

BENICIA CITY COUNCIL CITY COUNCIL MEETING AGENDA

**August 19, 2025
6:00 PM**

**Benicia City Hall, Council Chambers
250 East L Street, Benicia, CA 94510**

COURTESY ZOOM PARTICIPATION

<https://us02web.zoom.us/j/88508047557?pwd=cHRsZlBrYlphU3pkODcycytmcFR2UT09>

Meeting ID: 885 0804 7557

Password: 449303

Phone: 1 669 900 9128

1. CALL TO ORDER (6:00 P.M.)

2. CONVENE OPEN SESSION

3. ROLL CALL

4. PLEDGE OF ALLEGIANCE

5. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

The fundamental rights of each member of the public can be found in the municipal code posted on the City's website and on a plaque that is posted at the entrance to this meeting per section 4.04.030 of the City of Benicia's Open Government Ordinance.

6. ANNOUNCEMENTS

6.A MAYOR'S OFFICE HOURS

RECOMMENDED ACTION: Mayor Young is maintaining an open office on the first and third Mondays of the month (except holidays) in the Mayor's office of City Hall from 4:30 to 6:00 p.m. No appointment is necessary. Other meeting times may be scheduled through City Hall by calling 707-746-4200.

7. PROCLAMATIONS

8. APPOINTMENTS

9. PRESENTATIONS

10. ADOPTION OF AGENDA

11. OPPORTUNITY FOR PUBLIC COMMENTS

How to Submit Public Comments for this City Council meeting:

Besides appearing in person and offering public comments, members of the public may provide public comment via Zoom, or to the City Clerk by email at lwolfe@ci.benicia.ca.us. Any comment submitted to the City Clerk should indicate to

which item of the agenda the comment relates to. Specific information follows:

- Comments received by 2:00 pm on the day of the meeting will be electronically forwarded to the City Council and posted on the City's website.

12. WRITTEN COMMENT

13. PUBLIC COMMENT

14. CONSENT CALENDAR

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, Staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

14.A COMMERCIAL REGULATIONS STREAMLINING AMENDMENTS

RECOMMENDED ACTION: Adopt the ordinance amending the Benicia Municipal Code (BMC) after a determination that the project is exempt from the California Environmental Quality Act (CEQA).

[Staff Report - Commercial Streamlining Second Reading Adoption](#)

[1. Proposed Ordinance amending the Benicia Municipal Code](#)

14.B APPROVAL OF 2025 STATE WATER PROJECT WATER TRANSFER

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) approving the 2025 State Water Project Water Transfer Letter of Understanding (LOU) (Attachment 2) for the sale of excess untreated water supply and authorizing the City Manager to sign letter on behalf of the City.

[Staff Report - Approval of 2025 State Water Project Water Transfer](#)

[1. Resolution - 2025 State Water Project Water Transfer](#)

[2. 2025 SWP Water Transfer Letter of Understanding](#)

[3. Solano County Water Agency Water Transfer and Exchange Policy](#)

14.C APPROVAL OF FIRST AMENDMENT TO TASK ORDER NO. 13 WITH STANTEC FOR THE WATER TREATMENT PLANT MISCELLANEOUS MECHANICAL IMPROVEMENT PROJECT AND AUTHORIZING A BUDGET AMENDMENT

RECOMMENDED ACTION: Adopt a resolution (Attachment 1) approving the First Amendment (Attachment 2) to Task Order No. 13 (Attachment 3) to the Master Professional Engineering Services Agreement (Attachment 4) with Stantec Consulting Services, Inc. for construction management and inspection services for the WTP Miscellaneous Mechanical Improvement Project, approve a budget amendment, and authorize the City Manager to execute the First Amendment on behalf of the City.

[Staff Report - Approval of Amendment to TO13 with Stantec for WTP Misc Mechanical Improvements](#)

[1. Resolution - WTP Miscellaneous Mechanical Improvement Project](#)

[2. First Amendment No. 1 to Task Order No. 13 - Stantec Consulting -](#)

Construction Management/Inspection

3. Task Order No. 13 - Stantec Consulting - Construction Management/Inspection

4. Master Professional Engineering Services Agreement - Stantec Consulting

14.D APPROVAL OF FIRST AMENDMENT TO AGREEMENT WITH NEW IMAGE LANDSCAPE COMPANY FOR LANDSCAPE MAINTENANCE OF MEDIANS, RIGHTS-OF-WAY AND CITY FACILITIES

RECOMMENDED ACTION: Adopt a resolution (Attachment 1) approving an amendment with New Image Landscape Company (Attachment 2) for Landscape Maintenance of Medians, Rights-of-Way, and City Facilities at a not-to-exceed cost of \$624,000 for two years, authorizing the City Manager or Finance Director to sign the Agreement on behalf of the City.

Staff Report - Amendment to Agreement with New Image Landscape Company

1. Resolution - First Amendment to Agreement - New Image Landscape Company for Landscape Maintenance of Medians, Rights-of-Way and City Facilities

2. Agreement - First Amendment to Agreement - New Image Landscape Company for Landscape Maintenance of Medians, Rights-of-Way and City Facilities

3. Original Agreement - New Image Landscape Company

14.E APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA

15. BUSINESS ITEMS

15.A AUTHORIZE THE CITY MANAGER TO VOTE "YES," SIGN AND SUBMIT BALLOTS FOR CITYWIDE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT ON BEHALF OF THE CITY

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) authorizing the City Manager to vote "Yes," sign and submit the ballots on behalf of the City for the parcels owned by the City that are subject to the proposed PLLAD assessment fee.

Staff Report - Authorize CM to Sign Ballots for PLLAD

1. Resolution - Authorizing the City Manager to Vote "Yes," Sign, and Submit the PLLAD Ballots on Behalf of the City

2. Sample Ballot With Information Guide

15.B STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) PROHOUSING DESIGNATION APPLICATION

RECOMMENDED ACTION: Conduct the public hearing and adopt the resolution (Attachment 1) authorizing the application the State of California Prohousing Designation Program.

Staff Report - Prohousing Designation App

1. Resolution with Exhibit A: Prohousing Designation Application

2. Public Comments Received through August 8, 2025

16. CITY COUNCIL TASK FORCE GROUPS: ADVOCACY, COLLABORATION AND TRANSITION (ACT)

16.A AD HOC "ACT" TASK FORCE GROUPS UPDATES

[Ad Hoc "ACT" Task Force Groups Updates](#)

17. **COUNCIL MEMBER COMMITTEE REPORTS:**

(Council Members serve on various internal and external committees on behalf of the City. Links to current agendas, minutes and meeting schedules, as available, from these various committees are included in the agenda packet. Oral reports by the Council Members are made only by exception.)

17.A COUNCIL MEMBER COMMITTEE REPORTS

[Council Member Committee Reports](#)

18. **ADJOURNMENT (9:00 P.M.)**

Public Participation

The City of Benicia welcomes your interest and involvement in the City's legislative process. Persons wishing to address the Council, Board, Commission or Committee (CBCC) are asked to voluntarily complete a speaker request form, available at the entrance of Council Chambers, and submit it to the meeting Secretary/City Clerk. Speakers, addressing the CBCC at the time the item is considered, are requested to restrict their comments to the item as it appears on the agenda and stay within the three-minute time limit. The Brown Act does not permit the CBCC to take action on items brought up during the Public Comment period.

As a courtesy, and technology permitting, members of the public may participate remotely. Please be advised that those participating in the meeting remotely via Zoom do so at their own risk. Meetings will not be cancelled due to technical difficulties. The meeting can also be observed on Cable T.V. Broadcast - Check with your cable provider for your local government broadcast channel, or livestream online at www.ci.benicia.ca.us/agendas.

Americans with Disabilities Acts

The City of Benicia is committed to providing meeting facilities that are accessible to persons with disabilities. Meeting materials in alternative formats, a sign language interpreter, real-time captioning, assistive listening devices or other accommodations can be requested by calling (707) 746-4200 or by emailing ADACoordinator@ci.benicia.ca.us, at least four working days prior to a meeting. Assistive listening devices may be obtained at the meeting.

Meeting Procedures

Pursuant to Government Code Section 65009, if you challenge a decision of the CBCC in court, you may be limited to the issues raised during the meeting or in written correspondence delivered to the CBCC by the meeting. You may also be limited to a ninety (90) day statute of limitations when challenging certain administrative decisions, including any final decisions regarding planning or zoning.

The decision of the CBCC is final as of the date of its decision unless judicial review is initiated pursuant to Code of Civil Procedure Section 1094.5. Any such petition for judicial review is subject to the provisions of Code of Civil Procedure Section 1094.6

Public Records and Writings Received After Agenda Posting

A printed version of the agenda packet for this meeting is available at the Benicia Public Library during regular working hours. To the extent feasible, the agenda packet and any writing or documents related to an agenda item for this meeting provided to the CBCC, will be made available for public inspection on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." A complete recording of each meeting is available online at www.ci.benicia.ca.us/agendas.

Contact Your Council Members

Voicemail for Mayor and Council Members: (707) 746-4213

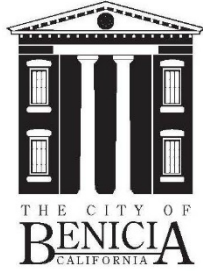
Mayor Steve Young: SYoung@ci.benicia.ca.us

Vice Mayor Trevor Macenski: TMacenski@ci.benicia.ca.us

Council Member Kari Birdseye: KBirdseye@ci.benicia.ca.us

Council Member Lionel Largaespada: LLargaespada@ci.benicia.ca.us

Council Member Terry Scott: TScott@ci.benicia.ca.us



AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
CONSENT CALENDAR

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **COMMERCIAL REGULATIONS STREAMLINING AMENDMENTS**

EXECUTIVE SUMMARY:

The proposed amendments would update and streamline certain land use regulations, clarify land use classifications and definitions, establish consistency in land use regulations citywide, and clean up various code references for internal consistency and organization. More specifically, the amendments would address day care centers, home-based businesses, formula businesses, studios, body art and piercing, alcoholic beverage sales, bars, taverns and nightclubs, alcoholic beverage service at eating and drinking establishments, take-out service at eating establishments, live entertainment, mobile food vending, health and fitness facilities, commercial recreation facilities, and sports and entertainment assembly.

In addition, the amendments would change the name of the Community Development Department to Development Services Department to eliminate confusion related to another existing city department (Community Services Department) and clarify the function of the department.

The City Council conducted a public hearing, waived the first reading and introduced the ordinance during a duly noticed public hearing on August 5, 2025. At that time, the City Council also adopted Resolution No. 25-101 amending the Downtown Mixed Use Master Plan (DMUMP). Through Council discussion, a subsequent amendment was directed related to concentration of retailers with Type 21 ABC licenses, and additional analysis and/or outreach leading to potential future amendments was requested for temporary relief of amplification for special events, tobacco regulations for businesses subject to certain standards, and mobile food vending at public places.

RECOMMENDATION:

Adopt the ordinance amending the Benicia Municipal Code (BMC) after a determination that the project is exempt from the California Environmental Quality Act (CEQA).

BUDGET INFORMATION:

The proposed amendments would not directly affect the City's budget, except through reduced user fees for permits and hearings no longer required. However, as the amendments directly implement the Benicia Resiliency Plan, they are intended to

support existing and new business activity that may have a positive impact to additional future revenue.

BACKGROUND:

The City of Benicia adopted its current Zoning Ordinance in 1987. The DMUMP, which regulates land use and the form of the development in the downtown area, was adopted in 2007. Most commercial regulations in the city are unchanged since their adoption. However, there have been various societal, technological and economic shifts since that time that necessitate updates. In addition, the City has received feedback from small business owners, the business community, and others that the current level of regulation imposes costs and delays that affect the feasibility for small businesses.

This project would support implementation of the City's Resiliency Plan, Goal 3: Expand Economic Development, by streamlining new business review and facilitating economic growth.

Overview of Amendments

The ordinance would amend the BMC to reduce discretionary permitting for many commercial use types. In some cases, parameters for operational hours, square footage and location are proposed in the interest of land use compatibility. Additional changes to clean up formatting, clarify wording and update cross references will improve the usability of the City's land use regulations and improve consistency from chapter to chapter and across documents (BMC and DMUMP).

- **Day care centers:** would change from conditionally permitted (use permit is required) to permitted in all residential districts, as well as the Community Commercial, Open Space, and Public and Semipublic Districts.
- **Home-based business:** regulations would be fully updated, including removal of the home occupation permit. Allowed business types would be expanded to include limited at-home instruction, personal services, retail and horticulture.
- **Formula businesses:** regulations would be deleted.
- **Alcoholic beverage sales:** would be permitted when accessory to tasting, microbrewery, neighborhood market. As primary use (bottle shop, liquor store), a use permit would be required in the General Commercial District (matching existing downtown regulations).
- **Bars, taverns / drinking establishments:** the 9 pm threshold for permitted use would be extended to 10 pm. A use permit would be required for operations after 10 pm.
- **Nightclubs:** would be separately defined and not permitted. (note: outdoor entertainment is separate and would not be affected by this change.)

- **Restaurants:** would no longer be required to obtain a use permit for full alcoholic beverage service (this current regulation applies outside of the downtown only). Take-out service restrictions and separate regulation would be deleted.
- **Live entertainment:** would become a permitted use in the Mixed Use-Infill, General Commercial and Waterfront Commercial districts when located indoors and accessory to an eating or drinking establishment.
- **Mobile food vending:** regulations would be updated to remove the mobile food vending permit, clarify regulations, and remove the parking requirement.
- **Health/fitness facilities:** would be a permitted use in all commercial districts and mixed-use districts. They would be a permitted use in the Limited Industrial District and would require a use permit within geographic parameters in the General Industrial District.
- **Commercial recreation:** would be a permitted use in the General Commercial and Mixed Use-Infill Districts; would be a conditional use in the Community Commercial District. In the Limited Industrial District, would be conditionally permitted for single-tenant indoor sports training, archery and shooting galleries within geographic parameters. Game center regulations would be deleted.
- **Sports and entertainment assembly:** would be conditionally permitted only in the General Commercial, Public and Semipublic and Open Space Districts.
- **Department Name:** The Community Development Department would be renamed Development Services Department. This change has already been reflected in the adopted two-year budget for FY2026 and FY2027.

