
- CIRT – Certified Irrigation Repair Technician
- Past affiliation – Certified Playground Inspector

Dennis Jones – Tree Care Regional Division Manager, Southern California

- Over 20 years of experience in Arbor Care
- BS Degree in Urban Forestry, Cal Poly San Luis Obispo
- International Society of Arboriculture Certified Arborist WE-5700A
- ISA Qualified Tree Risk Assessment
- TCIA Certified Tree Safety Professional 843
- Qualified Applicator License – 108771, Categories B, C & F
- Wildlife Protector Certification
- Notary Public

Juan De La Torre – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- Pest Control Dealer Designated Agent
- Irrigation Certificate – Rainbird

Andres Perez – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- Certified Landscape Technician, Irrigation
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Jesus Ramirez – Account Manager

- Over 25 years of experience in the landscape industry
- Qualified Applicator License, Category B
- **Certified Landscape Technician**, Ornamental and Turf Maintenance
- Certificate – Irrigation Design
- Certificate – Irrigation Troubleshooting
- CVAG Overseeding Certificate

Dirk Bennett – Account Manager

- 10 years of experience in the Residential/HOA landscape maintenance and construction
- Qualified Applicator License, Category B
- 10 years of Herbicide/Pesticide application experience
- 3 years of experience in large scale commercial landscape maintenance and operations

Enrique Figueroa – Account Manager

- 26 years of experience in the landscape industry
- Qualified Applicator License, Category B, C
- **Certified Landscape Technician**, Ornamental and Turf Maintenance
- OSHA Construction Safety and Health Certified

Miguel Medina – Account Manager

- Over 12 years of experience in the landscape industry
- Business Essentials Certificate – Harvard Business Online
- Certified Landscape Technician, Ornamental Horticulture
- Qualified Applicator License – in progress

Dax Lopez – Account Manager

- Over 6 years of experience in the landscape industry
- AA Degree in Business Management, Mt. San Antonio College
- Qualified Applicator License – in progress

Edgar Garibay – Account Manager

- Over 15 years of experience in landscape maintenance
- Qualified Applicator License – in progress
- OSHA 30 Certified

Jorge Pacheco – Account Manager

- 29 years of experience in the landscape industry
- BS Degree in Civil Engineering, UNAM, Mexico City
- Qualified Applicator License, Category B

Irving Gallegos – Account Manager

- 15 years of experience in the landscape industry
- AA Degree in Business Management, Saddleback College
- Horticulture and Landscape Design Certificate, Saddleback College
- Qualified Applicator License, Category B
- California Friendly Landscape Training Program
- Safe Working Zone Training
- CPR Safety Trained
- Forklift Operator Certification

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EXPERIENCE

Projects of Similar Size and Scope

City or Muncipal Client	Work Description	Start Date
California State University	Palm Desert Campus	7/1/2021
City of Banning	Five City Parks	4/1/2021
City of Corona	Parks	7/5/2017
City of Desert Hot Springs	Various Locations	7/1/2019
City of Fontana	Citywide areas 2 & 3	1/1/2020
City of Moreno Valley	Citywide Facilities and Aqueduct	7/1/2018
City of Moreno Valley	Citywide LMD Zone 2 Landscape	7/1/2018
City of Moreno Valley	Citywide	7/1/2019
City of Palm Desert	Citwide Medians and Parkways	7/1/2018
City of Palm Desert	LMA area 1	9/1/2021
City of Rancho Cucamonga	Citywide Facilities, Medians, Parks and Parkways	7/1/2020
City of Riverside	Utility Sites	7/1/2016
City of Riverside	City South Quadrant	7/1/2016
Coachella Valley Water District	Various Locations	4/22/2019
County of Riverside	Regonal Parks	4/1/2018
County of Riverside	Various Locations	8/10/2020
County of Riverside	46-200 Oasis St. Indio, CA 92201	10/1/2015
Cucamonga Valley Water District	Water Utility Sites	9/1/2021
Indio Water Authority	Water Utility Sites	7/1/2020

PROFESSIONAL REFERENCES

City of Palm Desert

Contact: Randy Chavez Phone: 760-902-9064
Email Address: rchavez@cityofpalmdesert.org
Work description
Multiple contracts throughout the City maintaining landscaped medians, parkways and facilities.

Coachella Valley Water District

Contact: Mike Munoz Phone: 760-578-6471
Email Address: mmunoz@cvwd.org
Work description
Multiple water sites and facilities.

Desert Hot Springs

Contact: Nicholas Haecker Phone: 760-329-6411
Email Address: nhaecker@icloud.com
Work description
Landscape maintenance districts.

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APPROACH AND METHODOLOGY

Along with implementing a monthly work schedule, we perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced workload. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan." Therefore, the work is to be planned and monitored in the following ways:

Annual Work Schedule

Here is a sample schedule. A final schedule will be provided upon start of work.

Turf Areas	**# of Frequencies**	**JANUARY**				**FEBRUARY**				**MARCH**				**APRIL**				**MAY**				**JUNE**				**JULY**				**AUGUST**				**SEPTEMBER**				**OCTOBER**				**NOVEMBER**				**DECEMBER**			
		Week				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Litter Control, All Areas, Liner Replacement	*Per Visit*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Mowing	*52 X year*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Edging & Detaling	*52 X year*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	*52 X year*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweeping	*52 X year*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Broadleaf Control	*2 X year*									■																												■											
Pre-emergent application	*3 X year*										■												■												■														
Fertilizations	*3 X year*										■														■													■											
Aeration	*2 X year*					■					■											■			■													■											
Pest Monitoring	*Monthly*				■				■				■				■				■				■				■				■				■				■				■				■
Irrigation System Inspections	*Weekly*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Shrubs & G.C Areas	**# of Frequencies**	**JANUARY**				**FEBRUARY**				**MARCH**				**APRIL**				**MAY**				**JUNE**				**JULY**				**AUGUST**				**SEPTEMBER**				**OCTOBER**				**NOVEMBER**				**DECEMBER**			
		Week				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	*8 X year*							■								■				■				■				■				■				■								■					
Ground-Covers Trimming	*8 X year*						■								■				■				■				■				■				■									■					
Ground-Covers Edging	*8 X year*						■								■				■				■				■				■				■									■					
Shrub Pruning	*8 X year*					■								■				■				■				■				■				■								■							
Deadheading & Cleaning	*As Needed*																																																
Weed Control	*Monthly*		■				■				■				■				■				■				■				■				■				■				■				■		
Fertilizations	*2 X year*										■																												■										
Pre-emergent application	*3 X year*										■												■												■														
Mulching Refreashing	*Monthly*			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	*4 X year*									■												■												■								■							
Premium Color	*1 X year*																																						■										
Removal of Dead Plants	*As Needed*																																																
Trees & Shrubs Safety Clearance	*Monthly*			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	*Weekly*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Hardscapes	**# of Frequencies**	**JANUARY**				**FEBRUARY**				**MARCH**				**APRIL**				**MAY**				**JUNE**				**JULY**				**AUGUST**				**SEPTEMBER**				**OCTOBER**				**NOVEMBER**				**DECEMBER**			
		Week				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**				**Week**			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	*Weekly*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	*Weekly*	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	*As Needed*																																																

Within 30 days of award of the contract we will submit an annual work schedule that will organize all the assigned areas into sectioned areas. The sectioned areas will be per the approval of the client representative. The schedule will designate the areas included with the service level and general tasks completed for that month. Any revisions to this schedule will be submitted to the client representative for approval. A review of this schedule will be made at monthly meetings to evaluate success.

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Monthly Work Plans

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

Irrigation Reports

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

Account Manager/Client Meeting Work Quality Evaluations

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

Action Item Lists

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

Work Quality Evaluation Form

Mariposa Landscapes, Inc.

SITE INSPECTION EVALUATION FORM

Inspection Date:		Job:	
Mariposa Account Manager		Job Number:	
		Client Representative:	

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

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

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

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

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

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

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

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Action Items Form

Mariposa Landscapes, Inc.

ACCOUNT MANAGER INSPECTION ACTION ITEMS

Job:

Today's Date: Job Number:

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

Mariposa Account Manager Signature/Date

Client Representative Signature/Date

Extra Work Pricing Process

At times, work above and beyond the contract scope becomes necessary. Our process to take care of this is:

- Straight Forward – Simple pricing and approval process ahead of time
- Transparent – The Customer sees what was purchased by us
- Honest – The hours and material estimated are what is used, nothing exceeds the approved estimate
- With No Surprises – Billing either matches or is less than what was quoted on the proposal

When a customer desires additional work or an emergency arises, there must be some mechanism to quickly communicate and agree upon the cost. Many times, situations arise where it is difficult to come up with a cost ahead of time. We solve that issue with the following 4 step process:

1. Work is identified and a "Not-to-exceed" proposal is created
2. Customer receives the proposal and approves the work
3. Work proceeds, labor is tracked, and receipts are copied
4. Billing **NEVER** exceeds the original proposal. It is either equal to or less than the original proposal

MARIPOSA LANDSCAPES INC

Proposal

Not to Exceed Pricing Estimate

The following work is bid at the California Department of Industrial Relations craft designations for: Maintenance

PROJECT INFORMATION

Client/Project: Sample Client Project Name — 935 #: 1234567
Job Name: Sample Job Name - Irrigation Repair — 936 #: 7891011
Job Address: 123 First Street, Anywhere, CA 90001
Job Description: This is a description of the work provided. The description will have enough information to show where exactly the work is to be done, what is to be done and when it will be completed.

The information below is an estimate which must be approved by the customer prior to starting work. It is a "Not to Exceed" pricing proposal. Therefore, final billing will be less than or equal to this proposed pricing.

LABOR

Classification	DIR Date	Hourly Rate	Reg/OT	Hours	TOTAL
Landscape/Irrigation Laborer	2/22/2021	$86.91	Reg		$0.00
Landscape/Irrigation Tender	2/22/2021	$80.84	Reg		$0.00
Landscape Operating Engineer	2/22/2021	$105.17	Reg		$0.00
Senior Tree Trimmer	2/22/2021	$58.84	Reg		$0.00
Tree Trimmer	2/22/2021	$54.44	Reg		$0.00
Tree Groundsperson	2/22/2021	$50.34	Reg		$0.00
Landscape Maintenance Laborer	2/22/2021	$25.50	Reg		$0.00
Landscape Maintenance Crew Leader		$31.50	Reg		$0.00
Landscape Maintenance Irrigation Technician		$75.00	Reg	4.0	$300.00
Landscape Maintenance Spray Technician		$67.50	Reg		$0.00
				Labor Total	$300.00

EQUIPMENT

Description of equipment used	Hourly Cost	Hours	TOTAL
			$0.00
			$0.00
			$0.00
		Equipment Total	$0.00

MATERIAL/SUBS/OTHER (prices include sales taxes)

Description of Material, Sub or Other (permit, dump, etc.)	Quantity	Unit	Unit Cost	TOTAL
Irrigation parts - valves	2.00	EA	$98.00	$196.00
Irrigation parts - valve boxes	2.00	EA	$17.00	$34.00
Irrigation parts - misc. parts	1.00	LS	$25.00	$25.00
				$0.00
				$0.00
			Material/Subs/Other Total	$255.00

TOTALS

Note: Upon billing, copies of all purchases of materials, equipment rentals, subcontractor invoices, load tickets, will be submitted with the billing invoice.

Labor Total	$	300.00
Equipment Total	$	-
Material/Subs/Other Total	$	255.00
15% Markup on Material/Subs/Other Total	$	38.25
Total Not-To-Exceed Proposal Cost	$	593.25

Submitted, — **Accepted,**

Name of Proposer — Date — Name of Customer Approving — Date
Title of Proposer — Title of Customer Approving

SAMPLE

If an issue is uncovered that changes the scope of the original estimate, the proposal is revised and resubmitted for approval (typically with attached pictures and a clear explanation). Work will not proceed until there is client approval of the change.

Key…
The billing for any extra work does not exceed what you originally approved.

The sample proposal to the left would be something irrigation related where multiple valves would need to be replaced because of an auto accident.

VALUE ADDED SERVICES

Landscape Maintenance

- Private, Commercial, Public Works and Homeowner Associations
- Large Scale Mowing Operations
- Comprehensive Irrigation Planning & Management.
- Environmentally Friendly Integrated Pest Management.
- Year-round Fertilization Application.
- Baseball Field Prep and Athletic Turf Maintenance.
- Porter Services and Color Design.
- Parking Lot Sweeping

Tree Care

- On-site Diagnosis and Tree Work Recommendations
- Consultative Services with Certified Arborists.
- Development of Long-term Tree Care Programs.
- Large-scale Tree Trimming Removal.
- Diagnosis/Treatment of Tree Diseases and Pest Problems.
- Stump Grinding and Disposal of Trimmings.
- GIS Tree mapping and asset management
- Certified Workers & Comprehensive Insurance Coverage.

Landscape Construction

- Site Preparation, Demolition, Grading and Drainage.
- Irrigation Systems Installation, Repairs & Upgrades.
- Computerized Irrigation Central Control Systems.
- Irrigation Pump Installation.
- Native Plant Restoration and Habitat Rehabilitation.
- Park construction and Athletic Field installations.
- Tree, Shrub, & Ground-cover planting.

Hardscape Construction

- Concrete Poured-in-Place, Stamped and Seat Walls.
- Flagstone, Tile, Masonry and Block Walls.
- Drainage and Overhead Construction.
- Water Feature Pond Installation & Repair.
- Monuments and Signage.
- Low Voltage Lighting Design and Installation.

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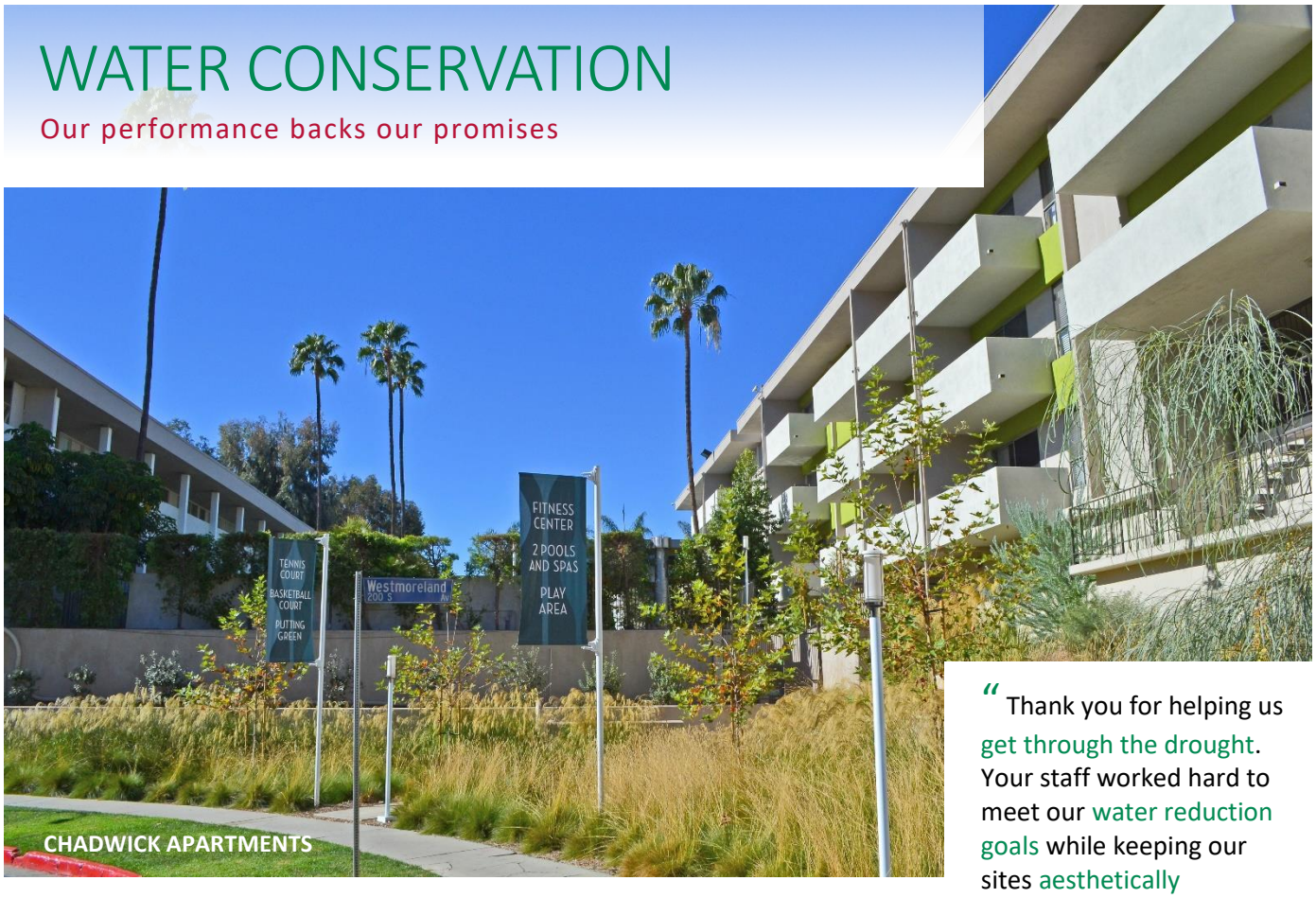
WATER CONSERVATION

Our performance backs our promises



CHADWICK APARTMENTS

"Thank you for helping us get through the drought. Your staff worked hard to meet our water reduction goals while keeping our sites aesthetically pleasing."

-CITY OF GLENDALE

Maintain an attractive landscape with less water.
Our Certified technicians can evaluate your irrigation and provide practical recommendations.

We offer weather-driven irrigation controllers and drought-tolerant landscape conversions. Our computerized tracking system allow us to quickly diagnose and fix problems, saving you water and money.

DESIGN IMPLEMENTATION

Bringing your vision to life

We partner with you to achieve a common goal success.

From simple to complex projects, we coordinate our vast array of services to create the project you envision.

Award-winning craftsmanship, in depth knowledge and high standards of professionalism are applied to every level of work.

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Overview of Additional Tree Care Services

The tree care services of Mariposa Landscapes are set apart from the competition by providing comprehensive consulting services in addition to expert tree care. Our ability to provide such excellent service is due to our crews of highly trained, safety-oriented, certified arborists and tree workers. Our staff receives the latest training in arboriculture methods, techniques, and software systems.

Our specialized consulting services include the following: Urban Forest Management Planning, Tree Evaluations, Inventory Management, Risk Assessments, Hazard Reports, Tree Appraisals, and Insect and Disease Control Recommendations.

Tree Division Accreditation

Mariposa Landscapes received accreditation from the Tree Care Industry Association (TCIA) in 2012, becoming one of the few accredited tree care companies in California. This accreditation involves a thorough audit process of procedures in the following ten areas:

1. Consumer Satisfaction
2. Best Business Practices
3. Business Ethics
4. Employee Training
5. Safety
6. Quality
7. Industry Standards
8. Arborist Certification
9. Insurance Coverage
10. Work Estimates and Specification

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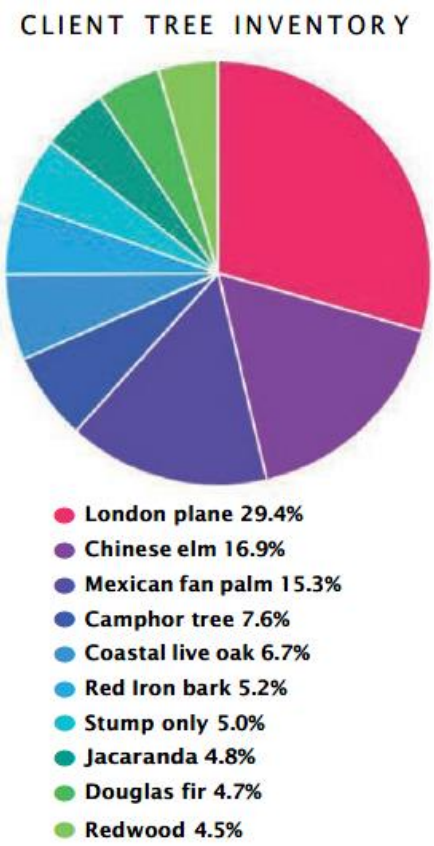
Tree Asset Management

Mariposa Landscapes leverages the latest urban forestry management technology and software. “Tree Plotter” allows us to manage all of our client’s information and property details in one easy-to-access location.

The software program creates and manages tree inventories, conducts statistical analysis and provides reports for our clients. Each client receives their own personal user account login, which provides visibility into their inventory, reports, and maps of their trees.



The Tree Plotter software also allows us to create work orders, assign them to Mariposa’s arborist crew leaders, and maintain an updated work history for a specific client inventory. This delivers maximum transparency for both contractor and client, providing easy access to all aspects of inventory, from creation to billing.

The Tree Plotter inventory management program provides Mariposa’s Tree Division with the ability to create and manage an internal roster of clients and their information. The client information table allows us to enter company names, project manager or point of contact information, property addresses, phone numbers, email addresses, and billing information. Whether our clients have a single property, or multiple locations to inventory, we can create a “Client Site” profile for each one. This allows us to manage the inventories, work orders, and billing for each property separately.

This asset mapping capability can also extend to Irrigation Assets!

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ATTACHMENTS

Pricing sheets and all other required forms

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

Date 7/5/2022 **Signature** DocuSigned by: Terry Noriega 073E1ED56B0840B...

7/5/2022 DocuSigned by: Antonio Valle C43353EB202E49B...

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

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks ("Tasks") not to exceed the following rates.

TASK	DESCRIPTION	SUB-BUDGET
1.	Annual Landscape Maintenance of City Properties	$118,332.00
2.	Clean up of select City Properties as need if needed	$14,975.00
3.	Annual as needed if needed services not included in general maintenance	$7,500.00
	TOTAL	**$140,807.00**

Reference Pricing Proposal sheets for detailed breakdown, Exhibit C-1

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

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

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

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

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

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

IV. The total compensation for Services shall not exceed $140,807.00 as provided in Section 2.1 of this Agreement.

V. Contractor's pricing for all service locations and cleanup are attached as Exhibit C-1.

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EXHIBIT "C-1"
PRICING PROPOSAL

VI. PRICING PROPOSAL

RATE SHEET

Line Item	Location	Quantity	Unit of Measure	Monthly Rate	Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	12	Month	$1,774.98	$21,299.76
2	Banning City Hall (Civic Center)	12	Month	$1,183.32	$14,199.84
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,380.54	$16,566.48
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$295.83	$3,549.96
5	Fire Station (5261 W. Wilson Street)	12	Month	$591.66	$7,099.92
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$10,649.88
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$11,833.20
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	12	Month	$788.88	$9,466.56
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$986.10	$11,833.20
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$788.88	$9,466.56
11	San Gorgonio Parking Lot	12	Month	$197.22	$2,366.64
TOTAL	$9,861.00 Per Month				

CLEAN-UP

Line Item	Location	Unit of Measure	Monthly Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Road	One Time	$2,900.00
2	Banning City Hall (Civic Center)	One Time	0
3	Banning Police Station (125 E. Ramsey Street)	One Time	0

Line Item	Location	Unit of Measure	Monthly Rate
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	One Time	0
5	Fire Station (5261 W. Wilson Street)	One Time	0
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	One Time	0
7	Aquatic Center (749 N. San Gorgonio)	One Time	0
8	Former Army Nation Guard Property (2041 W. Nicolet Street)	One Time	$2,362.50
9	Brinton Reservoir (1700 N. Mountain Avenue)	One Time	$5,550.00
10	Sunset Reservoir (1202 N. Sunset Avenue)	One Time	$4,162.50
11	San Gorgonio Parking Lot	One Time	0

* Clean-up pricing does not include irrigation repairs

* If Mariposa invoices the City for travel, lodging and subsistence it shall not exceed the current IRS rates.

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

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

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

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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

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APPROACH AND METHODOLOGY

Along with implementing a monthly work schedule, we perform internal quality control on our work to free up our contract monitor or client representative (be it a Public Works Inspector or Property Manager) so that he or she will have a reduced workload. This creates a positive environment for everyone involved and enhances our client relationships. Our main philosophy behind quality control is summed up in one statement "Plan your work and work your plan." Therefore, the work is to be planned and monitored in the following ways:

Annual Work Schedule

Here is a sample schedule. A final schedule will be provided upon start of work.

Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Litter Control, All Areas, Liner Replacement	Per Visit	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year										■												■												■														
Fertilizations	3 X year										■														■													■											
Aeration	2 X year					■					■											■			■													■											
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■				■
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year							■								■				■				■				■				■				■													
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■								■						
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■								■						
Shrub Pruning	8 X year					■								■				■				■				■				■				■								■							
Deadheading & Cleaning	As Needed																																																
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■				■		
Fertilizations	2 X year										■																												■										
Pre-emergent application	3 X year										■												■												■														
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	4 X year									■												■												■								■							
Premium Color	1 X year																																						■										
Removal of Dead Plants	As Needed																																																
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																																

Within 30 days of award of the contract we will submit an annual work schedule that will organize all the assigned areas into sectioned areas. The sectioned areas will be per the approval of the client representative. The schedule will designate the areas included with the service level and general tasks completed for that month. Any revisions to this schedule will be submitted to the client representative for approval. A review of this schedule will be made at monthly meetings to evaluate success.

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AMENDMENT NO. 1 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR LANDSCAPE MAINTENANCE ("Amendment No. 1") by and between the **CITY OF BANNING**, a California municipal corporation ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Contractor") is effective as of 5/8/2023.

RECITALS

A. On June 28, 2022, the City Council adopted Resolution 2022-86, approving that certain Agreement for Professional Services (C00763) for Landscape Maintenance dated July 6, 2022 ("Agreement"). The Agreement provided that Contractor would provide the services specified in the Scope of Services attached to the Agreement as Exhibit "A".

B. City and Contractor now desire to amend the Agreement in accordance with Resolution 2022-86 to (1) modify the Scope of Services to include landscape maintenance services for Station #89 located at 172 N. Murray Street and the Fire Administration Building located at 3900 W. Wilson Street, and (2) increase the total annual compensation amount by Seven Thousand Two Hundred Forty-Eight Dollars ($7,248.00).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

(a) Section 2.1 ("Contract Sum") of the Agreement is amended to read as follows:

"2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Contractor at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Contractor be paid more than One Hundred Forty-Eight Thousand Fifty-Five Dollars ($148,055.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending those meetings."

(b) Section IV. of Exhibit "C" to the Agreement is amended to read as follows:

"IV. The total compensation for Services shall not exceed $148,055.00 as provided in Section 2.1 of this Agreement."

(c) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 1.

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2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 1, all provisions of the Agreement, as amended by Amendment No. 1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

DocuSigned by:
0AD14BA217CE497...
5/8/2023

Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
72C57B436CA24C7...
5/8/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
F3821CB27AE84EF...
5/8/2023

Serita R. Young Date
City Attorney

Mariposa Landscapes, Inc.

DocuSigned by:
C43353EB202E49B...
5/8/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

NAME: Date
TITLE:

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2/14/23

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

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ATTACHMENT "1"

M A R I P O S A
L A N D S C A P E S I N C

PROPOSAL

Friday, October 7, 2022

Carl Szoyka – Public Work Superintendent

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Phone 951-922-3286 Email cszoyka@banningca.gov

Re: Landscape Maintenance at Fire Station 89

Description	This proposal provides for all labor, material, and equipment to perform landscape maintenance service at 172 N. Murray St. Fire Station 89. Service will be performed according to current contract RFP-22-015 specifications. This project has been discussed with Ruben Macias.
Price	Total monthly price for above described work $906.00
	Nine Hundred Six And 00/100
Terms:	Per current agreement RFP-22-015.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 10 days after acceptance
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

DocuSign Envelope ID: 3A69E8D8-9100-4D39-A970-5CFC37D90134

MARIPOSA
LANDSCAPES INC

PROPOSAL

Friday, October 7, 2022

Carl Szoyka – Public Work Superintendent

City of Banning
99 E. Ramsey Street
Banning, CA 92220
Phone 951-922-3286 Email cszoyka@banningca.gov

Re: Landscape Maintenance at Fire Administration

Description	This proposal provides for all labor, material, and equipment to perform landscape maintenance service at 3900 W. Wilson St. Fire Administration. Service will be performed according to current contract RFP-22-015 specifications. This project has been discussed with Ruben Macias.
Price	Total monthly price for above described work..... $906.00 Nine Hundred Six And 00/100
Terms:	Per current agreement RFP-22-015.
Exclusions:	Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.
Time	Project start date is currently 10 days after acceptance
Limits	Time limit for the acceptance of this proposal is 30 calendar days from the above date.

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AMENDMENT NO. 2 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT FOR LANDSCAPE MAINTENANCE ("Amendment No. 2") by and between the **CITY OF BANNING**, a California municipal corporation ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Contractor") is effective as of 6/7/2023.

RECITALS

A. On June 28, 2022, the City Council adopted Resolution 2022-86, approving that certain Agreement for Professional Services (C00763) for Landscape Maintenance dated July 6, 2022 ("Agreement"). The Agreement provided that Contractor would provide the services specified in the Scope of Services attached to the Agreement as Exhibit "A".

B. On May 8, 2023, City and Contractor amended the Agreement ("Amendment No. 1") to modify the Scope of Services and increase the compensation for the additional services in an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) for a total not-to-exceed Contract Sum of One Hundred Forty-Eight Thousand Fifty-Five Dollars ($148,0550.00), as approved by City Council Resolution 2023-28.

A. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) for a total not-to-exceed Contract Sum of Two Hundred Eighty-Seven Thousand Eight Hundred Forty-Eight Dollars and Sixty-Four Cents ($287,848.64).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   (a) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the total Contract Sum shall not exceed Two Hundred Eighty-Seven Thousand Eight Hundred Forty-Eight Dollars and Sixty-Four Cents ($287,848.64).

   (b) Section 3.4 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

   (c) Section IV. of Exhibit "C" to the Agreement is amended to read as follows:

   "IV. The total compensation for Services shall not exceed $287,848.64 as provided in Section 2.1 of this Agreement."

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and

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after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/7/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/7/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

6/5/2023

Serita R. Young Date
City Attorney

Mariposa Landscapes, Inc.

Terry Noriega 6/7/2023

NAME: Terry Noriega Date
TITLE: President

6/7/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz Street
Irwindale, CA 91702

City Council Approval: 2023-095

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

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AMENDMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 9/14/2023.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant now desire to amend the Master Agreement to modify the scope and to include additional compensation in an amount not to exceed of Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The Services are hereby amended to include the additional Services set forth in Attachment "A", attached hereto and incorporated herein.

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4.2 The maximum compensation for services performed pursuant to this Amendment No. 3 to the Master Agreement, is hereby amended and shall not exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Two Hundred Ninety-Two Thousand Seventy-Two Dollars and Sixty-Four Cents ($292,072.64). Work shall be performed at the rates set forth in the Master Agreement.

4.3 Continuing Effect of Agreemen**t**. Except as amended by this Amendment No.3, all provisions of the Master Agreement as amended by Amendment No.1 and Amendment No.2, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

4.5 The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 3 may be signed in counterparts, each of which shall constitute an original.

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **3** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

9/14/2023

Douglas Schulze, Date
City Manager

City Council Approval: 2023-095

ATTEST:

9/14/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Terry Noriega 9/10/2023

NAME: Terry Noriega Date
TITLE: President

9/11/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

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

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ATTACHMENT "A"

M A R I P O S A
L A N D S C A P E S I N C

PROPOSAL

31813

Tuesday, July 18, 2023

Carl Szoyka – Public Works Superintendent

City of Banning
99 E Ramsey St
Banning, CA 92220
Phone 951-922-3286

Re: Landscape Maintenance at Highland Springs Avenue Underpass

Description This proposal provides for all labor, material, and equipment to perform the following landscape maintenance services on the slope at Highland Springs Avenue underpass. Service will be performed according to current contract #C00763 specifications. This project has been discussed with Randy Chavez.

1. Provide biweekly maintenance including trimming and weed control.
2. Tree clearance as needed.
3. Check irrigation and trash removal.

Price Total monthly price for above-described work..... $384.00

Three Hundred Eighty-Four And 00/100

Terms: Net 30 days with monthly billing.

Exclusions: Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.

Time Project start date is currently 5 days after acceptance.

Limits Time limit for the acceptance of this proposal is 30 calendar days from the above date.

TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRWINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49

Our Core Values – Safety • Teamwork • Quality • Integrity

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AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/25/2024.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

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4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 4 to the Master Agreement, is hereby amended and shall not exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Forty Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($440,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

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

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

4.6 The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 4 may be signed in counterparts, each of which shall constitute an original.

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **4** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

6/25/2024

Douglas Schulze, Date
City Manager

City Council Approval: 2024-081

ATTEST:

6/25/2024

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:

6/14/2024

Serita R. Young
City Attorney

CONSULTANT

Terry Noriega 6/21/2024

NAME: Terry Noriega Date
TITLE: President

6/21/2024

NAME: Antonio Valenzuela Date
TITLE: Secretary

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

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 5") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 3/26/2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant now desire to amend the Master Agreement to exercise the option to provide additional compensation for the as needed services in amount not to exceed Fifteen Thousand Dollars ($15,000.00).

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NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 5 to the Master Agreement, is hereby amended and shall not exceed Fifteen Thousand Dollars ($15,000.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Fifty-Five Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($455,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 5, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and Amendment No.4, shall remain unchanged and in full force and effect.

4.3 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 5.

4.4 The persons executing this Amendment No. 5 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 5 does not violate any provision of any other Agreement to which said party is bound.

4.5 This Amendment No. 5 may be signed in counterparts, each of which shall constitute an original.

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **5** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 3/26/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

3/26/2025

Caroline Patton Date
Administrative City Clerk

MARIPOSA LANDSCAPES, INC.

3/17/2025

NAME: Terry Noriega Date
TITLE: President

3/11/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

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

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ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 6 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 6 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 6") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: May 27, 2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025 to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

2.7 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026 and to provide

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compensation for the additional one-year term in an amount not to exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00)

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 6 to the Master Agreement, is hereby amended and shall not exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Six Hundred Twenty-Six Thousand Seven Hundred Sixty-Four Dollars and Twelve Cents ($626,764.12). Work shall be performed at the rates set forth in the Master Agreement.

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

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

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 6, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4 and Amendment No. 5, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 6.

4.6 The persons executing this Amendment No. 6 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 6 on behalf of said party, (iii) by so executing this Amendment No. 6, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 6 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 6 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic

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signature”). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **6** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 5/31/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

5/29/2025

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney

John O. Pinkney
City Attorney

CONSULTANT

5/29/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

5/28/2025

NAME: Terry Noriega Date
TITLE: President

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

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90% Monthly Adj	FY 2025 Monthly Rate	Annual Rate	CPI 2.90% Monthly Adj	FY 2026 Monthly Rate	FY 2026 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16	$56.93	$2,020.36	$ 24,244.38
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52	$37.95	$1,346.91	$ 16,162.92
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44	$44.28	$1,571.40	$ 18,856.78
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88	$9.48	$336.72	$ 4,040.67
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64	$18.92	$673.39	$ 8,080.74
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60	$31.63	$1,122.43	$ 13,469.18
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92	$6.33	$224.49	$ 2,693.86
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80	$18.68	$662.83	$ 7,954.01
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68	$11.45	$406.59	$ 4,879.03
16	Ramsey Street Medians from Highland Home Road to Sunset Avenue (added	12	Month	---	---	---	---	---	---	$1,572.00	$ 18,864.00
17	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00	$0.00	$0.00	$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48	$340.31	$13,651.63	$171,320

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AMENDMENT NO. 7 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 7") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/23/2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025 to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

2.7 City and Consultant have entered into an Amendment No.6 to the Master Agreement dated, May 27, 2025 to exercise the option to extend the Agreement to June 30, 2026, and to provide

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additional compensation in the amount not to exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00) as approved by City Council Resolution No. 2025-73.

2.8 City and Consultant now desire to amend the Master Agreement to modify the scope of work and to provide additional compensation in an amount not to exceed Twenty-Two Thousand Seven Hundred Forty-Four Dollars ($22,744.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 7 to the Master Agreement, is hereby amended and shall not exceed Twenty-Two Thousand Seven Hundred Forty-Four Dollars ($22,744.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Six Hundred Forty-Nine Thousand Five Hundred Eight Dollars and Twelve Cents ($649,508.12). Work shall be performed at the rates set forth in the Master Agreement.

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

4.3 Continuing Effect of Agreement. Except as amended by this Amendment No. 7, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No.5, and Amendment No. 6, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 7.

4.5 The persons executing this Amendment No. 7 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 7 on behalf of said party, (iii) by so executing this Amendment No. 7, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 7 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 7 may be signed in counterparts, each of which shall constitute an original.

Docusign Envelope ID: 95DB77E2-03AB-4632-8761-CE0344172118

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

[SIGNATURES ON FOLLOWING PAGE]

Docusign Envelope ID: 95DB77E2-03AB-4632-8761-CE0344172118

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **7** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 6/23/2025

Robert Fisher, Date
Acting City Manager

CONSULTANT

Antonio Valenzuela 6/23/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

Terry Noriega 6/19/2025

NAME: Terry Noriega Date
TITLE: President

ATTEST:

Caroline Patton 6/23/2025

Caroline Patton Date
Administrative City Clerk

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

Docusign Envelope ID: 95DB77E2-03AB-4632-8761-CE0344172118

ATTACHMENT "A"

MARIPOSA
LANDSCAPES INC

PROPOSAL

Thursday, May 15, 2025

Brandon Robinson – Electrical Engineering Supervisor
City of Banning
99 East Ramsey Street
Banning, CA 92220
Phone 951-922-3263 Email brobinson@banningca.gov

Re: Weed abatement and spray weeds at various Substation and Poles

Description This proposal provides for all labor, material, and equipment to perform the following services at Substations and Poles. This project has been discussed with Brandon Robison.

1. Spraying only one time per year, with pre and post emergent weed control inside of the substation and the perimeter with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate.
2. 22nd Street Substation.....$485.00
3. Mildway Substation.....$823.00
4. Sunset Substation$.....$1,540.00
5. Main Office Substation.....$1,856.00
6. Ivy Substation.....$1,540.00
7. Stagecoach Substation.....$1,540.00
8. One time per year weed abatement and spray around 238 electric poles 15 ft. radius around the pole. Spray one time per year with pre and post emergent weed control around the poles with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate. City will provide the poles location.

Price Total price for above described work $22,744.00

Twenty-Two Thousand Seven Hundred Forty-Four And 00/100

AMENDMENT NO. 8 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 8 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 7") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California Corporation ("Consultant") is effective this day of: _____.

1. RECITALS

1.1 City and Consultant entered into an agreement dated July 6, 2022, for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

1.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

1.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

1.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated September 14, 2023, to exercise the option to extend the Agreement for additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

1.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

1.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025, to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

1.7 City and Consultant have entered into an Amendment No.6 to the Master Agreement dated May 27, 2025, to exercise the option to extend the Agreement to June 30, 2026, and to provide additional compensation in the amount not to exceed One Hundred Seventy-One Thousand

Three Hundred Twenty Dollars ($171,320.00) as approved by City Council Resolution No. 2025-73.

1.8 City and Consultant have entered into an Amendment No. 7 to the Master Agreement dated June 23, 2025, to modify the scope of work and to provide additional compensation in an amount not to exceed Twenty-Two Thousand Seven Hundred Forty-Four Dollars ($22,744.00).

1.9 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the agreement for an additional one-year term ending on June 30, 2027, and to provide additional compensation for the additional one-year term in an amount not to exceed Two Hundred Thousand One Hundred Twenty-Eight Dollars ($200,128.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

2. AMENDMENT TERMS

2.1 The maximum compensation for services performed pursuant to this Amendment No. 8 to the Master Agreement, is hereby amended and shall not exceed Two Hundred Thousand One Hundred Twenty Eight Dollars ($200,128.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Master Agreement to an amount of Eight Hundred Forty-Nine Thousand Six Hundred Thirty Six Dollars and Twelve Cents ($849,636.12).

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

2.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2027, unless sooner terminated or extended as provided in the Agreement.

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

3. MISCELLANEOUS PROVISIONS

3.1 Continued Effect of Agreement. Except as amended by this Amendment No. 8, all provisions of the Agreement, as amended by Amendment Nos. 1 through 7, remain unchanged and in full force and effect. From and after the date of this Amendment No. 8, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 8. In the event of a conflict between the provisions of this Amendment No. 8 and the provisions of the Agreement or Amendments No. 1 through 7, the provisions of this Amendment No. 8 shall control.

3.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 8.

3.3 Authority. The persons executing this Amendment No. 8 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 8 on behalf of said party, (iii) by so executing this Amendment No. 8, such party is formally bound to the provisions of this Amendment No. 8, and (iv) entering into this Amendment No. 8 does not violate any provision of any other agreement to which said party is bound.

3.4 Counterparts. This Amendment No. 8 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 8 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
Elizabeth Gibbs, City Manager	NAME: Date TITLE:
	NAME: Date TITLE:

ATTEST:

Sandra Calderon Date
Deputy City Clerk

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

ATTACHMENT "A"

MARIPOSA
LANDSCAPES INC

PROPOSAL

Thursday, May 15, 2025

Brandon Robinson – Electrical Engineering Supervisor
City of Banning
99 East Ramsey Street
Banning, CA 92220
Phone 951-922-3263 Email brobinson@banningca.gov

Re: Weed abatement and spray weeds at various Substation and Poles

Description This proposal provides for all labor, material, and equipment to perform the following services at Substations and Poles. This project has been discussed with Brandon Robison.

1. Spraying only one time per year, with pre and post emergent weed control inside of the substation and the perimeter with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate.
2. 22nd Street Substation.....$485.00
3. Mildway Substation.....$823.00
4. Sunset Substation$.....$1,540.00
5. Main Office Substation.....$1,856.00
6. Ivy Substation.....$1,540.00
7. Stagecoach Substation.....$1,540.00
8. One time per year weed abatement and spray around 238 electric poles 15 ft. radius around the pole. Spray one time per year with pre and post emergent weed control around the poles with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate. City will provide the poles location.

Price Total price for above described work $22,744.00

Twenty-Two Thousand Seven Hundred Forty-Four And 00/100

ATTACHMENT "B"

Fire Station 89

City Hall

Water System Facilities

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Elizabeth Gibbs, City Manager**

PREPARED BY: **Ralph Wright, Parks and Recreation Director**

MEETING DATE: **June 23, 2026**

SUBJECT: **Consideration of Resolution 2026-84, Approving the Fifth Amendment for Contract Services (C00698) for Landscape Maintenance Services for Banning City Parks with Mariposa Landscapes, Inc., not to exceed the amount of $172,734.80 for FY 2026/27.**

STAFF RECOMMENDATION:

Adopt Resolution 2026-84

BACKGROUND:

On February 23, 2021, the City Council of the City of Banning awarded a fifteen-month agreement (C00698) with Mariposa Landscapes, Inc., for the landscape maintenance of five of the City of Banning's parks through June 30, 2022. The original fifteen-month agreement was in the amount of $96,684.00 to cover monthly service costs, with a 10% contingency to allow for additional work and irrigation repair services as needed, for a total not to exceed $106,352.

Subsequent amendments to the contract for Parks landscape services were approved as follows:

On May 10, 2022, the City Council adopted Resolution 2022-56 approving the first amendment to the original agreement, extending the term for an additional twelve months and increasing the not-to-exceed amount to $101,638.80, including a 10% contingency.

On May 23, 2023, the City Council adopted Resolution 2023-99 approving the second amendment to the agreement, extending the term for an additional twelve months through June 30, 2024. The scope of work was amended to add the Aquatic Center, Community Center, and Senior Center to the contract. The compensation was increased to a not-to-exceed amount of $135,847.97, including a 10% contingency. These sites were previously included in the Public Works LMD contract.

On May 14, 2024, the City Council adopted Resolution 2024-67, approving the third amendment to the original agreement extending the term for an additional twelve months through June 30, 2025, modifying the scope of services, and increasing compensation to an amount not to exceed $139,787.64, including a 10% contingency.

On May 27, 2025, the City Council adopted Ordinance 2025-71, authorizing the fourth amendment extending the contract through June 30, 2026. The scope of work included the addition of Richard Sanchez Park and the accompanying southern trail and increasing compensation to an amount not to exceed $167,296.95, including a 10% contingency. When the Park's landscape contract added the scope of both Richard Sanchez Park and the accompanying southern trail, the initial contract work in the amount of $9,450 to clean up the trail and ensure the area was safe for public use was not included in

the prior Council authorization.

At the direction of the City Council, staff has been working on the timelines and varied scope of work for issuing a Request for Proposals (RFP) for all three current City landscape service contracts, including the Landscape Maintenance Districts, City Facilities, and Parks facilities. This has taken more time than anticipated, and the RFP is being reviewed by staff. As we await the RFP for Landscape Services to close and the review and award process to be completed, an extension of the existing contract is necessary to ensure there is no lapse in service while the City conducts the RFP process.

For these reasons, staff recommends that the City authorize Amendment No. 5 to the Park's Landscape Maintenance agreement with Mariposa Landscapes, Inc. for Fiscal Year 2026-27. The existing contract allows the City to terminate the agreement with 30 days' notice.

The scope of work for landscape maintenance services includes weekly turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; irrigation monitoring and operations for the Park properties listed below, as well as quarterly tree, shrub, and trail path work for the Richard Sanchez Trail:

1) Dysart Equestrian Park – 2101 Victory Ave.
2) Lion's Park – 955 S. Hargrave Street
3) Repplier Park – 201 W. George Street
4) Roosevelt Williams Park – 1101 E. George Street
5) Sylvan Park – 2798 W. George Street
6) Community Center and Senior Center –769&789 N. San Gorgonio Ave
7) Repplier Park Aquatic Center – 749 N. San Gorgonio Ave
8) Repplier Park and Community Center Parkway – 749, 769 & 789 N. San Gorgonio Ave
9) Richard Sanchez Park and Southern Trail - 3758 Cypress St

Amendment No. 5 includes three recommended changes to the current agreement:

1) Ratification to spend $9,450 in fiscal year (FY) 2025/26 to provide a one-time clean-up of the park and trail at Richard Sanchez Park to bring the site up to the park's established level of service, for when the Park Department assumed responsibility. This amount was not approved in the previous authorization.
2) Changes in the term – The extended term will be from July 1, 2026, through June 30, 2027. The amendment allows for cancellation without cause with thirty days' notice.
3) Compensation adjustments: Pursuant to Section 2.1 of the original agreement, the total compensation can be adjusted to reflect the annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) Riverside – San Bernardino – Ontario Area. For the period from January 2025 to January 2026, the CPI was at 3.25%. Reflecting the CPI rate of 3.25%, the monthly service rate for continuing service will increase from $12,674.07 to $13,085.97. Note: Park sites and the cost breakdown are included in Attachment # 2 of this report.

JUSTIFICATION:

The Parks and Recreation Department does not have the staff or equipment to perform the scope of work outlined in the Scope of Services and maintain the current service levels of our parks; therefore, it is necessary to retain a landscape maintenance contractor to provide these services. The annual compensation under the agreement falls within the normal parameters for the park's landscape maintenance projects in the area.

FISCAL IMPACT:

The Fifth Amendment for Landscape Maintenance of park properties with Mariposa Landscapes, Inc.

increases compensation for FY 2026/27 to $172,734.80, which includes the monthly compensation amount of $13,085.97 plus a 10% contingency amount for additional work that might include replanting of plants and trees and irrigation repairs.

Additionally, the authorization includes ratification approval of $9,450 in catch-up work for the Richard Sanchez park and Trail area that occurred in FY 2025/26. The Department absorbed the cost for the unanticipated maintenance in their existing budget allocation.

Funding will be requested as part of the FY 2026/27 Operating Budget in the following operational budgets of the Parks and Recreation Department for the Fifth Amendment to the agreement as follows:

1) Park Division – 001-3600-461.23-29 ($146,311.64)
2) Community Center – 001-4000-461.23-29 ($6,258.12)
3) Aquatic Center– 001-4010-461.23-29 ($13,906.92)
4) Senior Center – 001-4050-461.23-29 ($6,258.12)

ATTACHMENTS:

1. C00698_Mariposa_Landscapes_Inc_-_A4.pdf
2. Attachment # 1 - EXHIBIT A- RFP 20-035 Scope of Work.pdf
3. Attachment # 2 - Park's Landscape maintenance - Proposed cost breakdown 2026-27.pdf
4. Attachment # 3 - C00698_MARIPOSA_LANDSCAPES_INC.pdf
5. Attachment # 4, Executed C00698_Mariposa_Landscapes_Inc_-_A1.pdf
6. Attachment # 5 - Executed C00698_Mariposa_Landscapes_Inc_-_A2.pdf
7. Attachment # 6 - Resolution 2024-67 - C00968 Amendment # 3.pdf
8. Attachment # 7 - Resolution 2025-71_C00698 Amendment_4.pdf
9. CC_Resolution_No.__2026-84 (001).docx
10. C00698_Mariposa_Landscape_Amendment_5_FINAL (001).docx
11. Work Product Photo's - Mariposa Landscape inc - Parks.pdf

AMENDMENT NO. 4 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 4 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: _____.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred Six Thousand Three Hundred Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. On June 15, 2023, the City and Contractor amended the Agreement ("Amendment No. 2") to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred Thirty-Five Thousand Eight Hundred Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97), as approved by City Council Resolution No. 2023-095.

E. On May 14, 2024, the City and Contract amended the Agreement ("Amendment No. 3") to extend the term for an additional one-year term to expire June 30, 2025, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64), as approved by City Council Resolution No. 2024-067.

F. City and Contractor now desire to amend the Agreement ("Amendment No. 4") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation shall not exceed

Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 4.

   b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Twelve Thousand Six Hundred Seventy-Four Dollars and Seven Cents ($12,674.07) for twelve (12) months through June 30, 2026. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Fifteen Thousand Two Hundred Eight Dollars ($15,208.00) for a total not to exceed amount of One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation, including reimbursement for actual expenses shall not exceed Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36) (the "Contract Sum").

   c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2026.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 4, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 4, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 4. In the event of a conflict between the provisions of this Amendment No. 4 and the provisions of the Agreement or Amendment Nos. 1 through 4, the provisions of this Amendment No. 4 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 4, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 4, Contractor is not in default of any material term of the Agreement and that there have been no

events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

5. **Authority.** The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Amendment No. 4, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto hereby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No.4 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 4 the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher, Date
Acting City Manager

ATTEST:

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John O. Pinkney Date
City Attorney

CONTRACTOR

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

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

ATTACHMENT "1"

Banning Park's Landscape Maintenance - Per Site Cost breakdown FY 2025-26

Line Item	Location	Quantity	Unit of Measure	Monthly Rate 2024-25	CPI 2.90%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$953.96	$27.66	$981.62	**$11,779.50**
2	Lion's Park - 955 S. Hargrave Sreet	12	Month	$2,214.54	$64.22	$2,278.76	**$27,345.14**
3	Repplier Park - 201 W. George Street	12	Month	$2,248.61	$65.21	$2,313.82	**$27,765.84**
4	Roosevelt Williams - 1101 E. George Street	12	Month	$919.88	$26.68	$946.56	**$11,358.68**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,180.46	$63.23	$2,243.69	**$26,924.32**
6	Community Center & Senior Center 769 & 789 N. San Gorgonioe Ave	12	Month	$981.72	$28.47	$1,010.19	**$12,122.28**
7	Banning Aquatic Center 749 N. San Gorgonio Ave	12	Month	$1,090.80	$31.63	$1,122.43	**$13,469.20**
8	Repplier Park and Community Center Parkway 749, 769 & 789 N. San Gorgonio Ave	12	Month	Included in Line Items 6 & 7	N/A	N/A	N/A
9	Richard Sanchez Park and Trail - 3758 Cypress	12	Month	XXXXX	N/A	$1,777.00	**$21,324.00**
			Totals>>>	$10,589.97	$307.11	$12,674.08	$152,088.95

XXXXX ADDITIONAL SCOPE OF SERVICE - Per Resolution 2025-63, Effective, July 2025, general maintenance and operational costs supporting the maintenance of Richard Sanchez Park and the accompnaying trail on the South side of the park have been added to the responsibilities of the Parks and Recreation Department.

IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
    1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
    2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
    3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

planning beneath. On trees that are over 12’ only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12” total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant’s dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor’s designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to “Winter” and “Summer” and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture’s labels.
2. Broadleaf turf weeds will be treated as needed in the “Spring” and “Fall” with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City’s representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor’s control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

Proposed Park's Landscape Maintenance - Per Site Cost breakdown FY 2026-27

Line Item	Location	Quantity	Unit of Measure	FY 2025-26 Monthly Rate	FY 2025-26 Annual Rate	CPI 3.25 % Monthly Adj	Monthly Rate FY 2026-27	Annual Rate FY 2026-27
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$981.62	$11,779.44	$31.90	$1,013.52	**$12,162.24**
2	Lion's Park - 955 S. Hargrave Sreet	12	Month	$2,278.76	$27,345.12	$74.06	$2,352.82	**$28,233.84**
3	Repplier Park - 201 W. George Street	12	Month	$2,313.82	$27,765.84	$75.20	$2,389.02	**$28,668.24**
4	Roosevelt Williams - 1101 E. George Street	12	Month	$946.56	$11,358.72	$30.76	$977.32	**$11,727.84**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,243.69	$26,924.28	$72.92	$2,316.61	**$27,799.32**
6	Community Center & Senior Center 769 & 789 N. San Gorgonioe Ave	12	Month	$1,010.19	$12,122.28	$32.83	$1,043.02	**$12,516.24**
7	Banning Aquatic Center 749 N. San Gorgonio Ave	12	Month	$1,122.43	$13,469.16	$36.48	$1,158.91	**$13,906.92**
8	Repplier Park and Community Center Parkway 749, 769 & 789 N. San Gorgonio Ave	12	Month	Included in Line Items 6 & 7		N/A	N/A	N/A
9	Richard Sanchez Park and Trail - 3758 Cypress	12	Month	$1,777.00	$21,324.00	$57.75	$1,834.75	**$22,017.00**
			Totals>>>	**$12,674.07**	**$152,088.84**	**$411.90**	**$13,085.97**	**$157,031.64**

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AGREEMENT FOR CONTRACT SERVICES (C00698)

FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

MARIPOSA LANDSCAPES, INC.

a California corporation

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AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: 3/22/2021, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** and licensed contractor (California License Number 592268) ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 20-035), the performance of the Services defined and described particularly in Article 1 of this Agreement, including turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations at the following locations: Dysart Park, Lion's Park, Repplier Park, Roosevelt Williams Park, and Sylvan Park.

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

C. On February 23, 2021, City Council approved the award and execution of this Agreement.

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

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

OPERATIVE PROVISIONS

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

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and

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professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Order of Precedence.

The Scope of Services shall include City's Request for Proposals ("RFP") and the Contractor's Response to the City's RFP ("Response") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the RFP or Response, the terms of this Agreement shall govern. In the event of any inconsistency between the terms of the City's RFP and the Contractor's Response, the City's RFP shall govern.

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Services.

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

1.6 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.7 Additional Services.

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

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the sum of NINETY SIX THOUSAND, SIX HUNDRED AND EIGHTY FOUR DOLLARS ($96,684.00) (the "Contract Sum") annually, unless additional compensation is approved pursuant to Section 1.7.

Compensation may be adjusted annually on July 1st of each year, or during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

2.2 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice(s). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

ARTICLE 3. TERM

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence on April 1, 2021 and shall expire on June 30, 2022. This Agreement shall include the option to extend for four (4) additional one-year terms if agreed to in writing in advance by both Parties.

ARTICLE 4. COORDINATION OF SERVICES

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services specified herein and make all decisions in connection therewith.

Terry Noriega, President

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

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ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

$2,000,000 aggregate for products and completed operations

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

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

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

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

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

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

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

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond

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required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

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

6.3 Ownership of Documents.

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

Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

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

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

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

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

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

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Services performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the

default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

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

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Not Applicable ($0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of Services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Agreement or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Services actually performed hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have

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accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

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

8.2 Conflict of Interest.

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

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

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

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ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

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

9.3 Counterparts.

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

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

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

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9.6 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

DocuSigned by:
Doug Schulze 3/22/2021
0AD14BA217CE497...
Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Laurie Sampson 3/22/2021
5857E664E42A405...
Laurie Sampson Date
Acting Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin G Ennis 3/19/2021
940BF72E964348C...
Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Terry Noriega 3/19/2021
073E1ED56B0840B...
NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
6232 Santos Diaz ST, Irwindale CA 91702

City Council Approval: 02/23/2021

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

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP 20-035.

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IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

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possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
    1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
    2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
    3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

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City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

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planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.
2. Broadleaf turf weeds will be treated as needed in the "Spring" and "Fall" with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

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4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City’s representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor’s control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

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composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

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6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

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EXHIBIT "A-1"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in Proposal.

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MARIPOSA
LANDSCAPES INC

BANNING, CA
STAGECOACH TOWN USA
ESTABLISHED 1913

City of Banning

Request for Proposal

Landscape Maintenance Services for City Parks

RFP 20-035

Due: Tuesday, January 26, 2021 at 2:00 PM

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz St., IRWINDALE, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
www.mariposa-ca.com

Our Core Values – Safety • Teamwork • Quality • Integrity

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MARIPOSA
LANDSCAPES INC

January 25, 2021

City of Banning
Shiloh Rogers, Purchasing Manager
99 E. Ramsey St.
Banning, CA 92220

Re: Request for Proposal Landscape Maintenance Services for City Parks, RFP 20-035

Thank you for the opportunity to submit our proposal. Mariposa Landscapes, Inc. looks forward to the competitive process.

Mariposa Landscapes, Inc. has been in business for over 40 years providing similar services for other cities and public agencies. Our attention to quality and detail is documented with a list of more than 99 award winning construction and maintenance projects that extends over four decades. Our depth of knowledge and level of experience in our management and supervisory personnel is unmatched by our competitors.

We have over 400 employees including Certified Irrigators, Certified Landscape Techs, Certified Arborists and Pest Control Advisors. We are available 24 hours a day through the answering service to address emergency call outs.

Our company has met every financial obligation for over 40 years and has established a corporate bonding capacity far in excess of any requirements across all business lines. Therefore, this enables us to be the most capable firm that will commit to provide the best level of service for the City of Banning.

Our price reflects necessary labor, services, equipment, and material to perform the work. We have the ability to comply with all the terms and requirements of the bid documents and the resulting contract. We have visited all sites and are familiar with the current conditions of each.

The contact person during the RFP review process will be Kevin Coon. His contact number is (626) 960-0196 and his email address is kevin.coon@mariposa-ca.com

We look forward to providing professional landscape maintenance services for the City of Banning and its residents, with the best interest in the well-being of the community and its appearance.

Respectfully,

Antonio Valenzuela, Secretary

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Qualifications

Mariposa Landscapes, Inc. is a full-service landscape company with vast experience performing large scale landscape maintenance similar in size and scope to that requested in this RFP for over 40 years. We understand our client's priorities and do everything in our power to honor the trust they place in us.

Mariposa is a full-service landscape company, with both Construction, complete Tree Service Operations, and Interior Plant Maintenance Divisions. In addition to the required C-27 license, we carry A, C-61/D-49, and C-31 licenses. This diversity of capabilities and proven expertise is not found with other landscape maintenance competitors.

We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

We believe the depth of knowledge and level of experience being brought to the City of Banning by our team is unmatched by our competitors. Our many successful years of experience in providing similar maintenance services for the public entities, enables us to be the most responsive and responsible firm who will be committed to providing the best level of service in maintaining the public areas for the City.

As the City of Banning's Landscape Maintenance Contractor, Mariposa will:

- Provide qualified employees for these contracts to achieve professional results.
- Provide the required labor to achieve professional results and not necessarily an employee "head count"
- Provide clear and timely irrigation reports.
- Provide immediate information about hazards in contract areas
- Perform timely responses and offer solutions to issues or complaints (if and when they arise)
- Keep accurate records of requests for work, including date/time received and date/time completed.
- Provide suggestions to City of Banning for improvements to areas.
- Provide qualified extra labor, appropriate equipment, and materials for extra work projects.

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Company History

In 1977, Terry Noriega established Mariposa Landscapes in Rosemead, California, by providing landscape maintenance and installation for custom residential and small commercial clients. After five years, he created the Public Works Maintenance Division, in 1984 the Public Works Construction Division was added, and in 1987, a Tree Care Division was formed.

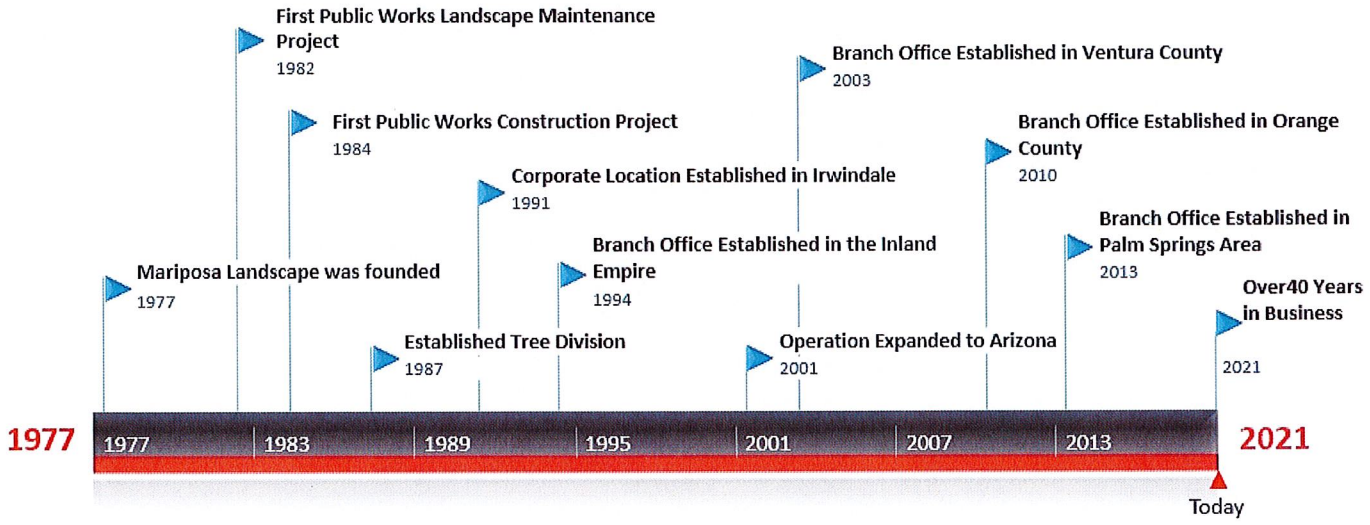
Mariposa Landscapes reincorporated in 1989 as Mariposa Horticultural Enterprises, Inc. In 2009, the company changed their business name back to Mariposa Landscapes, Inc. The company currently has a workforce of over 600 in California and Arizona.

A brief chronology:

- 1977 –The Company is established in Rosemead, California.
- 1982 –The Public Works Maintenance Division is formed.
- 1984 – The Public Works Construction Division is added.
- 1987 – The Tree Care Division is started.
- 1991 – Relocates to our current facilities in Irwindale, CA.
- 1994 – Expands operations by opening a branch in Fontana, CA.
- 2001 – Establishes an office in Glendale, Arizona.
- 2003 – Expands into servicing the Ventura County
- 2010 – Branch office established in Orange County

- 2013 – Branch Office established in Palm Springs Area
- 2021 – Over 40 years in Business!

Mariposa Landscapes, Inc. – Over 40 years of Excellence!



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Company Information

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	43914	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

State of California Contractors License

dca
CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE

License Number 592268 Entity CORP
Business Name MARIPOSA LANDSCAPES INC
Classification(s) C27 A C61/D49 C31
Expiration Date 04/30/2022 www.cslb.ca.gov

Proof of DIR Registration

Legal Name	Registration Number	County	City	License Type/Number(s)	Current Status	Registration Date	Expiration Date
MARIPOSA LANDSCAPES, INC.	1000005079	LOS ANGELES	IRWINDALE	CSLB:592268	Active	07/01/2019	06/30/2022

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Statement of Understanding and Approach

It is our intention to perform this contract per the City requirements as indicated in the proposal documents. We are confident that we will be able to improve over the current level of landscape maintenance that is being provided for the City of Banning. Our proposal includes an adequate level of labor, materials, and equipment to sustain a high level of landscape maintenance throughout the term of this contract.

Project Startup and Quality Control Coordination Meeting

The Project Estimator and the Account Manager review the project specifications and visit the project site(s) to develop a work plan for the completion of the project per specifications. A meeting including the Account Manager with key personnel responsible for carrying out the work, is held to discuss and coordinate how the project work will be performed.

Prior to commencement of contract work we will thoroughly inspect and document deficiencies. After this is completed for each location, we will provide the City with a detailed list. We will also include a proposal for restoring the area to its original condition if applicable.

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

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

Preparatory Site Inspection

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

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

Labor

It is our goal to provide professional results. Therefore, we will assign the appropriate and trained crew force necessary to complete the specified activities in a professional and timely manner. To achieve the desired results, the appropriate labor will be assigned for every aspect of the work.

Scheduling

Mariposa Landscapes, Inc. will submit a final detailed schedule that includes all the routine activities. After submission and approval of this schedule, we will be ready to start work. Please refer to attached sample schedule.

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Communication and Yard Location

All communications will be routed through our main office and dispatch center. A 24-hour "800" number will be provided. Mariposa Landscapes will use all the current communication methods such as two-way radios and cellular phones. Our response time will meet or exceed the City's expectations.

Our office is open for communications from 6:00am to 4:00pm, Monday-Friday and we are available 24 hours a day through the answering service to address emergency call outs. We have numerous strategically located yards and offices to efficiently service all of Southern California.

Work in Process Quality Inspection

For each work task, the Account Manager, along with City representative, will perform an initial work in process inspection when the first portion of the work activity is completed. The Account Manager performs ongoing work in process quality inspections to ensure that the work tasks continue to conform to the project quality requirements.

Work Task Completion Inspection

Completion inspections are performed for each work task before starting other work activities. Any outstanding punch items remaining after the work task completion inspection is deemed a nonconformance.

Control of Punch Items and Nonconformance

Should a problem occur in the quality of work, we systematically contain the issue and quickly make corrections. We expedite a corrective action that brings the workmanship of material issue into conformance by repair, replacement, or rework. Previously completed work is re-inspected for similar non-conformances. In the event that we cannot meet contract specifications, the customer will be notified, and customer approval of corrective action is required before proceeding.