NEXT STEPS:

If adopted, the amendments to the Municipal Code will become effective in 30 days, on September 18, 2025.

ALTERNATIVE ACTIONS:

The Council may choose not to adopt the amendments or provide alternate direction.

CEQA Analysis	This project is categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15301 and 15305 which apply to existing facilities and minor alterations to land use limitations; the proposed amendments constitute minor changes to streamline existing regulations and processes, and on their own do not have the potential to result in significant environmental impacts.
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ATTACHMENTS:

1. Proposed Ordinance amending the Benicia Municipal Code

For more information contact: Suzanne Thorsen, AICP, Assistant City Manager

Phone: 707-746-4280

E-mail: sthorsen@ci.benicia.ca.us

CITY OF BENICIA

ORDINANCE NO. 25-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 2.32 (PLANNING DEPARTMENT) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) AND ALL REFERENCES WITHIN THE BENICIA MUNICIPAL CODE AND PERSONNEL CLASSIFICATION PLAN TO CHANGE THE NAME OF THE PLANNING DEPARTMENT TO THE DEVELOPMENT SERVICES DEPARTMENT AND TO CHANGE THE TITLE OF COMMUNITY DEVELOPMENT DIRECTOR TO DEVELOPMENT SERVICES DIRECTOR, AND AMENDING CHAPTERS 17.12 (DEFINITIONS), 17.16 (USE CLASSIFICATIONS), 17.24 (RESIDENTIAL DISTRICTS), 17.26 (MIXED USE DISTRICTS), 17.28 (COMMERCIAL DISTRICTS), 17.32 (INDUSTRIAL DISTRICTS), 17.36 (OS OPEN SPACE DISTRICT), 17.40 (PS PUBLIC AND SEMIPUBLIC DISTRICT) AND 17.70 (GENERAL REGULATIONS) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO CLARIFY, UPDATE AND STREAMLINE COMMERCIAL REGULATIONS

WHEREAS, the Community Development Department is also called the Planning Department pursuant to Chapter 2 (Administration and Enforcement) of the Benicia Municipal Code; and

WHEREAS, the Department's name does not clearly articulate its purpose to the general public and is easily confused with that of the Community Services Department; and

WHEREAS, Goal 3 of the City of Benicia Resiliency Plan is to expand economic development; and

WHEREAS, certain current commercial regulations impede business attraction, establishment and expansion due to permit and discretionary hearing requirements; and

WHEREAS, the City of Benicia recognizes the need to update regulations within its Zoning Ordinance to facilitate effective administration of its regulations and support the attraction, establishment and expansion to meet the community's needs; and

WHEREAS, certain clean-up amendments are warranted to improve internal consistency within the Benicia Municipal Code and to promote clarity for all users; and

WHEREAS, the Economic Development Board conducted a study session discussion of conceptual zoning changes, accepted public comment, and provided feedback on September 25, 2024; and

WHEREAS, the City Council accepted public comment and provided direction concerning the proposed amendments on October 15, 2024; and

WHEREAS, the Planning Commission and Economic Development Board conducted a study session and accepted public comment on March 27, 2025; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing at a regular meeting on June 12, 2025, and recommended approval of the Zoning Ordinance amending Chapters of the BMC Title 17; and

WHEREAS, the City Council finds that amendments to the aforementioned zoning regulations would implement the City's objectives for economic resiliency; and

WHEREAS, pursuant to Benicia Municipal Code (BMC) section 17.120.40 (Public hearing scope and notice) and California Government Code Section 65091 (Notification Procedures), notice of the public hearing for the proposed amendments was duly published in the Benicia Herald, a newspaper of general circulation, and displayed at City Hall on July 2, 2025; and

WHEREAS, the public hearing was continued from July 15, 2025 to August 5, 2025; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the City Council find this project to be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15301 and 15305 which apply to existing facilities and minor alterations to land use limitations; the proposed zoning amendments constitute minor changes to streamline existing regulations and processes, and on their own do not have the potential to result in significant environmental impacts; and

WHEREAS, it is clarified that while the text amendments themselves are deemed to be categorically exempt from further CEQA review, new projects or developments regulated with the updated amendments may still be subject to CEQA review on a case-by-case basis to ensure that any significant environmental impacts are adequately addressed; and

WHEREAS, the City Council of the City of Benicia conducted a duly and properly noticed public hearing to take public testimony and consider this Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Benicia does hereby find that the proposed zoning text amendments are consistent with the purposes of Titles 2 and 17, and the following goals and programs of the Benicia General Plan:

- Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life. These amendments further Goal 2.5 because it broadens the potential land uses in a

way that could encourage new development that is compatible with the existing community.

- Goal 2.13: Support the viability of existing commercial centers.

THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN AS FOLLOWS:

Section 1.

Chapter 2.32 (Planning Department) of Title 2 (Administration and Personnel) of The Benicia Municipal Code is hereby renamed Development Services Department.

Section 2.

Section 2.32.101 (Creation – Director) of Chapter 2.32 (Planning Department) of Title 2 (Administration and Personnel) of the Benicia Municipal Code is hereby amended as follows:

2.32.010 Creation – Director.

There is in the city government a department known as the development services department. The administrative officer of the department is the development services director.

Section 3

All references to the “planning department” or “community development department” within the Benicia Municipal Code or City of Benicia personnel classification plan, as established in Ordinance No. 75-16 and subsequently amended, shall be stricken and replaced with “development services department” including but not limited to such references as may be contained in Title 2 (Administration and Personnel), Title 5 (Business Taxes, Licenses and Regulations), Title 6 (Animal Control Regulations), Title 12 (Streets, Sidewalks and Public Places), Title 15 (Buildings and Construction), Title 16 (Subdivisions), Title 17 (Zoning), and Title 18 (Signs).

Section 4

All references to “community development director” within the Benicia Municipal Code or personnel classification plan, as established in Ordinance No. 75-16 and subsequently amended, shall be stricken and replaced with “development services director” including but not limited to such references as may be contained in Title 1 (General Provisions), Title 2 (Administration and Personnel), Title 3 (Revenue and Finance), Title 5 (Business Taxes, Licenses and Regulations), Title 6 (Animal Control Regulations), Title 12 (Streets, Sidewalks and Public Places), Title 16 (Subdivisions), Title 17 (Zoning), and Title 18 (Signs).

Section 5.

Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to delete the definitions of “Convenience market” and “Formula business”, and to amend the definitions of “Entertainment Live” and “Home occupations” as follows:

“Entertainment, live” means activities such as comedy, musical or theatrical performances by one or more persons which occur on a scheduled basis three or more days during a calendar year on the site of a use other than a public or semipublic use.

“Home-based business” means an office or commercial business conducted in a dwelling unit that is incidental to the principal residential use. It does not include cottage food operations defined separately herein.

Section 6.

Section 17.16.040 (Public and semipublic use classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the use classification for “Day care center” as follows:

“Day care center” means a state-licensed child day care facility other than a family day care home that provides nonmedical care to children under 18 years of age on a less than 24-hour basis, and includes infant centers, nursery schools, preschools, extended day care facilities, and school age child care centers.

Section 7.

Section 17.16.050 (Commercial use classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to delete the use classifications of “Eating and Drinking Establishments with Take-Out Service” (L.4), “Eating and Drinking Establishments – Limited” (L.4.b), “Eating and Drinking Establishments – Truck Stop” (L.5), “Commercial Recreation and Entertainment – Card room, game center, billiard parlor” (I.1) and Commercial Recreation and Entertainment – Limited (I.2); to modify the use classifications for “Commercial Recreation and Entertainment” (I), “Eating and Drinking Establishments with full alcoholic beverage service” (L.2), “Eating and Drinking Establishments – Mobile Food Vending”; to add sub-use classifications for “Eating and Drinking Establishments -Night club” (L.6), “Food and Beverage Sales – Alcoholic Beverage Sales - Off-premise” (M.1), “Food and Beverage Sales – Convenience Market” (M.2); and to add use classifications for “Health/Fitness Facilities”, “Sports and Entertainment, Assembly” and “Truck Stop” in alphabetical order and re-letter all sections accordingly as follows:

I. Commercial Recreation and Entertainment, Indoor. Facilities providing indoor amusement, recreation or entertainment for a fee or admission charge. This classification includes theaters, bowling alleys, billiard parlors, ice/roller skating rinks, play centers, game arcades (video games, pinball, etc.), indoor sports practice and training (e.g., batting cages), indoor archery or shooting galleries. This use classification does not include adult businesses, nor any establishment engaged in gambling or betting.

L. Eating and Drinking Establishments. Businesses serving prepared food or beverages for consumption on or off the premises, not including cannabis or cannabis products.

1. With Wine and Beer Service. Alcoholic beverages served are limited to wine and beer.
2. With full alcoholic beverage service. Alcoholic beverages served include distilled spirits.
3. With Live Entertainment. Establishments offering live entertainment, as defined in Chapter 17.12 BMC (Definitions).
4. Drive-Up. Service from a building to persons in vehicles through an outdoor service window.
5. Mobile Food Vending. The sale of ready-to-consume prepared foods from vehicles on a semi-permanent basis during hours of operation. Mobile food vending generally has the following characteristics:
 - a. Food and beverages are ordered and served from a take-out counter that is integral to the vehicle;
 - b. Food and beverages are paid for prior to consumption;
 - c. Food and beverages are served in disposable wrappers, plates or containers; and
 - d. Food and beverages are prepared and sold for primarily off-site consumption with limited on-site consumption.
6. Night Club. A facility serving alcoholic beverages for on-site consumption and providing live entertainment, examples of which include live music and/or dancing, comedy, etc. after 10:00 p.m. one or more nights per week. Does not include adult oriented businesses.

M. Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption, not including cannabis or cannabis products. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out

consumption shall be classified as “catering services” or “eating and drinking establishments.”

1. Alcoholic Beverage Sales – Off-premise. The retail sale of beer, wine, and/or spirits in sealed containers for off-premise consumption as a primary business activity. Does not include alcohol sales that are conducted on a temporary basis pursuant to a day license or equivalent permit from the California Department of Alcoholic Beverage Control, nor sales that are accessory to and part of a beverage tasting facility, microbrewery, market or similar use.
2. Convenience market. The retail sales of food, beverages and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building. This definition excludes delicatessens and other specialty food shops and establishments having a sizeable assortment of fresh fruits and vegetables, and fresh cut meat.

Health/Fitness Facilities. Establishments primarily engaged in providing physical fitness services, exercise equipment, and related activities for the improvement or maintenance of physical health and well-being. This classification includes gyms, health clubs, yoga studios, and similar establishments offering exercise classes, personal training, cardiovascular equipment, weight training equipment, and other fitness-related services.

Sports and Entertainment, Assembly. A facility that provides for indoor or outdoor spectator-oriented sports including sports stadiums, arenas, or tournament facilities; and outdoor amusement facilities such as amusement parks, mini-golf, etc.

Truck Stop. A facility geared primarily to providing services for truckers, including on-site fueling, repair and servicing of freight trucks; restaurant facilities; restrooms; towing services; overnight accommodations and related services.

Section 8.

Section 17.16.050 (Accessory use classifications) of Chapter 17.16 (Use Classifications of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the use classification for Accessory Uses and Structures as follows:

- A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units, home-based businesses, and construction trailers.

Section 9.

Section 17.24.020 (RS, RM, RH and HZ districts – Land use regulations) of Chapter 17.24 (Residential Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

RS, RM, RH and HZ Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	RS	RM	RH	HZ	Additional Regulations
Residential					(A)
Family Day Care, Large	P	P	P	P	
Family Day Care, Small	P	P	P	P	
Group Residential	–	U	U	U	L-1
Multifamily Residential	–	P	P	P	L-1
Residential Care, Limited	P	P	P	P	L-1
Single-Family Residential	P	P	P	–	L-1
Supportive Housing	P	P	P	P	L-1
Transitional Housing	P	P	P	P	L-1
Commercial Uses					
Conference and Meeting Facilities	U	U	U	–	
Eating and Drinking Establishments	–	–	–	P	L-2
Food and Beverage Sales	–	–	–	P	L-2
Horticulture, Limited	U	U	U	U	L-3
Personal Services	–	–	–	P	L-2
Public and Semipublic					
Adult Day Health Care	U	U	U	U	
Bed and Breakfast Inns	U	U	U	–	L-4
Clubs and Lodges	U	U	U	U	L-5
Convalescent Facilities	–	U	U	U	
Cultural Institutions	–	U	U	U	
Day Care Center	P	P	P	P	L-2, L-6

RS, RM, RH and HZ Districts: Land Use Regulations

- P - Permitted
 U - Use Permit
 L - Limited (See "Additional Use Regulations")
 - - Not Permitted

	RS	RM	RH	HZ	Additional Regulations
Emergency Shelter	-	P	-	-	(B)
Park and Recreation Facilities	P	P	P	P	L-7
Public Safety Facilities	U	U	U	U	
Religious Assembly	U	U	U	U	
Residential Care, General	P	P	P	P	
Schools, Public or Private	U	U	U	-	
Utilities, Major	-	-	-	-	
Waste Facility	-	-	-	-	
Utilities, Minor	P	P	P	P	
Accessory Uses	P/U	P/U	P/U	P/U	
Accessory Dwelling Unit	P	P	P	P	(C)
Cottage Food Operations	P	P	P	P	(D)
Donation and Collection Bins	P	P	P	P	L-8, (E)
Home-Based Businesses	P	P	P	P	(D)
Short-Term Rentals	P	P	P	P	(F)
Temporary Uses					
Commercial Filming, Limited	P	P	P	P	
Personal Property Sales	P	P	P	P	
Street Fairs	U	U	U	U	
Nonconforming	-	-	-	-	(G)
Other Uses					
Cultivation of Cannabis for Personal Use, Indoors or Outdoors (Residential Cultivation of Cannabis)	P	P	P	P	(H)

RS, RM, and RH Districts: Additional Use Regulations

L-1 Residential use shall be allowed by right for housing development projects on vacant sites designated in two consecutive prior housing elements and nonvacant sites designated in one prior housing element, as described in Chapter III, Sites Inventory, and shown in Appendix D, Table A of the housing element, pursuant to Government Code Section 65583.2(i) where at least 20 percent of units are provided as affordable to extremely low-, very low- or low-income households.