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

Supervisor/Employee Ratio

Each Account Manager supervises a group of approximately twenty-five workers that breaks down into several work crews, each managed by a Foreman/Field Supervisor. The Account Manager covers a geographical area that will include several contracts for servicing. Each work crew is assigned to service one or more landscape maintenance contracts and is easily accessible to the supervisor.

The Account Manager is in daily communication with the Foreman/Field Supervisor personally or by cellular phone or radio to ensure that the schedule of work operations is followed in strict accordance with the guidelines of the contact. The Foreman/Field Supervisor routinely inspects the job site by walking it with his crew lead, identifying areas of concern and keeping the Account Manager, in charge of landscape maintenance operations, informed as to the condition of the sites in question. All work not in compliance in the opinion of the Account Manager will be addressed immediately through specific instructions to the foreman and crew to perform the corrective work.

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Work Methodology

Mariposa has reviewed the specifications necessary to provide landscape maintenance services for City parks. We have reviewed the specifications thoroughly and will adhere to the tasks that are detailed within them. We have a complete understanding of all the work that will be required of Mariposa Landscapes, Inc.

All workers/ crews assigned to the City of Banning contract will arrive at various locations within the city per the tasks and per the schedule (to be submitted upon start of contract).

- **General Maintenance** –Such tasks include trash/litter, visual inspections, leaf and debris control and any other tasks shall be performed by on-site worker(s) and/ or by a roaming crew(s)/personnel.
- **Specialty areas-**Tasks and less frequent tasks shall be performed by both the on-site workers and/or other Mariposa crew(s)/staff assigned to this contract.
- **General Turf/Grass Maintenance**- Such tasks include mowing, edging, detailing along with seasonal duties such as fertilization and weed control shall be performed by a designated mow crew, with additional personnel (if needed), per the agreed schedule.
- **Weed Control** – Manual weed control, along with chemicals, will be utilized for this contract. Any manual weed control shall be performed by the crew designated to this contract and any chemical application requiring certifications shall be performed by crew member(s) with proper qualifications (ie. QAC, QAL).
- **Landscape Maintenance**- Such tasks include tree, shrub, vine, and ground cover trimming and maintenance shall be performed by crew designated to the contract. The on-site crew will perform all aspects of the maintenance requirements.
- **Fertilization**- All fertilization shall be performed per the schedule. The City will be notified in advance of application days and locations. The crew assigned to the contract will be responsible for fertilization application and ensuring that the approved product type and rates are applied as per the City's requirements. All fertilizer application requirements will be performed to ensure that the fertilizer was applied and cleaned up properly. All applications will be recorded and identified per the city's requirements.
- **Pest & Rodent Control**- Such control shall be performed by crew member(s) with proper qualifications on an on-going basis or per the recommendations of our in-house PCA. We will utilize IPM per the City's requirements along with ensuring that all safety and regulatory measures are taken for the safety of the general public and for our employees. All required reports and recording of chemical use will be documented and submitted as required.

Our crews are trained and equipped with proper equipment to perform the landscape maintenances tasks per the specifications. Mariposa is committed to providing professional services that the City of Banning requires.

Mariposa Landscapes, Inc.

Below is a sample schedule
Final schedule to be submitted upon award of contract.

Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	
Litter Control, All Areas, Liner Replacement	Daily																																																
Mowing	52 X year																																																
Edging & Detaling	52 X year																																																
Blowing	52 X year																																																
Sweeping	52 X year																																																
Broadleaf Control	2 X year																																																
Pre-emergent application	3 X year																																																
Fertilizations	3 X year																																																
Aeration	2 X year																																																
Pest Monitoring	Monthly																																																
Irrigation System Inspections	Weekly																																																

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year																																																
Ground-Covers Trimming	8 X year																																																
Ground-Covers Edging	8 X year																																																
Shrub Pruning	8 X year																																																
Deadheading & Cleaning	As Needed																																																
Weed Control	Monthly																																																
Fertilizations	2 X year																																																
Pre-emergent application	3 X year																																																
Mulching Refreashing	Monthly																																																
Annual Color	4 X year																																																
Premium Color	1 X year																																																
Removal of Dead Plants	As Needed																																																
Trees & Shrubs Safety Clearance	Monthly																																																
Irrigation System Inspections	Weekly																																																

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly																																																
Blowing	Weekly																																																
Weed Control	As Needed																																																
Pressure Washing (Optional, Extra)																																																	
Pest Treatment (Optional, extra)																																																	
Plant replacement (Optional, Extra)																																																	

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Customer Service

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect our clients' goals and do everything in our power to ensure the well-being of their properties. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible.

Service commitment to customers

- We believe that customer service is the most important aspect to our success.
- We provide courteous, responsive, high-quality service to our customers
- We seek innovative approaches to benefit our customer
- We listen to our customer and respond to suggestion and concerns with fairness and flexibility
- We respect our customer's privacy

Mariposa Landscapes, Inc. will communicate with the City of Banning before the work begins, during, and after the project is complete to insure that the City is completely satisfied with the services provided. In case of any complaint or irregularity, the Division manager will take immediate action to resolve any issues. Routine phone calls and emails will be used to track customer satisfaction.

We partner with our clients to achieve a common goal. From simple to complex projects, we coordinate our vast array of expertise to create the project our clients envision. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. We are open to working closely with the City of Banning and we welcome all feedback.

While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

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Staffing Plan

Staff chart below lists job titles, experience, and responsibility of those that will be assigned to this contract.

Mariposa Landscapes, Inc. is open to working close with the City of Banning. We have over four decades of experience working with many cities and counties alike. We

Job Title	Minimum Experience and Responsibility
Account Manager	Over 10 years of experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work in the landscape industry. Will be the primary contact with the City of Banning and will be responsible for all aspects of project management.
Foreman	Will have a minimum of 10 years of experience in all aspects of maintenance operations including carrying out weekly schedules, documenting, communicating work reports and hazardous conditions.
Spray Technician	Will be responsible for all spraying of pre- and post-emergent, insecticides as needed, broadleaf control and all other spraying tasks. They will report directly to Mariposa's Account Manager and the City of Banning representative.
Laborers	Will have minimum 3 years' experience in all aspects of maintenance operations.

Manpower schedules are established and adjusted regularly with changes made seasonally in accordance with contract specifications. Our employees are cross trained, and this enables us to effectively assign additional personnel, should there be a fluctuation in service needs.

All of Mariposa Landscapes, Inc. contracts are internally monitored against budgets. Our Invoices are generated internally per the terms of each contract. Should the City require additional services, Mariposa will provide a complete cost proposal and will require approval before starting any services outside of the contracted work.

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Organization Memberships and Staff Certification

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. All of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering, C31 Traffic Control, C61/D49 Tree Services
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

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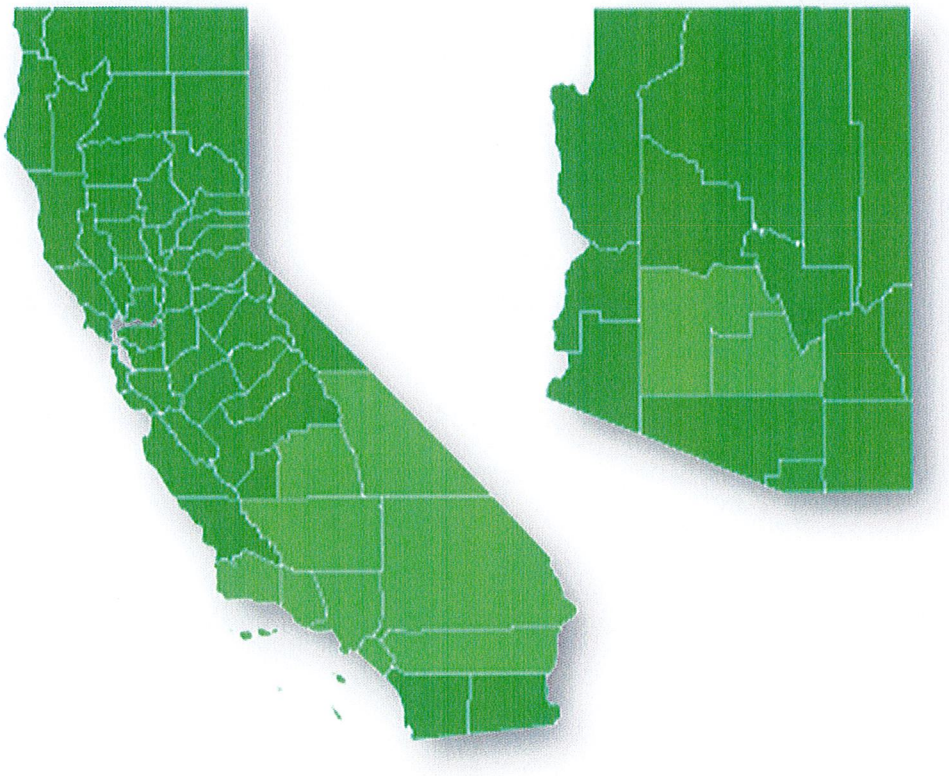
Location

Mariposa Landscapes, Inc. is a licensed contractor working in both Southern California and Arizona. We have numerous strategically located yards and offices to efficiently service our contracts. We can provide quick response times for additional and emergency services.

Mariposa owns 90% of all vehicles and equipment used in its operations. Our entire fleet of equipment is less than 5 years old and well maintained by our in-house mechanics who can respond to emergencies immediately and a depth of replacement equipment that will allow us to stay consistent with our schedules.

This contract will be serviced from our Bermuda Dunes yard location which is located minutes from the City of Banning.



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Innovation

Mariposa Landscapes Inc. understands the importance of Innovation in our trade, particularly with landscape maintenance services. Innovative options are always nurtured and encouraged by management.

Equipment, methods, and ideas are brought to the attention of the Mariposa Management Team on a regular basis. This provides an opportunity for the team to consider new options in all aspects of our business.

Historically, Mariposa has developed several innovative approaches to providing services and reporting to our customers. These have included some programs mentioned elsewhere in this document such as our Quality Control program, uniquely designed to catch issues, correct, and follow up.

Water conservation is key for all property owners, particularly in California. Mariposa has established an innovative partnership with Weathermatic. This company provides cutting edge ET based irrigation controllers nationwide. We are able to offer this product to replace existing older technology controllers, with significant water savings in every case.

At Mariposa Landscapes Inc. we value and expect the highest levels of Horticultural expertise. The owner and President of Mariposa, Terry Noriega, founded one of the premier native and drought tolerant plant nurseries in Southern California, El Nativo Growers, Inc.

As a landscape maintenance service provider, it is critical for Mariposa to stay in the forefront of understanding standards of care for emerging types of plants for use in landscapes.

Mariposa Landscapes Inc. is committed to continued improvements to minimize our equipment impacts on the environment. This takes continued study and testing by our Fleet Management team, to identify viable options and test productivity.

One of the most promising recent innovations being considered, is expanding the use of electric equipment. We have many electric blowers and string trimmers in use, although battery life is still a challenge for consistent commercial use. Concurrently, we have tested several electric powered mowers with promising results.

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References

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients. Below are cities for which we provide landscape maintenance services similar to those listed within the RFP.

Additional references are available upon request.

Name:	City of Newport Beach	**Contact:**	Kevin Pekar
Phone:	(949) 644-3069	**Email:**	kpekar@newportbeachca.gov
Address:	592 Superior Ave, Newport Beach, CA 92660	**Contract Term:**	Current
Description:	Landscape maintenance- Irrigation maintenance, turf maintenance, groundcover maintenance, shrub, vine and tree maintenance, hardscape maintenance, sand/wood chip area maintenance, drinking fountain maintenance. Specialty/sports atheletic area maintenance.		

Name:	City of Tustin	**Contact:**	Christine Zepeda
Phone:	(714) 573-3147	**Email:**	czepeda@tustinca.org
Address:	300 Centennial Way, Tustin, CA 92780	**Contract Term:**	Current
Description:	Landscape maintenance of City LMD areas, parks, medians and facilities. Duties include mowing, turf maintenance, pest control, litter removal, Irrigation system maintenance monitoring, fertilization, Aerification dethatching, weed control, pruning/shrubs, vine care and ground cover.		

Name:	City of Palm Desert	**Contact:**	Randy Chavez
Phone:	(760) 902-9064	**Email:**	rchavez@cityofpalmdesert.org
Address:	73-510 Fred Waring Dr., Palm Desert, CA 922(	**Contract Term:**	Current
Description:	Landscape maintenance. Duties inclcude litter control, plant maintenance, tree maintenance, turf maintenance, hardscape maintenance and irrigatin maintenance.		

Name:	Coachella Valley Water District	**Contact:**	Mike Munoz
Phone:	(760) 578-6471	**Email:**	mmunoz@cvwd.org
Address:	51501 Tyler St., Coachella, CA 92236	**Contract Term:**	Current
Description:	Landscape services of 40 District sites around the Valley: Services include plant litter, trash control, weed control, pest control, plant maintenance, tree maintenance, hardscape maintenance, planter maintenance and irrigation system maintenance.		

Name:	City of Rancho Cucamonga	**Contact:**	Steve Relph
Phone:	(909) 477-2730 *4116	**Email:**	steve.relph@cityofrc.us
Address:	9153 9th St., Rancho Cucamonga, CA 91730	**Contract Term:**	Current
Description:	Landscape Maintenance of Medians and Parkways: Shrub, groundcover, vine and landscape mulch maint., tree maintenance, pest control, hardscape maintenace, restroom maintenance and drinking fountain maint.		

Evidence of Insurance- General Liability

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/06/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
FEDERATED MUTUAL INSURANCE COMPANY
HOME OFFICE: P.O. BOX 328
OWATONNA, MN 55060

CONTACT NAME: CLIENT CONTACT CENTER
PHONE (A/C, No, Ext): 888 333 4949 FAX (A/C, No): 507 446 4564
E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: FEDERATED SERVICE INSURANCE COMPANY	28304
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED 171 235 5
MARIPOSA LANDSCAPES INC
8202 SANTOS DIAZ ST
IRWINDALE, CA 91702-3207

COVERAGES CERTIFICATE NUMBER: 0 REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	N	N	6069499	04/01/2020	04/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 EXCLUDED $1,000,000 $3,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	6069499	04/01/2020	04/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION	N	N	6069500	04/01/2020	04/01/2021	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
THIS COPY IS NOT TO BE REPRODUCED FOR ISSUANCE OF CERTIFICATES.

CERTIFICATE HOLDER

A CERTIFICATE HAS BEEN FILED WITH EACH OF YOUR CERTIFICATE HOLDERS.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Michael G Kerr

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Evidence of Insurance- Workers Compensation

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Global Risk, LLC
800 Wilshire Blvd., Second Floor
Los Angeles CA 90017

CONTACT NAME: Tani Mason
PHONE (A/C, No, Ext): (213) 550-2253
FAX (A/C, No): (213) 550-2258
E-MAIL ADDRESS: tmason@globalriskcap.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Sentry Casualty Company	28460
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale CA 91702

COVERAGES — CERTIFICATE NUMBER: Cert ID 308 — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE / OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC						GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY — ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) — If yes, describe under DESCRIPTION OF OPERATIONS below — Y/N: Y	N/A	Y	90-20720-01 00 191	04/01/2020	04/01/2021	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
								$
								$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Proof of Insurance Only!

CERTIFICATE HOLDER

Mariposa Landscapes Inc.
15529 Arrow Highway
Irwindale CA 91706

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Tani Mason

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Proposal Forms (Exhibit A)

Please note that all required Proposal Forms have been uploaded as a separate attachment.

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OUR VALUES ARE...

Safety Being the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents and provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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AMENDMENT NO. 1 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 1 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 1") by and between the **CITY OF BANNING** ("CITY") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: August 2, 2022.

RECITALS

A. On February 23, 2021, CITY awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352), which included a 10% contingency for additional work.

B. On March 22, 2021, the CITY and Mariposa Landscapes Inc., executed the Landscape Maintenance Agreement for City Parks – (C00698)

C. On May 10, 2022, City adopted City Council Resolution No. 2022-56, which authorized the First Amendment of the Agreement to extend the term for an additional one-year term to expire June 30, 2023 and increase compensation for services provided under the Agreement to an amount that shall not exceed One-Hundred One Thousand, Six-Hundred Thirty Eight Dollars and Eighty cents ($101,638.80).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

Section 2.1 of the Agreement is amended to read as follows:

(a) 2.1. Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor a monthly amount of Seven Thousand Six Hundred

Ninety-Nine Dollars and ninety-one cents ($7,699.91) for twelve (12) months through June 30, 2023. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Nine Thousand Two Hundred and Thirty-Nine dollars and eighty-nine cents ($9,239.89) for a total not to exceed amount of One Hundred and One Thousand Six Hundred and Thirty-Eight Dollars and eighty cents ($101,638.80) The total compensation, including reimbursement for actual expenses, from April 1, 2021 through June 30, 2023, shall not exceed Two Hundred and Seven Thousand Nine Hundred and

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Ninety dollars and eighty cents ($207,990.80) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

(b) Section 3.1, "Term" of the Agreement is amended read as follows:

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall be extended upon execution by both Parties and shall expire on June 30, 2023.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement and all amendments thereto.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 1, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 1, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

DocuSigned by:
Doug Schulze 8/2/2022
0AD14BA217CE497...
Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
8/2/2022
72C57B436CA24C7...
Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin Ennis 8/1/2022
940BF72E964348C...
Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Terry Noriega 8/1/2022
073E1ED56F0840B...
NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
6232 Santos Diaz Street
Irwindale, CA 91702

City Council Approval: May 10, 2022

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

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CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Ralph Wright, Parks and Recreation Director**

MEETING DATE: **May 10, 2022**

SUBJECT: **Consideration of Resolution 2022-56, Approving Amendment No. 1 to the Agreement with Mariposa Landscapes, Inc. for City Parks Landscape Maintenance in Fiscal Year 2022-23 for a Not-to-Exceed Amount of $101,639**

RECOMMENDATION:

City Council Adopt Resolution 2022- 56

1. Approving the extension and amendment of the Landscape Maintenance contract for City parks with Mariposa Landscapes, Inc., for fiscal year 2022/2023 for a not-to-exceed amount of $101,638.80

2. Authorizing the City Manager or his designee to execute the Amendment No. 1 to the Landscape Maintenance Agreement (C00698) for City Parks with Mariposa Landscapes, Inc., for the renewal term of July1, 2022 through June 30, 2023.

3. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City Parks.

BACKGROUND:

On December 29, 2020 an RFP for Parks Landscape Maintenance was released through the ProcureNow purchasing system used by the City. In response, five (5)proposals were received. A committee consisting of three (3) members was assembled to evaluate the proposals based on five categories: qualifications, pricing, experience, professional references, and approach and methodology. After each member of the panel evaluated all proposals, the proposing firms were ranked in order and the top two firms were selected for an interview. Mariposa Landscapes Inc. was the top ranked vendor after the initial proposal review and selected for an interview. After review of the proposals and subsequent interviews, Mariposa Landscapes, Inc., was unanimously selected as the chosen service provider.

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On February 23, 2021, The City Council of the City of Banning awarded a contract agreement with Mariposa Landscapes, Inc., in the amount of $96,684.00 to cover monthly service costs, with a 10% contingency to allow for additional work and irrigation repair services as needed, for a total not to exceed $106,352.

After the Council approval, Mariposa Landscape Inc., informed the City that there was a significant error in their proposal as the total compensation amount was based on a twelve-month calendar rather than the requested fifteen-month contract term and their monthly proposal less additional work should have been $8,057.00 per month rather than the $6,445.60 per month that was included in their proposal. After discussions between the Purchasing Division, Mariposa agreed to move forward within the awarded total monthly contract amount of $7,090.16. The adjusted monthly amount did not change the placement of Mariposa landscapes, Inc., as compared to the other submitted proposals and therefore the City and Mariposa Landscapes Inc., executed the Parks Landscape Maintenance Agreement (C00698)

The original agreement allows for four (4) one-year extensions if the services are provided satisfactorily as per the agreed upon scope of services. Mariposa Landscapes Inc., has exceeded the expectations with regard to their service over the length of the original contract term, noticeably improving the parks overall aesthetic look and turf management. Additionally, Mariposa Landscapes Inc., has been very responsive to questions and provided ideas for improvements over the last year.

For those reasons stated, it is staff's recommendation that the city authorize Amendment No. 1, to the Parks Landscape Maintenance contract with Mariposa Landscape Inc., for Fiscal Year 2022-23, for the term of July 1, 2022 through June 30, 2023.

Pursuant to Section 2.1 of the original agreement, the total compensation can be adjusted to reflect the annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) Riverside – San Bernardino – Ontario Area. For the period from March 2020 to March 2021, the CPI was at 8.6%. Reflecting the CPI rate of 8.6%, the monthly service rate will increase from $7,090.16 to $7,699.91.

JUSTIFICATION:

The Parks and Recreation Department does not have the required staff needed to perform the scope of work included in the Scope of Services and maintain the current service levels of our parks, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Mariposa Landscapes, Inc. came to the city highly as a highly respected vendor and has performed above expectations.

FISCAL IMPACT:

The total annual compensation of $92,398.92 as well as the 10% contingency amount for additional work results in the Not to Exceed amount of $101,638.80. The funding for

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parks landscape maintenance will be fully funded within the parks operational budget account 001-3600-461.23.-29.

ALTERNATIVES:

The City Council may choose to reject this action which would result in a significant reduction in Parks landscape maintenance. The City does not have staff resources to perform the landscape maintenance included in the scope of work.

ATTACHMENTS:

1. Resolution 2022-56
   https://banningca.gov/DocumentCenter/View/10468/Att-1-Resolution-2022-56-Mariposa-Landscapes-Amendment-No-1

2. Scope of Work
   https://banningca.gov/DocumentCenter/View/10469/Att-2-Scope-of-Work-from-RFP-20-035

3. Draft Amendment No. 1 to Agreement
   https://banningca.gov/DocumentCenter/View/10465/Att-3-Draft-Amendment-1

4. Mariposa Landscapes Inc., Original Proposal
   https://banningca.gov/DocumentCenter/View/10466/Att-4-Mariposa-Landscape-Inc---Proposal

5. Amendment No. 1
   https://banningca.gov/DocumentCenter/View/10467/Att-5-Mariposa-Landscapes-Original-Agreement

Approved by:

Douglas Schulze
City Manager

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RESOLUTION 2022-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT WITH MARIPOSA LANDSCAPES, INC. FOR LANDSCAPE MAINTENACE OF CITY PARKS FOR FISCAL YEAR 2022/2023 IN AN AMOUNT NOT-TO-EXCEED $101,638.80

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to effectively, efficiently and safely maintain the current service level for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2022, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services; and

WHEREAS, the original contract was in the amount of $96,684, with a 10% contingency, for a total not to exceed amount of $106,352; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of the initial contract; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to four (4) additional years upon satisfactory review of the previously provided services; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2022/2023.

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

SECTION 1. Amendment No. 1 to the Agreement between the City of Banning and Mariposa Landscapes, Inc, is approved for an additional one (1) year term from July 1, 2022 to June 30, 2023 in the not to exceed amount of $101,6383.80 including a 10% contingency for additional work not included in the scope of services.

SECTION 2. That the City Manager or his designee is authorized to make all necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City parks.

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SECTION 3. That the City Manager is authorized to execute Amendment No. 1 with Mariposa Landscapes, Inc.

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

PASSED, APPROVED AND ADOPTED this 10th day of May 2022.

Kyle Pingree, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

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CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-56, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of May 2022 by the following vote, to wit:

AYES: Hamlin, Happe, Pingree, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

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AGREEMENT FOR CONTRACT SERVICES (C00698)

FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

MARIPOSA LANDSCAPES, INC.

a California corporation

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AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: 3/22/2021, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and **MARIPOSA LANDSCAPES, INC., a California corporation** and licensed contractor (California License Number 592268) ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 20-035), the performance of the Services defined and described particularly in Article 1 of this Agreement, including turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations at the following locations: Dysart Park, Lion's Park, Repplier Park, Roosevelt Williams Park, and Sylvan Park.

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

C. On February 23, 2021, City Council approved the award and execution of this Agreement.

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

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

OPERATIVE PROVISIONS

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

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and

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professional manner, and is experienced in performing the Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Order of Precedence.

The Scope of Services shall include City's Request for Proposals ("RFP") and the Contractor's Response to the City's RFP ("Response") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the RFP or Response, the terms of this Agreement shall govern. In the event of any inconsistency between the terms of the City's RFP and the Contractor's Response, the City's RFP shall govern.

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Services.

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

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1.6 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.7 Additional Services.

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

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the sum of NINETY SIX THOUSAND, SIX HUNDRED AND EIGHTY FOUR DOLLARS ($96,684.00) (the "Contract Sum") annually, unless additional compensation is approved pursuant to Section 1.7.

Compensation may be adjusted annually on July 1st of each year, or during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino-Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

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2.2 Invoices.

Each month Contractor shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Services performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice(s). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

ARTICLE 3. TERM

3.1 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence on April 1, 2021 and shall expire on June 30, 2022. This Agreement shall include the option to extend for four (4) additional one-year terms if agreed to in writing in advance by both Parties.

ARTICLE 4. COORDINATION OF SERVICES

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services specified herein and make all decisions in connection therewith.

Terry Noriega, President

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

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4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

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ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage

$1,000,000 per occurrence for personal and advertising injury

$2,000,000 aggregate for products and completed operations

$2,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Contractor purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee.

Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

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Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee. At the option of the City Manager or his/her designee, either: (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its Council members, officers, officials, employees and agents; or (ii) Contractor shall provide a financial guarantee, satisfactory to the City Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary and no contribution shall be required of City. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Contractor shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee prior to City's execution of the Agreement and before work commences.

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

Upon request of City, Contractor shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City and its officers, officials, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Contractor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its principals, officers, employees, agents, persons under the supervision of Contractor, vendors, suppliers, invitees, subcontractors, or anyone employed directly or indirectly by any of them.

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

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

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

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

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

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

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

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond

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required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

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

6.3 Ownership of Documents.

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

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Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

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

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

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

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

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

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any Services performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the

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default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

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

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of Not Applicable ($0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of Services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Agreement or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the Services actually performed hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Services and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have

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accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

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

8.2 Conflict of Interest.

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

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

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

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ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

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

9.3 Counterparts.

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

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

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

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9.6 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY OF BANNING

DocuSigned by:
Doug Schulze 3/22/2021
0AD14BA217CE497...
Douglas Schulze, Date
City Manager

ATTEST:

DocuSigned by:
Laurie Sampson 3/22/2021
5857E664E42A405...
Laurie Sampson Date
Acting Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

DocuSigned by:
Kevin G Ennis 3/19/2021
940BF72E964348C...
Kevin G. Ennis, Esq., Date
City Attorney

CONSULTANT

DocuSigned by:
Terry Noriega 3/19/2021
073E1ED56B0840B...
NAME: Terry Noriega Date
TITLE: President

NAME: Date
TITLE:

95-4245898
Tax ID No.

Address:
6232 Santos Diaz ST, Irwindale CA 91702

City Council Approval: 02/23/2021

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

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EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP 20-035.

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IV. SCOPE OF WORK

IV.A Introduction

The City of Banning is seeking proposals from qualified contractors and intends to retain the services of a contractor to provide landscape maintenance services for its properties throughout the City. The City is considering awarding a contract to begin April 1, 2021, for a term of one (1) year and (3) three months with the option to renew for an additional four (4) single years upon an annual review of the provided services. The City of Banning reserves the right to accept or reject any or all proposals. These Specifications and Scope of Services shall become part of the contract Agreement.

The scope of services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; and irrigation equipment and operations for all locations identified in this Request for Proposals ("RFP") and listed below:

- Dysart Park (2101 W. Victory Avenue)
- Lion's Park (9955 S. Hargrave Street)
- Repplier Park (201 W. George Street)
- Roosevelt Williams Park (1101 E. George Street)
- Sylvan Park (2801 W. Nicolet Street)

It is the responsibility of the Contractor to visit the sites and become familiar with the project locations and maintenance needs. It is the City's expectation that all land care and maintenance items identified in this RFP will be addressed.

IV.B TURF MANAGEMENT

1. Lawn Mowing
    1. For all turf areas, Contractor will inspect and police the grounds for litter and debris prior to each mowing and dispose of it.
    2. Turf will be mowed one time per week during active growing periods, and as often as required during slow periods of growth to maintain a neat and manicured appearance, weather permitting.
    3. Mowing height for all irrigated lawn areas will be no less than 1 ½" and no more than 2" for a finished cut height unless otherwise requested. Turf will be cut at a uniform height. Mowing equipment is to be kept sufficiently sharp and properly adjusted through daily servicing to provide a cleanly cut grass blade. Grass blade bruising, tearing, and shredding are to be prevented. Mowing pattern will be varied where

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possible to reduce rutting and compaction of grade. Any excess clippings will be dispersed and/or collected to prevent damage and unsightly appearance of lawns.

4. Unless otherwise specified, grass cuttings need not be removed. However, when an inordinate amount of grass is evident, removal may be requested by staff with no extra charge to City for such removal by contractor. Clippings shall be legally disposed of offsite at the Contractor's expense. Special note: frequencies and turf height may change throughout the year in order to accommodate sports activities and facility use schedule; staff may request change in such turf height to address such activities.
5. Work shall be performed on the same day each week. Contractor shall provide a mow schedule to the City. Initial week schedule and any changes must be approved by the City prior to implementation. All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within (3)) three working days.
6. Aeration: Contractor shall aerate all turf areas a minimum of once a year by removing one 1/2" diameter by 3" deep cores of sod with an aerator machine with not more than 66" spacing, once over. Aeration shall take place at an approved time frame each year. In addition, the tops of all mounds and any areas that show excessive compaction shall receive additional treatment as required, to alleviate this condition and allow for proper water penetration and minimal runoff. All damaged areas larger than 4" by 4" shall be seeded on an as-needed basis. The cores shall be dragged to breakup cores and allowed to remain or be removed at the Contractor's discretion with approval of the City.
7. Over seeding:- Annual (one time per year) over seeding shall take place. Contractor shall prepare turf (verticutting and aeration) prior to applying seed. Seed shall match existing lawn and will be provided by the City. All labor and the equipment to perform the over seeding will be the responsibility of the Contractor.

2. Edging and String Trimming
   1. Concurrent with every mowing, all turf grass borders shall be neatly and uniformly edged or trimmed. String trimmers (weed eaters) or similar equipment shall not be used around trees or shrubs or wooden posts or for hardscape/pathways/mow strips edging. This trimming shall include cutting all grass along walls, fences, foundations, curbs, sidewalks, shrubs, tree trunks, poles, guy wires, or other object within or immediately adjacent to lawn areas. Trim shall not exceed one half(1/2) - inch from hardscape.
   2. Trim around sprinkler heads as necessary to allow maximum water coverage. Trimming shall not expose the sprinkler body or trim cap.
   3. Care shall be taken to avoid damage to tree trunks, shrubs, sign posts, buildings, and other structures. Damage shall be promptly reported to the City's representative and repairs made promptly at the Contractor's expense. Any damage to tree trunks and/or shrubs shall be considered neglect and shall be replaced at the discretion of

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City staff at the Contractor's expense. All walkways, roadways, trails or other areas dirtied by edging operations shall be cleaned and all debris disposed offsite prior to the completion of the day's operations or end of the day, whichever occurs first. CLIPPINGS/DEBRIS SHALL NOT BE BLOWN INTO STORM DRAINS OR INTO GUTTERS THAT DRAIN INTO STORM DRAINS BUT SHALL BE LEGALLY DISPOSED OF.

3. Clearing of Walks
    1. At the conclusion of each visit, walks adjacent to work areas will be blown clean.

IV.C SHRUB BED MAINTENANCE

1. Landscaped areas will be policed throughout the growing season for weeds, litter, and debris. Particular attention will be paid to entryways, focal points, and high traffic areas.
2. Planter beds will be groomed to promote an attractive, fresh appearance.
3. Concrete swales (if applicable) to be kept clear of miscellaneous dirt and debris.
4. Complete trimming, edging, and weeding of all shrub and ground cover areas will be done on a cyclical basis. Trimming and edging are to be performed monthly and weeding is to be performed weekly. Major pruning will be done following flowering or during plant dormant season.
    1. Pruning shall be performed by Contractor’s designated staff member who is trained and demonstrated competency in proper pruning techniques.
    2. Prune shrubbery and hedges at established maintenance height.
    3. Prune groundcover as required to contain perimeter growth to within bed areas where adjacent to walks, curbs, and structures. Mature groundcover will be maintained at a consistent appearance with a beveled or rolled edge at hard surfaces.
    4. Shearing of plants will occur only where previous practice has been to shear, or as directed.
    5. Removal of leaves and debris from lawns, planter beds, and walkways will be completed throughout the year as needed to maintain a clean appearance.
    6. Dead or damaged shall be removed whenever possible.
    7. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.

IV.D TREE CARE & PRUNING

1. All trees will be “skirted” as needed per the City’s request to allow for pedestrian and vehicle clearance. Remove lower branches of trees when in conflict with growth of

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planning beneath. On trees that are over 12' only low hanging branches that are considered a hazard to pedestrians or vehicles will be pruned as part of this agreement.

2. All trees under 12" total height will be pruned to remove weak, dead, damaged, and diseased portions of the plant for natural growth development.
    1. Cuts will be flush and clean, leaving not stubs, or tearing of bark. Major pruning will be done following flowering or during plant's dormant season.
    2. Dead or damaged portion shall be removed whenever possible.
    3. Pruning to be performed by Contractor's designated staff member who is trained and demonstrates competency in proper pruning techniques.
    4. Contractor shall monitor trees for signs of disease and insect infestations. If affected, appropriate recommendations for treatment shall be submitted to the City. When insect and/or disease problems are detected, legally approved chemicals are to be used to treat the problem.
3. Monitor trees that are staked or guyed. Loosen and/or remove supports when appropriate to prevent girdling of the trunk and encourage root support. Replace stakes when damaged.

IV.E FERTILIZATION

1. Contractor shall provide all labor and materials to fertilize lawn, shrubs and ground cover to maintain proper nutrient levels and provide a consistent, healthy appearance.
    1. Turf, shrub and ground cover areas will be fertilized with specifically formulated products including well-balanced, slow-release fertilizers customized seasonally by Contractor. Seasonally refers to "Winter" and "Summer" and different fertilizers will be used based on ground temperature.
    2. Fertilizer product will be selected based on plant type and season.

IV.F ENVIRONMENTAL WEED AND PEST CONTROL PROGRAM

1. All applications and herbicides or pesticides will be performed under the direction of California Licensed & Certified Pest Control Specialist. All safety precautions will be taken in the handling and application of chemicals as stated on manufacture's labels.
2. Broadleaf turf weeds will be treated as needed in the "Spring" and "Fall" with applicable materials.
3. Weeds in shrub, planter beds, ground cover areas, tree circles, and sidewalk cracks adjacent to landscaped areas will be controlled by a manual weeding program or by using selected herbicides, including pre-emergent herbicides.

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4. Planting areas will be monitored for insect and disease infestations. Moles, field mice, ground squirrels, gophers, and other rodent activity will be monitored. Notification of problems and recommendations for timely appropriate, control measure will be made.
5. Material Safety Data Sheets (MSDS) for all chemicals used on site(s) are available from Contractor to clients in accordance with EPA and OSHA regulations. Sheets shall be provided to the City.
6. Notice of scheduled use of pesticides and herbicides must be given to the City prior to use and signage on site may be required prior to application at the City's discretion.
7. Contractor shall be in compliance with requirements for hazardous communications programs. Pest control specialist are to be trained and supervised in the safe application, storage, and disposal of chemicals in accordance with EPA, OSHA, and DPR regulations.

IV.G IRRIGATION EQUIPMENT AND OPERATION

1. . Schedule all irrigation controllers on project to maximize existing irrigation systems efficiency. Controller programs will be adjusted as determined by weather and plant requirements, with water conservation methods in place. Controllers will be shut off during periods of rain. Watering will be scheduled for night or early morning unless instructed differently by City’s representative.
2. Clean and adjust sprinkler system to provide the best coverage possible from existing system. Turn on each zone, monitor for leaks or malfunctioning parts, and adjust for proper spray arch and maximum efficiency.
3. Upon inspection, any accidental damage or vandalism caused by others shall be reported to owner within 48 hours. Repair and/or replacement of any damaged of malfunctioning components beyond Contractor’s control will be submitted as an extra.
4. The irrigation system shall be checked after each mowing for any damage. Damage caused to the irrigation system by Contractor shall be repaired within forty-eight (48) hours, unless otherwise agreed to, at no charge to the City.

IV.H GENERAL CONDITIONS

1. City is responsible for all cost associated with water.
2. Contractor will provide uniformed staff supervised by fully trained Supervisors and Area Manager. Radio and cellular phone communication will be available.
3. Inspection of site(s) will be made regularly and problems, if found, will be discussed by Contractor and the City. A monthly written, comprehensive maintenance and inspection reports shall be submitted with monthly billings.
4. Debris generated by landscape activities will be removed from the site unless prior arrangements are made. Debris collected by the Contractor will be recycled and or

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composted. Contractor will submit a monthly diversion summary report stating diverted quantities and facilities utilized for recycling materials.

5. During routine maintenance visits, the Contractor is responsible for removing trash and debris from the properties.

IV.I CONTRACTOR COMPENSATION

The City shall pay Contractor, as compensation for the services to be performed, the sum of per month listed in the Contract Agreement with additional adjustments as specified thereinafter.

Compensation may be adjusted annually, on July 1st of each year commencing on July 1, 2022, during the term of the Contract Agreement to reflect annual changes in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Riverside-San Bernardino- Ontario Area, or any successor index agreed upon by the City and Contractor, as set forth over the previous available twelve (12) months prior to the date of adjustment.

IV.J ADDITIONAL WORK

1. The Parks and Recreation Director or designee may authorize the Contractor to perform additional work. Additional work shall be defined as work not included in the specifications with the exception of additional sites, or portions thereof that may be added and shall be in writing.
2. Prior to the Contractor performing any additional work, the Contractor shall prepare and submit a written description of the work with an estimate of labor and materials cost. No work shall commence without written authorization from the Parks and Recreation Director, or designee. In the event that conditions exist where there is imminent danger of injury to the public or damage to property, the Parks and Recreation Director or designee may verbally authorize the work to be performed upon receiving a verbal estimate from the Contractor. Within twenty-four (24) hours after receiving verbal authorization, the Contractor shall submit a written estimate to the Parks and Recreation Director or designee for written approval.
3. The cost estimate for additional work shall consist of the following elements:
    1. Wholesale cost of materials including sales tax plus ten percent (10%).
    2. Base cost of labor plus fifteen percent (15%) for overhead and profit.
4. Change Order - Written authorization for additional work from the Parks and Recreation Director or designee, shall be by the issuance of a Change Order. This Change Order shall be considered an amendment to the Contract Agreement and approved by both the Parks and Recreation Director and Contractor.
5. All additional work shall commence on the specified date established and shall diligently proceed until completion.

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6. Upon completion of the additional work, the Parks and Recreation Director or designee shall be notified so that the work may be verified.
7. The Contractor shall submit an invoice for compensation with attached photocopies of original invoices for materials. Compensation shall not exceed the written estimate.
8. The Contractor's invoice shall be subject to audit and review by the City prior to payment.
9. The City of Banning reserves the right to repair and/or contract with a third party to perform such additional work.

IV.K INSPECTION

The Parks and Recreation Director or designee may inspect the work areas to ensure adequacy of maintenance and methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of any duty under this contract. Discrepancies and deficiencies in the work shall be brought to the attention of the Contractor and corrected in the manner agreed to by the Parks and Recreation Director or designee.

1. It shall be the Contractor's responsibility to inspect, and identify, any conditions(s) that renders any areas within this Contract Agreement unsafe, as well as any unsafe practices occurring thereon. The Parks and Recreation Director or designee shall be notified immediately of any unsafe condition that requires correction.
2. During the inspection of all work sites for hazards, or potential hazards, the Contractor shall keep a log indicating the date the area was inspected, any unsafe conditions found, and the action taken.
3. The Contractor shall cooperate fully with the City of Banning in the investigation of any accidental injury or death occurring on the premises, including the submission of a complete written report thereof to the Parks and Recreation Director or designee within five days following the occurrence.

IV.L SAFETY

1. The Contractor shall perform all work outlined in these specifications in such a manner as to provide maximum safety to the public, and meet all accepted standards for safe practices during the maintenance operation, to safely maintain equipment, machines and materials or other hazards consequential or related to the work. The Contractor shall have sole responsibility for complying with all local, County, State or other legal requirements including, but not limited to CAL-OSHA.
2. The Parks and Recreation Director or designee, reserves the right to issue restraint, or cease and desist orders, to the Contractor when unsafe or harmful acts are observed or reported relative to the performance of work under this contract.

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EXHIBIT "A-1"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in Proposal.

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MARIPOSA
LANDSCAPES INC

BANNING, CA
STAGECOACH TOWN USA
ESTABLISHED 1913

City of Banning

Request for Proposal

Landscape Maintenance Services for City Parks

RFP 20-035

Due: Tuesday, January 26, 2021 at 2:00 PM

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz St., IRWINDALE, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
www.mariposa-ca.com

Our Core Values – Safety • Teamwork • Quality • Integrity

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MARIPOSA
LANDSCAPES INC

January 25, 2021

City of Banning
Shiloh Rogers, Purchasing Manager
99 E. Ramsey St.
Banning, CA 92220

Re: Request for Proposal Landscape Maintenance Services for City Parks, RFP 20-035

Thank you for the opportunity to submit our proposal. Mariposa Landscapes, Inc. looks forward to the competitive process.

Mariposa Landscapes, Inc. has been in business for over 40 years providing similar services for other cities and public agencies. Our attention to quality and detail is documented with a list of more than 99 award winning construction and maintenance projects that extends over four decades. Our depth of knowledge and level of experience in our management and supervisory personnel is unmatched by our competitors.

We have over 400 employees including Certified Irrigators, Certified Landscape Techs, Certified Arborists and Pest Control Advisors. We are available 24 hours a day through the answering service to address emergency call outs.

Our company has met every financial obligation for over 40 years and has established a corporate bonding capacity far in excess of any requirements across all business lines. Therefore, this enables us to be the most capable firm that will commit to provide the best level of service for the City of Banning.

Our price reflects necessary labor, services, equipment, and material to perform the work. We have the ability to comply with all the terms and requirements of the bid documents and the resulting contract. We have visited all sites and are familiar with the current conditions of each.

The contact person during the RFP review process will be Kevin Coon. His contact number is (626) 960-0196 and his email address is kevin.coon@mariposa-ca.com

We look forward to providing professional landscape maintenance services for the City of Banning and its residents, with the best interest in the well-being of the community and its appearance.

Respectfully,

Antonio Valenzuela, Secretary

CA CONTRACTOR'S LIC # 592268 A, C-27, D-49
6232 Santos Diaz Street, Irwindale, CA 91702 •TEL 800•794•9458 •FAX 626•960•8477
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Qualifications

Mariposa Landscapes, Inc. is a full-service landscape company with vast experience performing large scale landscape maintenance similar in size and scope to that requested in this RFP for over 40 years. We understand our client's priorities and do everything in our power to honor the trust they place in us.

Mariposa is a full-service landscape company, with both Construction, complete Tree Service Operations, and Interior Plant Maintenance Divisions. In addition to the required C-27 license, we carry A, C-61/D-49, and C-31 licenses. This diversity of capabilities and proven expertise is not found with other landscape maintenance competitors.

We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

We believe the depth of knowledge and level of experience being brought to the City of Banning by our team is unmatched by our competitors. Our many successful years of experience in providing similar maintenance services for the public entities, enables us to be the most responsive and responsible firm who will be committed to providing the best level of service in maintaining the public areas for the City.

As the City of Banning's Landscape Maintenance Contractor, Mariposa will:

- Provide qualified employees for these contracts to achieve professional results.
- Provide the required labor to achieve professional results and not necessarily an employee "head count"
- Provide clear and timely irrigation reports.
- Provide immediate information about hazards in contract areas
- Perform timely responses and offer solutions to issues or complaints (if and when they arise)
- Keep accurate records of requests for work, including date/time received and date/time completed.
- Provide suggestions to City of Banning for improvements to areas.
- Provide qualified extra labor, appropriate equipment, and materials for extra work projects.

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Company History

In 1977, Terry Noriega established Mariposa Landscapes in Rosemead, California, by providing landscape maintenance and installation for custom residential and small commercial clients. After five years, he created the Public Works Maintenance Division, in 1984 the Public Works Construction Division was added, and in 1987, a Tree Care Division was formed.

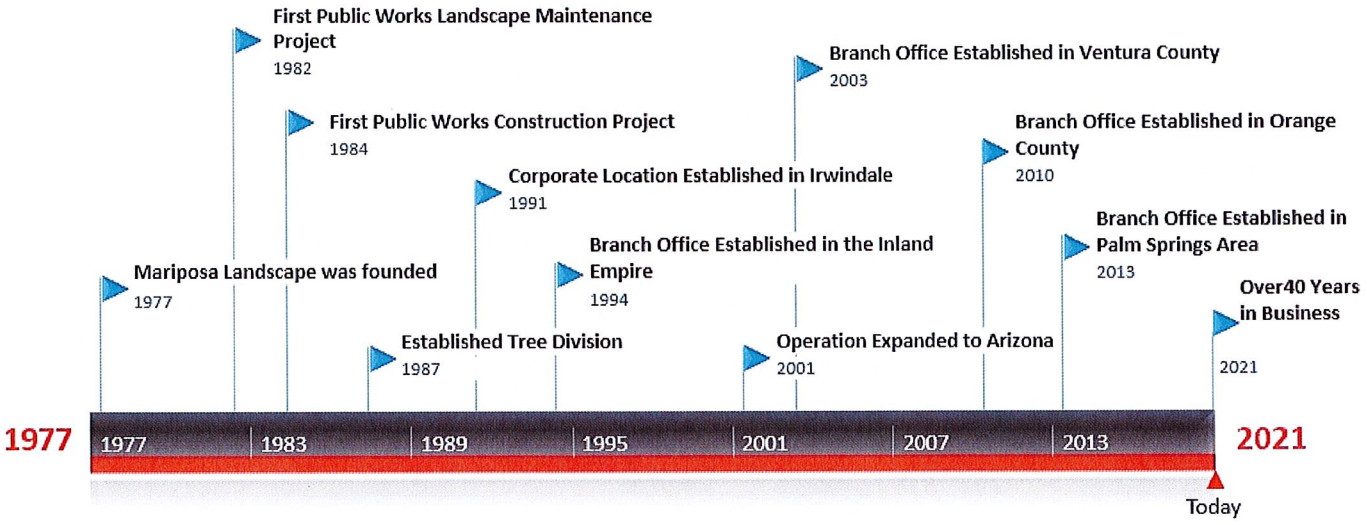
Mariposa Landscapes reincorporated in 1989 as Mariposa Horticultural Enterprises, Inc. In 2009, the company changed their business name back to Mariposa Landscapes, Inc. The company currently has a workforce of over 600 in California and Arizona.

A brief chronology:

- 1977 –The Company is established in Rosemead, California.
- 1982 –The Public Works Maintenance Division is formed.
- 1984 – The Public Works Construction Division is added.
- 1987 – The Tree Care Division is started.
- 1991 – Relocates to our current facilities in Irwindale, CA.
- 1994 – Expands operations by opening a branch in Fontana, CA.
- 2001 – Establishes an office in Glendale, Arizona.
- 2003 – Expands into servicing the Ventura County
- 2010 – Branch office established in Orange County

- 2013 – Branch Office established in Palm Springs Area
- 2021 – Over 40 years in Business!

Mariposa Landscapes, Inc. – Over 40 years of Excellence!



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Company Information

President: Terry Noriega
California Corporation: C1469653
California Employer ID: 368-4753-1
Date Incorporated: October 2, 1989

Licenses & Certificates

Contractors State License:	592268	C27, A, C61/D49
Qualified Applicators License:	103864	ABCDEFH
Pest Control Adviser License:	74416	ABCDEG
Pest Control Business License:	30977	
Irwindale Business License:	000538	
Supplier Clearinghouse MBE:	94HS0050	
City of Los Angeles MBE:	561730	
City of Los Angeles LBE:	37858	
LA County MBE:	43914	
LA Co. Agricultural Pest Control	1000279	
Certified Arborist:	*WE-1182A*	

State of California Contractors License

dca
CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE

License Number 592268 Entity CORP
Business Name MARIPOSA LANDSCAPES INC
Classification(s) C27 A C61/D49 C31
Expiration Date 04/30/2022 www.cslb.ca.gov

Proof of DIR Registration

Legal Name	Registration Number	County	City	License Type/Number(s)	Current Status	Registration Date	Expiration Date
MARIPOSA LANDSCAPES, INC.	1000005079	LOS ANGELES	IRWINDALE	CSLB:592268	Active	07/01/2019	06/30/2022

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Statement of Understanding and Approach

It is our intention to perform this contract per the City requirements as indicated in the proposal documents. We are confident that we will be able to improve over the current level of landscape maintenance that is being provided for the City of Banning. Our proposal includes an adequate level of labor, materials, and equipment to sustain a high level of landscape maintenance throughout the term of this contract.

Project Startup and Quality Control Coordination Meeting

The Project Estimator and the Account Manager review the project specifications and visit the project site(s) to develop a work plan for the completion of the project per specifications. A meeting including the Account Manager with key personnel responsible for carrying out the work, is held to discuss and coordinate how the project work will be performed.

Prior to commencement of contract work we will thoroughly inspect and document deficiencies. After this is completed for each location, we will provide the City with a detailed list. We will also include a proposal for restoring the area to its original condition if applicable.

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

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

Preparatory Site Inspection

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

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

Labor

It is our goal to provide professional results. Therefore, we will assign the appropriate and trained crew force necessary to complete the specified activities in a professional and timely manner. To achieve the desired results, the appropriate labor will be assigned for every aspect of the work.

Scheduling

Mariposa Landscapes, Inc. will submit a final detailed schedule that includes all the routine activities. After submission and approval of this schedule, we will be ready to start work. Please refer to attached sample schedule.

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Communication and Yard Location

All communications will be routed through our main office and dispatch center. A 24-hour "800" number will be provided. Mariposa Landscapes will use all the current communication methods such as two-way radios and cellular phones. Our response time will meet or exceed the City's expectations.

Our office is open for communications from 6:00am to 4:00pm, Monday-Friday and we are available 24 hours a day through the answering service to address emergency call outs. We have numerous strategically located yards and offices to efficiently service all of Southern California.

Work in Process Quality Inspection

For each work task, the Account Manager, along with City representative, will perform an initial work in process inspection when the first portion of the work activity is completed. The Account Manager performs ongoing work in process quality inspections to ensure that the work tasks continue to conform to the project quality requirements.

Work Task Completion Inspection

Completion inspections are performed for each work task before starting other work activities. Any outstanding punch items remaining after the work task completion inspection is deemed a nonconformance.

Control of Punch Items and Nonconformance

Should a problem occur in the quality of work, we systematically contain the issue and quickly make corrections. We expedite a corrective action that brings the workmanship of material issue into conformance by repair, replacement, or rework. Previously completed work is re-inspected for similar non-conformances. In the event that we cannot meet contract specifications, the customer will be notified, and customer approval of corrective action is required before proceeding.

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

Supervisor/Employee Ratio

Each Account Manager supervises a group of approximately twenty-five workers that breaks down into several work crews, each managed by a Foreman/Field Supervisor. The Account Manager covers a geographical area that will include several contracts for servicing. Each work crew is assigned to service one or more landscape maintenance contracts and is easily accessible to the supervisor.

The Account Manager is in daily communication with the Foreman/Field Supervisor personally or by cellular phone or radio to ensure that the schedule of work operations is followed in strict accordance with the guidelines of the contact. The Foreman/Field Supervisor routinely inspects the job site by walking it with his crew lead, identifying areas of concern and keeping the Account Manager, in charge of landscape maintenance operations, informed as to the condition of the sites in question. All work not in compliance in the opinion of the Account Manager will be addressed immediately through specific instructions to the foreman and crew to perform the corrective work.

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Work Methodology

Mariposa has reviewed the specifications necessary to provide landscape maintenance services for City parks. We have reviewed the specifications thoroughly and will adhere to the tasks that are detailed within them. We have a complete understanding of all the work that will be required of Mariposa Landscapes, Inc.

All workers/ crews assigned to the City of Banning contract will arrive at various locations within the city per the tasks and per the schedule (to be submitted upon start of contract).

- **General Maintenance** –Such tasks include trash/litter, visual inspections, leaf and debris control and any other tasks shall be performed by on-site worker(s) and/ or by a roaming crew(s)/personnel.
- **Specialty areas-**Tasks and less frequent tasks shall be performed by both the on-site workers and/or other Mariposa crew(s)/staff assigned to this contract.
- **General Turf/Grass Maintenance**- Such tasks include mowing, edging, detailing along with seasonal duties such as fertilization and weed control shall be performed by a designated mow crew, with additional personnel (if needed), per the agreed schedule.
- **Weed Control** – Manual weed control, along with chemicals, will be utilized for this contract. Any manual weed control shall be performed by the crew designated to this contract and any chemical application requiring certifications shall be performed by crew member(s) with proper qualifications (ie. QAC, QAL).
- **Landscape Maintenance**- Such tasks include tree, shrub, vine, and ground cover trimming and maintenance shall be performed by crew designated to the contract. The on-site crew will perform all aspects of the maintenance requirements.
- **Fertilization**- All fertilization shall be performed per the schedule. The City will be notified in advance of application days and locations. The crew assigned to the contract will be responsible for fertilization application and ensuring that the approved product type and rates are applied as per the City's requirements. All fertilizer application requirements will be performed to ensure that the fertilizer was applied and cleaned up properly. All applications will be recorded and identified per the city's requirements.
- **Pest & Rodent Control**- Such control shall be performed by crew member(s) with proper qualifications on an on-going basis or per the recommendations of our in-house PCA. We will utilize IPM per the City's requirements along with ensuring that all safety and regulatory measures are taken for the safety of the general public and for our employees. All required reports and recording of chemical use will be documented and submitted as required.

Our crews are trained and equipped with proper equipment to perform the landscape maintenances tasks per the specifications. Mariposa is committed to providing professional services that the City of Banning requires.

Mariposa Landscapes, Inc.

Below is a sample schedule
Final schedule to be submitted upon award of contract.

Turf Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	
Litter Control, All Areas, Liner Replacement	Daily	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Mowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Edging & Detaling	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Blowing	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Sweeping	52 X year	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Broadleaf Control	2 X year									■																												■											
Pre-emergent application	3 X year										■												■												■														
Fertilizations	3 X year										■														■													■											
Aeration	2 X year					■					■											■			■													■											
Pest Monitoring	Monthly				■				■				■				■				■				■				■				■				■				■				■				■
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	

Shrubs & G.C Areas	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBE			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Hedge Trimming	8 X year							■								■				■				■				■				■				■								■					
Ground-Covers Trimming	8 X year						■								■				■				■				■				■				■									■					
Ground-Covers Edging	8 X year						■								■				■				■				■				■				■									■					
Shrub Pruning	8 X year					■								■				■				■				■				■				■									■						
Deadheading & Cleaning	As Needed																																																
Weed Control	Monthly		■				■				■				■				■				■				■				■				■				■				■				■			
Fertilizations	2 X year										■																												■										
Pre-emergent application	3 X year										■												■												■															
Mulching Refreashing	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Annual Color	4 X year									■												■												■								■							
Premium Color	1 X year																																						■										
Removal of Dead Plants	As Needed																																																
Trees & Shrubs Safety Clearance	Monthly			■				■				■				■				■				■				■				■				■				■				■				■	
Irrigation System Inspections	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	

Hardscapes	# of Frequencies	JANUARY				FEBRUARY				MARCH				APRIL				MAY				JUNE				JULY				AUGUST				SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week				Week			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Safety Inspection and Reporting	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Blowing	Weekly	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Weed Control	As Needed																																																
Pressure Washing (Optional, Extra)																																																	
Pest Treatment (Optional, extra)																																																	
Plant replacement (Optional, Extra)																																																	

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DocuSign Envelope ID: 0F5D6BC0-F332-4374-A346-C8D536E1E618

Customer Service

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients.

We bring decades of knowledge and in-depth experience to every landscape entrusted to our care. Building long-lasting relationships with our clients is important to us. We understand and respect our clients' goals and do everything in our power to ensure the well-being of their properties. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible.

Service commitment to customers

- We believe that customer service is the most important aspect to our success.
- We provide courteous, responsive, high-quality service to our customers
- We seek innovative approaches to benefit our customer
- We listen to our customer and respond to suggestion and concerns with fairness and flexibility
- We respect our customer's privacy

Mariposa Landscapes, Inc. will communicate with the City of Banning before the work begins, during, and after the project is complete to insure that the City is completely satisfied with the services provided. In case of any complaint or irregularity, the Division manager will take immediate action to resolve any issues. Routine phone calls and emails will be used to track customer satisfaction.

We partner with our clients to achieve a common goal. From simple to complex projects, we coordinate our vast array of expertise to create the project our clients envision. We value open, honest communication, ongoing staff training, and new methods and technologies that will help us do the best job possible. We are open to working closely with the City of Banning and we welcome all feedback.

While we always appreciate the accolades we receive, seeing our customers enjoy a well-executed and thriving landscape is still the most rewarding part of our work.

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Staffing Plan

Staff chart below lists job titles, experience, and responsibility of those that will be assigned to this contract.

Mariposa Landscapes, Inc. is open to working close with the City of Banning. We have over four decades of experience working with many cities and counties alike. We

Job Title	Minimum Experience and Responsibility
Account Manager	Over 10 years of experience conducting and overseeing Public Works, Commercial and Residential landscape maintenance work in the landscape industry. Will be the primary contact with the City of Banning and will be responsible for all aspects of project management.
Foreman	Will have a minimum of 10 years of experience in all aspects of maintenance operations including carrying out weekly schedules, documenting, communicating work reports and hazardous conditions.
Spray Technician	Will be responsible for all spraying of pre- and post-emergent, insecticides as needed, broadleaf control and all other spraying tasks. They will report directly to Mariposa's Account Manager and the City of Banning representative.
Laborers	Will have minimum 3 years' experience in all aspects of maintenance operations.

Manpower schedules are established and adjusted regularly with changes made seasonally in accordance with contract specifications. Our employees are cross trained, and this enables us to effectively assign additional personnel, should there be a fluctuation in service needs.

All of Mariposa Landscapes, Inc. contracts are internally monitored against budgets. Our Invoices are generated internally per the terms of each contract. Should the City require additional services, Mariposa will provide a complete cost proposal and will require approval before starting any services outside of the contracted work.

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Organization Memberships and Staff Certification

We are dedicated to having the best-trained workforce in the industry. As members of the California Landscape Contractors Association, we participate in the training programs offered by this industry organization. The CLCA sponsors a rigorous "hands-on" test administered under actual field conditions. With only a 20% first time pass rate, only the best workers are able to obtain the designation of CLT or Certified Landscape Technician. All of the managers and supervisors in our company have the CLT designation. No other contractor of our size and diversity in Southern California has achieved this many certifications.

We are members of the following organizations:

- CACM (California Association of Community Managers)
- CAI Orange County (Community Association Institute)
- CAI Los Angeles (Community Associations Institute)
- CAI Greater Inland Empire (Community Association Institute)
- CAI Coachella Valley (Community Association Institute)
- ASA (American Subcontractors Association)
- BIA Southern California (Building Industry Association)
- BIA Orange County (Building Industry Association)
- BOMA IE (Building Owners and Managers Association)
- CLCA (California Landscape Contractors Association)
- ISA (International Society of Arboriculture)
- CAPCA (California Association of Pest Control Advisors)

Licensing and Certifications

- California Contractor License 592268 C27-Landscaping, Class A-Engineering, C31 Traffic Control, C61/D49 Tree Services
- Certified Arborists on staff
- Certified Tree Workers on staff
- Tree Work – Line Clearance Certified
- Tree Work – Line Clearance Certified Instructor
- Certified Water Auditor
- Certified Backflow Inspectors
- Licensed Pest Control Company/Pest Control Advisor
- Certified Pest Control Applicators on staff

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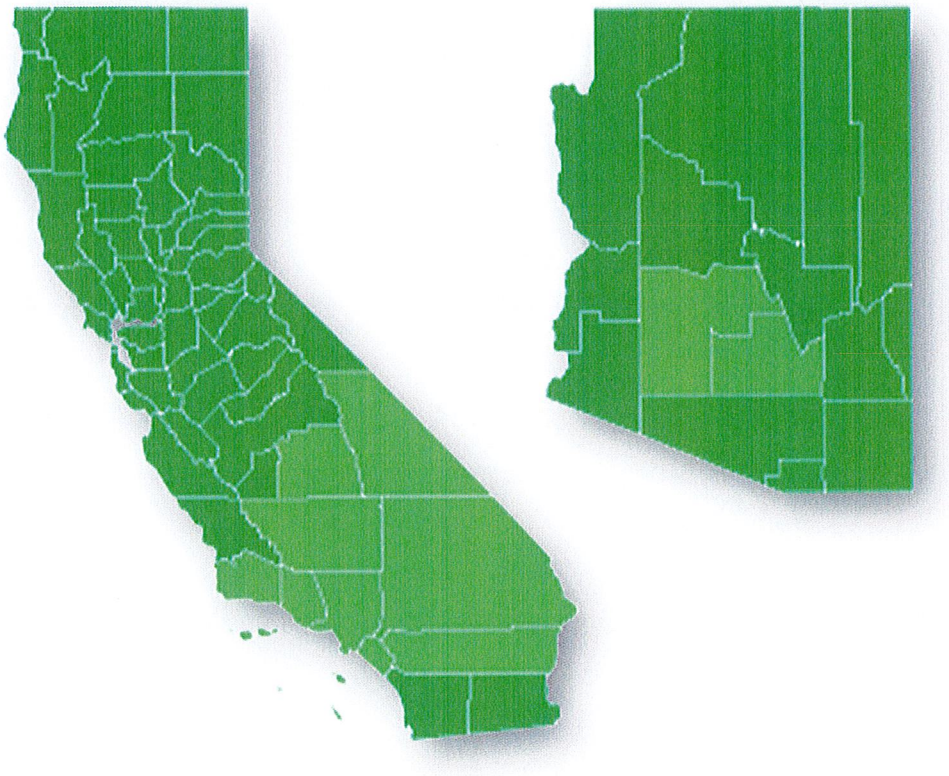
Location

Mariposa Landscapes, Inc. is a licensed contractor working in both Southern California and Arizona. We have numerous strategically located yards and offices to efficiently service our contracts. We can provide quick response times for additional and emergency services.

Mariposa owns 90% of all vehicles and equipment used in its operations. Our entire fleet of equipment is less than 5 years old and well maintained by our in-house mechanics who can respond to emergencies immediately and a depth of replacement equipment that will allow us to stay consistent with our schedules.

This contract will be serviced from our Bermuda Dunes yard location which is located minutes from the City of Banning.



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Innovation

Mariposa Landscapes Inc. understands the importance of Innovation in our trade, particularly with landscape maintenance services. Innovative options are always nurtured and encouraged by management.

Equipment, methods, and ideas are brought to the attention of the Mariposa Management Team on a regular basis. This provides an opportunity for the team to consider new options in all aspects of our business.

Historically, Mariposa has developed several innovative approaches to providing services and reporting to our customers. These have included some programs mentioned elsewhere in this document such as our Quality Control program, uniquely designed to catch issues, correct, and follow up.

Water conservation is key for all property owners, particularly in California. Mariposa has established an innovative partnership with Weathermatic. This company provides cutting edge ET based irrigation controllers nationwide. We are able to offer this product to replace existing older technology controllers, with significant water savings in every case.

At Mariposa Landscapes Inc. we value and expect the highest levels of Horticultural expertise. The owner and President of Mariposa, Terry Noriega, founded one of the premier native and drought tolerant plant nurseries in Southern California, El Nativo Growers, Inc.

As a landscape maintenance service provider, it is critical for Mariposa to stay in the forefront of understanding standards of care for emerging types of plants for use in landscapes.

Mariposa Landscapes Inc. is committed to continued improvements to minimize our equipment impacts on the environment. This takes continued study and testing by our Fleet Management team, to identify viable options and test productivity.

One of the most promising recent innovations being considered, is expanding the use of electric equipment. We have many electric blowers and string trimmers in use, although battery life is still a challenge for consistent commercial use. Concurrently, we have tested several electric powered mowers with promising results.

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References

Here at Mariposa Landscapes, Inc. we take pride in our work and thrive on keeping our company as one of the most recommended in the industry. Our steady record of customer satisfaction has allowed us to maintain positive relationships with our clients. Below are cities for which we provide landscape maintenance services similar to those listed within the RFP.

Additional references are available upon request.

Name:	City of Newport Beach	**Contact:**	Kevin Pekar
Phone:	(949) 644-3069	**Email:**	kpekar@newportbeachca.gov
Address:	592 Superior Ave, Newport Beach, CA 92660	**Contract Term:**	Current
Description:	Landscape maintenance- Irrigation maintenance, turf maintenance, groundcover maintenance, shrub, vine and tree maintenance, hardscape maintenance, sand/wood chip area maintenance, drinking fountain maintenance. Specialty/sports atheletic area maintenance.		

Name:	City of Tustin	**Contact:**	Christine Zepeda
Phone:	(714) 573-3147	**Email:**	czepeda@tustinca.org
Address:	300 Centennial Way, Tustin, CA 92780	**Contract Term:**	Current
Description:	Landscape maintenance of City LMD areas, parks, medians and facilities. Duties include mowing, turf maintenance, pest control, litter removal, Irrigation system maintenance monitoring, fertilization, Aerification dethatching, weed control, pruning/shrubs, vine care and ground cover.		

Name:	City of Palm Desert	**Contact:**	Randy Chavez
Phone:	(760) 902-9064	**Email:**	rchavez@cityofpalmdesert.org
Address:	73-510 Fred Waring Dr., Palm Desert, CA 922(	**Contract Term:**	Current
Description:	Landscape maintenance. Duties inclcude litter control, plant maintenance, tree maintenance, turf maintenance, hardscape maintenance and irrigatin maintenance.		