L-2 In the HZ district, uses are permitted on the ground floor of multifamily residential buildings when not exceeding 20 percent of gross floor area.

L-3 Use permit required, and no on-site retail sales permitted. Shall not include cannabis cultivation.

L-4 Development services director use permit required.

L-5 In the RS district, only youth centers may be permitted with approval of a use permit, if operated by a public or non-profit organization and located within a half-mile of a secondary school.

L-6 In the RS and RM districts, a day care center is a permitted use only when operated on the grounds within the facilities of a duly permitted religious assembly or school.

L-7 Limited to facilities on sites of fewer than two acres. Use permit required for private noncommercial facilities, including swim clubs and tennis clubs.

L-8 Only permitted when accessory to a duly permitted club, lodge, cultural institution, religious assembly or school.

(A) See BMC 17.70.300, Animals.

(B) See BMC 17.70.390, Emergency shelter.

(C) See BMC 17.70.060, Accessory dwelling units.

(D) See BMC 17.70.370, Cottage food operations, and BMC 17.70.070, Home-based businesses.

(E) See BMC 17.70.410, Donation and collection bins.

(F) See BMC 17.70.450, Short-term rentals.

(G) See Chapter 17.98 BMC, Nonconforming Uses and Structures.

(H) See Chapter 17.84 BMC, Cannabis.

Section 10.

Section 17.24.030 (RS, RM, RH and HZ districts – Property development regulations) of Chapter 17.24 (Residential Districts) of Title 17 (Zoning) of the Benicia Municipal Code

is hereby amended to modify the property development regulations table and additional regulations as follows:

RS, RM, RH and HZ Districts: Property Development Regulations

	Districts				Additional Regulations
	RS	RM	RH	HZ	(T)
Site Area per Unit (sq. ft.)	6,000	3,000	2,000	580	
With density bonus for:					
Low- or Moderate-Income Housing	4,800	2,400	1,600	–	(A)
Elderly Housing	–	2,000	1,300	–	(A)
Low-Income Elderly Housing	–	1,500	1,000	–	(A)
Minimum Site Area (sq. ft.)	6,000	6,000	7,500	20,000	(B)(C)(D)
Minimum Site Width (ft.)	60	60	60	60	(R)(S)
Minimum Yards:					(V)
Front (ft.)	20	20	20	10	(E)(F)
Side (ft.)	5	6; 10	6; 10	10	(E)(G)(H)
Corner Side (ft.)	10	15	15	10	(E)
Rear (ft.)	15	15	15	15	(E)(G)
Courts					(I)
Maximum Height (ft.)	30	35	35	72	(J)(K)(U)
Maximum Coverage	40%	45%	50%	75%	
Maximum Nonresidential (FAR)	0.4	0.45	0.5	–	(L)
Open Space					(M)
Minimum Site Landscaping	35%	30%	30%	10%	(N)(O)
Fences and Walls					(P)
Off-Street Parking and Loading					(Q)
Signs	See Chapter 17.78 BMC				
Relocated Buildings	See BMC 17.70.020				
Accessory Structures	See BMC 17.70.050, and 17.74.190				

RS, RM, RH and HZ Districts: Property Development Regulations

	Districts				Additional Regulations
	RS	RM	RH	HZ	(T)
Swimming Pools and Hot Tubs	See BMC 17.70.080				
Outdoor Facilities	See BMC 17.70.200 , Outdoor facilities, and BMC 17.70.250 , Satellite antennas and microwave equipment				
Screening of Mechanical Equipment	See BMC 17.70.210 and 17.70.250				
Refuse Storage Areas	See BMC 17.70.220				
Underground Utilities	See BMC 17.70.230				
Performance Standards	See BMC 17.70.240				
Nonconforming Structures	See Chapter 17.98 BMC				

RS, RM, RH and HZ Districts: Additional Development Regulations

(V) See BMC 17.70.040, Religious assembly yard requirements.

Section 11.

Table 17.26-1 (MU-I Allowed Uses and Permits Required) of Section 17.26.020 (Mixed use infill (MU-I) district) of Chapter 17.26 (Mixed Use Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

Table 17.26-1: MU-I Allowed Uses and Permits Required

Land Use	MU-I	Additional Regulations
Residential Uses		(A)
Family Day Care, Large	P	
Family Day Care, Small	P	L-1
Group Residential	P	L-1
Work/Live Quarters	P	L-1
Multifamily Residential	P	L-1
Residential Care, Limited	P	L-1
Supportive Housing	P	L-1
Transitional Housing	P	L-1

Table 17.26-1: MU-I Allowed Uses and Permits Required

Land Use	MU-I	Additional Regulations
Public and Semipublic Uses		
Adult Day Health Care	U	
Clubs and Lodges	P	L-1
Convalescent Facilities	P	L-1
Cultural Institutions	P	
Day Care Center	U	
Emergency Shelter	P	(B)
Government Offices	P	L-1
Parks and Recreation Facilities	P	
Public Safety Facilities	U	
Religious Assembly	U	
Residential Care, General	P	
Schools, Public or Private	U	
Utilities, Minor	P	
Commercial Uses		L-2
Animal Sales and Services		
Animal Grooming	P	
Animal Hospitals	U	L-3
Animals – Retail Sales	P	L-4
Artists’ Studios	P	
Banks and Savings and Loans	P	
Commercial Filming	U	
Commercial Recreation and Entertainment, Indoor	P	
Communication Facilities	U	
Conference and Meeting Facilities	U	
Eating and Drinking Establishments	P	
With Wine and Beer Service	P	
With Full Alcoholic Beverage Service	P	L-5
With Live Entertainment	P	L-6
With Outdoor Entertainment	U	

Table 17.26-1: MU-I Allowed Uses and Permits Required

Land Use	MU-I	Additional Regulations
Food and Beverage Sales	P	
Alcoholic Beverage Sales – Off-premise	U	
Health/Fitness Facility	P	
Laboratories	P	L-1
Maintenance and Repair Services	U	
Nurseries	U	
Offices, Business and Professional	P	L-1
Outdoor Entertainment	U	
Personal Improvement Services	P	
Personal Services	P	
Research and Development Services	P	L-1
Retail Sales	P	
Secondhand Appliances/Clothing	P	
Vehicle/Equipment Sales and Services		
Service Stations	-	L-7
Visitor Accommodations		
Bed and Breakfast Inns	P	L-1
Hotels and Motels	P	L-1
Accessory Uses	P/U	
Accessory Dwelling Unit	P	(C)
Cottage Food Operations	P	(D)
Home-Based Businesses	P	(E)
Short-Term Rentals	P	(F)
Temporary Uses		
Christmas Tree Sales	P	
Commercial Filming, Limited	P	
Religious Assembly	U	
Retail Sales, Outdoor	U	

Table 17.26-1: MU-I Allowed Uses and Permits Required

Land Use	MU-I	Additional Regulations
Nonconforming	-	(G)
Other Uses		
Cultivation of Cannabis for Personal Use, Indoors or Outdoors (Residential cultivation of cannabis)	P	(H)
Key: P = Permitted; U = Use Permit; L = Limited (See Additional Regulations)		

MU-I Additional Regulations:

L-1 A use permit is required when the use occupies ground floor space facing the street in locations shown in Figure 17.26-1. In all other locations, the use is permitted (“P”). See BMC 17.26.020(A)(2). For residential use limitations in existing shopping centers, see BMC 17.26.020(A)(3).

L-2 See BMC 17.26.020(A)(2)(d) for additional permit requirements that apply to commercial uses greater than 3,000 square feet on certain properties fronting Military East and/or East Fifth Street.

L-3 Permit requirements for animal boarding and animal hospitals are the same as in the CG district.

L-4 Permitted use (“P”) only in a shopping center. Not allowed in all other locations.

L-5 A drinking establishment which is not part of a larger restaurant and operates between 10:00 p.m. and 7:00 a.m. requires a use permit.

L-6 Live entertainment is permitted only when it occurs indoors, is accessory to the primary eating and drinking establishment, and is limited to the hours between 11:00 am to 10:00 pm.

L-7 Only service stations existing in a shopping center as of December 31, 2022, are allowed. A use permit shall be required to replace or make a major alteration to an existing service station. For the purposes of this section, “major alteration” means the construction or alteration of 2,500 square feet or more of new floor area and/or any change of use or alteration that would increase the number of parking spaces by 10 percent or more than the total number required prior to the alteration.

(A) See BMC 17.70.300, Animals.

(B) See BMC 17.70.390, Emergency Shelter .

(C) See BMC 17.70.060, Accessory dwelling units.

- (D) See BMC 17.70.370, Cottage food operations.
- (E) See BMC 17.70.070, Home based businesses.
- (F) See BMC 17.70.450, Short-term rentals.
- (G) See Chapter 17.98 BMC, Nonconforming Uses and Structures.
- (H) See Chapter 17.84 BMC, Cannabis.

Section 12.

Table 17.26-3 (MU-L Allowed Uses and Permits Required) of Section 17.26.030 (Mixed use limited (MU-L) district) of Chapter 17.26 (Mixed Use Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

Table 17.26-3: MU-L Allowed Uses and Permits Required

Land Use	MU-L	Additional Regulations
Residential Uses		(A)
Family Day Care, Large	P	
Family Day Care, Small	P	
Group Residential	P	
Work/Live Quarters	P	
Multifamily Residential	P	
Residential Care, Limited	P	
Single-Family Residential	P	
Supportive Housing	P	
Transitional Housing	P	
Public and Semipublic Uses		
Adult Day Health Care	U	
Clubs and Lodges	U	
Convalescent Facilities	U	
Cultural Institutions	P	
Day Care Center	U	
Government Offices	U	
Low-Barrier Navigation Centers	P	
Parks and Recreation Facilities	P	

Table 17.26-3: MU-L Allowed Uses and Permits Required

Land Use	MU-L	Additional Regulations
Residential Care, General	P	
Schools, Public or Private	U	
Utilities, Minor	P	
Public Safety Facilities	U	
Commercial Uses		
Artists' Studios	P	
Health/Fitness Facility	P	L-1
Offices, Business and Professional	U	L-2
Personal Improvement Services	U	L-2
Personal Services	U	L-2
Bed and Breakfast Inns	U	
Accessory Uses	P/U	
Accessory Dwelling Unit	P	(B)
Cottage Food Operations	P	(C)
Home-Based Businesses	P	(D)
Short-Term Rentals	P	(E)
Nonconforming	-	(F)
Other Uses		
Cultivation of Cannabis for Personal Use, Indoors or Outdoors (Residential cultivation of cannabis.)	P	(G)
Key: P = Permitted; U = Use Permit; L = Limited (See Additional Regulations)		

MU-L Additional Regulations:

L-1 Health/fitness facilities are permitted; except that a use permit shall be required for facilities that are open for business prior to 7:00 a.m. Monday through Saturday, or prior to 8:00 a.m. Sunday, or after 10:00 p.m. any day of the week

L-2 Development services director use permit required.

(A) See BMC 17.70.300, Animals.

- (B) See BMC 17.70.060, Accessory dwelling units.
- (C) See BMC 17.70.370, Cottage food operations.
- (D) See BMC 17.70.070, Home based businesses.
- (E) See BMC 17.70.450, Short-term rentals.
- (F) See Chapter 17.98 BMC, Nonconforming Uses and Structures.
- (G) See Chapter 17.84 BMC, Cannabis.

Section 13.

Section 17.28.010 (Specific purposes) of Chapter 17.28 (Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to strike subsection A.10 as follows:

- A. In addition to the general purposes listed in Chapter [17.04](#) BMC, the specific purposes of commercial districts are to:
 - 1. Provide appropriately located areas consistent with the general plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region;
 - 2. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities;
 - 3. Create suitable environments for various types of commercial uses, and protect them from the adverse effects of inharmonious uses;
 - 4. Minimize the impact of commercial development on adjacent residential districts;
 - 5. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located;
 - 6. Provide opportunities for residential development on the site of commercial development or on separate sites in certain commercial districts;
 - 7. Ensure the provision of adequate off-street parking and loading facilities;
 - 8. Provide sites for public and semipublic uses needed to complement commercial development or compatible with a commercial environment;
 - 9. Preserve a balanced mix of locally, regionally, and nationally based businesses and small and medium sized businesses to maintain and promote the long-term economic health of businesses and the community as a whole;

Section 14.