Name:	Coachella Valley Water District	**Contact:**	Mike Munoz
Phone:	(760) 578-6471	**Email:**	mmunoz@cvwd.org
Address:	51501 Tyler St., Coachella, CA 92236	**Contract Term:**	Current
Description:	Landscape services of 40 District sites around the Valley: Services include plant litter, trash control, weed control, pest control, plant maintenance, tree maintenance, hardscape maintenance, planter maintenance and irrigation system maintenance.		

Name:	City of Rancho Cucamonga	**Contact:**	Steve Relph
Phone:	(909) 477-2730 *4116	**Email:**	steve.relph@cityofrc.us
Address:	9153 9th St., Rancho Cucamonga, CA 91730	**Contract Term:**	Current
Description:	Landscape Maintenance of Medians and Parkways: Shrub, groundcover, vine and landscape mulch maint., tree maintenance, pest control, hardscape maintenace, restroom maintenance and drinking fountain maint.		

Evidence of Insurance- General Liability

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/06/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
FEDERATED MUTUAL INSURANCE COMPANY
HOME OFFICE: P.O. BOX 328
OWATONNA, MN 55060

CONTACT NAME: CLIENT CONTACT CENTER
PHONE (A/C, No, Ext): 888 333 4949 FAX (A/C, No): 507 446 4564
E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: FEDERATED SERVICE INSURANCE COMPANY	28304
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED 171 235 5
MARIPOSA LANDSCAPES INC
8202 SANTOS DIAZ ST
IRWINDALE, CA 91702-3207

COVERAGES CERTIFICATE NUMBER: 0 REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	N	N	6069499	04/01/2020	04/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 EXCLUDED $1,000,000 $3,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	6069499	04/01/2020	04/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION	N	N	6069500	04/01/2020	04/01/2021	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
THIS COPY IS NOT TO BE REPRODUCED FOR ISSUANCE OF CERTIFICATES.

CERTIFICATE HOLDER

CANCELLATION

A CERTIFICATE HAS BEEN FILED WITH EACH OF YOUR CERTIFICATE HOLDERS.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Michael G Kerr

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Evidence of Insurance- Workers Compensation

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Global Risk, LLC
800 Wilshire Blvd., Second Floor
Los Angeles CA 90017

CONTACT NAME: Tani Mason
PHONE (A/C, No, Ext): (213) 550-2253
FAX (A/C, No): (213) 550-2258
E-MAIL ADDRESS: tmason@globalriskcap.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Sentry Casualty Company	28460
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale CA 91702

COVERAGES — CERTIFICATE NUMBER: Cert ID 308 — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE / OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC						GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY — ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) — If yes, describe under DESCRIPTION OF OPERATIONS below — Y/N: Y	N/A	Y	90-20720-01 00 191	04/01/2020	04/01/2021	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
								$
								$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Proof of Insurance Only!

CERTIFICATE HOLDER

Mariposa Landscapes Inc.
15529 Arrow Highway
Irwindale CA 91706

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Tani Mason

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Proposal Forms (Exhibit A)

Please note that all required Proposal Forms have been uploaded as a separate attachment.

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OUR VALUES ARE...

Safety Being the primary foundation of our company. We emphasize "safety first" on every worksite and in all our training programs. Our employees are taught to be aware of, and responsible for, safety at all times. We strive to prevent injuries and accidents and provide a safe environment for staff and customers alike.

Teamwork We work together, seeking input from all team members to organize our efforts for the greater good. We always remain open to change, embracing new methods and techniques to achieve the highest levels of quality and efficiency. We are considerate of team members, provide support, and encourage their growth, resulting in the ultimate outcome for the team.

Quality We are committed to bringing the best possible quality for our customers and their properties and projects. We provide prompt service, expert workmanship, and superior products. We take pride in meeting or exceeding expectations. Our ultimate goal is to deliver excellent value for our clients' investment.

Integrity We are honest and open in our communications, building deep trust and confidence in all of our relationships. We value the dedication and contribution of each person. The overall well-being of our employees, customers and vendors is important to us.

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AMENDMENT NO. 2 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: 6/15/2023.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 2.

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b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Two Hundred Ninety-One Dollars and Fifty-One Cents ($10,291.51) for twelve (12) months through June 30, 2024. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Three Hundred and Forty-Nine Dollars and Eighty-Five Cents ($12,349.85) for a total not to exceed amount of One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97). The total compensation, including reimbursement for actual expenses shall not exceed Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 2, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 2, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority.** The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) the

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entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/15/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/15/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

6/5/2023

Serita Young Date
City Attorney

CONSULTANT

6/12/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

6/13/2023

NAME: Terry Noriega Date
TITLE: President

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2023-099

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

ATTACHMENT "1"

Park's Landscape Maintenance - Per Site Cost Breakdown

Line Item	Location	Quantity	Unit of Measure	Orginal Monthly Rate	CPI 7.50%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$862.39	$64.68	$927.07	$11,124.83
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,001.98	$150.15	$2,152.13	$25,825.54
3	Repplier Park - 201 W. George Street	12	Month	$2,032.78	$152.46	$2,185.24	$26,222.86
4	Roosevelt Williams - 1101 El George Street	12	Month	$831.59	$62.37	$893.96	$10,727.51
5	Sylvan Park - 2798 W. George Street	12	Month	$1,971.17	$147.84	$2,119.01	$25,428.09
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$66.56	$954.05	$11,448.62
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$73.96	$1,060.06	$12,720.69
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	$0.00
			Totals >>>	$9,573.50	$718.01	$10,291.51	$123,498.15

RESOLUTION 2024-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EXTENSION AND AMENDMENT OF THE LANDSCAPE MAINTENANCE CONTRACT FOR CITY PARKS WITH MARIPOSA LANDSCAPES, INC., FOR FISCAL YEAR 2024/2025 IN THE AMOUNT NOT TO EXCEED AMOUNT OF $ 139,787.64

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to maintain the current service level effectively, efficiently and safely for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2021, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the original contract was in the amount of $96,684.00, with a 10% contingency, for a total not to exceed amount of $106352.00; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services; and

WHEREAS; On May 10, 2022, the City Council approved Amendment #1 to the contract extending the term through June 30, 2023; and

WHEREAS; On May 23, 2023, the City Council approved Amendment #2 to the contract extending the term through June 30, 2024; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of Amendment #2; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to two (2) additional years upon satisfactory review of the previously provided services; and

WHEREAS, Mariposa Landscape Services, Inc., has requested to extend the contract for FY 2024/25 at the annual rate plus a CPI adjustment of 2.9%; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2024/2025.

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

SECTION 1. Amendment No. 3 to the Agreement between the City of Banning and Mariposa Landscapes, Inc, is approved for an additional one (1) year term from July 1, 2024, to June 30, 2025 in the not to exceed amount of $139,787.64 including a 10% contingency for additional work not included in the scope of services.

SECTION 2. That the City Manager or his designee is authorized to make all necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City parks

SECTION 3. That the City Manager is authorized to execute Amendment No. 3 with Mariposa Landscapes, Inc.

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

PASSED, APPROVED AND ADOPTED this 14th day of May 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

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

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-67, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of May 2024 by the following vote, to wit:

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

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Amendment to Professional Services Agreement C00698
with Mariposa Landscapes, Inc.

AMENDMENT NO. 3 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 3 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: _____.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. On June 15, 2023, the City and Contractor amended the Agreement ("Amendment No. 2") to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97), as approved by City Council Resolution No. 2023-095.

E. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 3.

b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Five Hundred Eighty-Nine Dollars and Ninety-Seven Cents ($10,589.97) for twelve (12) months through June 30, 2025. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Seven Hundred Eight Dollars ($12,708.00) for a total not to exceed amount of One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64). The total compensation, including reimbursement for actual expenses shall not exceed Four Hundred Seventy Thousand Nine Hundred Eighteen Dollars and Forty-One Cents ($470,918.41) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2025.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 3, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 3, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 3. In the event of a conflict between the provisions of this Amendment No. 3 and the provisions of the Agreement or Amendment No. 1 through 2, the provisions of this Amendment No. 3 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 3, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 3, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

5. **Authority.** The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Amendment No. 3, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No.3 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 3 the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita Young Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

Banning Park's Landscape Maintenance - Per Site Cost Breakdown FY 2024/25

Line Item	Location	Quantity	Unit of Measure	Monthly Rate 2023/24	CPI 2.90%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$927.07	$26.89	$953.96	**$11,447.52**
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,152.13	$62.41	$2,214.54	**$26,574.48**
3	Repplier Park - 201 W. George Street	12	Month	$2,185.24	$63.37	$2,248.61	**$26,983.32**
4	Roosevelt Williams - 1101 El George Street	12	Month	$893.96	$25.92	$919.88	**$11,038.56**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,119.01	$61.45	$2,180.46	**$26,165.52**
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$954.05	$27.67	$981.72	**$11,780.64**
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$1,060.06	$30.74	$1,,090.80	**$13,089.60**
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	**$0.00**
			Totals >>>	$10,291.52	$298.45	$10,589.97	$127,079.64

RESOLUTION 2025-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EXTENSION AND AMENDMENT OF THE LANDSCAPE MAINTENANCE SERVICE CONTRACT FOR CITY PARKS WITH MARIPOSA LANDSCAPES, INC., FOR FISCAL YEAR 2025/2026 IN THE NOT TO EXCEED AMOUNT OF$167,296.95

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to maintain the current service level effectively, efficiently and safely for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2021, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the original contract was in the amount of $96,684.00, with a 10% contingency, for a total not to exceed amount of $106,352.00; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services through June 30, 2022; and

WHEREAS; On May 10, 2022, the City Council approved Amendment #1 to the contract extending the term through June 30, 2023; and

WHEREAS; On May 23, 2023, the City Council approved Amendment #2 to the contract extending the term through June 30, 2024; and

WHEREAS; On May 14, 2024, the City Council approved Amendment #3 to the contract extending the term through June 30, 2025; and

WHEREAS, Mariposa Landscape Services, Inc., has provided satisfactory service to the City over the term of Amendment #3; and

WHEREAS, the Contract Agreement with Mariposa Landscapes, Inc., provides an option to renew at the annual rate plus the annexed CPI for the previous year for up to one (1) additional years upon satisfactory review of the previously provided services; and

WHEREAS, Mariposa Landscape Services, Inc., has requested to extend the contract for FY 2025/26 at the annual rate plus a CPI adjustment of 2.9%; and

WHEREAS, staff recommends the continuation of Mariposa Landscape, Inc., services for Fiscal Year 2025/2026.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Contract Service Agreement with Mariposa Landscapes, Inc. for the landscape maintenance service of Banning City Parks in a not-to-exceed amount of $167,296.95, which includes a 10% contingency and subsequent amendments to

extend the Agreement for up to one additional 1-year term upon satisfactory performance, with a total not-to-exceed amount of $650,923.36 over five (5) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the maintenance service agreement and to execute the maintenance service agreement with Mariposa Landscapes, inc. on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-71, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Amendment No. 4 To Agreement For Contract Services (C00698) For Landscape Maintenance Services For City Parks Between City Of Banning And Mariposa Landscapes, Inc.

AMENDMENT NO. 4 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 4 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: _____.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred Six Thousand Three Hundred Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. On June 15, 2023, the City and Contractor amended the Agreement ("Amendment No. 2") to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred Thirty-Five Thousand Eight Hundred Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97), as approved by City Council Resolution No. 2023-095.

E. On May 14, 2024, the City and Contract amended the Agreement ("Amendment No. 3") to extend the term for an additional one-year term to expire June 30, 2025, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64), as approved by City Council Resolution No. 2024-067.

F. City and Contractor now desire to amend the Agreement ("Amendment No. 4") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation shall not exceed

Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 4.

   b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Twelve Thousand Six Hundred Seventy-Four Dollars and Seven Cents ($12,674.07) for twelve (12) months through June 30, 2026. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Fifteen Thousand Two Hundred Eight Dollars ($15,208.00) for a total not to exceed amount of One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and Ninety-Five Cents ($167,296.95). The total compensation, including reimbursement for actual expenses shall not exceed Six Hundred Fifty Thousand Nine Hundred Twenty-Three Dollars and Thirty-Six Cents ($650,923.36) (the "Contract Sum").

   c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2026.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 4, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 4, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 4. In the event of a conflict between the provisions of this Amendment No. 4 and the provisions of the Agreement or Amendment Nos. 1 through 4, the provisions of this Amendment No. 4 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 4, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 4, Contractor is not in default of any material term of the Agreement and that there have been no

events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

5. **Authority.** The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Amendment No. 4, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto hereby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment No.4 and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 4 the day and year first hereinabove written.

CITY OF BANNING

_____

Robert Fisher, Date
Acting City Manager

ATTEST:

_____

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

_____

John O. Pinkney Date
City Attorney

CONTRACTOR

_____

NAME: Date
TITLE:

_____

NAME: Date
TITLE:

_____

Tax ID No.

Address:

_____

_____

_____

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

Banning Park's Landscape Maintenance - Per Site Cost breakdown FY 2025-26

Line Item	Location	Quantity	Unit of Measure	Monthly Rate 2024-25	CPI 2.90%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$953.96	$27.66	$981.62	**$11,779.50**
2	Lion's Park - 955 S. Hargrave Sreet	12	Month	$2,214.54	$64.22	$2,278.76	**$27,345.14**
3	Repplier Park - 201 W. George Street	12	Month	$2,248.61	$65.21	$2,313.82	**$27,765.84**
4	Roosevelt Williams - 1101 E. George Street	12	Month	$919.88	$26.68	$946.56	**$11,358.68**
5	Sylvan Park - 2798 W. George Street	12	Month	$2,180.46	$63.23	$2,243.69	**$26,924.32**
6	Community Center & Senior Center 769 & 789 N. San Gorgonioe Ave	12	Month	$981.72	$28.47	$1,010.19	**$12,122.28**
7	Banning Aquatic Center 749 N. San Gorgonio Ave	12	Month	$1,090.80	$31.63	$1,122.43	**$13,469.20**
8	Repplier Park and Community Center Parkway 749, 769 & 789 N. San Gorgonio Ave	12	Month	Included in Line Items 6 & 7	N/A	N/A	N/A
9	Richard Sanchez Park and Trail - 3758 Cypress	12	Month	XXXXX	N/A	$1,777.00	**$21,324.00**
			Totals>>>	$10,589.97	$307.11	$12,674.08	$152,088.95

XXXXX ADDITIONAL SCOPE OF SERVICE - Per Resolution 2025-63, Effective, July 2025, general maintenance and operational costs supporting the maintenance of Richard Sanchez Park and the accompnaying trail on the South side of the park have been added to the responsibilities of the Parks and Recreation Department.

RESOLUTION 2026-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE FIFTH AMENDMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR BANNING CITY PARKS WITH MARIPOSA LANDSCAPES, INC., NOT TO EXCEED THE AMOUNT OF $172,734.80 FOR FY 2026/27

WHEREAS, the Parks and Recreation Department does not have the required staff needed to provide parks landscape maintenance for City parks; therefore, it is necessary to retain a landscape maintenance service provider to maintain the current service level effectively, efficiently and safely for City parks; and

WHEREAS, at the regularly scheduled meeting on February 23, 2021, the City Council awarded a Park's Landscape maintenance contract (C00698) to Mariposa Landscapes, Inc., for maintenance of City Parks; and

WHEREAS, the original contract was in the amount of $96,684.00, with a 10% contingency, for a total not to exceed amount of $106,352.00; and

WHEREAS, the initial Agreement for maintenance of the City Parks was for a term of fifteen (15) months with four (4), one (1) year renewal options upon satisfactory review of the previously provided services through June 30, 2022; and

WHEREAS; the City and Contractor entered into Amendment No. 1 dated August 2, 2022, extending the Agreement through June 30, 2023, and increasing compensation to an amount not to exceed $101,638.80, including a 10% contingency, as approved by City Council Resolution 2022-56; and

WHEREAS; the City and Contractor entered into Amendment No. 2 dated June 15, 2023, extending the Agreement through June 30, 2024, modifying the scope of services, and increasing compensation to an amount not to exceed $135,847.97, including a 10% contingency, as approved by City Council Resolution 2023-99; and

WHEREAS; the City and Contractor entered into Amendment No. 3 dated May 14, 2024, extending the Agreement through June 30, 2025, modifying the scope of services, and increasing compensation to an amount not to exceed $139,787.64, including a 10% contingency, as approved by City Council Resolution 2024-67; and

WHEREAS; the City and Contractor entered into Amendment No. 4 dated May 27, 2025, extending the Agreement through June 30, 2026, modifying the scope of services to include additional landscape sites, and increasing compensation to an amount not to exceed $167,296.95, including a 10% contingency, as approved by City Council Resolution 2025-71; and

WHEREAS; Amendment No. 4 included an expanded scope of work to include the ongoing maintenance of Richard Sanchez Park and the accompanying southern Trail. An extensive cleanup of the park and the trail was needed to ensure the area was safe for public use prior to assuming for ongoing maintenance. The cost of this unanticipated work was $9,450 and was not included in the prior Council authorization. The Department absorbed the cost for this unanticipated work into its existing budget allocation.

WHEREAS, the City is in the process of issuing a Request for Proposals (RFP) to perform landscape services for City Parks and Facilities; and

WHEREAS, Mariposa Landscapes Services, Inc., has provided satisfactory service to the City over the term of Amendment No. 4; and

WHEREAS, Mariposa Landscapes Services, Inc., has requested to include in the Amendment No. 5 for FY 2026/27, a U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) Riverside – San Bernardino – Ontario Area adjustment of 3.25% in accordance with Section 2.1 of the original agreement; and

WHEREAS, the City and Contractor now desire to enter into Amendment No. 5 that includes 1) Ratification to spend $9,450 in fiscal year (FY) 2025/26 to provide a one-time clean-up of the park and trail at Richard Sanchez Park to bring the site up to the park's established level of service; 2) Extend the term to July 1, 2026, through June 30, 2027; and 3) Modify the scope of services, and increase compensation for FY 2026/27 to an amount not to exceed $172,734.80, including a 10%; and

WHEREAS, continuation of the Agreement will ensure there is no lapse in landscape maintenance services while the City conducts a competitive Request for Proposals for Landscape Services. Upon award of the Request for Proposals for Landscape Services, the City retains the right to terminate the Agreement upon thirty (30) days' written notice, consistent with the termination provisions of the Agreement; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council approves the Contract Service Agreement with Mariposa Landscapes, Inc. for the landscape maintenance service of Banning City Parks in a not-to-exceed amount of $172,734.80 for FY 2026/27, which includes a 10% contingency, ratify the FY 2025/26 $9,450 expenditure related to the catch up work at Richard Sanchez Trail; and to extend the Agreement for up to one additional 1-year term, with a total not-to-exceed amount of $833,108.16 over six (6) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the maintenance service agreement and to execute the maintenance service agreement with Mariposa Landscapes, Inc., on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-84, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon Deputy City Clerk
City of Banning, California

EXHIBIT A

AMENDMENT NO. 5 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

(Attach Agreement Document)

AMENDMENT NO. 5 TO THE AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BY AND BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 5 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 5") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California Corporation ("Contractor") is effective as of this day: _____.

RECITALS

A. City and Contractor entered into that certain Contract dated March 22, 2021 for the purpose of providing Landscape Maintenance Services for City Parks ("Agreement") following RFP No. 20-035 in an amount not to exceed One Hundred Six Thousand Three Hundred Fifty Two Dollars ($106,352) including a 10% contingency for additional work for a term of fifteen (15) months with four (4) one (1) year renewal options as approved by City Council on February 23, 2021.

B. City and Contractor have entered into an Amendment No. 1 to the Agreement dated August 2, 2022 to extend the term for an additional one-year term to expire June 30, 2023 and increase compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty Eight Dollars and Eighty Cents ($101,638.80) including a 10% contingency for additional work, as approved by City Council Resolution 2022-56.

C. City and Contractor have entered into an Amendment No. 2 to the Agreement dated June 15, 2023 to extend the term for an additional one-year term to expire June 30, 2024, modify the scope of services, and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred Thirty-Five Thousand Eight Hundred Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) including a 10% contingency for additional work, as approved by City Council Resolution 2023-99.

D. City and Contractor have entered into an Amendment No. 3 to the Agreement dated May 14, 2024, to extend the term for an additional one-year term to expire June 30, 2025. Modify the scope of services and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred and Thirty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Sixty-Four Cents ($139,787.64) including a 10% contingency for additional work, as approved by City Council Resolution 2024-067.

E. City and Contractor have entered into an Amendment No.4 to the Agreement dated May 27, 2025 to extend the Agreement for an additional one-year ending on June 30, 2026, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred Sixty-Seven Thousand Two Hundred Ninety-Six Dollars and

Ninety-Five Cents ($167,296.95) including a 10% contingency for additional work, as approved by City Council Resolution 2025-071.

F. City and Contractor now desire to amend the Agreement ("Amendment No. 5") to ratify compensation for services performed during Fiscal Year 2025–2026 in an amount not to exceed Nine Thousand Four Hundred Fifty Dollars ($9,450), and to authorize compensation for the extended one-year term for Fiscal Year 2026–2027 in an amount not to exceed One Hundred Seventy-Two Thousand Seven Hundred Thirty-Four Dollars and Eighty Cents ($172,734.80), including a ten percent (10%) contingency for additional work. The Parties further desire to extend the term of the Agreement for an additional one-year period, to expire on June 30, 2027, to modify the scope of services, and to provide total compensation for this Amendment No. 5 in an amount not to exceed One Hundred Eighty-Two Thousand One Hundred Eighty-Four Dollars and Eighty Cents ($182,184.80), which includes both the ratification and the Fiscal Year 2026–2027 compensation. This Amendment No. 5 therefore increases the Contract Sum of the Agreement to Eight Hundred Thirty-Three Thousand One Hundred Eight Dollars and Sixteen Cents ($833,108.16).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 5 shall not exceed One Hundred Eighty-Two Thousand One Hundred Eighty-Four Dollars and Eighty Cents ($182,184.80), including a ten percent (10%) contingency for additional work, which amount includes the ratification payment and the Fiscal Year 2026-2027 compensation, thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Eight Hundred Thirty-Three Thousand One Hundred Eight Dollars and Sixteen Cents ($833,108.16).

1.3 The Parties hereby acknowledge and agree that the City has received services from the Contractor during Fiscal Year 2025-2026 for which additional compensation in the amount of Nine Thousand Four Hundred Fifty Dollars

($9,450) is due. By execution of this Amendment No. 5, the City hereby ratifies and approves payment of said amount.

1.4 Section 3.1 of the Agreement is hereby amended to remove the following language: "This Agreement shall include the option to extend for four (4) additional one-year terms if agreed to in writing in advance by both Parties."

1.5 The Term of the Agreement, as set forth in Section 3.1 of the Agreement, is hereby extended through June 30, 2027, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 5, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 5, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 5. In the event of a conflict between the provisions of this Amendment No. 5 and the provisions of the Agreement or Amendment Nos. 1 through 5, the provisions of this Amendment No. 5 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 5.

2.3 Authority. The persons executing this Amendment No. 5 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Amendment No. 5, and (iv) entering into this Amendment No.5 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 5 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 5 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
_____	_____
Elizabeth Gibbs, City Manager	NAME: TITLE:
City Council Approval: _____	_____ NAME: TITLE:
ATTEST:	
_____	
Sandra Calderon Deputy City Clerk	
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
_____	
John O. Pinkney City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT 1

Proposed Park's Landscape Maintenance - Per Site Cost breakdown FY 2026-27

Line Item	Location	Quantity	Unit of Measure	FY 2025-26 Monthly Rate	FY 2025-26 Annual Rate	CPI 3.25 % Monthly Adj	Monthly Rate FY 2026-27	Annual Rate FY 2026-27
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$981.62	$11,779.44	$31.90	$1,013.52	$12,162.24
2	Lion's Park - 955 S. Hargrave Sreet	12	Month	$2,278.76	$27,345.12	$74.06	$2,352.82	$28,233.84
3	Repplier Park - 201 W. George Street	12	Month	$2,313.82	$27,765.84	$75.20	$2,389.02	$28,668.24
4	Roosevelt Williams - 1101 E. George Street	12	Month	$946.56	$11,358.72	$30.76	$977.32	$11,727.84
5	Sylvan Park - 2798 W. George Street	12	Month	$2,243.69	$26,924.28	$72.92	$2,316.61	$27,799.32
6	Community Center & Senior Center 769 & 789 N. San Gorgonioe Ave	12	Month	$1,010.19	$12,122.28	$32.83	$1,043.02	$12,516.24
7	Banning Aquatic Center 749 N. San Gorgonio Ave	12	Month	$1,122.43	$13,469.16	$36.48	$1,158.91	$13,906.92
8	Repplier Park and Community Center Parkway 749, 769 & 789 N. San Gorgonio Ave	12	Month	Included in Line Items 6 & 7		N/A	N/A	N/A
9	Richard Sanchez Park and Trail - 3758 Cypress	12	Month	$1,777.00	$21,324.00	$57.75	$1,834.75	$22,017.00
			Totals>>>	$12,674.07	$152,088.84	$411.90	$13,085.97	$157,031.64

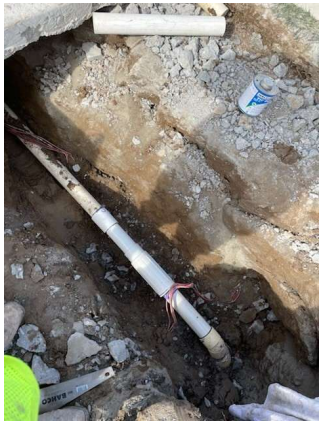
Mariposa Landscape Inc. Park's duties Photos

Turf & Planter management – Mowing, fertilizing, weeding, shrub and bed maintenance

Edging around hardscapes and amenities & Shrub maintenance

Mariposa Landscape Inc. Park's duties

Irrigation repairs – Main Lines in turf and under concrete
– Valve Repairs



Tree Work – Down Branches, Skirting of Trees

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Marisol Lopez, Economic Development Manager** **Elizabeth Gibbs, City Manager**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Lamar Billboard – Approval of Final City Advertisement Rendering Billboard Update**

STAFF RECOMMENDATION:

Staff recommends that the City Council:

1. Approve the final billboard advertisement rendering titled **Billboard Attachment A_3_Final(2026).jpg**; and
2. Authorize staff to coordinate with Lamar Advertising to proceed with final production, printing, and installation of the approved billboard design.

BACKGROUND:

On May 12, 2026, the City Council considered Agenda Item 9.5, titled Lamar Billboard – Agreement Overview and Selection of City Advertisement Rendering. The item provided an overview of the City of Banning's longstanding billboard advertising benefit with Lamar Advertising, formerly Martin Communications, and presented updated billboard concepts for City Council review and direction.

The City's use of the billboard originates from land use entitlements granted in 2001 to Martin Communications through Conditional Use Permits and Variance approvals under City Council Resolution No. 2001-111. As part of those approvals, the billboard operator agreed to provide a public benefit to the City in exchange for approval of billboard structures within the railroad right-of-way corridor.

This public benefit includes one outdoor advertising face for the City's continuous and exclusive use to promote and market the City of Banning. City records further confirm that the advertising face is provided at no cost to the City, includes one copy change per year at no cost, is illuminated at no cost, and may be relocated, if necessary, at the operator's expense.

City Council agenda materials dated February 25, 2003, further confirm that the billboard display space is provided free of charge, may be refreshed annually, and is intended to support economic development messaging to travelers along Interstate 10. This arrangement continues under Lamar Advertising as the successor entity to Martin Communications.

Following discussion at the May 12, 2026, City Council meeting, the City Council directed staff to make additional design updates and contact a potential retailer coming to the City of Banning regarding the possible inclusion of the retailer's logo and/or building image on the billboard. Staff contacted the retailer by email; however, the retailer did not provide authorization at this time to use its logo or building image.

As a result, staff proceeded with the design modifications requested by the City Council. The final rendering reconfigures the design by moving the green space to the center and redesigning and relocating the retailer/business building image to the area where the green space was previously shown. Staff has prepared the final billboard advertisement rendering, titled **Billboard Attachment A_3_Final(2026).jpg**, for City Council review and approval.

The final design supports the City's broader economic development goals by promoting Banning as a location for investment, business attraction, tourism, and future growth. Due to its visibility along the Interstate 10 corridor, the billboard remains a valuable marketing tool to communicate the City's economic development message to residents, visitors, investors, developers, and prospective businesses.

Upon City Council approval, staff will coordinate with Lamar Advertising to proceed with final production, printing, and installation. Per Lamar Advertising, once approved artwork is submitted, production typically takes approximately 5 to 7 business days. After Lamar receives the printed vinyl, installation will be scheduled for the next available posting date. Lamar also allows up to a 5-day grace period from the scheduled posting date for vinyl installation, so there may be a short window between the posting date and actual installation.

BANNING 2030 ECONOMIC DEVELOPMENT ALIGNMENT: This item supports the **Banning 2030 – Designing Our Future NOW!** plan, specifically the Economic Development section and the City's goal to strengthen, diversify, and promote Banning's economy.

The billboard serves as a regional marketing tool by increasing visibility, promoting Banning's identity, and positioning the City as a place for business investment, commercial growth, tourism, and opportunity. It also supports the City's ongoing efforts to attract new businesses, expand the local tax base, create jobs, and enhance the City's image along the Interstate 10 corridor.

The updated billboard aligns with Banning 2030 by reinforcing a clear, business-friendly economic vision and supporting targeted marketing and business attraction strategies. Because the advertising face is provided at no cost to the City, the City is able to leverage an existing public benefit asset to promote economic development without creating an additional fiscal burden.

JUSTIFICATION:

The Lamar billboard is a longstanding, no-cost, City-controlled marketing asset secured through prior City Council land use approvals. This advertising space provides ongoing value and supports the City's ability to promote economic development opportunities without incurring standard outdoor advertising costs.

Approval of the final billboard design will allow staff to move forward with timely production and installation of the updated advertisement. Updating the billboard content will:

- Ensure the City's messaging remains current, clear, and visually effective;
- Promote the City of Banning to travelers along Interstate 10;
- Support business attraction, tourism, and investment opportunities;
- Reinforce the City's business-friendly economic development message;
- Provide continued visibility for the City's economic development efforts;
- Support commercial investment, local revenue generation, and future growth; and
- Align with the Banning 2030 Economic Development Framework.

City Council approval of **Billboard Attachment A_3_Final(2026).jpg** will provide staff with the authorization needed to proceed with Lamar Advertising for final print production and billboard installation

FISCAL IMPACT:

There is no fiscal impact associated with approval of the final billboard advertisement rendering and coordination with Lamar Advertising for the billboard update.

Per the agreement terms established through prior approvals:

- The advertising face is provided at no cost to the City;
- One advertisement copy change per year is provided at no cost to the City; and
- Illumination and maintenance are provided at no cost to the City.

ATTACHMENTS:

1. 9.5 Lamar Billboard_Agreement Overview and Selection of City Advertisement Rendering.pdf
2. CC Agenda Packet - Regular Meeting - 2_25_2003.pdf
3. CC Resolution No. 2001-111_ConditionalUsePermits_MartinCommunications.pdf
4. Static Bulletin - 10'6x36 - Spec Sheet (1).pdf
5. Billboards_combined.pdf

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Marisol Lopez, Economic Development Manager** **Elizabeth Gibbs, City Manager**
MEETING DATE:	**May 12, 2026**
SUBJECT:	**Lamar Billboard – Agreement Overview and Selection of City Advertisement Rendering**

RECOMMENDATION:

Receive and file the overview of the Lamar billboard agreement and provide staff with direction by selecting a preferred advertisement rendering (Attachment A, B, or C) for display on the City of Banning Lamar billboard.

Additionally, provide any desired feedback or modifications to the selected design.

Upon City Council selection, staff will:

- Finalize the selected design incorporating any Council feedback;
- Coordinate with Lamar Advertising for production and installation; and
- Schedule the advertisement update in accordance with the agreement's annual no-cost change provision.

BACKGROUND:

The City of Banning's use of the Lamar billboard originates from land use entitlements granted in 2001 to Martin Communications (now Lamar Advertising) through Conditional Use Permits and Variance approvals approved by the City Council under Resolution No. 2001-111.

As part of those approvals, the billboard operator agreed to provide a public benefit to the City in exchange for the approval of billboard structures within the railroad right-of-way corridor. This public benefit includes dedicating one outdoor advertising face for the City's continuous and exclusive use to promote and market the City of Banning.

A formal letter from the City Manager dated November 21, 2001, confirms that one sign face would be made available for the City's continuous use only and that no additional City Council action is required to utilize this advertising space.

Supporting correspondence and City records further confirm that the operator agreed to:

- Provide one advertising face for ongoing City use at no cost;
- Change the advertisement copy once per year at no cost to the City;
- Illuminate the billboard at no cost to the City; and
- Relocate the billboard, if necessary, at the operator's expense.

City Council agenda materials dated February 25, 2003, further confirm that the billboard display space is provided free of charge with the understanding that it may be refreshed annually and is intended to support economic development messaging to travelers along Interstate 10.

This arrangement continues under Lamar Advertising as the successor entity to Martin Communications.

To support updated City branding and economic development messaging, the City of Banning Economic Development Committee—comprised of Mayor Richard Royce, Council Member Leroy Miller, City Manager Elizabeth Gibbs, Economic Development Manager Marisol Lopez, and Multimedia Specialist John Garside, met on March 12, 2026, to review and discuss updated billboard advertisement concepts.

Three updated design renderings have been prepared and are included for City Council consideration:

- **Attachment A** – Billboard Design Concept (2026)
- **Attachment B** – Billboard Design Concept (2026)
- **Attachment C** – Billboard Design Concept (2026)
- **Attachment D** – Existing Billboard Image

These concepts reflect updated branding, messaging, and visual positioning aligned with the City's economic development goals.

JUSTIFICATION:

The Lamar billboard serves as a longstanding, no-cost, City-controlled marketing asset secured through prior City Council land use approvals.

The City receives this advertising space as a **public benefit condition** tied to the approval of Conditional Use Permits and Variances for billboard structures. This ensures that the City receives ongoing value in exchange for allowing private billboard operations within City limits.

Updating the billboard content:

- Ensures the City's messaging remains current, clear, and visually effective;
- Supports business attraction and economic development efforts;
- Enhances visibility along a major regional corridor (Interstate 10); and
- Aligns with the City's **Banning 2030 – Designing Our Future NOW! Economic Development Framework**, including:

Tier 1 (Policy):
Reinforcing a clear, business-friendly economic vision and promoting the City of Banning as a place for investment, visitation, and opportunity.

Tier 2 (Implementation):
Advancing targeted marketing and business attraction strategies by showcasing the City's assets,

location advantages, and quality of life.

The collaborative review by the Economic Development Committee ensures a coordinated and strategic approach to City branding. City Council direction on a preferred rendering will allow staff to proceed with implementation consistent with the agreement and the City's broader economic development objectives.

FISCAL IMPACT:

There is no fiscal impact associated with updating the billboard advertisement.

Per the agreement terms established through prior approvals:

- The advertising face is provided at no cost to the City;
- One advertisement change per year is provided at no cost; and
- Illumination and maintenance are provided at no cost.

ATTACHMENTS:

1. Billboard 1 adjusted A 2.jpg
2. Billboard 1 adjusted B 2.jpg
3. Billboard 1 adjusted C 2.jpg
4. Billboard Attachment D Existing Image (2026).png
5. CC Agenda Packet - Regular Meeting - 2_25_2003.pdf
6. CC Resolution No. 2001-111_ConditionalUsePermits_MartinCommunications.pdf
7. Static Bulletin - 10'6x36 - Spec Sheet (1).pdf

Date February 25, 2003

TO: Honorable Mayor and Members of the City Council

FROM: Vickie Burt, Economic Development/Redevelopment Manager

SUBJECT: Billboard Display for City of Banning

DISCUSSION: Martin Communication has made available to the City of Banning a display on a billboard owned by them on the railroad right-of-way, south side of Interstate 10. The display will be visible to westbound traffic.

Since the original date of this offer Martin Communication is now known as Lamar Advertising Company. Lamar Advertising Company is honoring the offer originally made by Martin Communication. The contact person, Tom Flanagan, has been constant.

Attached for your review and discussion, are four designs that have been developed for this use. In addition to providing space for a display, Lamar Advertising Company has offered graphic services for design. Attachments 1 through 4 are samples of the design developed through the collaboration of staff with the graphic design service. These designs are in development and have not been edited. The focus of this design is economic development with a nexus to business.

Since the display's target audience is the traveler along Interstate 10, it is recommended that an uncluttered, read-at-a-glance message be used.

The display space is provided free of charge with an understanding that it can be refreshed annually.

In addition, two other marketing subjects are attached for your information:

- An advertising copy that is to be included in a directory sponsored by the Banning Chamber of Commerce (Attachment 5)
- An advertising copy that is being published in the "Inland Empire Visitor Guide". (Attachment 6)

Prepared by:

Vickie Burt
Economic Development/Redevelopment Manager

Reviewed by:

Ray Griest
Interim City Manager

75A

ATTACHMENT 1

75B

DISCOVER

Historic Stage Stop
Modern Frontier

Banning

...FOR BUSINESS

ECONOMIC DEV. (909) 922-3171 • www.CI.BANNING.CA.US

DATE 10.14.02
POST DATE: 11.05.02
10-6' X 36' BULLETIN - #401 PALM SPRINGS
AE: Tom Flanagan
Artist: Kerri Gabriel
Banning 10-6x36.8.ai

PMS

PMS

DATE: _____

ARTWORK
APPROVED BY: _____

©LAMAR ADVERTISING COMPANY. THIS SKETCH IS THE PROPERTY OF LAMAR ADVERTISING COMPANY AND MAY NOT BE REPRODUCED IN PART OR IN WHOLE IN ANY FASHION FOR ANY PURPOSE WITHOUT EXPRESS PERMISSION OF LAMAR ADVERTISING COMPANY.

ATTACHMENT 2

DATE 10.10.02
POST DATE: 11.05.02
10-6' X 36' BULLETIN - #401 PALM SPRINGS
AE: Tom Flanagan
Artist: Kami Gabriel
Banning 10-6x36.5.ai

PMS PMS

DATE: _____

ARTWORK
APPROVED BY: _____

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ATTACHMENT 3

DATE 10.14.02
POST DATE: 11.05.02
10-6' X 36' BULLETIN - #401 PALM SPRINGS
AE: Tom Flanagan
Artist: Kerri Gabriel
Banning 10-6x36.6.ai

PMS

PMS

DATE: _____

ARTWORK
APPROVED BY: _____

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ATTACHMENT 4

DATE 10.02.02
POST DATE: 11.05.02
10-6' X 36' BULLETIN - #401 PALM SPRINGS
AE: Tom Flanagan
Artist: Kerri Gabriel
Banning 10-6x36.2.ai

PMS

PMS

DATE: _____

ARTWORK
APPROVED BY: _____

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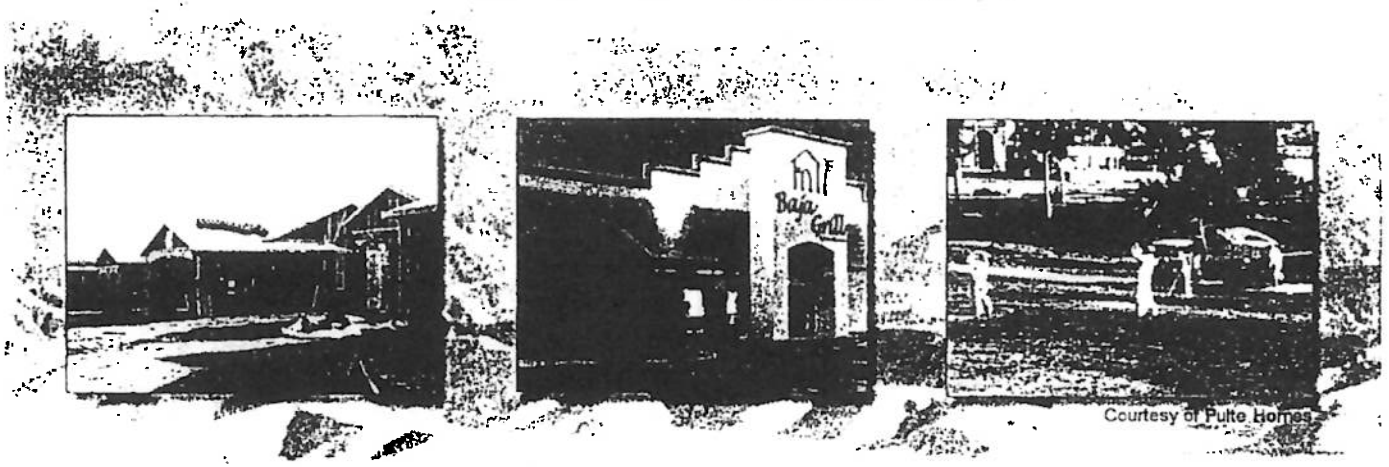
75F

City of Banning

Come Grow With Us!



ECONOMIC DEVELOPMENT (909) 922-3171

WWW.CI.BANNING.CA.US

ATTACHMENT 5

ATTACHMENT 6

BANNING

Be Our Guest!

Beautiful Views Great Weather Friendly People

75G

RESOLUTION NO. 2001-111

RESOLUTION OF FINDINGS AND CONCLUSIONS OF THE CITY COUNCIL OF THE CITY OF BANNING IN SUPPORT OF THE GRANTING OF THE APPEAL OF APPELLANT MARTIN COMMUNICATIONS IN THE MATTER OF CONDITIONAL USE PERMITS 01-803 THROUGH 01-806

WHEREAS, at its meeting of September 4, 2001, the Planning Commission of the City of Banning took evidence and took evidence and heard testimony in the matter of the grant of Conditional Use Permits 01-803 through 01-806 and based thereon denied each such conditional use permit; and

WHEREAS, thereafter applicant Martin Communications submitted timely notice of appeal of the matter to be heard by the City Council; and

WHEREAS, at its meeting of October 9, 2001, the City Council conducted a de novo hearing of the appeal and took evidence and heard testimony; and

WHEREAS, Banning Ordinance Code Section 9116.13 (B) requires that the City Council shall announce its findings and decision by formal resolution.

NOW THEREFORE, it is hereby resolved that the City Council does find and conclude as follows:

Section 1.

Regarding Conditional Use Permits 01-803 through 01-806:

A. Findings of Fact:

1. That in 1993, the City of Banning permitted the remodeling of a billboard within the railroad right-of-way, thus making the factual determination that the railroad right-of-way is an M1 zone.
2. That the zoning map Exhibit #2 provided by Martin Communications indicates that the area M1 designated on that map can be viewed as extending all the way to Highland Springs Avenue.
3. That there are existing billboards within the area designated in number 2 above that would have had to have some kind of clearance to be built.

B. Conclusions:

1. The issuance of a conditional use permit is consistent with the provisions of an adequate general plan. The issuance of such a permit is not ultra vires and is valid in that the general plan is adequate and conforms to the

mandatory statutory criteria which are relevant to the uses sought by the permit;

2. The subject applications incorporate properties that are zoned C-M or M, the zoning designations within the City that currently list billboard structures as possible land uses subject to the approval of a Conditional Use Permit;

3. The Circulation Element of the City's General Plan depicts the subject properties on which the billboard structures are proposed to be located as "railroads"; the "railroads" designation of the City's Circulation Element contains provisions that allow billboard structures;

4. The Land Use Element of the City's General Plan depicts a land use designation for the railroads that traverse the City as right-of-way for railroads;

5. Appendix "A" (Zoning) of the Banning Ordinance Code contains provisions that address railroads in terms of assigning a zoning classification and/or that outlines allowable land uses within a zone district or areas designated "railroads" in the City's Circulation Element;

6. California State Law requires that zoning conform to a City's General Plan and that the approval of any discretionary permits including Conditional Use Permits conform to zoning and the provisions of the City's General Plan;

7. Because the City has a General Plan designation for the railroads that traverse the City as right-of-way for trains, it can approve the subject Conditional Use Permits because it can make the finding that the use is consistent with the City's General Plan;

8. For the reasons outlined in subnumerals 1 through 7, the City Council overrules the Planning Commission's determination of denial on the basis that the subject Conditional Use Permits and the proposed placement of billboard structures is not permitted by zoning and would therefore be inconsistent with the City's General Plan.

9. The proposed use is permitted subject to a conditional use permit within the proposed land use district and therefore complies with all of the applicable provisions of the Banning Ordinance Code;

10. The proposed use would not impair the integrity and character of the land use district in which it is to be located;

11. The subject site is physically suitable for the type and intensity of land use being proposed;

12. The proposed use is consistent with the General Plan;

13. There will be no significant harmful effects upon environmental quality and natural resources;

14. The negative impacts of the proposed use are mitigated; and

15. 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.

C. The decision of the Planning Commission is hereby overruled and the CUP's are granted.

PASSED, APPROVED, AND ADOPTED this 23rd day of October, 2001.

John Hunt, Mayor

ATTEST:

Marie A. Calderon, City Clerk

Approved as to form:

John Wilson
City Attorney

///

///

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2001-111 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of October, 2001 by the following vote, to wit:

AYES:	Councilmembers Mediano, Salas, Wages, Mayor Hunt
NOES:	Councilmember Jenkins
ABSTAIN:	None
ABSENT:	None

Marie A. Calderon

Marie A. Calderon, City Clerk
City of Banning, California

10’6” (h) x 36’0” (w) BULLETIN SPEC SHEET

Updated 5/2025

Live (visible) area: 10’6” (h) x 36’0” (w), Finished size: 11‘6” (h) x 37’0” (w)

If you prefer to download a template in .PDF or .TIFF format, go to: LamarGraphics.com > Templates > Print Templates.

ART SPECIFICATIONS

Lamar Bulletins are set up 1/2” = 1’ scale @ 300ppi document resolution in CMYK color mode. This equates to about 12.5 pixels per linear inch on the final product. Set up your design file to the dimensions below:

Live area document size: 5.25” (h) x 18.0“ (w)
Overall area document size: 5.75” (h) x 18.5“ (w)

The live area represents the face of the panel. This is where all important text and images should appear. Keep all critical elements away from the edge.

The overall area includes necessary bleed (0.5”) and will be used to wrap around the panel. Fill the overall area with the same color as your background for best results.

ACCEPTED FILE TYPES

Compatible Software:
Adobe Photoshop, Illustrator, or InDesign*

Acceptable Formats:
Native formats from the software listed above or .PDF, .TIFF, or .EPS

**Embed images and fonts when applicable or convert fonts to outlines.*

PRODUCTION FACILITY SPECIFICATIONS

The vinyl size should include 6” (physical size) of bleed on all 4 sides making the overall size of the vinyl 1’ larger in both height and width.

Lamar requires a 3″ minimum mechanical pocket on the back of the vinyl for installation. This does not change the overall size of the vinyl.

MATERIAL, SUBSTRATE, INKS & WARRANTIES

Material/Substrate:
7 ounce PVC Vinyl Flex
Up to 2 years posting

Minimum Warranty:
One year warranty protects against ink fade, ink adhesion, and failure of material or pockets. *Note: 12 ounce material is not preferred, but will be accepted at this time.*

Inks:
Inks must be weatherproof/waterproof with sufficient UV protection to meet the warranty term associated with the aforementioned product line, specifications or the substrate manufacturer.

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Elizabeth Gibbs, City Manager**
PREPARED BY:	**Lisa Rossi, Human Resources Director** **Elizabeth Gibbs. City Manager**
MEETING DATE:	**June 23, 2026**
SUBJECT:	**Consideration of Resolution 2026-101, Authorizing the Appointment of Retired Annuitant Matthew Bassi as Extra Help**

STAFF RECOMMENDATION:

Adopt Resolution 2026-101

BACKGROUND:

Following Community Development Director David Newell's resignation, the City initiated a formal recruitment process to fill the vacancy. Given Mr. Newell's extensive involvement in key municipal projects, Human Resources partnered with staff and specialized firms to engage a retired annuitant who could provide essential guidance and departmental continuity while a permanent successor was sought. A permanent appointment was anticipated to be in place prior to June 30, 2026.

In mid-February, the City identified Mr. Matthew Bassi to serve as Interim Community Development Director while the permanent recruitment process continues. Mr. Bassi is a highly qualified CalPERS retiree with over 40 years of distinguished experience in city management and municipal planning. Mr. Bassi officially assumed the Interim Community Development Director role on March 11, 2026, with his interim appointment extending through the end of the current fiscal year on June 30, 2026.

As the Community Development Director position has not yet been permanently filled, the City has an ongoing operational need for interim leadership into the new fiscal year. To ensure continuity of service and departmental support, the City proposes to continue Mr. Bassi's engagement on a limited-duration basis; however, as of July 1, 2026, his role will be designated as Extra-Help. His retired annuitant employment is anticipated to conclude on or before December 31, 2026. Mr. Bassi will be compensated at an hourly rate no less than the minimum and no more than the maximum established for employees performing comparable duties, and he will receive no additional compensation. His extensive background has equipped him with specialized knowledge and expertise directly applicable to the City's planning and development operations.

JUSTIFICATION:

The resolution for Interim Vacant Retired Annuitant under Gov. Code sections 7522.56 and 21221(h), is

for CalPERS retirees hired to work in a vacant position while the employer recruits for a permanent replacement, such as an interim city manager, interim police or fire chief, interim department head, or any other unique managerial or executive position. An open recruitment to fill the vacancy with a permanent replacement is required to appoint a retiree. A retiree can only be appointed once to a vacant position. A retiree must reinstate from retirement to be employed in any regular staff position which includes any permanent positions including full time, part time, seasonal, limited term, permanent intermittent, exempt from membership, or any other type of temporary or periodic regular staff position.

FISCAL IMPACT:

Mr. Bassi would be paid an hourly rate of $103.6781 per hour, which is the hourly equivalent of the Community Development Director position. He is not entitled to any additional compensation, benefits, vacation, or holidays.

ATTACHMENTS:

1. Resolution_2026-_Matthew_Bassi_062326.docx

RESOLUTION 2026-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE APPOINTMENT OF RETIRED ANNUITANT MATTHEW BASSI AS EXTRA HELP

Government Code Section 21221(h)

WHEREAS, Government (Gov.) Code section 21221(h) of the Public Employees' Retirement Law permits the governing body to appoint a CalPERS retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the Banning City Council desires to appoint Retired Annuintant Matthew Bassi as Extra Help for the City of Banning under Gov. Code section 21221(h), effective July 1, 2026; and

WHEREAS, the City Council, the City of Banning and Matthew Bassi certify that Matthew Bassi has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the City Council finds that an exception is justified due to a vacant Director position and work exceeding regular staff workload, consistent with Gov. Code section 21224; and

WHEREAS, this Gov. Code section 21221(h) appointment shall only be made once and therefore will end on December 31st, 2026; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is $215,650.48 and the hourly equivalent is $103.68; the minimum base salary for this position is $159,401.34 and the hourly equivalent is $76.64; and

WHEREAS, the hourly rate paid to Matthew Bassi will be $103.68; and

WHEREAS, Matthew Bassi has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the City Council hereby certifies the nature of the employment of Matthew Bassi as described herein and detailed in the attached employment agreement / contract / appointment document and that this appointment is necessary to fill the critically needed position of Extra Help Retired Annuitant in Community Development Department for the City of Banning by July 1, 2026, because the need for management level support continues to exist while the Community Development Director search continues.

SECTION 1. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

SECTION 2. 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 23rd day of June 2026.

Richard Royce, Mayor
City of Banning

ATTEST:

Sandra Calderon, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkey, City Attorney
SBEMP

CERTIFICATION:

I, Sandra Calderon, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2026-202, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2026 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Deputy City Clerk
City of Banning, California

Exhibit A
Letter of Employment – Matthew Bassi

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AMENDMENT NO. 2 TO AGREEMENT FOR CONTRACT SERVICES (C00698) FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS BETWEEN CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR CITY PARKS ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.** ("Contractor") is effective as of this day: 6/15/2023.

RECITALS

A. On February 23, 2021, the City awarded a Landscape Maintenance Agreement to Mariposa Landscapes, Inc. The Agreement provided that Contractor would provide those services specified in the Agreement and in the Scope of Services attached to the Agreement as Exhibit "A-1". The Agreement included a Schedule of Compensation attached as Exhibit "C" which specified that Contractor's total compensation would not exceed One Hundred and Six Thousand Three Hundred and Fifty-Two Dollars ($106,352.00), which included a 10% contingency for additional work.

B. On March 22, 2021, the City and Contractor, executed the Landscape Maintenance Agreement for City Parks – (C00698).

C. On May 10, 2022, the City and Contractor amended the Agreement ("Amendment No. 1") to extend the term for an additional one-year term to expire June 30, 2023 and increase the compensation for services provided under the Agreement in an amount not to exceed One Hundred One Thousand Six Hundred Thirty-Eight Dollars and Eighty Cents ($101,638.80), as approved by City Council Resolution No. 2022-56.

D. City and Contractor now desire to amend the Agreement ("Amendment No. 2") in accordance with City Council approval to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, modify the scope of services to include additional landscape sites and to provide compensation for the additional one-year term and additional services in an amount not to exceed One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97) for a total not to exceed Contract Sum of Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77).

TERMS

1. **Contract Changes**. The Agreement is amended as follows:

   a) Section 1.1 and Exhibit "A" to the Agreement is amended to include the amended scope of services attached as Attachment "1" to this Amendment 2.

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b) Section 2.1 ("Contract Sum") of the Agreement is amended to provide that the City agrees to pay Contractor a monthly amount of Ten Thousand Two Hundred Ninety-One Dollars and Fifty-One Cents ($10,291.51) for twelve (12) months through June 30, 2024. Additionally, the City may authorize extra work for services not included in the agreed Scope of Services of a not to exceed amount of Twelve Thousand Three Hundred and Forty-Nine Dollars and Eighty-Five Cents ($12,349.85) for a total not to exceed amount of One Hundred and Thirty-Five Thousand Eight Hundred and Forty-Seven Dollars and Ninety-Seven Cents ($135,847.97). The total compensation, including reimbursement for actual expenses shall not exceed Three Hundred Forty-Three Thousand Eight Hundred Thirty-Eight Dollars and Seventy-Seven Cents ($343,838.77) (the "Contract Sum").

c) Section 3.1 ("Term") of the Agreement is hereby amended to extend the Term of the Agreement to June 30, 2024.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment No. 2, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendment No. 1, the provisions of this Amendment No. 2 shall control.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment No. 2, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment No. 2, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 2.

5. **Authority.** The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2, and (iv) the

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entering into this Amendment No. 2 does not violate any provision of any other Agreement to which said party is bound.

6. **Electronic Signatures**. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Amendment and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. 2 the day and year first hereinabove written.

CITY OF BANNING

6/15/2023

Douglas Schulze, Date
City Manager

ATTEST:

6/15/2023

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

6/5/2023

Serita Young Date
City Attorney

CONSULTANT

6/12/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

6/13/2023

NAME: Terry Noriega Date
TITLE: President

95-4245898

Tax ID No.

Address:
Mariposa Landscapes, Inc.
6232 Santos Diaz St.
Irwindale, CA 91702

City Council Approval: 2023-099

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "1"

Park's Landscape Maintenance - Per Site Cost Breakdown

Line Item	Location	Quantity	Unit of Measure	Orginal Monthly Rate	CPI 7.50%	New Monthly Rate	Annual Rate
1	Dysart Equestrian Park - 2101 Victory Ave	12	Month	$862.39	$64.68	$927.07	$11,124.83
2	Lion/s Park - 955 S. Hargrave Street	12	Month	$2,001.98	$150.15	$2,152.13	$25,825.54
3	Repplier Park - 201 W. George Street	12	Month	$2,032.78	$152.46	$2,185.24	$26,222.86
4	Roosevelt Williams - 1101 El George Street	12	Month	$831.59	$62.37	$893.96	$10,727.51
5	Sylvan Park - 2798 W. George Street	12	Month	$1,971.17	$147.84	$2,119.01	$25,428.09
6	Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)	12	Month	$887.49	$66.56	$954.05	$11,448.62
7	Aquatic Center (749 N. San Gorgonio)	12	Month	$986.10	$73.96	$1,060.06	$12,720.69
8	Repplier Park and Community Center Parkway. 749, 769 & 789 N. San Gorgonio Ave.	12	Month	Included in Line Items 6 & 7.	$0.00	$0.00	$0.00
			Totals >>>	$9,573.50	$718.01	$10,291.51	$123,498.15

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AMENDMENT NO. 7 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 7") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/23/2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025 to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

2.7 City and Consultant have entered into an Amendment No.6 to the Master Agreement dated, May 27, 2025 to exercise the option to extend the Agreement to June 30, 2026, and to provide

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additional compensation in the amount not to exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00) as approved by City Council Resolution No. 2025-73.

2.8 City and Consultant now desire to amend the Master Agreement to modify the scope of work and to provide additional compensation in an amount not to exceed Twenty-Two Thousand Seven Hundred Forty-Four Dollars ($22,744.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 7 to the Master Agreement, is hereby amended and shall not exceed Twenty-Two Thousand Seven Hundred Forty-Four Dollars ($22,744.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Six Hundred Forty-Nine Thousand Five Hundred Eight Dollars and Twelve Cents ($649,508.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

4.3 Continuing Effect of Agreement. Except as amended by this Amendment No. 7, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No.5, and Amendment No. 6, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 7.

4.5 The persons executing this Amendment No. 7 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 7 on behalf of said party, (iii) by so executing this Amendment No. 7, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 7 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 7 may be signed in counterparts, each of which shall constitute an original.

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4.7 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **7** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 6/23/2025

Robert Fisher, Date
Acting City Manager

CONSULTANT

Antonio Valenzuela 6/23/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

Terry Noriega 6/19/2025

NAME: Terry Noriega Date
TITLE: President

ATTEST:

Caroline Patton 6/23/2025

Caroline Patton Date
Administrative City Clerk

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

MARIPOSA
LANDSCAPES INC

PROPOSAL

Thursday, May 15, 2025

Brandon Robinson – Electrical Engineering Supervisor
City of Banning
99 East Ramsey Street
Banning, CA 92220
Phone 951-922-3263 Email brobinson@banningca.gov

Re: Weed abatement and spray weeds at various Substation and Poles

Description This proposal provides for all labor, material, and equipment to perform the following services at Substations and Poles. This project has been discussed with Brandon Robison.

1. Spraying only one time per year, with pre and post emergent weed control inside of the substation and the perimeter with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate.
2. 22nd Street Substation.....$485.00
3. Mildway Substation.....$823.00
4. Sunset Substation$.....$1,540.00
5. Main Office Substation.....$1,856.00
6. Ivy Substation.....$1,540.00
7. Stagecoach Substation.....$1,540.00
8. One time per year weed abatement and spray around 238 electric poles 15 ft. radius around the pole. Spray one time per year with pre and post emergent weed control around the poles with Roundup Pro Concentrate at 2 oz. per gallon of water rate and Prodamine 4L at .5 oz. per gallon of water rate. City will provide the poles location.

Price Total price for above described work $22,744.00

Twenty-Two Thousand Seven Hundred Forty-Four And 00/100

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AMENDMENT NO. 6 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 6 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 6") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: May 27, 2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant have entered into an Amendment No.5 to the Master Agreement dated, March 26, 2025 to provide additional compensation for as-needed services in the amount not to exceed Fifteen Thousand Dollars ($15,000.00).

2.7 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2026 and to provide

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compensation for the additional one-year term in an amount not to exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00)

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 6 to the Master Agreement, is hereby amended and shall not exceed One Hundred Seventy-One Thousand Three Hundred Twenty Dollars ($171,320.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Six Hundred Twenty-Six Thousand Seven Hundred Sixty-Four Dollars and Twelve Cents ($626,764.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

4.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2026, unless sooner terminated or extended as provided in the Agreement.

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 6, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4 and Amendment No. 5, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 6.

4.6 The persons executing this Amendment No. 6 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 6 on behalf of said party, (iii) by so executing this Amendment No. 6, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 6 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 6 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic

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signature”). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **6** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 5/31/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

5/29/2025

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney

John O. Pinkney
City Attorney

CONSULTANT

5/29/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

5/28/2025

NAME: Terry Noriega Date
TITLE: President

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90% Monthly Adj	FY 2025 Monthly Rate	Annual Rate	CPI 2.90% Monthly Adj	FY 2026 Monthly Rate	FY 2026 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16	$56.93	$2,020.36	$ 24,244.38
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52	$37.95	$1,346.91	$ 16,162.92
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44	$44.28	$1,571.40	$ 18,856.78
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88	$9.48	$336.72	$ 4,040.67
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64	$18.92	$673.39	$ 8,080.74
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60	$31.63	$1,122.43	$ 13,469.18
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68	$25.30	$897.94	$ 10,775.32
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92	$6.33	$224.49	$ 2,693.86
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24	$27.03	$959.30	$ 11,511.65
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80	$18.68	$662.83	$ 7,954.01
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68	$11.45	$406.59	$ 4,879.03
16	Ramsey Street Medians from Highland Home Road to Sunset Avenue (added	12	Month	---	---	---	---	---	---	$1,572.00	$ 18,864.00
17	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00	$0.00	$0.00	$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48	$340.31	$13,651.63	$171,320

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AMENDMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 5") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 3/26/2025.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant have entered into an Amendment No.4 to the Master Agreement dated, June 25, 2024 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) as approved by City Council Resolution No. 2024-081.

2.6 City and Consultant now desire to amend the Master Agreement to exercise the option to provide additional compensation for the as needed services in amount not to exceed Fifteen Thousand Dollars ($15,000.00).

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NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 5 to the Master Agreement, is hereby amended and shall not exceed Fifteen Thousand Dollars ($15,000.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Fifty-Five Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($455,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 5, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and Amendment No.4, shall remain unchanged and in full force and effect.

4.3 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 5.

4.4 The persons executing this Amendment No. 5 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 5 on behalf of said party, (iii) by so executing this Amendment No. 5, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 5 does not violate any provision of any other Agreement to which said party is bound.

4.5 This Amendment No. 5 may be signed in counterparts, each of which shall constitute an original.

4.6 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **5** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 3/26/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

3/26/2025

Caroline Patton Date
Administrative City Clerk

MARIPOSA LANDSCAPES, INC.

3/17/2025

NAME: Terry Noriega Date
TITLE: President

3/11/2025

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 4") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 6/25/2024.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant have entered into an Amendment No.3 to the Master Agreement dated, September 14, 2023 to exercise the option to extend the Agreement for an additional services and to provide compensation in an amount not to exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

2.5 City and Consultant now desire to amend the Master Agreement to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2025, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

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4. AMENDMENT TERMS

4.1 The maximum compensation for services performed pursuant to this Amendment No. 4 to the Master Agreement, is hereby amended and shall not exceed One Hundred Forty-Eight Thousand Three Hundred Seventy-One Dollars and Forty-Eight Cents ($148,371.48) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Four Hundred Forty Thousand Four Hundred Forty-Four Dollars and Twelve Cents ($440,444.12). Work shall be performed at the rates set forth in the Master Agreement.

4.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through June 30, 2025, unless sooner terminated or extended as provided in the Agreement.

4.3 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment "A", attached hereto and incorporated herein.

4.4 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all provisions of the Master Agreement as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3, shall remain unchanged and in full force and effect.

4.5 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

4.6 The persons executing this Amendment No. 4 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 4 on behalf of said party, (iii) by so executing this Amendment No. 4, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 4 does not violate any provision of any other Agreement to which said party is bound.

4.7 This Amendment No. 4 may be signed in counterparts, each of which shall constitute an original.

4.8 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **4** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

6/25/2024

Douglas Schulze, Date
City Manager

City Council Approval: 2024-081

ATTEST:

6/25/2024

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:

6/14/2024

Serita R. Young
City Attorney

CONSULTANT

Terry Noriega 6/21/2024

NAME: Terry Noriega Date
TITLE: President

6/21/2024

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT "A"

RATE SCHEDULE FOR LANDSCAPE MAINTENANCE SERVICES OF CITY PROPERTIES

Line Item	Location	Quantity	Unit of Measure	FY 2024 Monthly Rate	FY 2024 Annual Rate	CPI 2.90%	New Monthly Rate	FY 2025 Annual Rate
1	Ramsey Street Medians from Highland Springs Avenue to Highland Home Avenue	12	Month	$1,908.10	**$22,897.20**	$55.33	$1,963.43	$ 23,561.16
2	Banning City Hall (Civic Center)	12	Month	$1,272.07	**$15,264.84**	$36.89	$1,308.96	$ 15,707.52
3	Banning Police Station (125 E. Ramsey Street)	12	Month	$1,484.08	**$17,808.96**	$43.04	$1,527.12	$ 18,325.44
4	Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)	12	Month	$318.02	**$3,816.24**	$9.22	$327.24	$ 3,926.88
5	Fire Station (5261 W. Wilson Street)	12	Month	$636.03	**$7,632.36**	$18.44	$654.47	$ 7,853.64
8	Former Army National Guard Property (2041 W. Nicolet Street)	12	Month	$848.05	**$10,176.66**	$24.59	$872.64	$ 10,471.68
9	Brinton Reservoir (1700 N. Mountain Avenue)	12	Month	$1,060.06	**$12,720.72**	$30.74	$1,090.80	$ 13,089.60
10	Sunset Reservoir (1202 N. Sunset Avenue)	12	Month	$848.05	**$10,176.60**	$24.59	$872.64	$ 10,471.68
11	San Gorgonio Parking Lot	12	Month	$212.01	**$2,544.12**	$6.15	$218.16	$ 2,617.92
12	Fire Station 89 (172 N. Murray St) (added Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
13	Fire Administration building (4900 W. Wilson St) (addeded Amend 1)	12	Month	$906.00	**$10,872.00**	$26.27	$932.27	$ 11,187.24
14	West Ramsey Street Medians	12	Month	$626.00	**$7,512.00**	$18.15	$644.15	$ 7,729.80
15	Higland Spring Avenue Underpass (added Amend 3)	12	Month	$384.00	**$4,224.00**	$11.14	$395.14	$ 4,741.68
16	Services As Needed (Locations to be determined)				**$7,500.00**			$ 7,500.00
			Totals >>>	$11,408.47	$144,017.70	$330.82	$11,739.29	$148,371.48

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AMENDMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES (C00763) FOR LANDSCAPE MAINTENANCE BETWEEN THE CITY OF BANNING AND MARIPOSA LANDSCAPES, INC.