Section 17.28.020 (CC, CO, CG and CW districts – Land use regulations) of Chapter 17.28 (Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Residential					
Group Residential	–	–	U	–	L-1
Work/Live Quarters	P	–	P	P	L-1
Multifamily Residential	P	P	–	P	L-1, L-2
Residential Care, Limited	P	P	–	P	L-1, L-2
Single-Family Residential	P	P	–	P	L-1, L-2
Supportive Housing	P	P	–	P	L-1
Transitional Housing	P	P	–	P	L-1, L-2
Public and Semipublic					
Adult Day Health Care	U	U	–	U	
Clubs and Lodges	U	U	P	P	
Cultural Institutions	U	U	P	P	
Day Care Center	P	U	–	U	L-3
Emergency Shelter	–	P	P	–	(A)
Government Offices	P	P	P	P	
Hospitals	–	U	U	–	
Low-Barrier Navigation Center	P	P	–	P	
Park and Recreation Facilities	–	–	–	P	
Public Safety Facilities	U	U	U	U	
Religious Assembly	P	U	U	U	
Residential Care, General	P	P	–	P	L-2
Schools, Public or Private	U	–	–	–	
Utilities, Major	U	U	U	U	
Waste Facility	–	–	–	–	
Utilities, Minor	P	P	P	P	
Commercial Uses					

CC, CO, CG, and CW Districts: Land Use Regulations

P – Permitted

U – Use Permit

L – Limited (See “Additional Use Regulations”)

– – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Adult Businesses	–	–	P	–	(B)
Ambulance Services	–	–	P	–	
Animal Sales and Services					
Animal Boarding	–	–	P	–	L-4
Animal Grooming	P	–	P	–	L-4
Animal Hospitals	–	P	P	–	L-4
Animals – Retail Sales	–	–	P	P	
Artists’ Studios	P	P	P	P	
Banks and Savings and Loans	–	P	P	–	
Banks and Savings and Loans with Drive-Up Service	–	U	U	–	
Building Materials and Services	–	–	P	–	
Catering Services	P	P	P	P	
Commercial Filming	U	U	U	U	
Commercial Recreation and Entertainment, Indoor	U	–	P	–	
Communication Facilities	–	–	P	–	
Conference and Meeting Facilities	U	U	P	P	L-5
Eating and Drinking Establishments	P	P	P	P	
With Wine and Beer Service	P	P	P	P	
With Full Alcoholic Beverage Service	P	P	P	P	L-6
With Live Entertainment	–	–	P	P	L-7, (C)
With Drive-Up	U	–	P	–	L-8
Food and Beverage Sales	P	–	P	P	L-9
Alcoholic Beverage Sales – Off-premise	–	–	U	–	
Convenience Market	U	–	U	U	L-10
Funeral and Interment Services	P	U	P	–	L-11
Health/Fitness Facility	P	P	P	–	L-12
Laboratories	–	P	P	–	
Maintenance and Repair Services	–	–	P	–	

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Marinas	–	–	–	P	
Marine Sales and Services	–	–	–	P	
Nurseries	U	–	P	–	
Offices, Business and Professional	P	P	P	P	
Outdoor Entertainment	U	U	U	U	(D)
Pawn Shops	–	–	P	–	
Personal Improvement Services	U	U	U	–	L-13
Personal Services	P	P	P	P	L-14
Research and Development Services	–	–	P	–	
Retail Sales	P	–	P	P	
Secondhand Appliances/Clothing	–	–	P	–	
Sports and Entertainment, Assembly	–	–	U	–	
Swap Meet, Recurring	–	–	U	–	
Truck Stop	–	–	U	–	
Vehicle/Equipment Sales and Services					
Automobile Rentals	–	–	U	–	L-15
Automobile Washing	–	–	U	–	
Service Stations	U	–	U	–	L-16, (E)
Vehicle/Equipment Repair	–	–	U	–	L-17
Vehicle/Equipment Sales and Rentals	–	–	P	–	
Visitor Accommodations					
Bed and Breakfast Inns	U	U	P	P	L-17
Hotels and Motels	–	–	P	P	
Accessory Uses	P/U	P/U	P/U	P/U	
Donation and Collection Bins	P	P	P	P	L-18, (F)
Home-Based Businesses	P	P		P	(G)

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Temporary Uses					
Animal Shows	–	–	U	–	
Christmas Tree Sales	P	P	P	P	
Circuses and Carnivals	–	–	U	U	
Commercial Filming, Limited	P	P	P	P	
Religious Assembly	P	U	U	U	
Retail Sales, Outdoor	U	U	U	U	
Swap Meets					
Nonrecurring	U	U	U	U	
Nonconforming	–	–	–	–	(H)
Other Uses					
Cultivation of Cannabis for Personal Use, Indoors or Outdoors (Residential cultivation of cannabis)	P	P	P	P	(I)
Cannabis Laboratories	–	U	–	–	(I)
Cannabis Retail Operation	U	–	U	U	(I)

CC, CO, CG, and CW Districts: Additional Use Regulations

L-1 Residential use shall be allowed by right for housing development projects on vacant sites designated in two consecutive prior housing elements and nonvacant sites designated in one prior housing element, as described in Chapter III, Sites Inventory, and shown in Appendix D, Table A of the housing element, pursuant to Government Code Section 65583.2(i) where at least 20 percent of units are provided as affordable to lower income households.

L-2 Not permitted on ground level in CC and CO districts.

L-3 A designated drop-off and pick-up area shall be provided on-site, which shall be designed and constructed in concert with the improvements required to comply with Chapter 17.74 (Off-Street Parking and Loading Regulations).

L-4 Development services director use permit required if the following conditions exist:

1. The proposed use is not located in an existing structure which is entirely enclosed, and no outside facilities are proposed;
2. For animal hospitals, or where boarding or overnight care facilities are proposed, the use is not located in a soundproofed and air-conditioned facility.

L-5 Development services director use permit required for facilities holding outdoor events or activities. Indoor-only use is permitted.

L-6 A drinking establishment that is not part of a larger restaurant and operates between 10:00 p.m. to 7:00 a.m. requires a use permit. All other eating and drinking establishments with full alcoholic beverage service are permitted ("P").

L-7 Live entertainment that occurs indoors, is accessory to the primary eating and drinking establishment, and is limited to the hours between 11:00 am to 10:00 pm is permitted. A use permit is required for all other live entertainment.

L-8 Eating and drinking establishments with drive-up facilities shall be designed to comply with the following requirements for vehicle stacking:

1. Each stacking lane shall be separated from the circulation route necessary for ingress and/or egress from the property, or access to any parking space.
2. Stacking lanes shall not cross or pass through off-street parking areas or marked pedestrian accessways.
3. Stacking lanes for drive-through facilities shall have the following minimum widths: one lane – 12 feet; two or more lanes – 10 feet per lane.
4. Stacking lanes for drive-through facilities shall not be located in the required front or corner side yard.

L-9 A use permit is required for establishments occupying more than 1,500 square feet.

L-10 Except as provided below, convenience markets shall not be located within 500 feet of a site occupied by a public or private school, park or recreational facilities, and no exterior vending machines shall be permitted. A convenience market may be located within 500 feet of a site occupied by park or recreational facilities if the proposed convenience market is within 500 feet of an existing retail food and beverage sales establishment. Convenience markets may be operated only between the hours of 6:00 a.m. and 10:00 p.m. Longer hours are permitted only if they would not have an adverse effect on neighborhood uses.

L-11 Only mortuaries may be allowed.

L-12 Health/fitness facilities are permitted; except that in the CC District a use permit shall be required for facilities that are open for business prior to 7:00 a.m. Monday through Saturday, or prior to 8:00 a.m. Sunday, or after 10:00 p.m. any day of the week

L-13 Development services director use permit required ~~only~~ for dance and music studios if the following conditions exist:

1. The proposed use is not located in an existing structure which is completely enclosed and soundproofed, or is located at least 300 feet away from the property line of the nearest residential use;
2. The proposed use will ~~not~~ operate prior to 7:00 a.m. Monday through Saturday, or prior to 8:00 a.m. Sunday, or after 10:00 p.m. any day of the week.

L-14 No self-service laundries permitted in CO district.

L-15 Only limousine and taxi service may be allowed.

L-16 No repair services are permitted in CC district.

L-17 Development services director use permit required.

L-18 Only permitted in CC, CO and CW districts when accessory to a duly permitted club, lodge, cultural institution, religious assembly or school.

(A) See BMC 17.70.390, Emergency shelter.

(B) An adult business offering live entertainment shall be subject to the requirements of Chapters 5.44 and 17.102 BMC.

(C) See BMC 17.70.100, Live entertainment.

(D) See BMC 17.70.400, Outdoor entertainment.

(E) See BMC 17.70.110, Service stations, vehicle/equipment repair, and automobile washing.

(F) See BMC 17.70.410, Donation and collection bins.

(G) See BMC 17.70.070, Home based businesses.

(H) See Chapter 17.98 BMC, Nonconforming Uses and Structures.

(I) See Chapter 9.60 BMC, Cannabis Public Safety License, and Chapter 17.84 BMC, Cannabis.

Section 15.

Section 17.28.030 (CC, CO, CG and CW districts – Property Development Regulations) of Chapter 17.28 (Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal

Code is hereby amended to modify the property development regulations table and additional regulations as follows:

CC, CO, CG, and CW Districts: Property Development Regulations

Use Classifications	CC	CO	CG	CW	Additional
Residential development					(A)
Minimum Lot Area (sq. ft.)	10,000	10,000	7,500	5,000	(B)(C)
Minimum Lot Width (ft.)	70	70	60	50	
Minimum Yards:					(T)
Front (ft.)	15	15	10	15	(D)(R)
Side (ft.)	–	–	–	–	(D)(E)(F)(R)
Corner Side Rear (ft.)	–	–	–	–	(D)(E)(F)(R)
Maximum Height (ft.) of Structures	40	40	40	40	(G)(H)
Maximum Lot Coverage	50%	50%	75%	50%	
Maximum Nonresidential FAR	0.8	0.8	1.2	0.8	
Maximum FAR	1.2	1.2	1.2	1.2	(S)
Minimum Site Landscaping	20%	20%	10%	20%	(I)(J)
Outdoor Living Area					(K)(L)
Fences and Walls					(M)(N)
Off-Street Parking and Loading					(O)(P)
Signs	See Chapter 17.78 BMC				
Accessory Structures	See BMC 17.70.050				
Relocated Buildings	See BMC 17.70.020				
Swimming Pools and Hot Tubs	See BMC 17.70.080				
Outdoor Facilities	See BMC 17.70.200				(Q)
Screening of Mechanical Equipment	See BMC 17.70.210				(Q)
Refuse Storage Areas	See BMC 17.70.220				
Underground Utilities	See BMC 17.70.230				
Performance Standards	See BMC 17.70.240				
Nonconforming Structures	See Chapter 17.98 BMC				

CC, CO, CG, or CW Districts: Additional Development Regulations

(T) See BMC 17.70.040, Religious assembly yard requirements.

Section 16.

Section 17.32.021 (IL, IG, IW and IP districts – Land use regulations) of Chapter 17.32 (Industrial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

IL, IG, IW, and IP Districts: Land Use Regulations

P – Permitted

U – Use Permit

L – Limited (See “Additional Use Regulations”)

– – Not Permitted

	IL	IG	IW	IP	Additional Regulations
Residential					
Work/Live Quarters	U	–	–	–	L-1
Public and Semipublic					
Adult Day Health Care	U	U	–	U	L-1, L-2
Clubs and Lodges	P	P	–	P	L-1, L-3
Cultural Institutions	U	U	–	U	L-1
Day Care, General	U	U	–	U	L-1, L-2
Government Offices	U	U	U	U	L-1
Heliports	U	U	U	U	L-1, L-4
Maintenance and Service Facilities	P	P	P	–	L-1
Public Safety Facilities	P	P	P	P	L-5
Religious Assembly	U	U	–	U	L-1 L-6
Utilities, Major	U	U	U	U	L-1
Waste Facility	–	U	–	–	L-1
Utilities, Minor	P	P	P	P	L-1
Commercial Uses					
Adult Business	P	P	–	P	(A)
Ambulance Services	P	P	–	P	
Animal Sales and Services					
Animal Boarding	P	–	–	–	L-5
Animal Hospitals	P	P	–	–	L-5

IL, IG, IW, and IP Districts: Land Use Regulations

P – Permitted

U – Use Permit

L – Limited (See “Additional Use Regulations”)

– – Not Permitted

	IL	IG	IW	IP	Additional Regulations
Artists’ Studios	P	–	–	P	L-5
Banks and Savings and Loans	P	P	–	P	L-7
Building Materials and Services	P	P	P	P	L-5, L-8
Cannabis Retail Operation	–	–	–	–	(B)
Catering Services	P	P	–	P	
Commercial Filming	P	P	P	P	L-5
Commercial Recreation and Entertainment, Indoor	–	U	–	–	L-9
Communication Facilities	P	P	P	P	
Eating and Drinking Establishments	P	P	P	P	L-10
Mobile Food Vending	P	P	P	P	(C)
With Wine and Beer Service	P	P	P	P	L-10
With Full Alcoholic Beverage Service	P	P	P	P	L-10, L-11
Food and Beverage Sales	P	P	–	P	L-12, L-13
Funeral and Interment Services	P	–	–	–	L-14
Health/Fitness Facility	P	U	–	–	L-15
Horticulture, Limited	P	P	–	–	
Laboratories	P	P	–	P	
Maintenance and Repair Services	P	P	P	P	L-8
Marine Sales and Services	–	–	P	–	
Nurseries	P	P	–	U	
Offices, Business and Professional	–	–	–	P	L-16
Personal Improvement Services	P	P	–	P	L-17
Personal Services	P	P	–	P	L-18
Research and Development Services	P	P	P	P	L-8
Vehicle/Equipment Sales and Services					
Automobile Washing	U	P	–	–	L-19, (D)
Service Stations	U	U	U	U	L-8, L-20

IL, IG, IW, and IP Districts: Land Use Regulations

P – Permitted

U – Use Permit

L – Limited (See “Additional Use Regulations”)

– – Not Permitted

	IL	IG	IW	IP	Additional Regulations
Vehicle/Equipment Repair	P	P	–	–	L-21
Vehicle/Equipment Sales and Rentals	U	P	–	–	L-22
Vehicle Storage	U	U	U	–	L-8
Warehousing and Storage, Limited	P	P	P	U	L-8
Industrial					
Industry, Custom	P	P	P	P	L-8
Industry, General	–	P	P	U	L-8, L-23
Industry, Limited	P	P	P	P	L-8
Small-Scale	P	P	P	P	L-8
Industry, Research and Development	P	P	P	P	L-8
Industry, Technology	P	P	P	P	L-8
Port Terminals	–	–	P	–	
Wholesaling, Distribution and Storage					
Wholesaling and Distribution	P	P	P	U	L-8
Warehousing and Transportation	P	P	P	U	L-8
Trucking Terminal/Freight Transfer Station	U	U	P	–	L-8
Package Distribution	P	P	P	U	L-8
Agricultural and Extractive Uses					
Mining and Processing	–	U	–	–	L-1
Accessory Uses	P/U	P/U	P/U	P/U	L-1, (E)
Temporary Uses					
Animal Shows	U	U	–	–	L-1
Christmas Tree Sales	P	P	–	–	L-1
Circuses and Carnivals	–	U	–	–	L-1

IL, IG, IW, and IP Districts: Land Use Regulations

- P – Permitted
 U – Use Permit
 L – Limited (See “Additional Use Regulations”)
 – – Not Permitted

	IL	IG	IW	IP	Additional Regulations
Retail Sales – Outdoor	U	U	U	–	L-1
Swap Meets – Nonrecurring	U	U	–	–	L-1
Trade Fairs	U	U	U	U	L-1
Nonconforming	–	–	–	–	((F))
Other Uses					
Cannabis Cultivation Operation	U	U	U	U	(B)
Cannabis Delivery-Only Operation	U	U	U	U	(B)
Cannabis Distribution	U	U	U	U	(B)
Cannabis Manufacturing Operation	U	U	U	U	(B)
Cannabis Microbusiness	U	U	U	U	(B)
Cannabis Testing Laboratory	U	U	U	U	(B)

IL, IG, IW, and IP Districts: Additional Use Regulations

L-1 Evaluate a nonindustrial or noncommercial project against the following criteria when considering findings for use permits or variances:

1. Will the project create substantial conflicts with existing industrial and commercial traffic?
2. Will the project be subject to excessive glare, noise or vibration from adjacent industrial/commercial uses? (Refer to general plan for noise criteria)
3. Will the project be exposed to hazardous materials or risks that would create health and safety hazards for persons occupying or visiting the project?
4. Will the project be located on an arterial street, or located in an area which would bring nonindustrial traffic onto local streets?

L-2 Limited to facilities accessory to manufacturing, wholesaling, or distribution, and not exceeding 25 percent of the floor area occupied by the principal use.

L-3 Only trade union halls, including their accompanying business offices, are permitted.

L-4 Allowed with a use permit and heliport permit from the California Department of Transportation, Division of Aeronautics if located 1,000 or more feet from a residential district.

L-5 Development services director use permit required if the following conditions exist:

1. The proposed use is not located in an existing structure which is entirely enclosed, and no outside facilities are proposed;
2. For animal hospitals, or where boarding or overnight care facilities are proposed, the use is not located in a soundproofed and air-conditioned facility.

L-6 No day care facilities or schools shall be permitted as part of a religious assembly facility.

L-7 Only automatic teller machines allowed.

L-8 In IW district, only water-related uses allowed.

L-9 Only indoor sports training and practice, archery and shooting galleries in a standalone, single-tenant facility on parcels fronting along Bayshore Road or along East Second Street between Stone Road and Wanger Street.

L-10 Permitted as a secondary use in a building occupying no more than 2,500 square feet of the building area. A development services director use permit is required for secondary uses occupying building areas greater than 2,500 square feet but not more than 5,000 square feet, or where the use is the primary use of a building. Not permitted for uses larger than 5,000 square feet.

L-11 Full Alcoholic Beverage Service is permitted only as part of an eating establishment. Drinking establishments are not permitted.

L-12 Permitted up to 1,000 square feet in IL and IG districts. Use permit required for establishments occupying more than 1,000 square feet in IL and IG districts.

L-13 In IP district, only delicatessens and food stores occupying fewer than 1,000 square feet are permitted.

L-14 Only crematories, columbariums, and mausoleums allowed.

L-15 Health/fitness facility shall not occupy more than 5,500 square feet of floor area. In the General Industrial District, health/fitness facilities are conditionally permitted only on parcels fronting along East Second Street between Industrial Way and Stone Road.

L-16 Medical/dental offices, insurance brokerage offices, and real estate brokerage offices not permitted.

L-17 Only business and trade schools permitted.

L-18 Only beauty shops and barbershops permitted.

L-19 Only truck tractor and trailer washing permitted.

L-20 Only stations offering controlled services to individual uses within an industrial area are allowed, subject to a use permit.

L-21 Only truck and equipment repair primarily serving industrial activities are permitted by right; a development services director use permit may be granted for automobile repair and for repair services that cater to the general public if the following conditions exist:

1. The proposed use is not located in an existing structure on a major arterial or on a street which connects to a major arterial, and is readily accessible to residential and commercial areas;
2. No outdoor repair or maintenance activities are proposed in conjunction with the use;
3. No outdoor storage of vehicles or equipment will take place during nonbusiness hours;
4. The applicant can demonstrate that the proposed site will meet zoning ordinance parking requirements.

L-22 New or used automobile, truck or motorcycle retail sales shall be permitted only as an accessory to wholesale operations.

L-23 In IG district, general industrial uses are permitted by right except that a use permit is required for oil and gas refining.

(A) An adult business offering live entertainment shall be subject to the requirements of Chapters 5.44 and 17.102 BMC.

(B) See Chapter 9.60 BMC, Cannabis Public Safety License, and Chapter 17.84 BMC, Cannabis.

(C) See BMC 17.70.380, Mobile food vendors.

(D) See BMC 17.70.110, Service stations, vehicle/equipment repair, and automobile washing.

(E) Maximum: One dwelling unit per site as caretaker's housing.

(F) See Chapter 17.98 BMC, Nonconforming Uses and Structures.

Section 17.

Section 17.36.030 (Land use regulations) of Chapter 17.36 (OS Open Space District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

OS District: Land Use Regulations

- P - Permitted
- U - Use Permit
- L - Limited (See "Additional Use Regulations")
- - Not Permitted

	OS	Additional Regulations
Residential		
Employee Housing (for farmworkers)	P	(A)
Residential Care, Limited	P	L-1, (B)
Single-Family Residential	P	L-1, (B)
Supportive Housing	P	L-1
Transitional Housing	P	L-1
Public and Semipublic		
Cemetery	U	(C)
Day Care Center	P	L-2
Government Offices	P	L-3, (C)
Parks and Recreation Facilities	P	L-4
Public Safety Facilities	P	(C)
Religious Assembly	U	(C)
Residential Care, General	P	L-1, (B)
Utilities, Major	U	(C)
Waste Facility	U	(C)
Utilities, Minor	P	
Utilities, Solar	U	(D)
Commercial Uses		
Commercial Filming	U	L-4
Commercial Recreation and Entertainment, Indoor	U	(C)
Eating and Drinking Establishments	U	L-3
Horticulture, Limited	U	L-4, L-5
Sports and Entertainment, Assembly	U	(C)
Agricultural and Extractive Uses		

OS District: Land Use Regulations

- P - Permitted
- U - Use Permit
- L - Limited (See "Additional Use Regulations")
- - Not Permitted

	OS	Additional Regulations
Animal Husbandry	P	L-4
Crop Production	P	L-4
Accessory Uses	P/U	L-4, L-6
Donation and Collection Bins	U	L-7, (E)
Temporary Uses		
Animal Shows	U	L-4
Circuses and Carnivals	U	L-4
Commercial Filming, Limited	P	L-4
Nonconforming	-	(E)
Other Uses		
Cultivation of Cannabis for Personal Use, Indoors or Outdoors (Residential cultivation of cannabis)	P	(G)

OS District: Additional Use Regulations

L-1 Not permitted on lands outside the urban growth boundary as delineated on the general plan land use diagram. On lands inside the urban growth boundary, limited to one primary dwelling unit and one accessory dwelling unit per site, subject to the requirements of BMC 17.70.060, Accessory dwelling units.

L-2 A day care center is permitted only when located on the grounds and within the facilities of a duly permitted religious assembly use.

L-3 Permitted as part of a park or recreational facility, public safety facility, or utility.

L-4 Allowed only if no urban services are provided.

L-5 Use permit required, and no on-site retail sales permitted.

L-6 Limited to facilities incidental to an open space use.

L-7 Only permitted when accessory to a duly permitted religious assembly.

(A) See BMC 17.70.460, Employee housing (for farmworkers)

- (B) See BMC 17.70.300, Animals.
- (C) Not permitted on lands outside the urban growth boundary as delineated on the general plan land use diagram, amended by approval of Measure K by a vote of the people, November 4, 2003.
- (D) See BMC 17.70.420, Solar utilities.
- (E) See BMC 17.70.410, Donation and collection bins.
- (F) See Chapter 17.98 BMC, Nonconforming Uses and Structures.
- (G) See Chapter 17.84 BMC, Cannabis

Section 18.

Section 17.40.030 (Land use regulations) of Chapter 17.40 (PS Public and Semipublic District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations table and additional regulations as follows:

PS District: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	PS	Additional Regulations
Public and Semipublic		
Adult Day Health Care	U	
Cemetery	U	
Clubs and Lodges	U	
Convalescent Facilities	U	
Cultural Institutions	U	
Day Care Center	P	L-1
Detention Facilities	U	
Emergency Shelter	P	(A)
Government Offices	P	
Heliports	U	L-2
Hospitals	U	
Maintenance and Service Facilities	U	
Park and Recreation Facilities	P	
Public Safety Facilities	U	
Religious Assembly	U	
Residential Care, General	U	

PS District: Land Use Regulations

- P - Permitted
- U - Use Permit
- L - Limited (See "Additional Use Regulations")
- - Not Permitted

	PS	Additional Regulations
Schools, Public or Private	U	
Utilities, Major	U	
Waste Facility	U	
Utilities, Minor	P	
Commercial Uses		
Commercial Filming	U	
Sports and Entertainment, Assembly	U	
Accessory Uses		
Donation and Collection Bins	P	L-3, (B)
Temporary Uses		
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming, Limited	P	
Trade Fairs	U	
Nonconforming	-	(C)
Other Uses		

PS District: Additional Use Regulations

L-1 Day care center is a permitted use only when operated within the existing facilities of a religious assembly, school, park and recreation facility, or club and lodge.

L-2 Allowed with use permit and heliport permit from California Department of Transportation, Division of Aeronautics if located more than 1,000 feet from an R district.

L-3 Only permitted when accessory to a duly permitted club, lodge, cultural institution, religious assembly or school.

(A) See BMC 17.70.390, Emergency shelter.

- (B) See BMC 17.70.410, Donation and collection bins.
- (C) See Chapter 17.98 BMC, Nonconforming Uses and Structures.
- (D) See BMC 17.70.410, Donation and collection bins.

Section 19.

Section 17.70.070 (Home Occupations) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby renamed “Home-based businesses” and the regulations are hereby repealed in their entirety and replaced with the following:

17.70.070 Home-based businesses.

- A. Purpose. The purpose of this section is to allow home-based businesses on a limited basis, where such activity is incidental and subordinate to the residential use of the property. The intent of this section is to ensure that home-based businesses are compatible with, and do not change the character of, the surrounding residential area by generating more traffic, noise, odors, visual impacts, or storage of materials than would normally be expected in a residential district.
- B. Limitations.
 - 1. A home-based business shall be conducted entirely within a dwelling unit.
 - 2. A home-based business shall be incidental and subordinate to the primary residential use of the dwelling and shall occupy no more than 500 square feet of floor area.
- C. Conditions. Operation of a home-based business shall comply with the following:
 - 1. Outdoor activities are prohibited, including, but not limited to, the following:
 - a. Outdoor placement, storage, delivery or distribution of goods, equipment, debris or materials.
 - b. Conducting business activities outdoors.
 - c. Outdoor assembly of persons on or adjacent to the property.
 - 2. The existence of a home-based business shall not be apparent beyond the boundaries of the site.
 - 3. No sign, nameplate or any other form of advertising shall be displayed on the premises in connection with any home-based business. There shall be no advertising of the address of the home-based business that results in attracting persons to the premises.

4. No home-based business shall permit employees who do not reside in the home to gather at, or work from, the home.
 5. A home-based business shall comply with the performance standards prescribed by BMC 17.70.240. No noise, dust or odors shall be perceptible at or beyond the property line.
 6. A home-based business shall not be open to visitors without prior appointments.
 7. No more than two students may be given instruction in music, academics, dance, art, fitness or other subjects as determined by the Development Services Director in a dwelling at one time. No student may be given instruction between the hours of 8:00 p.m. to 9:00 a.m.
 8. Not more than one truck, with a maximum capacity of one ton, incidental to a home-based business may be kept on the premises.
 9. Deliveries shall be limited to the frequency of deliveries and types of vehicles (e.g., postal truck and parcel delivery) normally associated with residential neighborhoods.
 10. The maximum number of daily business trips generated from a home-based business shall not exceed one hundred twenty-five percent (125%) of the average number of daily trips generated from a residence in the City of Benicia, as provided herein.
 - a. For the purposes of this section, a “residence” includes “single-family residence” and “multifamily residence” as categorized by the Institute of Transportation Engineers (ITE) and defined in this Title.
 - b. A “business trip” shall be defined as either the arrival or departure of a non-resident motor vehicle from a home-based business.
 - c. For the purposes of this section, the average number of daily trips for a residence is ten (10).
- D. Permitted home-businesses. Those following uses are permitted subject to compliance with this section and in accordance with the use classifications of Chapter 17.16 BMC:
1. Artists’ Studios
 2. Catering services
 3. Communications Facilities
 4. Horticulture, Limited
 5. Industry, Custom – Limited.

6. Offices, Businesses and Professional (excluding medical and dental offices)
7. Personal Improvement Services
8. Personal Services (excluding massage businesses as defined in Chapter 5.52 Massage, conducted on the premises)
9. Retail sales and secondhand sales (excluding those which attract customers to the premises for on-site transactions or delivery)

Section 20.

Section 17.70.090 (Eating and drinking establishments with take-out service) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby repealed in its entirety.

Section 21.

Section 17.70.100 (Live entertainment) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.70.100 Live entertainment.

The following regulations shall apply to any use offering scheduled live entertainment, as defined in Chapter 17.12 (Definitions):

- A. Exits not limited to emergency use only shall not be opposite an R district adjoining the site.
- B. An establishment offering live entertainment shall ensure that no litter problem will exist.
- C. A use permit for live entertainment shall apply only to the type of entertainment approved, and a different type of entertainment shall require approval of a new use permit.

Section 22.

Section 17.70.290 (Game centers) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby repealed in its entirety.

Section 23.

Section 17.70.350 (Formula businesses) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby repealed in its entirety.

Section 24.

Section 17.70.380 (Mobile food vendors) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.70.380 Mobile food vendors.

- A. Applicability. Mobile food vending is permitted on private property Industrial Districts only, as specified in BMC 17.32.020 (IL, IG, IW and IP districts – Land use regulations).
- B. Location.
 - 1. Mobile food vehicles shall not be parked within 200 feet of an existing brick and mortar restaurant during the hours when such restaurant is open to the public for business.
 - 2. Mobile food vendors shall not occupy any parking space(s) required to fulfill the minimum off-street parking requirements of the principal property use.
 - 3. The vehicle shall not block an entrance, garage, driveway or fire lane for any business or structure, nor extend into the public right-of-way.
 - 4. No mobile food vendor may be parked in a manner that impairs the visibility of a driveway crossing a street property line, as provided in section 17.74.150 (Driveways and intersections – Visibility.).
- C. General Requirements
 - 1. The vendor shall obtain, maintain display all current permits, licenses, and certificates on exterior of the vehicle at all times including from the Department of Motor Vehicles (DMV).
 - 2. The vendor shall maintain a County health permit at all times.
 - 3. The food vending vehicle shall be entirely self-sufficient in regards to gas, water, and telecommunications and shall be a self-propelled vehicle.
 - 4. The vendor shall be prepared to present evidence of the following upon request:
 - a. Written permission from the property owner to occupy the property; and
 - b. Proof of legal access to restroom facilities and access to hand washing facilities for the use of employees within 200 feet of site location per California Retail Food Code, Chapter 10, Section 114315.
- D. Site Conditions.
 - 1. The site shall be maintained in a safe and clean manner at all times.