1. PARTIES AND DATE

THIS AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT ("Amendment No. 3") by and between the **CITY OF BANNING** ("City") and **MARIPOSA LANDSCAPES, INC.**, a California corporation ("Consultant") is effective this day of: 9/14/2023.

2. RECITALS

2.1 City and Consultant entered into an agreement dated July 6, 2022 for the purpose of providing Landscape Maintenance Services ("Master Agreement") following Request for Proposals, RFP #2022-86 and approved by City Council Resolution No.2022-86.

2.2 City and Consultant have entered into an Amendment No.1 to the Master Agreement dated May 8, 2023, for the purpose of modifying the Scope of Services and increasing the compensation by an amount not to exceed Seven Thousand Two-Hundred Forty-Eight Dollars ($7,248.00) to the Master Agreement.

2.3 City and Consultant have entered into an Amendment No.2 to the Master Agreement dated, June 7, 2023 to exercise the option to extend the Agreement for an additional one-year term ending on June 30, 2024, and to provide compensation for the additional one-year term in an amount not to exceed One Hundred Thirty-Nine Thousand Seven Hundred Ninety-Three Dollars and Sixty-Four Cents ($139,793.64) as approved by City Council Resolution No. 2023-095.

2.4 City and Consultant now desire to amend the Master Agreement to modify the scope and to include additional compensation in an amount not to exceed of Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00).

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, conditions, and promises contained in the Master Agreement, the Parties mutually agree follows:

3. INCORPORATION OF RECITALS

3.1 The recitals listed above are true and correct and are hereby incorporated herein by this reference.

4. AMENDMENT TERMS

4.1 The Services are hereby amended to include the additional Services set forth in Attachment "A", attached hereto and incorporated herein.

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4.2 The maximum compensation for services performed pursuant to this Amendment No. 3 to the Master Agreement, is hereby amended and shall not exceed Four Thousand Two Hundred Twenty-Four Dollars ($4,224.00) thereby increasing the total not to exceed compensation of the Master Agreement to the amount of Two Hundred Ninety-Two Thousand Seventy-Two Dollars and Sixty-Four Cents ($292,072.64). Work shall be performed at the rates set forth in the Master Agreement.

4.3 Continuing Effect of Agreemen**t**. Except as amended by this Amendment No.3, all provisions of the Master Agreement as amended by Amendment No.1 and Amendment No.2, shall remain unchanged and in full force and effect.

4.4 The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 3.

4.5 The persons executing this Amendment No. 3 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 3 on behalf of said party, (iii) by so executing this Amendment No. 3, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Amendment No. 3 does not violate any provision of any other Agreement to which said party is bound.

4.6 This Amendment No. 3 may be signed in counterparts, each of which shall constitute an original.

4.7 Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Amendment No. **3** to the Master Agreement the day and year first hereinabove written.

CITY OF BANNING

9/14/2023

Douglas Schulze, Date
City Manager

City Council Approval: 2023-095

ATTEST:

9/14/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Terry Noriega 9/10/2023

NAME: Terry Noriega Date
TITLE: President

9/11/2023

NAME: Antonio Valenzuela Date
TITLE: Secretary

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THE CONSULTANT'S BUSINESS ENTITY.

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ATTACHMENT "A"

M A R I P O S A
L A N D S C A P E S I N C

PROPOSAL

31813

Tuesday, July 18, 2023

Carl Szoyka – Public Works Superintendent

City of Banning
99 E Ramsey St
Banning, CA 92220
Phone 951-922-3286

Re: Landscape Maintenance at Highland Springs Avenue Underpass

Description This proposal provides for all labor, material, and equipment to perform the following landscape maintenance services on the slope at Highland Springs Avenue underpass. Service will be performed according to current contract #C00763 specifications. This project has been discussed with Randy Chavez.

1. Provide biweekly maintenance including trimming and weed control.
2. Tree clearance as needed.
3. Check irrigation and trash removal.

Price Total monthly price for above-described work..... $384.00

Three Hundred Eighty-Four And 00/100

Terms: Net 30 days with monthly billing.

Exclusions: Construction prevailing wages, any unforeseen underground obstacles, and anything not mentioned.

Time Project start date is currently 5 days after acceptance.

Limits Time limit for the acceptance of this proposal is 30 calendar days from the above date.

TEL 800 • 794 • 9458 • FAX 626 • 960 • 8477 • www.mariposa-ca.com
6232 SANTOS DIAZ ST., IRWINDALE, CA 91702 • CA CONTRACTOR'S LIC # 592268 A, C-27, D-49

Our Core Values – Safety • Teamwork • Quality • Integrity

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment Agreement") is entered into as of 4/29/2026, 20 26 (the Effective Date), by and between the **CITY OF BANNING**, a California municipal corporation ("City") whose address is 99 East Ramsey Street, Banning, California 92220, **VANDERMOST CONSULTING SERVICES, INC.,** a California corporation doing business as **VCS Environmental** ("Assignor") whose address is 30900 Rancho Viejo Road Suite 100, San Juan Capistrano, California 92675; and **ALL4 LLC**, a Delaware limited liability company ("Assignee") whose address is 2393 Kimberton Road Kimberton, Pennsylvania 19442. City, Assignor, and Assignee may be referred to individually as a "party" and collectively as the "parties."

RECITALS

This Assignment Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Assignment Agreement:

WHEREAS, on January 11, 2023, City and Assignor entered into that certain AGREEMENT FOR PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICES BY AND BETWEEN CITY OF BANNING AND VCS ENVIRONMENTAL ("Agreement"), attached hereto as Exhibit "A" with all amendments thereto, pursuant to which Assignor agreed to provide certain wetlands permitting consulting and strategy services to City, on a sole source basis approved by City Council Resolution No. 2022-145, for compensation not to exceed One Hundred Eighty-Nine Thousand Dollars ($189,000.00), all as more particularly described in the Agreement and its exhibits;

WHEREAS, Section 1.14 of the Agreement prohibits assignment of the Agreement without the express written consent of the City, and the City now desires to provide such consent subject to the terms of this Assignment Agreement;

WHEREAS, on or about June 10, 2025, the Parties executed AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT (C00799) FOR WETLANDS PERMITTING CONSULTING AND STRATEGY SERVICE BY AND BETWEEN CITY OF BANNING AND VCS ENVIRONMENTAL ("Amendment No. 1"), which extended the term of the Agreement through June 30, 2026, unless sooner terminated or further extended;

WHEREAS, Assignor has informed the City, by letter dated January 16, 2026, that it entered into a series of corporate transactions pursuant to which certain assets of Assignor, including the Agreement and Amendment No. 1, were transferred indirectly to Assignee;

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WHEREAS, Assignor desires to assign all of its rights, duties, and obligations under the Agreement, as amended, to Assignee, and Assignee desires to accept such assignment and assume all obligations and liabilities arising under the Agreement;

WHEREAS, the City is willing to consent to such assignment and assumption subject to the terms and conditions of this Assignment Agreement.

WHEREAS, the parties intend that there be no interruption in the performance of the services required by the Agreement, that the Agreement remain in full force and effect (as assigned and novated hereby), and that City's rights, protections, and remedies under the Agreement, including without limitation insurance, indemnification, and records obligations, remain at least as protective of City after the Effective Date as they were immediately prior thereto.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, the parties agree as follows:

1. Defined Terms. Unless otherwise expressly defined herein, all capitalized terms used in this Assignment Agreement shall have the meanings ascribed to them in the Agreement.

2. Conflicts. In the event of any conflict or inconsistency between the terms and provisions of this Assignment Agreement and the terms and provisions of the Agreement, the terms and provisions of this Assignment Agreement shall control as between the parties, but only to the extent necessary to give full effect to the assignment, assumption, consent, and novation contemplated hereby. Except as expressly modified by this Assignment Agreement, the Agreement shall remain in full force and effect.

3. Assignment. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, Assignor hereby irrevocably sells, grants, assigns, transfers, conveys, and sets over to Assignee, and Assignee hereby accepts from Assignor, all of Assignors right, title, interest, benefits, privileges, obligations, liabilities, and remedies in, to, and under: (i) the Agreement and all of its terms, provisions, and conditions; (ii) all amendments, modifications, supplements, change orders, and extensions thereof existing as of the Effective Date; and (iii) all claims, causes of action, rights to payment, rights to performance, and other rights and interests of Assignor relating to the Agreement after the Effective Date, including without limitation all rights to receive compensation, fees, reimbursements, and any other amounts due or to become due from City under the Agreement.

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4. Scope of Assignment. The assignment made herein is intended to be absolute and to transfer to Assignee all of Assignors rights and interests as Consultant and/or Contractor under the Agreement, such that, from and after the Effective Date, Assignee shall be entitled to stand in the place of Assignor with respect to all such rights and interests, subject to and in accordance with the terms of this Assignment Agreement and the Agreement.

5. No Partial Assignment. The assignment set forth herein constitutes a transfer of the Agreement in its entirety, and not a partial assignment or division of rights or obligations, and does not affect any other contracts between City and Assignor except as expressly set forth herein.

6. Assumption by Assignee.

A. Assumption of Obligations. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, Assignee hereby: (i) accepts the assignment of the Agreement from Assignor as set forth in this Assignment Agreement; and (ii) assumes, undertakes, and agrees to be bound by, perform, pay, discharge, and observe, in accordance with their respective terms, each and every covenant, duty, obligation, and liability of Assignor under the Agreement, whether such covenant, duty, obligation, or liability: (a) arose, accrued, or relates to services performed or to be performed on, before, or after the Effective Date; or (b) arises or accrues after the Effective Date.

B. Specific Assumed Obligations. Without limiting the generality of this Assignment Agreement, Assignee expressly assumes, in accordance with and subject to the terms of the Agreement: (i) all obligations to perform the Services (as defined in the Agreement), including all tasks set forth in Exhibit A (Scope of Services) thereto; (ii) all payment obligations owing to third parties, including sub-consultants and suppliers, in connection with the performance of the Services; (iii) all insurance obligations set forth in Article 4 of the Agreement, including without limitation the procurement and maintenance of: commercial general liability insurance; automobile liability insurance; workers compensation and employers liability insurance (or appropriate declarations in the absence of employees); and professional liability/errors and omissions insurance, in the minimum amounts and with the endorsements required by the Agreement, including the endorsement of City as an additional insured where specified; (iv) all indemnification, hold harmless, and defense obligations set forth in Section 4.12 of the Agreement, which shall apply to Assignee and Assignees officers, employees, agents, and sub-contractors, with the same scope and effect as they applied to Assignor and Assignors officers, employees, agents, and sub-contractors; (v) all obligations regarding service records, reports, ownership of documents, confidentiality, and release of information as set forth in Article 5 of the Agreement; and (vi) all other obligations and duties of Assignor under the Agreement, including without limitation compliance with laws, conflict of interest obligations, non-discrimination obligations, and any other covenants imposed upon Assignor therein.

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7. Continuing Performance. Assignee shall perform the Services and all other obligations under the Agreement in accordance with the highest professional standards and all other performance standards set forth in the Agreement, and acknowledges that City relied upon the experience, knowledge, capability, and reputation of Assignor and its key personnel in awarding the Agreement.

Assignee shall designate a Representative (defined below) acceptable to City and City retains the right to approve or reject key personnel. Assignee designates Drue Pounds as its representative ("Representative").

8. Insurance and Evidence Thereof. On or before the Effective Date (or within such period thereafter as City may approve in writing), Assignee shall provide to City all certificates of insurance, endorsements, and related documentation required under Article 4 of the Agreement, evidencing that Assignee has procured and maintains the insurance coverages required thereunder, with City named as an additional insured where specified, and otherwise fully compliant with the Agreement. Failure to do so shall constitute a default under both this Assignment Agreement and the Agreement. This Assignment shall not become effective until Assignee has provided insurance meeting the requirements of the Agreement and acceptable to City.

9. Consent to Assignment and Assumption. Subject to the terms and conditions of this Assignment Agreement and effective as of the Effective Date, City: (i) hereby consents, pursuant to Section 1.14 of the Agreement and any other applicable provision thereof, to the assignment by Assignor to Assignee of all of Assignors right, title, and interest in and to the Agreement, as set forth in this Assignment Agreement; and (ii) hereby consents to and acknowledges the assumption by Assignee of all covenants, duties, obligations, and liabilities of Assignor under the Agreement, as set forth in this Assignment Agreement.

10. Novation; Substitution of Party. Subject to the satisfaction of the conditions set forth herein and in consideration of the mutual covenants herein, City, Assignor, and Assignee hereby agree that, as of the Effective Date: (i) Assignee shall be and is hereby substituted for Assignor as the Consultant and/or Contractor under the Agreement; (ii) the Agreement shall thereafter be deemed to be by and between City and Assignee, and all references in the Agreement to Consultant and/ Contractor shall be deemed to refer to Assignee; and (iii) except as expressly provided in this Assignment Agreement, City hereby releases Assignor from the performance of the covenants, duties, obligations, and liabilities of Consultant and/or Contractor under the Agreement with respect to services and obligations first arising after the Effective Date. Notwithstanding the assignment and assumption contemplated herein, Assignor shall remain responsible and liable for any claim, demand, liability, damage, loss, cost, or expense arising out of or related to the negligent acts, errors, omissions, or willful misconduct of Assignor in the performance of the Agreement.

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Such liability shall survive the Effective Date of this Assignment Agreement and shall not be extinguished or limited by the substitution of Assignee as Consultant and/or Contractor under the Agreement.

11. Pre-Effective Date Matters. Notwithstanding anything herein to the contrary, City: (1) does not waive, and expressly reserves, all rights and remedies it may have against Assignor with respect to any breach, default, claim, cause of action, or liability of Assignor under the Assigned Agreement arising out of or relating to acts, omissions, events, or circumstances occurring or existing prior to the Effective Date; and (ii) retains the right, in its sole discretion, to assert any such rights and remedies against Assignor, Assignee, or both, to the extent permitted by law and this Assignment Agreement.

12. Agreement in Full Force and Effect. City confirms and agrees that, as of the Effective Date (and after giving effect to this Assignment Agreement), the Agreement: (i) remains in full force and effect, unmodified except as expressly provided by this Assignment Agreement and Amendment No. 1; and (ii) is a valid and binding obligation of City and Assignee (as successor to Assignor), enforceable in accordance with its terms, subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors rights generally.

13. No Waiver of Future Rights. Except as expressly set forth in this Assignment Agreement, nothing herein shall be construed as a waiver or relinquishment by City of any right, remedy, protection, or benefit afforded to City under the Agreement or applicable law, all of which are hereby expressly reserved.

14. Representations and Warranties. Each party represents and warrants to the other parties that, as of the Effective Date:

A. Due Organization and Existence. It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization and has all requisite power and authority to own its properties and to carry on its business as now conducted.

B. Authority; Execution and Delivery. It has the full right, power, and authority to enter into this Assignment Agreement and to consummate the transactions contemplated hereby; the execution, delivery, and performance of this Assignment Agreement by such party have been duly authorized by all necessary corporate, limited liability company, municipal, or other action; and this Assignment Agreement has been duly executed and delivered by such party.

C. Binding Obligation. This Assignment Agreement constitutes the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms,

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subject only to applicable principles of equity and bankruptcy or similar laws affecting creditors rights generally.

D. No Conflict. The execution, delivery, and performance of this Assignment Agreement by such Party do not and will not: (i) violate its bylaws, operating agreement, or similar organizational documents; (ii) conflict with or result in a violation or breach of, or constitute a default under, any material contract, agreement, instrument, order, judgment, or decree to which such party is a party or by which it is bound; or (iii) violate any applicable law, rule or regulation in any material respect.

15. Additional Representations and Warranties of Assignor. Assignor further represents and warrants to City and Assignee that, as of the Effective Date:

A. Ownership of Assigned Agreement. Assignor is the lawful holder of all of Assignors right, title, and interest in and to the Agreement, free and clear of any liens, security interests, pledges, encumbrances, or other adverse claims of any nature whatsoever, other than those imposed by the Agreement itself.

B. No Prior Assignment. Assignor has not previously assigned, transferred, or conveyed its interests in the Agreement, in whole or in part, to any other person or entity, and no person or entity other than Assignee shall have any rights as a result of this assignment.

C. Accuracy of Assigned Agreement. The copy of the Agreement attached hereto as Exhibit "A" is a true, complete, and correct copy of the Agreement and Amendment No. 1 (and any other written amendments or modifications existing as of the Effective Date), and there are no other written or oral amendments, modifications, or side agreements with respect thereto, except as disclosed in writing to City and Assignee.

D. No Known Default. To Assignors knowledge, (a) Assignor is not in material default under the Agreement, (b) City is not in material default under the Agreement, and (c) no event has occurred which, with the passage of time or the giving of notice, would constitute a material default by Assignor or City under the Agreement, except as disclosed in writing to City and Assignee prior to the Effective Date. Assignor represents all subcontractors and suppliers have been paid and no claims or liens exist.

E. Compliance with Agreement. Assignor acknowledges and agrees that City's consent to this Assignment Agreement is being obtained pursuant to Section 1.14 of the Agreement, and that no purported assignment, transfer, or change of control of Assignor with respect to the Agreement has been or will be effective unless and until City has provided its express written consent as set forth herein.

Docusign Envelope ID: 04FDD04D-A9D1-86C1-81AB-3903CBF6A2A6

16. Additional Representations and Warranties of Assignee. Assignee further represents and warrants to City and Assignor that, as of the Effective Date:

A. Qualification and Experience. Assignee has, and will maintain during the term of the Agreement, the qualifications, experience, personnel, and facilities necessary to properly perform, in a thorough, competent, and professional manner, the Services and all other obligations required under the Agreement, and is experienced in performing services of the type contemplated therein.

B. Licenses and Approvals. Assignee has obtained and will maintain all licenses, permits, certificates, approvals, and other authorizations required by law to perform the Services under the Agreement within the State of California and within the jurisdiction of City, including but not limited to any required business licenses.

C. Insurance. Assignee either (a) currently maintains or (b) will maintain, contemporaneously with the Effective Date and thereafter during the term of the Assigned Agreement, all insurance coverages required of Consultant and/or Contractor under Article 4 of the Agreement, in the required types, amounts, and with required endorsements, including the naming of City as an additional insured where specified.

D. No Debarment. Assignee has not been debarred, suspended, or otherwise declared ineligible from contracting with any governmental entity, including any state or local agency in the State of California, and to Assignees knowledge no such proceedings are pending or threatened.

17. Indemnification. Assignee agrees to indemnify, defend, and hold harmless the City to the same extent required of the Consultant and/or Contractor under the Agreement.

Nothing in this Assignment Agreement shall be construed to limit or impair City's rights of indemnity, defense, and hold harmless set forth in the Agreement, all of which shall continue in full force and effect as against Assignee (and, to the extent reserved, Assignor) in accordance with the Agreement.

18. Municipal Law Requirements. Nothing in this Assignment Agreement shall be deemed to waive, limit, or modify any requirement under the City of Banning Municipal Code, the California Constitution, or any other applicable law requiring City Council approval or other municipal action with respect to the Agreement or any amendment, extension, or renewal thereof, and this Assignment Agreement is expressly conditioned upon and subject to compliance with all such legal requirements.

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19. Termination Rights of City.

A. Retention of Termination Rights. Nothing in this Assignment Agreement shall be construed to limit, waive, or otherwise modify any termination rights of the City contained in the Agreement. From and after the Effective Date, the City shall retain and may exercise all rights to suspend or terminate the Agreement as provided therein, and such rights shall apply to Assignee in the same manner and to the same extent as they applied to Assignor prior to the Effective Date.

20. Miscellaneous.

A. Further Assurances. Each party shall, upon the reasonable request of any other party, execute and deliver such further instruments and documents and take such additional actions as may be reasonably necessary or appropriate to carry out the intent and purposes of this Assignment Agreement and to effectuate the assignment, assumption, consent, and novation contemplated hereby.

B. Notices. From and after the Effective Date, all notices, demands, and communications required or permitted to be given under the Agreement to Consultant and/or Contractor shall be given to Assignee at the address set forth below (or at such other address as Assignee may hereafter designate in writing). Assignor shall cooperate reasonably with City and Assignee to update contact information and to ensure an orderly transition.

Assignee: **ALL4 LLC**
2393 Kimberton Road Kimberton
Pennsylvania 19442

C. Governing Law; Venue. This Assignment Agreement, and any dispute arising out of or relating to this Assignment Agreement or the transactions contemplated hereby, shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of law rules. The parties agree that venue in any litigation between them shall be in Riverside County, California.

D. Incorporation by Reference. Except as expressly modified herein, all terms, conditions, covenants, and provisions of the Agreement are hereby incorporated into this Assignment Agreement by this reference as though fully set forth herein.

E. Entire Agreement. This Assignment Agreement, together with the Agreement (as attached hereto as Exhibit "A"), constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether written or oral, relating to such subject

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matter, including, without limitation, if any, notice by the parties to the extent inconsistent with this Assignment Agreement.

F. Amendments. This Assignment Agreement may be amended, supplemented, or modified only by a written instrument executed by duly authorized representatives of all three Parties and, with respect to City, approved in the manner required for amendments to the Agreement (including City Council approval where required).

G. Severability. If any portion, section, sentence, provision or paragraph of this Assignment Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Assignment Agreement not so affected shall remain in full force and effect.

H. No Third-Party Beneficiaries. Except as expressly provided in the Agreement with respect to City's Indemnitees or other expressly identified beneficiaries, nothing in this Assignment Agreement, express or implied, is intended to or shall confer upon any person or entity other than the parties and their respective permitted successors and assigns any rights, benefits, or remedies of any nature whatsoever.

I. Successors and Assigns. This Assignment Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Any further assignment by Assignee of the Agreement or this Assignment Agreement shall be subject to the assignment restrictions and approval requirements set forth in the Agreement and applicable law.

J. Counterparts; Electronic Signatures. This Assignment Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile, electronic mail in portable document format (PDF), electronic signature platform, or other electronic means shall be deemed original signatures for all purposes and shall have the same force and effect as original wet ink signatures.

K. Interpretation. The headings in this Assignment Agreement are for convenience only and shall not affect the interpretation of any provision. The terms hereof, herein, hereunder, and similar terms refer to this Assignment Agreement as a whole and not to any particular provision. The word including means including without limitation. This Assignment Agreement shall be construed according to its fair meaning and not strictly for or against any party, regardless of which party or its counsel drafted this Assignment Agreement.

L. Attorneys Fees. In any action or proceeding arising out of or relating to this Assignment Agreement, the prevailing party shall be entitled to recover its reasonable attorneys

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fees' and costs, in addition to any other relief to which such prevailing party may be entitled, in a manner generally consistent with the Agreement.

[SIGNATURE ATTACHED BELOW]

Docusign Envelope ID: 04FDD04D-A9D1-86C1-81AB-3903CBF6A2A6

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the Effective Date first written above.

ASSIGNOR:
VANDERMOST CONSULTING SERVICES, INC. d/b/a VCS ENVIRONMENTAL

By: Julie Beeman

Print Name: Julie Beeman

Date: 4/29/2026

ASSIGNEE:
ALL4 LLC

By: Drue Pounds

Print Name: Drue Pounds

Date: 4/29/2026

CITY:
CITY OF BANNING

By: Elizabeth Gibbs

Print Name: Elizabeth Gibbs

Date: 4/29/2026

ATTEST:

By: Sandra Calderon

Date: 4/29/2026

APPROVED AS TO FORM:

By: John Pinkney
John O. Pinkney, City Attorney

Date: 4/29/2026

Docusign Envelope ID: 04FDD04D-A9D1-86C1-81AB-3903CBF6A2A6

EXHIBIT "A"
AGREEMENT

[ATTACHED BELOW]

Docusign Envelope ID: 32AFADBB-1A70-4E15-A826-4F9F5ECB0B5F

AMENDMENT NO. 2 TO AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 2 TO THE AGREEMENT FOR SERVICES ("Amendment No. 2") by and between the **CITY OF BANNING** ("City") and **YUNEX, LLC**, a Delaware Limited Liability Company, ("Consultant") is effective as of this day: June 10, 2025.

RECITALS

A. City and Consultant entered into that certain Contract dated August 17, 2023 for the purpose of providing Traffic Signal Maintenance Services ("Agreement") following Request for Proposal (RFP 23-030).

B. City and Consultant have entered into an Amendment No. 1 to the Agreement dated June 25, 2024 to extend the Term of the Agreement to August 31, 2025, and increase the Contract Sum to Fifty Thousand Dollars ($50,000.00), as approved by City Council Resolution 2024-99.

C. City and Consultant now desire to amend the Agreement to modify the Scope of Services to add an additional site, update the rate schedule, extend the Term of the Agreement to August 31, 2026 and increase the Contract Sum to Seventy-Five Thousand Dollars ($75,000.00).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

   1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment A, attached hereto and incorporated herein.

   1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 2 shall not exceed Twenty-Five Thousand Dollars ($25,000.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Seventy-Five Thousand Dollars ($75,000.00).

   1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through August 31, 2026, unless sooner terminated or extended as provided in the Agreement

   1.4 Exhibit C-1 to the Agreement is hereby amended to read as set forth in Attachment B, attached hereto and incorporated herein.

Docusign Envelope ID: 32AFADBB-1A70-4E15-A826-4F9F5ECB0B5F

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 2, all provisions of the Agreement, as amended by Amendment Nos. 1 and 2, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 2, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment Nos. 1 through 2. In the event of a conflict between the provisions of this Amendment No. 2 and the provisions of the Agreement or Amendments No. 1 through 2, the provisions of this Amendment No. 2 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 2.

2.3 Authority. The persons executing this Amendment No. 2 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 2 on behalf of said party, (iii) by so executing this Amendment No. 2, such party is formally bound to the provisions of this Amendment No. 2 , and (iv) entering into this Amendment No. 2 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 2 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

Docusign Envelope ID: 32AFADBB-1A70-4E15-A826-4F9F5ECB0B5F

The Parties are signing this Amendment No. 2 on the date stated in the introductory clause.

CITY OF BANNING

Robert Fisher

Robert Fisher,
Acting City Manager

City Council Approval: 2025-079

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Solvak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney

John O. Pinkney
City Attorney

CONSULTANT

Michael Hutchens

NAME: Michael Hutchens
TITLE: Western Operations Manager

NAME:
TITLE:

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

Docusign Envelope ID: 32AFADBB-1A70-4E15-A826-4F9F5ECB0B5F

ATTACHMENT "A"

Traffic Signal Annual Maintenance and Repair Services			
Item#	Description of Item	Monthly Unit Price	Annual Price
1	Ramsey Street & Hargrave Street Routine Monthly Maintenance	$83.03	$996.36
2	Ramsey Street & Sunset Avenue Routine Monthly Maintenance	$83.03	$996.36
3	Ramsey Street & 4th Street Routine Monthly Maintenance	$83.03	$996.36
4	Ramsey Street & 8th Street Routine Monthly Maintenance	$83.03	$996.36
5	Ramsey Street & 22nd Street Routine Monthly Maintenance	$83.03	$996.36
6	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance	$83.03	$996.36
7	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$83.03	$996.36
8	Wilson & Mountain Avenue Routine Monthly Maintenance	$83.03	$996.36
9	Wilson Street & Apex Street Routine Monthly Maintenance	$83.03	$996.36
10	Wilson Street & Highland Home Road Routine Monthly Maintenance	$83.03	$996.36

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ATTACHMENT "B"

Contractor Fee Schedule

Description	Unit	Qty.	Regular	Overtime	Premium
Traffic Signal Technician - Field	HR	1	$134.28	$166.56	$198.34
Traffic Signal Technician - Lab	HR	1	$134.28	$166.56	$198.34
Foreman	HR	1	$141.45	$177.33	$213.20
Laborer	HR	1	$107.63	$152.98	$152.98
Air Compressor/Arrow Board	HR	1	$5.12		
Service Truck	HR	1	$29.73		
Bucket Truck	HR	1	$32.80		
Crane	HR	1	$66.63		

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AMENDMENT NO. 1 TO THE AGREEMENT (C00857) FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES BY AND BETWEEN CITY OF BANNING AND YUNEX, LLC

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and YUNEX, LLC., A Delaware Limited Liability Company, ("Contractor") is effective as of this day: June 25, 2024.

RECITALS

A. City and Contractor entered into that certain Contract dated August 17, 2023 for the purpose of providing traffic signal maintenance services ("Agreement") following Request for Proposal (RFP 23-030).

B. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement to August 31, 2025, and increase the Contract Sum to Fifty Thousand Dollars ($50,000.00).

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

   1.1 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Twenty-Five Thousand Dollars ($25,000.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to Fifty Thousand Dollars ($50,000.00).

   1.2 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through August 31, 2025, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

   2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement, as amended by Amendment No.1, shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions of this Amendment No. 1 and the provisions

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of the Agreement or Amendment No. 1, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No. 1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

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The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING

Douglas Schulze,
City Manager

City Council Approval: 2024-99

ATTEST:

Caroline Patton
Administrative City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young
City Attorney

CONTRACTOR

Michael Hutchens

NAME: Michael Hutchens
TITLE: Western Operations Manager

NAME:
TITLE:

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

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AGREEMENT FOR CITY WIDE TRAFFIC SIGNAL MAINTENANCE SERVICES (C00857)

THIS AGREEMENT FOR TRAFFIC SIGNAL MAINTENANCE SERVICES (herein "Agreement") is entered into this day: 8/17/2023, ("Effective Date") by and between the CITY OF BANNING, a California municipal corporation ("City") and, YUNEX, LLC., a Delaware Limited Liability Company, ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. Following submission of a proposal or bid for the performance of traffic signal maintenance services, as particularly defined and described in Article 1 of this Agreement, the Consultant was selected by City to perform those services.

B. The Parties desire to enter this Agreement in order to set forth terms and conditions under which Consultant will perform the traffic signal maintenance services referenced in Recital "A". above.

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, in accordance with all terms and conditions of this Agreement, and to City's reasonable satisfaction ("Services.") 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 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. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all

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respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit "B" hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes this document, **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), and **Exhibit C** (Schedule of Compensation) . In the event of any conflict between this document and any Exhibit hereto, the provisions of this document shall govern.

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.

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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 maintenance schedule set forth in the Scope of Services, 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, 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.

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
David P. Heermance	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

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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.

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 **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more

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than Twenty-Five Thousand Dollars ($25,000.00) (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.

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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 monthly and call-out Services as set forth in the Scope of Services, Exhibit "A", hereto..

3.3 Force Majeure.

The maintenance schedule specified in the Scope of Services may be adjusted 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 adjust the maintenance schedule 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 and/or adjustment of the maintenance schedule, pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through August 31, 2024, unless sooner terminated as provided in Article 6 of this Agreement or extended by written agreement of the Parties or as provided in Sections 1.8 and 3.3 of this Agreement. This Agreement may be extended for four (4) succeeding terms of one (1) year each by the written agreement of the Parties. The maximum term and any subsequent amendment or modification to the term shall not exceed five (5) years.

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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. If a claims-made policy is provided, it shall be endorsed with an extended reporting period of not less than three (3) years, or shall be maintained in full force and effect for three (3) years, following final payment to Consultant hereunder.

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

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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, excepting the professional liability policy, 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

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coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, defend, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, stop notices, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

2) Other Indemnities. Other than in the performance of professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, stop notices, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall

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reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, Claims, 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

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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.

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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

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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.

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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 Services actually provided 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

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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,

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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: Art Vela Public Works Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: avela@banningca.gov
With a courtesy copy to:	Kevin G. Ennis, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: kennis@rwglaw.com
If to Consultant:	Attn: David P. Heermance, President Crosstown Electrical & Data, Inc. 5454 Diaz Street Irwindale, CA 91706 Email: dave@crosstowndata.com

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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.

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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

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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 **Signatures.**

Electronic Signatures: Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

8/17/2023

Douglas Schulze, Date
City Manager

ATTEST:

8/17/2023

Caroline Patton Date
Deputy City Clerk

CONSULTANT

Michael Hutchens 8/16/2023

NAME: Michael Hutchens Date
TITLE: Western Operations Manager

NAME: Date
TITLE:

86-2136678

Tax ID No.

Address:
2250 Business Way
Riverside, CA 92501
USA

City Council Approval: n/a

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing City Wide Traffic Signal Maintenance prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

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YUNEX TRAFFIC

June 13th, 2023

Ms. Barbara Mason
Purchasing Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Proposal for: Traffic Signals Maintenance & Repair Services (RFP-23-030)

Ms. Mason,

Yunex LLC would like to express our sincere appreciation for the opportunity to participate in the proposal process for providing Traffic Signals Maintenance & Repair Services for the City's traffic signal system. The prices and terms stated in our proposal package will remain in effect for 90-days from the date of submission, June 13th, 2023.

Yunex LLC is a corporation, incorporated in the State of Delaware on February 17th, 2021. Our federal tax employer I.D. number is 86-2136678 and our corporate address is 9225 Bee Cave Road, Building B, Austin, TX 78733.

Yunex LLC is an electrical contracting firm who is a California licensed A & C-10 contractor (CA License #1080007) and is also a registered Public Works Contractor (DIR No. 1000815000), who provides leading edge technology for the fast-paced Intelligent Transportation Systems world. Whether providing maintenance services, controllers, controller firmware, central systems, system analysis, design, or integration, Yunex LLC brings innovative and reliable solutions to customers.