2. The lot upon which the vendor is parked shall be paved. For purposes of this section, "paved" shall mean asphalt, concrete, pavers, or other permanent surfacing approved by the city engineer.
 3. Exterior storage of refuse, equipment or materials associated with the mobile food vendor is prohibited.
 4. The vendor shall not discharge items, including but not limited to waste water or other fluids, debris or food, onto the property, sidewalk, gutter, or storm inlets.
 5. The vendor shall provide a minimum of two 32-gallon litter receptacles and one 32-gallon recycling receptacle within 15 feet of the vending vehicle and shall remove all refuse from the site and surrounding property on a daily basis.
 6. No mobile food vendor shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
- E. Alcohol. The serving or consumption of alcohol shall be prohibited at mobile food vending sites.
- F. Hours of Operation. The hours of operation shall not exceed 6:00 a.m. to 8:00 p.m. every day. The mobile food vending vehicle shall not be stored on site during nonoperation hours and shall be removed daily.
- G. Noise. The operation of all mobile food vehicles, including generators and ancillary equipment, shall meet the city noise ordinance, Chapter 8.20 (Noise Regulations).
- H. Signs. Signage is only allowed when placed on the mobile food vehicle. No separate freestanding signs are permitted. No flashing or blinking lights are allowed on vehicle or related signage when the vehicle is parked.

Section 25.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 26.

Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 27.

Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

On motion of Council Member _____, seconded by
Council Member _____, the foregoing ordinance was
introduced at a regular meeting of the City Council on the _____ day of _____ 2025,
and adopted at a regular meeting of the Council held on the _____ day of _____ 2025,
by the following vote:

Ayes:

Noes:

Absent:

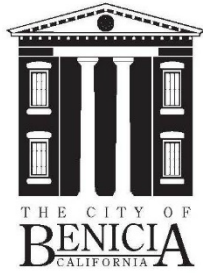
Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



**AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF 2025 STATE WATER PROJECT WATER TRANSFER**

EXECUTIVE SUMMARY:

The City of Benicia, along with other agencies in Solano County, is in a unique situation of having an excess amount of State Water Project (SWP) water. City staff recommends selling up to 2,000 acre-feet of this water for a Transfer Fee of approximately \$300 per acre-foot (AF) from the Solano County Water Agency.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving the 2025 State Water Project Water Transfer Letter of Understanding (LOU) (Attachment 2) for the sale of excess untreated water supply and authorizing the City Manager to sign letter on behalf of the City.

BUDGET INFORMATION:

The revenue of up to \$600,000 from the water sale would be deposited into Account No. 7508020-5503 (Water – Miscellaneous Other Income).

BACKGROUND:

The City is a Solano County Water Agency (SCWA) member. Through SCWA, the City receives water from the State Water Project (Lake Oroville) and the Solano Project (Lake Berryessa).

In 2021, SCWA developed a water exchange and transfer policy (Attachment 3) in conjunction with Solano County cities. The purpose of this policy was to formalize how SCWA conducts water transfers and exchanges while protecting Solano County's primary water sources. The central theme of the policy gives Solano County cities the first right of refusal for any transfers or exchanges before seeking buyers located outside the county. Similarly, to participate in a water transfer or exchange, all Solano County cities who receive SWP water supplies must unanimously agree to participate in the transaction.

Per the contract, the City pays SCWA \$352,600 per fiscal year for its allocation of SWP water. The City's entitlement is 17,200 AF per year. However, the City does not always receive the full amount of the entitlement. For example, in a drought year, such as 2021, the City's allocation was only 5%, meaning the City only received 5%, or 860 AF, of the 17,200 AF entitlement. In 2023, the allocation was 100%. In 2024, the allocation is 65%. In 2025, the allocation is 50%.

Carryover of unused SWP water allocation is allowed. The City is in a position of having excess water. It is expected to be able to sell approximately 2,000 acre-feet of this water for a minimum price of \$300/AF. For reference, the City received \$250/AF in 2024 for a water transfer of 1,707.5 AF for a revenue of \$426,875.

The first step in a water sale (or water transfer) is the LOU. The official water sale would be between SCWA and the buyer.

NEXT STEPS:

If approved, the City and SCWA will sign the LOU. The actual water sale agreement will be between SCWA and the buyer.

ALTERNATIVE ACTIONS:

City Council may choose to not sell the City's excess water.

CEQA Analysis	Because the 2025 Transfer will be delivered through existing facilities, without the construction of new facilities, Benicia and the Agency agree that the 2025 Transfer is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15301 of the State CEQA Guidelines. The Agency shall file a Notice of Exemption for the 2025 Transfer with the Clerk of the Board of Supervisors of Solano County, as well as the county in which the Contractor is located, and shall provide a copy to Benicia.
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ATTACHMENTS:

1. Resolution – 2025 State Water Project Water Transfer
2. 2025 SWP Water Transfer Letter of Understanding
3. Solano County Water Agency Water Transfer and Exchange Policy

For more information contact: Danielle Bonham, Public Works Director

Phone: 707-746-4240

E-mail: DBonham@ci.benicia.ca.us

RESOLUTION NO. 25-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING
THE 2025 STATE WATER PROJECT WATER TRANSFER LETTER OF
UNDERSTANDING FOR THE SALE OF EXCESS UNTREATED WATER SUPPLY
AND AUTHORIZING THE CITY MANAGER TO SIGN LETTER ON BEHALF OF THE
CITY**

WHEREAS, the City is a member of the Solano County Water Agency (SCWA) and pays SCWA to receive an allocation of State Water Project (SWP) water every year; and

WHEREAS, due to surplus conditions in two consecutive water years, the City has an excess water supply of untreated State Water Project SWP water in 2025; and

WHEREAS, the City is in a unique position of being able to potentially sell excess water to another agency who hold a contract to receive water deliveries from the SWP, and require more SWP water than their allocation provides in 2025; and

WHEREAS, the first step of a water sale (or water transfer) is the signing of a Letter of Understanding; and

WHEREAS, the official water sale would be between SCWA and the buyer.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the 2025 State Water Project Water Transfer Letter of Understanding for the sale of excess untreated water supply up to \$600,000 and authorizes the City Manager to sign letter on behalf of the City.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

SOLANO COUNTY WATER AGENCY



July 17, 2025

Danielle Bonham, Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510

Re: City of Benicia's 2025 SWP Water Transfer Letter of Understanding

Dear Ms. Bonham:

This letter of understanding ("LOU") documents and confirms the mutual agreement that has been reached between Solano County Water Agency ("Agency") and the City of Benicia ("Benicia") (collectively the "Parties" and each "Party"). This LOU specifies the terms under which the Agency agrees to transfer approximately 2,000-acre feet (AF) of Benicia's State Water Project ("SWP") water ("2025 Transfer") to a State Water Contractor ("Contractor") outside of Solano County. The specific Contractor has not yet been identified but will be one of the many SWP contractors that are interested in purchasing the water from Benicia. In consideration for the 2025 Transfer, Contractor will pay the Agency a minimum fee of \$300.00 per AF water transferred ("Transfer Fee"), for a projected total of \$600,000, which the Agency will then remit to Benicia. Notwithstanding the foregoing, the Parties may negotiate a higher fee with any such Contractors.

BACKGROUND AND PURPOSE

The Agency holds a contract with the Department of Water Resources ("DWR") to receive imported water deliveries from the SWP. Benicia (along with other agencies in Solano County) is a Member Agency of the Agency and pays the Agency to receive an allocation of SWP water under a separate contract.

As of the date of this LOU, the Agency and City have contacted several SWP contractors outside of Solano County that hold contracts to receive water deliveries from the SWP and require more SWP water than their DWR allocation provides in 2025. Benicia agrees to forego a portion of up to two-thousand acre feet (2,000 AF) of the delivery of the 2025 SWP water to which it is entitled under the Benicia Member Unit Contract and make that water available for transfer to Contractor under the terms and conditions set forth herein.

Pursuant to Benicia's request, the Agency will work with the selected Contractor and DWR to facilitate the 2025 Transfer. The basic parameters of the 2025 Transfer are as follows: Benicia will receive from the Agency a Transfer Fee of \$300.00 per AF, or other reasonably negotiated price, of SWP water transferred to Contractor in the 2025 water year. The amount of 2025 Transfer water is estimated to be up to 2,000 AF, the final price shall be determined by multiplying the total number of acre fee transferred by the agreed-upon price per acre foot.

810 Vaca Valley Parkway, Suite 202 • Vacaville, CA 95688
Phone (707) 451-6090 • Fax (707) 451-6099



The Agency will serve as a "pass through" and facilitator of the 2025 Transfer, and will not receive any financial compensation, water, or other remuneration for these efforts.

TERMS AND CONDITIONS

1. Condition Precedent. DWR's written approval of the 2025 Transfer between the Agency and the Contractor is a condition precedent to the Agency's authorization to proceed under the LOU. DWR's approval shall be provided in the form of an agreement between DWR, the Agency, and the Contractor ("Transfer Agreement").
2. Deliveries to Contractor. The Agency will request that DWR deliver to the Contractor up to 2,000-acre feet of Benicia's SWP water. Within thirty (30) days following the execution of the Transfer Agreement, the Contractor shall pay the Agency the Transfer Fee for each AF of 2025 SWP water made available by Benicia, unless a different price is negotiated and agreed upon in writing by Benicia, the Agency, and the Contractor. Provided all agreements are in place for the 2025 Transfer, the Agency shall pay 100% of the Transfer Fee received from the Contractor to Benicia within ten (10) days of receipt.
3. Notice of Exemption. Because the 2025 Transfer will be delivered through existing facilities, without the construction of new facilities, Benicia and the Agency agree that the 2025 Transfer is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(bX3) and 15301 of the State CEQA Guidelines. The Agency shall file a Notice of Exemption for the 2025 Transfer with the Clerk of the Board of Supervisors of Solano County, as well as the county in which the Contractor is located, and shall provide a copy to Benicia.
4. Transaction Costs. Benicia and the Agency shall each be responsible for its own legal and consulting costs incurred in the preparation, review, and implementation of this LOU. Benicia and the Agency each agree to cooperate with each other in the preparation, review, and execution of any additional agreements that may be necessary to implement the 2025 Transfer. Benicia shall not be responsible for payment of any charges imposed by any agency, including the Agency, for the preparation and processing of the Transfer Agreement, or for the preparation and processing of such other approvals as may be necessary to implement the 2025 Transfer.
5. Costs of Defense. In the event of any legal action by a third party to challenge this LOU or the 2025 Transfer, Benicia and the Agency agree to cooperate in the defense thereof and to share equally in the costs of such defense, utilizing counsel mutually acceptable to the Parties.
6. Force Majeure. In the event that an unavoidable event beyond the reasonable control of the Parties, including, but not limited to availability of SWP water, renders the performance of this LOU impossible or infeasible, the Parties hereto shall be excused from the performance thereof; provided, however, that the Agency shall first coordinate with DWR to determine whether alternate performance may be possible pursuant to an alternate schedule for completion of performance.

7. Authority. The undersigned representatives of Benicia and the Agency hereby represent that they are authorized to execute the LOU for the Parties on whose behalf this LOU is executed.

8. Notice. Written notice may be provided by either Party to the other by first class mail, postage prepaid to the following addresses:

Attn: Danielle Bonham, Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510

Attn: Chris Lee, General Manager
Solano County Water Agency
810 Vaca Valley Parkway, Suite 202
Vacaville, CA 95688

City of Benicia

By: _____
Mario Giuliani, City Manager

_____ Date

Solano County Water Agency

By: _____
Chris Lee, General Manager

_____ Date



SOLANO COUNTY WATER AGENCY WATER TRANSFER AND EXCHANGE POLICY

(Adopted July 8, 2021)

This policy has been developed by the Solano County Water Agency (SCWA) Water Policy Committee and adopted by the SCWA Board of Directors at their July 8, 2021, Board meeting. This policy only applies to Solano Project water and State Water Project (SWP) water (aka NBA water). It is not intended to impinge on individual member agency's water rights.

Introduction

SCWA is a wholesale water supply agency providing untreated water to cities and agricultural districts in Solano County from the Federal Solano Project and the North Bay Aqueduct of the State Water Project. SCWA represents local agencies involved in water and flood management. The Agency is governed by the Board of Directors composed of the five members of the Solano County Board of Supervisors, the seven mayors of the cities in Solano County, and a director from each of the three agricultural districts that provide retail agricultural water.

Member agencies include:

- City of Benicia
- City of Dixon
- City of Fairfield
- City of Rio Vista
- City of Suisun City
- City of Vacaville
- City of Vallejo
- Maine Prairie Water District
- Reclamation District 2068
- Solano County
- Solano Irrigation District

Purpose and Intent

SCWA supports sustainable water management of the agency's State Water Project and Federal Solano Project allocations, while providing flexibility to the Agency's members. Water purveyors in Solano County have a long history of working together in collaboration with SCWA.

The purpose of this policy is to formalize SCWA water transfer and exchanges while protecting primary water sources. The policy is intended to address issues in the future including:

- Population growth
- Drought
- Sustainability
- Resiliency
- Recycled water
- Tail water
- Groundwater
- Regional integration
- Environmental water quality
- Fire protection
- More effective movement of water within the county and beyond
- Substituting new water opportunities/sources for NBA transferable water

The overriding principles of this policy are:

- No Harm/Solano County First.
- Any transfer or exchange must be consistent with the SCWA Master Contract with DWR and the SCWA Master Contract with the Bureau of Reclamation.
- Any transfers or exchanges not covered by this policy are not necessarily prohibited but will be addressed by SCWA on case-by-case basis.
- Any existing contracts and on-going service obligations are grandfathered into this policy.

Definitions

- **Exchange:** Trading water. As an example, one entity might trade NBA water for Solano Project water. An agreed-on amount of water is returned to the seller.
- **Harm:** In the context of "No Harm/Solano County First", "harm" shall be defined as: (1) transfer or exchange of water to an entity outside Solano County without first offering such water to SCWA members within Solano County; 2) Not notifying SCWA of any inter-county Solano Project/State Water Project transfers.
- **In-County Exchanges:** Water exchanges between SCWA member(s) and other Solano Project members for use within the County.
- **Out-of-County Exchanges:** Water exchanges from individual SCWA member(s) to water agencies outside SCWA's jurisdiction.
- **Place of Use:** Geographical area that Solano Project water can be transferred or exchanged within. Place of Use is limited to Solano County (except Montezuma Hills), UC Davis and a small part of Yolo County as authorized by the State Water Board.

- **Transfer:** An action where water is delivered to the buyer in exchange for a mutually agreed price.
- **In-County Transfers:** Water transfers between SCWA member(s) and other Solano Project members for use within the County.
- **Out-of-County Transfers:** Water transfers from individual SCWA member(s) to water agencies outside SCWA's jurisdiction.
- **Solano Project Water:** The Solano Project is a federal project that stores water in Lake Berryessa for delivery to users within the Place of Use. SCWA holds, as executors, long-term master water supply contracts with U.S. Bureau of Reclamation (USBR). Solano Project water cannot be transferred or exchanged outside its "Place of Use."
- **State Water Project (SWP) (aka NBA Water) "Table A" water.** Table A water is the only supply in SCWA's water supply portfolio that is eligible for transfers and exchanges outside of SCWA's service area. SWP "Table A" water is the annual NBA water supply provided by SCWA's Long-term State Master Contract for SWP water supply which SCWA members have an allocated portion of. The SWP contract allows for transfers and exchanges to recover some capitalized and/or operational investment costs. Exchanges and transfers out-of-county can only be negotiated with another SWP Contractor for use within the SWP service area, or the collective service areas of all 29 State Water Contractors. DWR approval is required for all out-of-county transfers and exchanges. The SWP Contract transfer and exchange rules are strict and carefully applied by DWR to scrutinize all SWP transfers and exchanges.
- **North Bay Aqueduct:** A component of the State Water Project that serves portions of Solano and Napa counties.
- **Transferrable/Exchangeable Water:** Water determined by individual member agencies to be available for exchange or transfer.

Scope

Only transferrable/exchangeable water, as determined by individual SCWA member agencies, is subject to this Water Transfer and Exchange Policy.

Potential sources of water available for transfer or exchange include:

- State Water Project conveyed through the North Bay Aqueduct (Table A water)
- Solano Project

Policy Consistency

This policy will be consistent with any Groundwater Sustainability Plans, Urban and Agricultural Water Management Plans, and the cities and County General Plans. The

policy is also linked to SCWA's 2016-2025 Strategic Plan and will not impair any existing contracts relating to water exchanges/transfers.

Policy

SCWA member agencies negotiate water transfers and exchanges with willing sellers and will advise SCWA and other member agencies through the Solano Water Advisory Committee (SWAC) of any water needs or availability of transferrable/exchangeable water when known.

In-County Priority: Member agencies should be encouraged to seek water transfers and exchanges serving in-county needs before serving out-of-county needs. Water deemed to be available for a transfer or exchange by any SCWA member agency should first be offered to other SCWA member agencies at mutually agreeable terms. If agreement cannot be reached within the timeframe set by the offering member agency, the member may pursue other buyers.

Out-of-County Transfer and Exchanges:

If no SCWA member agencies commit to purchasing the transferrable/exchangeable water supply by the deadline set by the offering member agency, member agencies may request SCWA to offer the transferrable/exchangeable water to out-of-county State Water Project (SWP) contractors at prevailing market prices. Notifying SCWA by April 1st, or when known, will give SCWA adequate time to negotiate the transfer/exchange.

Transfer/Exchange Procedures

1. **In-County Transfer and Exchange** procedure includes:
 - a. Individual SCWA member agencies determine if they have transferrable/exchangeable water available.
 - b. Individual agencies with transferrable/exchangeable water negotiate mutually agreeable terms with receiving member agencies.
 - c. SCWA must be notified of any transfers/exchanges. SCWA will determine:
 - (i) Verification of water rights
 - (ii) Conveyance capacity
 - (iii) Consistency with DWR and USBR Master Contracts
 - (iv) Environmental review (CEQA)
 - (v) Any other requirements that may be added in the future.
 - d. The SCWA Board must approve any transfers or exchanges requiring CEQA.
 - e. SCWA will perform all administrative and bookkeeping functions.

2. Out-of-County Transfer and Exchanges:

If no SCWA member agencies commit to purchasing the transferrable/exchangeable water by the deadline set by the offering member agency, member agencies may request SCWA to offer the transferrable/exchangeable water to out-of-county State Water Project (SWP) contractors at prevailing market prices. Notifying SCWA by April 1st, or when known, will give SCWA adequate time to negotiate the transfer/exchange.

Out-of-County transfer and exchange procedures include:

- a. Timeline
 - (i) All out-of-county transfer and/or exchanges should be submitted to SCWA ideally by April 1st of any given year, or when known.
 - (ii) The offering member agency will respond to a request to purchase and/or SCWA will seek buyers and SCWA will negotiate the terms of the transfer and/or exchange in consultation with the member agency offering the transferrable/exchangeable water. The terms will minimize the risk to the selling agency and SCWA.
- b. Terms for multi-year transfers must include a provision for the SCWA member agency to confirm availability and the ability to deliver water on an annual basis. This allows for suspending the contract to meet local needs or prioritize transfers or exchanges to SCWA members for any single year.
- c. SCWA will determine:
 - (i) Verification of water rights
 - (ii) Compliance with the DWR Master Contract
 - (iii) Compliance with the Bay-Delta Water Quality Control Plan
 - (iv) Consistent with HCP/NCCP
 - (v) Meets CEQA
 - (vi) Does not create a water quality problem for another SCWA member agency.
- d. SCWA will obtain DWR approval.
- e. SCWA will seek SCWA Board approval. If the timing requires quicker action than monthly Board meetings, the General Manager will recommend a Special Meeting.
- f. SCWA will facilitate the transfers through DWR.

COSTS

Any State or third-party charges or fees related to transfers and exchanges within the County or to water contractors outside the County shall be payable by the receiving agency. SCWA staff time to assist with the transfer or exchange shall not be charged to the transferring agency.

Responsibilities

1. **Responsibility of SCWA General Manager:** Discretion is delegated to the General Manager by the SCWA Board to:
 - a. Notify SWAC members when transferrable/exchangeable water is available.
 - b. Follow all transfer and exchange policies and procedures.
2. **Responsibility of SCWA Water Policy Committee:** The Water Policy Committee shall:
 - a. Annually review this policy to determine if it effectively meets the needs of member agencies. The Committee may propose amendments to this policy, for consideration by the full Board, to address inefficiencies and changing conditions. The Committee will coordinate with the SWAC before proposed changes are brought before the full Board.
 - b. The Water Policy Committee should have diverse representation of Municipal and Industrial (M&I), ag, and County interests.

Protection of SCWA and member agencies

All transfer and exchange agreements shall include appropriate “hold harmless” language to protect SCWA, member agencies, their officers, and staff from non-performance and/or negligence by the entity receiving the transferred or exchanged water.

Effective Term of Policy

The terms and provisions of this policy shall remain in full force and effect until amended by the SCWA Water Policy Committee and approved by the SCWA Board.

Glossary:

Acre-foot	One acre-foot equals about 326,000 gallons, or enough water to cover an acre of land (about the size of a football field) one foot deep. An average California household uses between one-half and one acre-foot of water per year for indoor and outdoor use.
CEQA	California Environmental Quality Act - a California statute passed in 1970, shortly after the United States federal government passed the National Environmental Policy Act (NEPA), to institute a statewide policy of environmental protection. CEQA does not directly regulate land uses, but instead requires state and local agencies within California to follow a protocol of analysis and public disclosure of environmental impacts of proposed projects and, in a departure from NEPA, adopt all feasible measures to mitigate those impacts. CEQA makes environmental protection a mandatory part of every California state and local (public) agency's decision-making process.
DWR	California Department of Water Resources
HCP/NCCP	A Habitat Conservation Plan (HCP) is a document that meets federal Endangered Species Act (ESA) requirements and enables local agencies to allow projects and activities to occur in endangered species' habitats. In exchange, those projects and activities must incorporate HCP-prescribed measures to avoid, minimize, or compensate for adverse effects on natural communities and endangered species. A Natural Community Conservation Plan (NCCP) is the State counterpart to the federal HCP.
Master Contracts	SCWA holds a two long-term water supply contracts. They include: • Federal contract with the Bureau of Reclamation for Solano Project water. Includes Ag and M&I deliveries. • State contract with DWR for State Water Project water. Includes M&I deliveries only.
NBA	North Bay Aqueduct. The NBA is part of the State Water Project (SWP). The NBA is an underground pipeline that conveys SWP water to Solano and Napa counties. SCWA has service contracts for NBA water with Vacaville, Fairfield, Suisun City, Vallejo, and

Benicia. The Cities of Dixon and Rio Vista have the potential to execute future contracts for NBA water.

Solano Project

The Solano Project (SP) is a federal project of the Bureau of Reclamation that stores water in Lake Berryessa for delivery to users throughout the region.

**Exchangeable/
Transferrable
Water**

Water determined by individual SCWA member agencies to be available for exchange or transfer. Potential sources of exchangeable/transferrable water include:

- State Water Project conveyed through the North Bay Aqueduct
- Solano Project: Solano Project water cannot be sent outside of SCWA's Place of Use. Place of Use includes Solano County except Montezuma Hills, UC Davis, and a small part of Yolo County.

SWP

State Water Project. The SWP, operated by the State of California, Department of Water Resources, is a water storage and delivery system of reservoirs, aqueducts, power plants and pumping plants extending more than 700 miles —two-thirds the length of California. The SWP provides water to Solano County through the North Bay Aqueduct.

Table A Water

Table-A" water is the SWP water provided to SCWA under the DWR Master Contract. SCWA has a maximum annual allocation of Table-A water of 47,756 Acre-feet per year. The actual annual allocation of Table-A water from DWR can vary from 0% up to 100% of the maximum Table-A, depending hydrology and factors such as reservoir storage.

**Bay-Delta Water
Quality Control
Plan**

A policy document adopted by the State Water Resources Control Board that establishes water quality control measures and flow requirements needed to provide reasonable protection of beneficial uses in the San Francisco Bay/Sacramento-San Joaquin Delta estuary.

Water Exchanges Water Exchanges include:

- Water exchanged between willing sellers and willing buyers within Solano County.
- Water exchanged between willing SCWA member agencies and willing buyers outside of Solano County.

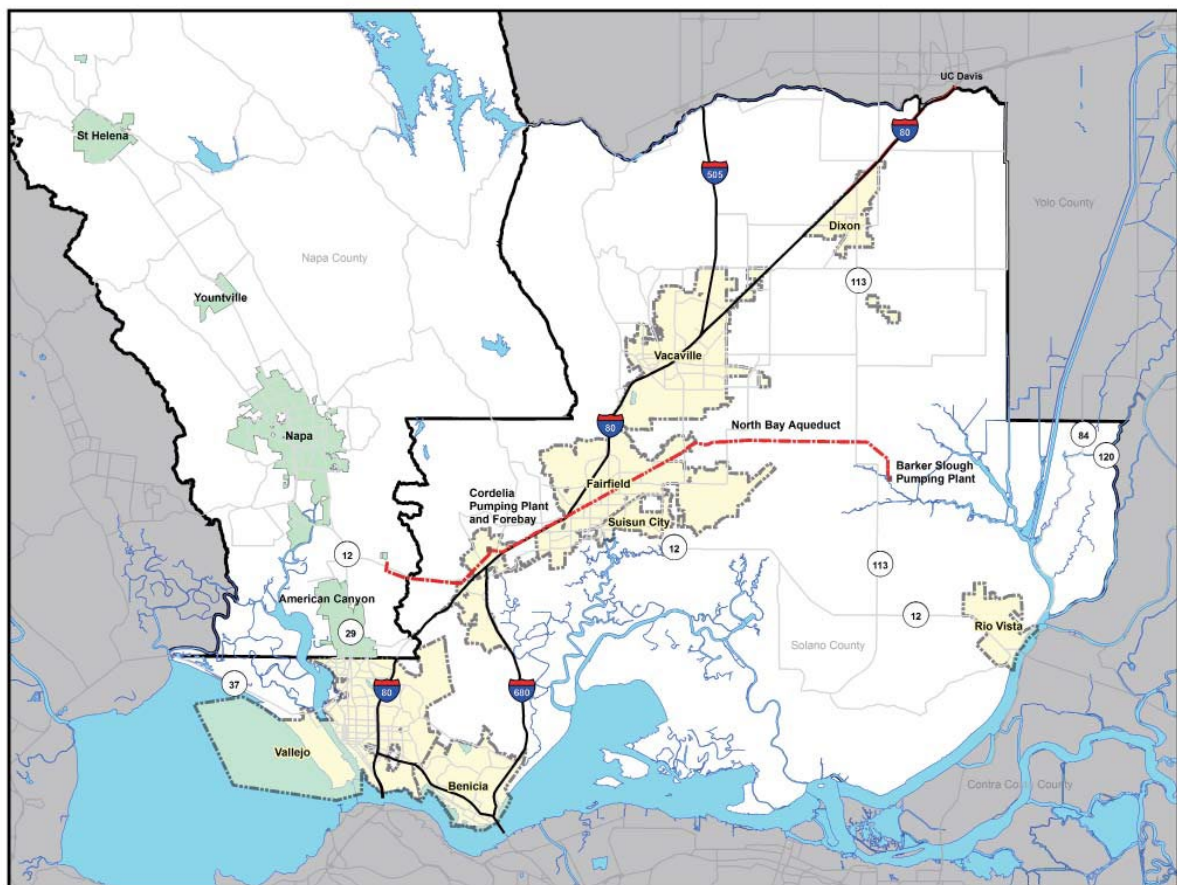
Water Transfers Water Transfers include:

- Water sold between willing sellers and willing buyers within Solano County.
- Water sold between willing SCWA member agencies and willing buyers outside of Solano County.

North Bay Aqueduct

The North Bay Aqueduct (NBA) is part of the State Water Project and provides 40% of the municipal water supply to over 400,000 people in cities in Solano and Napa Counties. The NBA consists of a pump station in the Cache Slough area in the Delta and a 28-mile underground pipeline that delivers water to city water treatment plants, intermediate pump stations and ancillary facilities.