Yunex LLC has reviewed the Scope of Work in the RFP and Sample Professional Services Agreement and will list our Legal Exceptions and Assumptions within our Proposal for the City's review/consideration.

During the evaluation, if there are any questions regarding this proposal, please feel free to contact either of us using the contact information listed below. We look forward to serving the needs of the City of Banning and would like to thank you in advance for your consideration.

Respectfully,

Yunex LLC

Steven Teal
Director of Service
2250 Business Way
Riverside, CA 92501
(951) 784-6600 Office
(951) 784-6700 Fax
steven.teal@yunextraffic.com

Yunex LLC

Michael J. Hutchens
West Operations Manager
2250 Business Way
Riverside, CA 92501
(951) 784-6600 Office
(951) 784-6700 Fax
michael.hutchens@yunextraffic.com

A. Statement of Understanding and Approach

Understanding

It is our understanding that the City Banning is seeking a qualified traffic signal maintenance firm to provide Traffic Signals Maintenance and Repair Services. The selected service company will be responsible for providing a continuing, comprehensive, routine, and extraordinary maintenance program for the City's equipment. The City's expectation is that the maintenance program will reduce the incidence of malfunctions, reduce complaints, promote safety, and proactively extend the longevity of the equipment, thus reducing the overall operating cost for the City's traffic signal system.

Our goal is always to exceed our customer's expectations. We have a broad range of experienced personnel including IMSA and NEC certified Traffic Signal Maintenance personnel. The technician assigned to this contract has over 20 years of experience managing and maintaining traffic signal systems and related ITS equipment.

Our local traffic signal laboratories (Riverside, CA) provide a full range of technical services including complete controller/cabinet testing, repair, and conflict monitor testing/certification. Services for this contract include the provision of appropriately trained personnel and equipment necessary to perform maintenance activities as outlined in your RFP.

We understand that the general Scope of Work to be done consists of routine preventative maintenance and repair of your traffic control systems as well as general and emergency repairs of the same. These services will provide your city with safe and efficient operations. Yunex Traffic will have available and readily accessible, qualified personnel, tools, equipment, facilities, and material required to perform all work necessary for the maintenance of the City's traffic signal systems, as outlined in the Scope of Work and in compliance with current City and State standards.

Our Approach / Emergency Response Times

To be able to respond immediately to emergency calls, Yunex Traffic's field technicians are authorized to take their work vehicles home daily. All work vehicles are stocked with proper field equipment so he/she may sufficiently address most problems they encounter while responding.

Emergency response call outs and unscheduled repairs are initiated by calling our toll-free emergency phone number, **1-800-229-6090.** A live dispatcher will be available 24 hours a day, 7 days per week, 365 days per year. Our dispatcher will create a work order in our visual planning board and once the work order is released, it will immediately transfer to our technician's queue on their mobile device. As part of our quality control practice, our dispatcher will follow up with a phone call to our technician to confirm that he/she is in receipt of the call out/work order. For emergency calls, the technician will arrive at the site **within two (2) hours** to assess and correct the reported problem. Once the problem is corrected, the technician will inform the city of the repair actions.

Scope of Work

It is always the goal of Yunex Traffic to tailor our services around our customer's needs. We understand that throughout the term of a contract, those needs may change. We approach all our contracts with the same vision; build a partnership with the City's staff and work towards achieving common goals set forth through that partnership. We realize that this is an ever-evolving process and that is why we believe that the only successful route is through establishing common goals. This methodology and a commitment to service will be applied to every aspect of our services for the City of Banning.

Routine Maintenance

We will execute a comprehensive monthly routine maintenance program as outlined in the City's Scope of Work, as recommended by the manufacturer, and as listed below. Yunex Traffic will also maintain, at the same unit price, additional traffic signals and appurtenant devices as they are installed or become a part of the maintenance requirements of the city.

Yunex Traffic technicians will, at a minimum, perform the following tasks on the City's traffic signal system monthly:

- Routine maintenance is typically scheduled by the technician as they are more aware of the geography of the area. He will take into consideration contract requirements and your preference when scheduling routine preventive maintenance.
- Once our technician arrives at the location, he will complete a job hazard analysis (JHA) determining any potential hazards at the location. Following the JHA, he/she will secure the area with proper traffic control as referenced in the most recent edition of the W.A.T.C.H. Handbook and in accordance with the city's traffic control requirements.
- Our technician will clean and vacuum the controller and battery backup cabinets (if equipped) and ensure the cabinet vents are un-obstructed, the air filter is clean, properly inserted, and secure (air filters will be replaced semi-annually). During this process, your Yunex Traffic technician will perform the following checks inside the controller cabinet:
    - Confirm the controller cabinet is securely mounted to the foundation and inspect the seal for deterioration. Excessive dampness and plant/animal intrusion inside the controller cabinet will be reported to the city and repaired immediately.
    - Verify fan operation and ensure the thermostat is set to 96 degrees Fahrenheit and that there is sufficient airflow through the cabinet.
    - Inspect cabinet hardware (i.e., door gaskets, hinges, locks, etc.) for proper operation. All deficiencies will be repaired and reported to the city.

    - Inspect electrical components (i.e., relays, load switches, equipment displays and indications, flasher(s), rack-mount detectors, harness/connectors, service connections, system telemetry, communications system, cabinet grounding, GFCI receptacles, terminal connections cabinet lights and switches, CMU (interlock) door switch, the police panel switches, etc.) for proper operation and adjust, as necessary. We will also verify proper operation of all equipment displays and

cabinet/controller indicator lamps. Deficiencies that pose a safety concern will be corrected immediately.

- Verify that controller software/firmware is up to date.

- Following the visual inspection, your Yunex Traffic technician will examine the functionality of the controller in relation to traffic at the intersection and confirm all phase and coordination timing is programmed correctly and is current based on the timing sheet located in the controller cabinet.
- In addition to monitoring phase actuation from vehicle/traffic, they will also confirm proper intersection cycling by manually placing vehicle/pedestrian calls on each phase through the cabinet test switches/controller keypad to verify controller servicing of each phase.
- Yunex Traffic technicians will ensure your controller's date and time is correct and we will adjust all controller clocks within 48 hours of time changes related to Daylight Savings Time. This also includes confirming the correct date and time in all Conflict Monitor Units and Malfunction Management Units (CMU/MMU) during each visit.
- Your Yunex Traffic technician will check the controller log buffers and investigate any faults that may have surfaced since the last maintenance visit.
- CMU's/MMU's can be tested annually with an MT-180 or equivalent conflict monitor tester. Individual test results will meet the city's documentation requirements and be available in each controller cabinet and an electronic file (USB) will be delivered to the city within 30 days after completing the testing. This test will also be documented on the routine maintenance log located in the controller cabinet. If requested, the cost for annual CMU/MMU testing will be billed as noted on the Price Proposal.
- The technician will confirm all detector loop cables are correctly identified, connected to the correct vehicle detector field terminals, and that a call is placed on the correct detector input, and that the input places a call on the correct controller phase. We will adjust or re-tune detector amplifiers and correct substandard splices, as necessary. Loops requiring re-seal or replacement will be documented and reported to the city immediately. Loop replacement cost will be billed as noted on the Price Proposal.
- If the intersection is equipped with video/radar detection our technician will verify that detection zones are properly structured. They will also verify proper camera operation by monitoring the vehicle call on the video processor unit and confirm that the calls are registering in the controller and actuating the correct phase in the controller. The technician will verify that detection system software has been properly updated. Video Detection lens cleaning can be done, if requested, on a time/material basis.
- If equipped, your Yunex Traffic technician will confirm operation of all preemption devices (i.e., railroad, emergency vehicle preemption (EVP), fire station preemption, etc.). Annual Optical detector lens cleaning can be done, if requested, on a time/material basis.
- Inspect CCTV cameras for correct operation and for damage to wiring or housing. Inspection and lens cleaning can be done, if requested, on a time/material basis.
- If equipped, your Yunex Traffic technician will also test your interconnect systems to maintain existing operation and will notify you of any deficiencies.
- If equipped, your Yunex Traffic technician will check the battery back-up systems / uninterruptible power supplies

Our technicians are extremely knowledgeable with the installation, handling, and testing of interconnect and **fiber optic** systems.

(UPS) including checking / logging the battery and load levels. In addition, we will confirm all battery connections to ensure they are clean and secure. If requested, we can perform testing by electrical bypass for proper operation, which will be billed on a time/material basis. We will report any batteries that require replacement immediately. All events and run time will be documented inside each controller cabinet.

- If requested, Yunex Traffic can perform a night check of all safety lights and illuminated street name signs (IISNS). Our findings will be submitted to the city and required repairs will be made according to the time & material rates. Monthly night checks can be done, if requested, on a time/material basis.
- Our technician will walk the intersection (clockwise and counterclockwise) and visually inspect all poles, signal heads, pedestrian signals, associated framework, and signal mounted signs for proper operation, alignment, and broken or missing parts. During this process, your Yunex Traffic technician will perform the following checks outside of the controller cabinet:
    - Depress all pedestrian push buttons and observe proper timing and display.
    - Visually inspect the loops for sufficient sealant or exposed loop wires.
    - Inspect pull boxes, pull box lids and hand-hole covers. Missing covers/lids will be replaced immediately.
    - Visually inspect all signal doors, back plates, and visors and confirm they are secure.
    - Remove unauthorized signs, stickers, and posters that can be easily removed from traffic signal poles and the controller cabinet. Graffiti will also be removed within twenty-four (24) hours of notification.
    - Prepare a list of locations where painting may be necessary, which will be submitted to the City for approval. Painting rates can be provided upon request.

- The technician will lubricate cabinet door locks and padlocks quarterly, unless required sooner.
- Maintain an inventory list of all equipment in the controller cabinet at each location. This list will also be updated electronically and provided to the city yearly in a Microsoft Excel spreadsheet, or as requested.
- Your Yunex Traffic technician will document all maintenance activities on the city approved Preventative Maintenance checklist, on the cabinet log, and in their mobile device which is wirelessly communicating to our maintenance server enabling our customers to view all progress in virtually real-time.

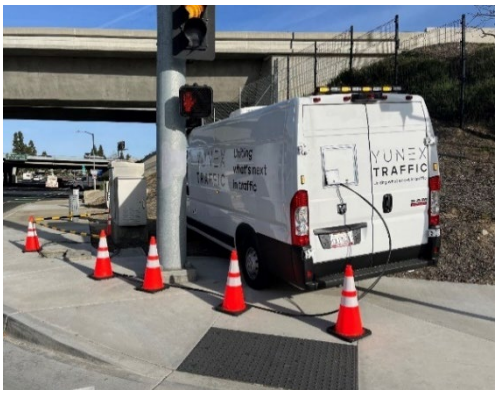
Extraordinary Services

In addition to the Preventative Maintenance program, we will provide other Extraordinary Services such as scheduled repairs, emergency response and technical support services to the City's traffic signal systems in accordance with City requirements and as listed below.

Our Extraordinary and Emergency Response Services include, but not limited to, the following services:

- Downed signal heads, poles, signal on flash, signal blackout, burned out lamps, damaged controllers and cabinets, damaged illuminated street name signs, damaged inductive loops, sensing elements, pedestrian push buttons, electroliers, pedestrian signal heads, wiring, and other operational equipment related issues.
- Assisting the City for special events or for City construction projects, as necessary to implement revised traffic signal timing and phasing for changed traffic conditions. If requested, prepare punch list items, and follow through with city representative to ensure a successful completion.
- Perform overhead maintenance on traffic signals, safety lighting, street name and regulatory signs, video detection cameras and Opticom systems.
- Provide support for underground maintenance including conduit repair or replacement, wire inspection and installation, and interconnect installation.
- Repair, replace or otherwise render in good working order all defective parts of the traffic signal equipment with like make and model parts. Whenever equipment is removed, the city representative will be notified within twenty-four (24) hours.
- USA Dig Alert – Locating services using **in-house locators**.
    - Yunex Traffic will respond to all **Underground Service Alert (USA)** requests/notices or at the request of city staff for the marking and protection of traffic signal underground facilities such as traffic signal and electrical conduits, interconnect facilities, loops, safety light conduits, and other appurtenant equipment which might conflict with other right-of-way construction or repairs. Our technicians are equipped and certified with the proper locating devices provided by Metrotech.

- **Fiber Optic** related maintenance services such as: Installation, splicing, terminations, troubleshooting, on-reel testing, and integration.



- **Signal Loop Replacement**. Yunex Traffic is the **only** maintenance provider who performs Loop replacements in-house.

Yunex Traffic will notify the City prior to any traffic signal deactivations that may be necessary to provide the required services. Traffic signal shutdowns will not be scheduled without the approval of an authorized representative of the City. Also, Yunex Traffic will not proceed with any extraordinary repairs without authorization from the city, unless it is a matter of public safety.

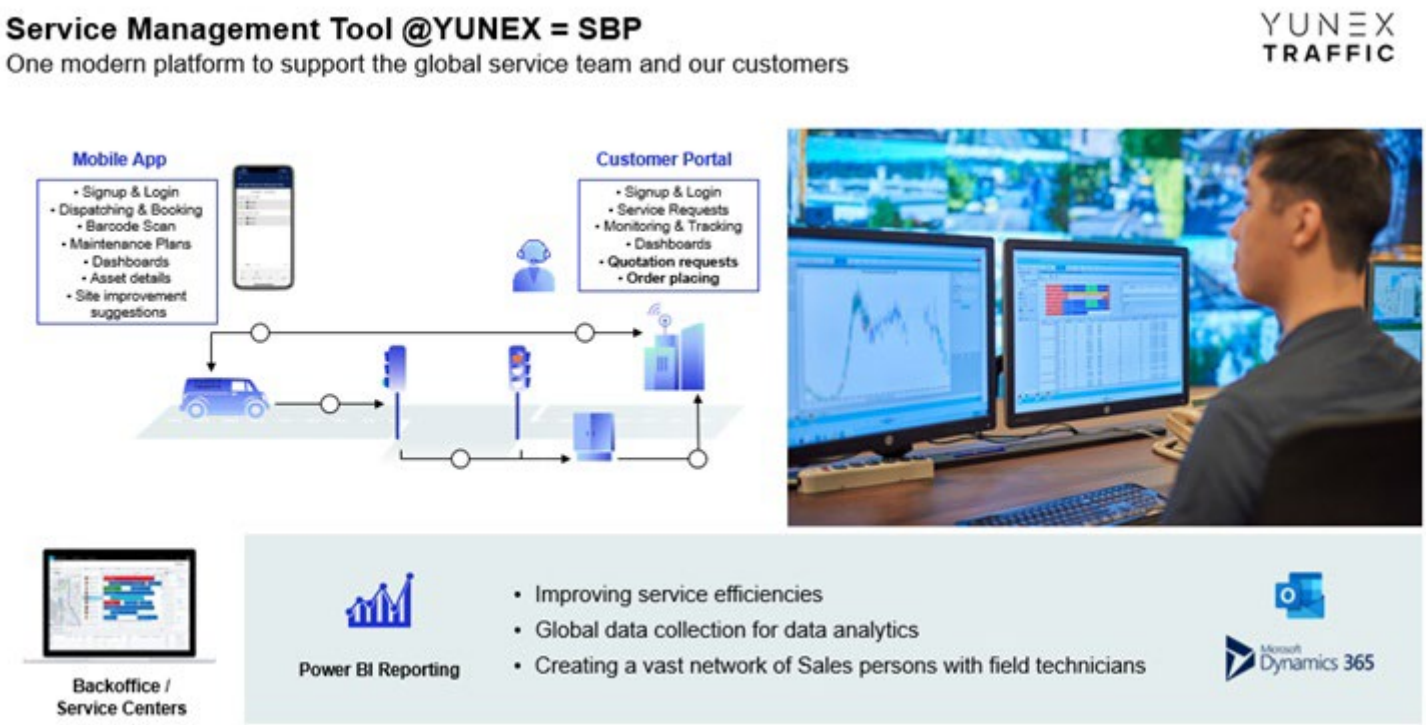
Spare Equipment

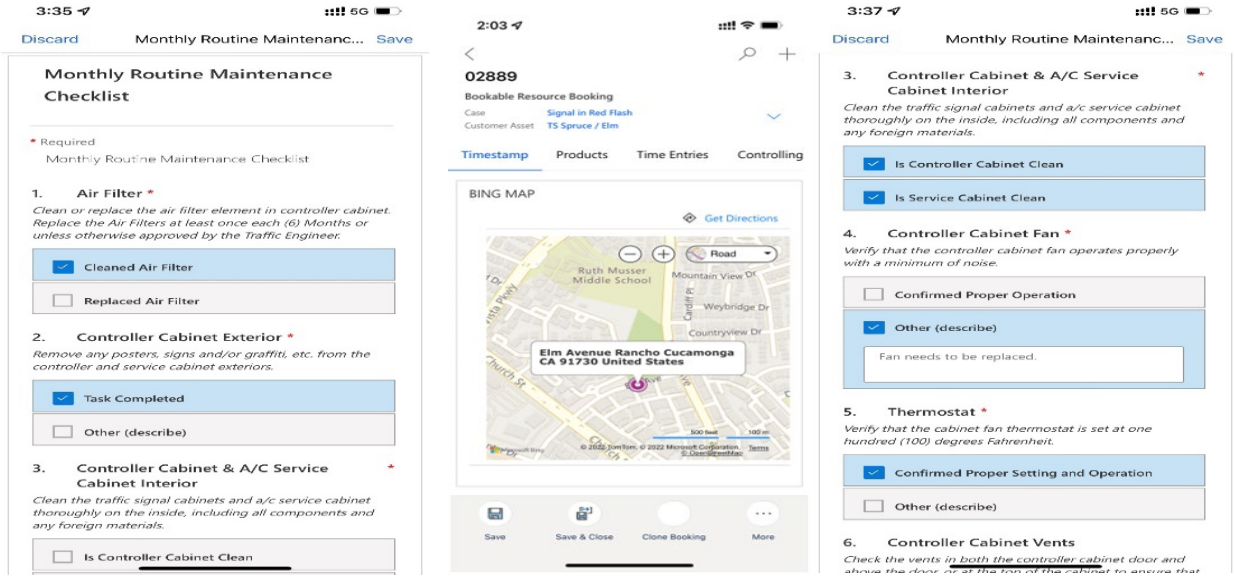
Yunex Traffic has over $1,500,000 in spare inventory and available to the City of Banning:

- 25 – NEMA controllers (such as Econolite ASC/2S-2100, ASC/3-2100, Cobalt, McCain, and many others)
- 25 – 24VDC Power Supply
- 25+ – MMU/CMU from various manufacturers
- 150 – Load Switches
- 6 – Type P controller cabinets
- 3 – 332 controller cabinets
- 250+ – Replacement LED Lamps (Red/Yellow/Green) and LED pedestrian signals
- 50 – ADA compliant pedestrian activation buttons
- 25+ - Battery Backup Batteries (sizes/manufacturers vary)
- 20+ – Streetlight luminaires of various manufactures and wattages
- 25+ - Several types/sizes of Marbelite concrete streetlight poles

On-Line Portal (Service Business Platform @ITS)
Yunex Traffic has rolled out a new service tool called SBP (Service Business Platform), which is a proprietary management system designed to effectively manage all service order progress, remotely update our ERP system (SAP) and as work is performed.

- SBP allows us to monitor many key performance items such as time arrived onsite, time of completion, materials used, and vehicle/equipment used.
- SBP keeps historical records for every location which allows the technicians an additional resource when troubleshooting.
- When creating a new service request, the SBP will query the location history and will flag the order if it appears to be a repeated call out or duplicate order.
- Technicians transmit response and routine maintenance items in real-time using IOS or Android devices.
- The contractual Scope of Work and all maintenance activities are also available for technicians to review to ensure all tasks are completed within the specified timeframe.
- Customer specific checklists for routine preventative maintenance will be available to the technicians so all required tasks are completed, per your Scope of Work.





Customer Portal

The SBP Customer Portal gives our customers access to:

- Monitor real-time status of routine maintenance and service calls
- Location history (sort/filter by date, location, call type, etc.)
- Overall historical maintenance and repair data
- Real-time equipment inventories, maps, and event reporting
- Asset management (including digital photographs, GIS data, etc.)

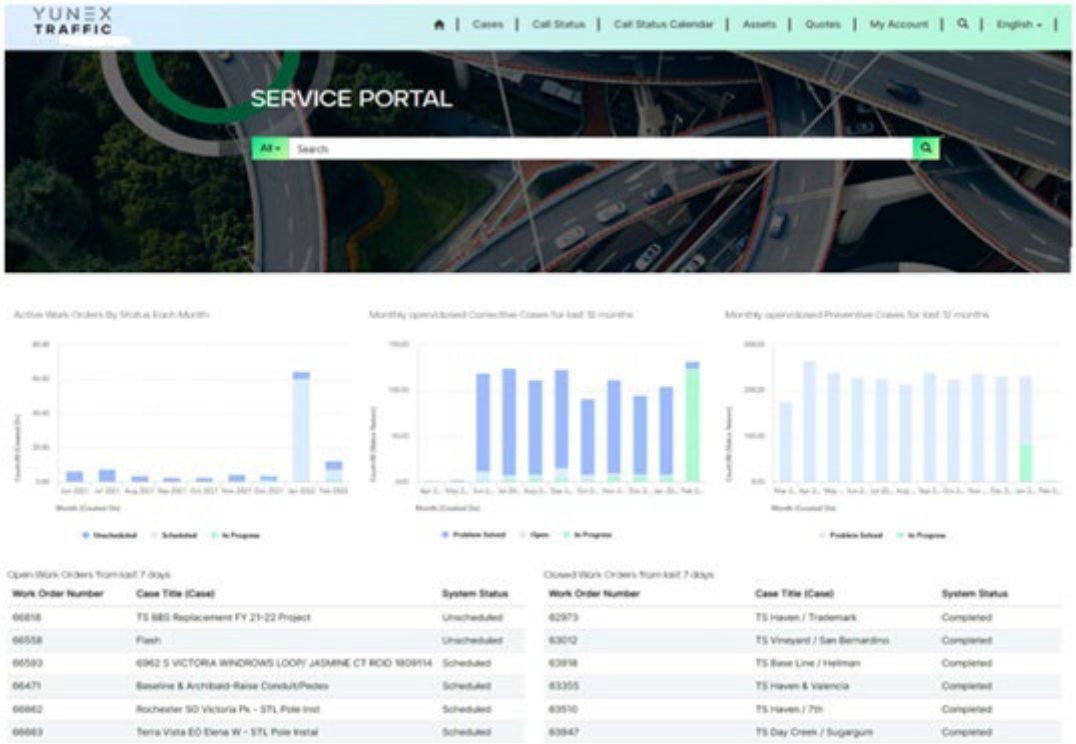
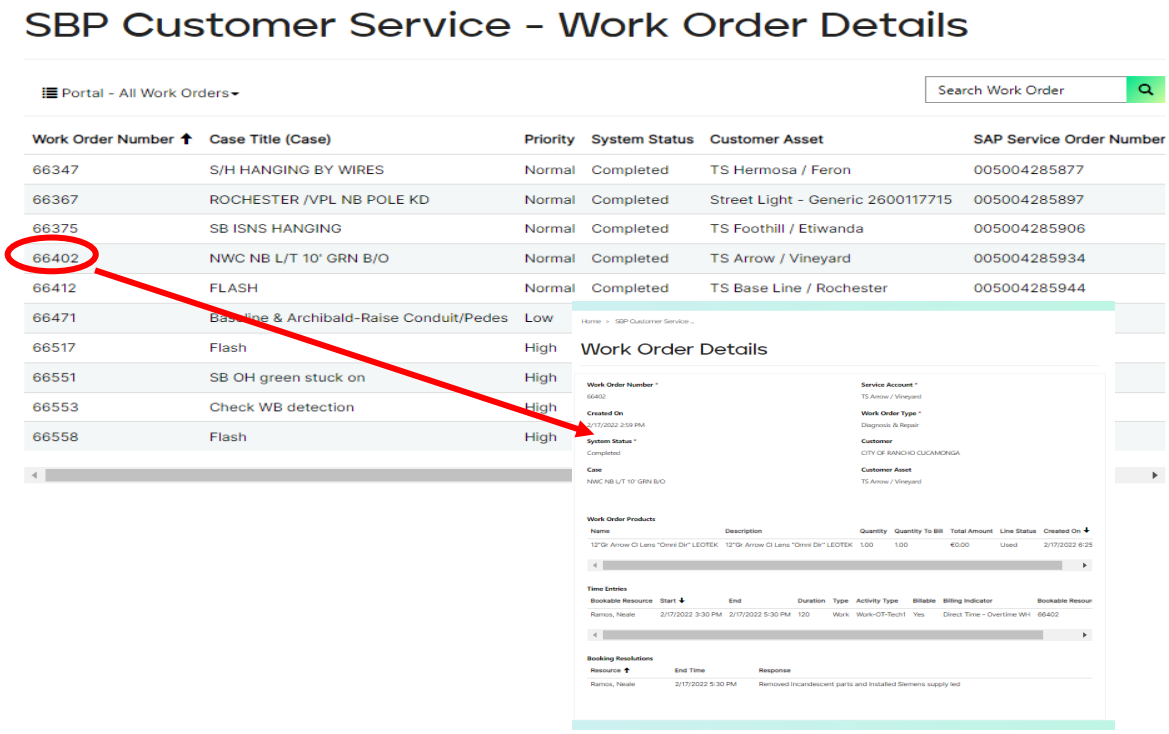


EXHIBIT "A"



Tracking as Related to Invoicing

In addition to our Customer Portal, you will receive a monthly detailed billing report with each invoice that lists labor and equipment hours billed for each service order.

TS B - Merrill / Bloomington / Riverside

Date Completed: **Fri, MAR/18/2016 01:00** Work Order #: **5002764108** Debit Memo Req. **3801177197**

Description: **NEC POLE KD * CALLER: PD**

Response: **REMOVED DAMAGED EQUIPMENT. DRILLED & INSTALLED NEW 1D POLE, TV2T, TWO 3 SEC. PV HEAD S WITH ARROW LENSES, 2 R, 2 Y & 2 G PV LEDS, COUNT-DOWN COMBO M8 LED. RE-USED PEDHEAD & PPB ASSY. REPLACED PPB AND DIRECTIONAL PLATE. OLD S/H WEREN'T PROGRAM. WILL FOLOW UP WITH BALL LENSES & PROGRAM S/H'S IF CITY WANT THEM PROGRAMMED.**

Item:	Qty and Unit Cost			Extra Charges	Routine Maint.	
ELECTRICIAN (RT)	12.000 H	@	per H	$	$ 0.00	
ELECTRICIAN (OT)	8.000 H	@	per H	$	$ 0.00	
ELECTRICIAN (PT)	6.000 H	@	per H	$	$ 0.00	
SERVICE BUCKET TRUCK	26.000 H	@	per H	$	$ 0.00	
MATERIALS	1 PC	@	per PC	$	$ 0.00	
			Visit Total	$	$ 0.00	
			Total	$	$ 0.00	$

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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, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date_____ **Signature**_____

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the tasks ("Tasks") not to exceed the rates in Exhibit "C1-1"

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.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

YUNEX TRAFFIC

PRICE PROPOSAL FORM

All proposals submitted shall have a stated dollar bid amount for providing the services outlined in the Scope of Services. All proposals shall include a full and complete breakdown of all the costs, and proposed fees including but not limited to hourly rates, reimbursable expenses and/or rates, mileage and/or travel cost, miscellaneous fees, etc., and include a Grand Total Amount to complete this project and fulfill the entire scope of services herein.

BID SCHEDULE – TRAFFIC SIGNAL MONTHLY MAINTENANCE AND REPAIR SERVICES

Monthly routine maintenance services shall include routine inspection, preventative maintenance and repairs of traffic signal systems, interconnect, safety lights and illuminated street name signs, per intersection, per month.

ITEM NO.	DESCRIPTION OF ITEM	MONTHLY UNIT PRICE	ANNUAL PRICE
1.	Ramsey Street & Hargrave Street Routine Monthly Maintenance Services	$81.00	$972.00
2.	Ramsey Street & Sunset Avenue Routine Monthly Maintenance Services	$81.00	$972.00
3.	Ramsey Street & 4th Street Routine Monthly Maintenance Services	$81.00	$972.00
4.	Ramsey Street & 8th Street Routine Monthly Maintenance Services	$81.00	$972.00
5.	Ramsey Street & 22nd Street Routine Monthly Maintenance Services	$81.00	$972.00
6.	Ramsey Street & San Gorgonio Avenue Routine Monthly Maintenance Services	$81.00	$972.00
7.	Ramsey Street & Hathaway Street Routine Monthly Maintenance	$81.00	$972.00
8.	Wilson Street & Mountain Avenue Routine Monthly Maintenance Services	$81.00	$972.00

TOTAL BID AMOUNT IN FIGURES – SCHEDULE I $648.00 (Monthly) or $7,776.00 (Annually)

TOTAL BID AMOUNT IN WORDS – SCHEDULE I: Six Hundred Forty Eight Dollars and Zero Cents (Monthly) or Seven Thousand, Seven Hundred Seventy Six Dollars and Zero Cents (Annually)

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YUNEX TRAFFIC

City of Banning
Traffic Signals Maintenance & Repair Services
Cost Schedule

Labor Rates

Item Description	Unit	Regular Time	Overtime	Premium Time
Foreman	Hourly	$138.00	$173.00	$208.00
Traffic Signal Technician – Field	Hourly	$131.00	$162.50	$193.50
Traffic Signal Technician – Lab	Hourly	$131.00	$162.50	$193.50
Laborer	Hourly	$105.00	$149.25	$149.25

Regular, Overtime, and Premium time explanation:

- Regular Hours are Monday thru Friday (excluding holidays) from 7:30am to 4:00pm.
- Overtime Hours are Monday thru Friday after these work hours for the first four straight hours on any job as well as Saturday for the initial 8 working hours.
- Premium Hours are Monday thru Friday after four hours of OT on any one job, Saturdays after 8 hours on any one job, all day Sunday starting at 12:00am until Monday at 7:30am and all holidays starting at 12:00am until the next morning at 7:30am.

Equipment Rates

Item Description	Unit	Unit Price
Service Truck	Hourly	$29.00
Bucket Truck	Hourly	$32.00
Crane Truck	Hourly	$65.00
Arrow Board	Hourly	$5.00
Air Compresser with tools	Hourly	$5.00

Material Markup

Item Description	%
Material Markup	10%

Miscellaneous Items

Item Description	Unit	Unit Price
Type E Loop (6' Round)	Each	$650.00
CMU Testing	Each	$160.00

Project Schedule:

Banning - Traffic Signals Maintenance & Repair Services - Proposed Schedule									
Project Lead: City of Banning Start Date: 8/1/2023 Tuesday									
WBS	Tasks	Task Lead	Start	End	Duration (Days)	% Complete	Working Days	Days Complete	Days Remaining
1	Monthly Preventative Maintenance	Yunex	8/1/23	8/31/23	31		23	0	31
1.1	Extraordinary Maintenance (As-Needed)								
1.2	Emergency Response (As-Needed)								
1.3	Air Filter Replacement (Semi Annually)								
2	Monthly Preventative Maintenance	Yunex	9/1/23	9/30/23	30		21	0	30
2.1	Extraordinary Maintenance (As-Needed)								
2.2	Emergency Response (As-Needed)								
3	Monthly Preventative Maintenance	Yunex	10/1/23	10/31/23	31		22	0	31
3.1	Extraordinary Maintenance (As-Needed)								
3.2	Emergency Response (As-Needed)								
4	Monthly Preventative Maintenance	Yunex	11/1/23	11/30/23	30		22	0	30
4.1	Extraordinary Maintenance (As-Needed)								
4.2	Emergency Response (As-Needed)								
5	Monthly Preventative Maintenance	Yunex	12/1/23	12/31/23	31		21	0	31
5.1	Extraordinary Maintenance (As-Needed)								
5.2	Emergency Response (As-Needed)								
6	Monthly Preventative Maintenance	Yunex	1/1/24	1/31/24	31		23	0	31
6.1	Extraordinary Maintenance (As-Needed)								
6.2	Emergency Response (As-Needed)								
7	Monthly Preventative Maintenance	Yunex	2/1/24	2/29/24	29		21	0	29
7.1	Extraordinary Maintenance (As-Needed)								
7.2	Emergency Response (As-Needed)								
7.3	Air Filter Replacement (Semi Annually)								
8	Monthly Preventative Maintenance	Yunex	3/1/24	3/31/24	31		21	0	31
8.1	Extraordinary Maintenance (As-Needed)								
8.2	Emergency Response (As-Needed)								
9	Monthly Preventative Maintenance	Yunex	4/1/24	4/30/24	30		22	0	30
9.1	Extraordinary Maintenance (As-Needed)								
9.2	Emergency Response (As-Needed)								
10	Monthly Preventative Maintenance	Yunex	5/1/24	5/31/24	31		23	0	31
10.1	Extraordinary Maintenance (As-Needed)								
10.2	Emergency Response (As-Needed)								
11	Monthly Preventative Maintenance	Yunex	6/1/24	6/30/24	30		20	0	30
11.1	Extraordinary Maintenance (As-Needed)								
11.2	Emergency Response (As-Needed)								
12	Monthly Preventative Maintenance	Yunex	7/1/24	7/31/24	31		23	0	31
12.1	Extraordinary Maintenance (As-Needed)								
12.2	Emergency Response (As-Needed)								