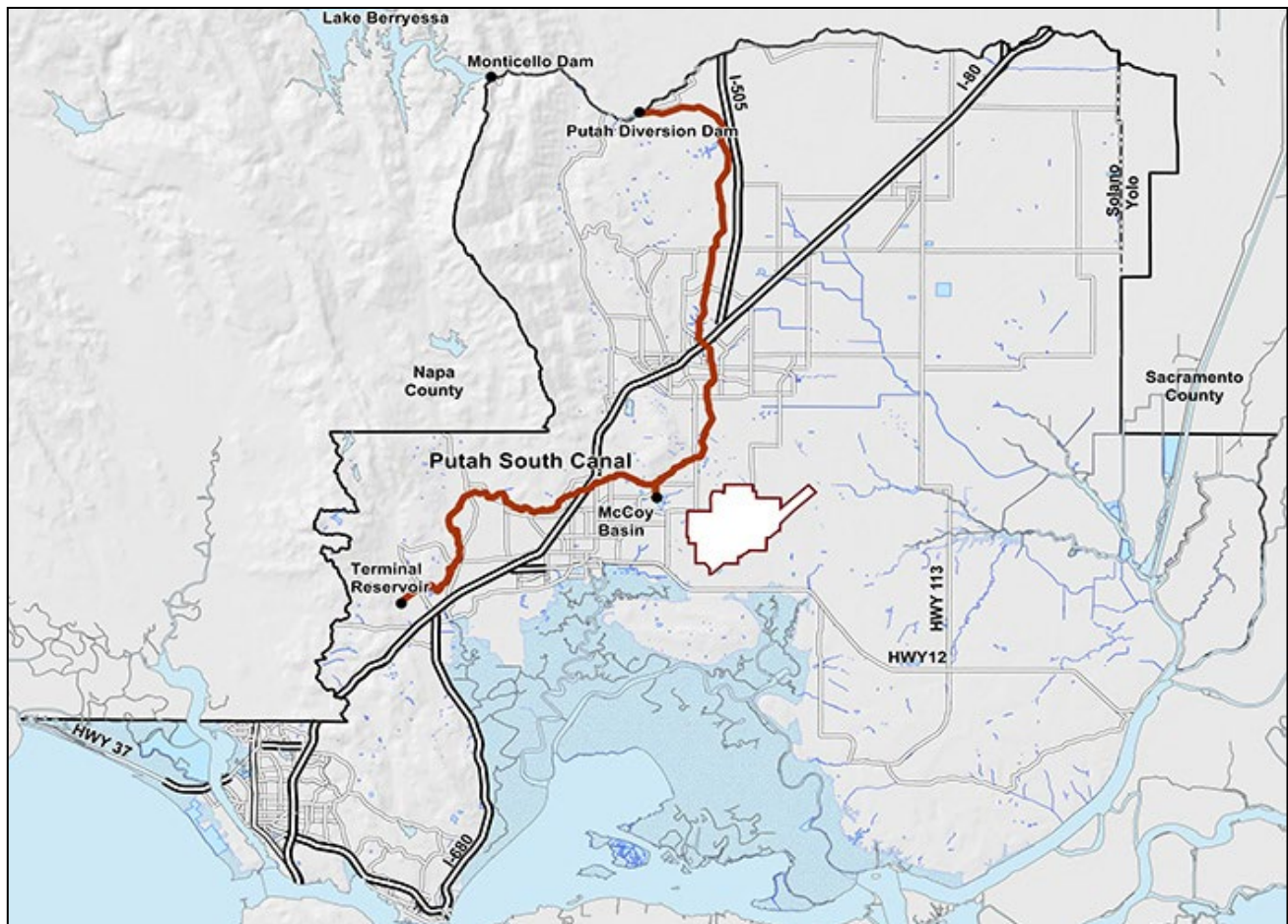
The NBA State Water Project provides about 50% of the municipal and industrial water use in Solano County and about 40% of the municipal and industrial water use in Napa County. This water supply to Napa and Solano Counties is a critical resource and is expected to provide future water for planned growth in both counties. The following cities either currently use (or can use in the future) NBA water: Benicia, Dixon, Fairfield, Suisun City, Vacaville, Vallejo, Rio Vista, American Canyon, Napa, and Calistoga.

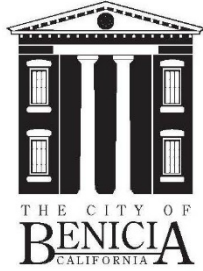


Solano Project

The Solano Project is a federal project of the Bureau of Reclamation that stores water in Lake Berryessa for delivery to users throughout the region and is sized to meet only the projected water needs of Solano County. Congressional authorization was granted for the construction of the Solano Project and the first water was delivered in 1959. The total construction cost for the Solano Project was \$38 million. For a more detailed history of the Solano Project, see the book by the Solano Irrigation District entitled "The Solano Water Story: A History of the Solano Irrigation District and the Solano Project."

Monticello Dam was constructed from 1953 to 1957 and has a height of 304 feet and a crest length of 1023 feet. The dam is able to hold a capacity of 1.602 million acre-feet of water.





**AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF FIRST AMENDMENT TO TASK ORDER NO. 13
WITH STANTEC FOR THE WATER TREATMENT PLANT
MISCELLANEOUS MECHANICAL IMPROVEMENT PROJECT
AND AUTHORIZING A BUDGET AMENDMENT**

EXECUTIVE SUMMARY:

The City has a Master Professional Engineering Services Agreement with Stantec Consulting Services, Inc. (Stantec) for on-call engineering services for water and wastewater projects. City staff does not have the capacity to perform this work in-house. Benicia Municipal Code requires all public works agreements exceeding \$200,000 be brought to City Council for approval. The Stantec Master Agreement states that Task Orders providing for more than \$200,000 compensation for one project shall be presented to Council for consideration. The First Amendment to Task Order No. 13 for the Water Treatment Plant (WTP) Miscellaneous Mechanical Improvement Project (Project) brings the Task Order No.13 over the \$200,000 limit and therefore requires Council's approval. Additionally, a budget amendment is being requested for the project to cover the cost of the Amendment.

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving the First Amendment (Attachment 2) to Task Order No. 13 (Attachment 3) to the Master Professional Engineering Services Agreement (Attachment 4) with Stantec Consulting Services, Inc. for construction management and inspection services for the WTP Miscellaneous Mechanical Improvement Project, approve a budget amendment, and authorize the City Manager to execute the First Amendment on behalf of the City.

BUDGET INFORMATION:

The proposal received from Stantec is for \$143,717. Staff recommends adding a 20% contingency in the amount of \$28,743. The total proposed cost is \$172,460. The original Task Order No. 13 amount is \$222,164. The revised task order total would be increased to \$394,624. The budget amendment requested is for the amount of the First Amendment, \$172,460 from water fund balance to Water Major Capital Projects (Acct. No. 7608021-7435, Project 820039).

BACKGROUND:

The City has a Master Professional Engineering Services Agreement with Stantec Consulting Services, Inc. for on-call engineering services (design, construction management and inspection, and project management) for water and wastewater projects. City staff does not have the capacity to perform this work in-house. The Agreement states that Task Orders providing for more than \$200,000 compensation for one project shall be presented to Council for consideration.

The First Amendment to Task Order No. 13, in the amount of \$172,460, requires Council's approval (as the cumulative Task Order No. 13 exceeds the \$200,000 limit.)

The Project consists of addressing a wide range of facility issues which include replacement of failed piping underneath the operations building, backwash valve and meter replacement, sedimentation basin isolation from direct filtration process, sedimentation basin slide gate repair, filter slide gate replacement, minor structural repairs to the Raw Diversion Structure, slide gate modifications and replacement at the Raw Water Diversion Structure.

The First Amendment includes additional budget beyond the original proposal to address the additional work from the increased amount of Requests For Information (RFIs), meetings and operational support for construction management and field inspection services.

NEXT STEPS:

The Project began in April 2025 and is scheduled to be completed in approximately 120 working days.

ALTERNATIVE ACTIONS:

Council could choose to not approve this Amendment, which would prevent the completion of the Project.

CEQA Analysis	This Project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15302, which exempts the replacement or reconstruction of existing utility systems and/or facilities involving negligible or no capacity expansion.
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ATTACHMENTS:

1. Resolution – WTP Miscellaneous Mechanical Improvement Project
2. First Amendment No. 1 to Task Order No. 13 – Stantec Consulting - Construction Management/Inspection
3. Task Order No. 13 - Stantec Consulting - Construction Management/Inspection
4. Master Professional Engineering Services Agreement - Stantec Consulting

For more information contact: Danielle Bonham, Public Works Director

Phone: 707-746-4240

E-mail: DBonham@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE FIRST AMENDMENT TO TASK ORDER NO. 13 WITH STANTEC CONSULTING SERVICES, INC. FOR THE WATER TRETAMENT PLANT MISCELLANEOUS MECHANICAL IMPROVEMENT PROJECT, AUTHORIZING A BUDGET AMENDMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

WHEREAS, on February 16, 2022, Council approved a Master Professional Engineering Services Agreement with Stantec Consulting Services, Inc. (Stantec) for on-call engineering design, construction management/inspection and project management services for water and wastewater projects; and

WHEREAS, there is a clause in the agreement that requires Council approval for Task Orders with compensation of more than \$200,000 for one project; and

WHEREAS, on February 18, 2025, Council approved Task Order No. 13 with Stantec, in the amount of \$222,164, for construction management and inspection services for the Water Treatment Plant Miscellaneous Mechanical Improvement Project; and

WHEREAS, due to the need for technical expertise, the City requires additional support from Stantec for the Project; and

WHEREAS, the First Amendment to Task Order No. 13 is for \$172,460 (\$143,717 plus 20% contingency of \$28,743) for the Project, which requires City Council's approval due to the cumulative cost exceeding the \$200,000 limit; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the First Amendment to Task Order No. 13 with Stantec for the Project in the amount of \$172,460 and authorizes the City Manager to execute the Amendment on behalf of the City.

BE IT FURTHER RESOLVED THAT a budget amendment, in the amount of \$172,460, is approved to be funded from Water Reserves to Account No. 7608021-7435 Project 820039 (Water Major Capital) to cover Project costs.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

FIRST AMENDMENT TO TASK ORDER NO. 13

This FIRST Amendment to Task Order No. 13, entered into August 19, 2025, by and between the City of Benicia, a municipal corporation (hereinafter "CITY") and Stantec, a Corporation, with its primary office located at 13980 Collections Center Dr. Chicago, IL 60693, (hereinafter "CONTRACTOR"), is made with reference to the following:

1. Recitals

A. On February 15, 2022, an agreement identified as Contract ID # 22-005 was entered into by and between CITY and CONTRACTOR, ("Agreement"); and

B. On February 18, 2025, Task Order No. 13 was entered into by and between CITY and CONTRACTOR for the Construction Management and Inspection Services for the Water Treatment Plant Miscellaneous Mechanical Improvements Project; and

C. CITY and CONTRACTOR desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

2. Amendments

2.1. Services Being Provided

Services Contractor Agrees to Perform paragraph of the Agreement is modified to include: See attached Scope of Services dated June 26, 2025.

2.2. Compensation

Compensation paragraph of the Agreement is modified to: This contract is being increased in the amount of \$172,460, for a new total amount not to exceed \$394,624.

2.3. End of Amendments

Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused the modification of Agreement to be executed on August 19, 2025.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“Stantec”

By: Stephen Chavez

Senior Civil Principal Engineer
Its: _____

“City”

By: _____

Its: _____

“City Attorney”

By: _____

Its: City Attorney

“Department”

By: _____

Its: _____

Exhibits List

A - PROPOSAL_CityBenicia_WTPMiscMech_22-09_BudgetAmendment01_20250721_Rev2_Stantec

Exhibit A

PROPOSAL_CityBenicia_WTPMiscMech_22-
09_BudgetAmendment01_20250721_Rev2_Stantec

**City of Benicia – WTP
Miscellaneous Mechanical
Improvements Project #22-09**

Scope of Services



Prepared for:
City of Benicia

Prepared by:
Stantec Consulting Services Inc.

July 21, 2025

Scope of Services

1.0 PROJECT OVERVIEW

The CLIENT (CITY) owns and operates a water treatment plant (WTP) facility that serves the local residential, business and industrial community. The WTP receives raw water from a 36" Cordelia RW Pipeline and a 42" Lake Hermann RW Pipeline.

The City is planning a construction Project to address a wide range of facility issues which include replacement of failed piping underneath the operations building, backwash valve and meter replacement, sedimentation basin isolation from direct filtration process, sedimentation basin slide gate repair, filter slide gate replacement, minor structural repairs to the Raw Diversion Structure, slide gate modifications and replacement at the Raw Water Diversion Structure.

The CITY requests Stantec Consulting Services Inc. (CONSULTANT) provide a scope and estimate of costs to provide and perform construction management and inspection services for the Project under a Task Order of the 2022 On Call Master Agreement for Design, CM and PM Engineering Services (contract #22-005, dated February 16, 2022).

Amendment #01 includes additional budgets beyond the original proposal to address the additional work anticipated from the increased amount of RFI's, meetings, operational support, submittal reviews, field inspection and extended contract time for the Project.

The scope of services consists of the following tasks per **Section 3.0 Scope of Services**:

- Task 1 – Project Management
- Task 2 – Construction Management Services
- Task 3 – Field Observation Services

2.0 PROJECT SCHEDULE

The task and services are based on the following project schedule:

- CITY's authorization of CONSULTANT's task order amendment and notice to proceed is provided by March 2025.
- Construction Period duration anticipated for six consecutive months starting March 2025 through ~~September~~ October 2025.

3.0 SCOPE OF SERVICES

Task 1 – Project Management

Subtask 1.1 – Project Setup/Monthly Cost Controls

Upon authorization and notice to proceed provided by the CITY, CONSULTANT will establish internal project budgets and controls.

Subtask 1.2 – Invoicing and Monthly Reports

CONSULTANT will maintain communication with the CITY to review project status and identify and solve issues as they arise. CONSULTANT will set up internal project budgets, manage and monitor the total budget and schedule for tasks within this Scope of Services, prepare and submit monthly reports and invoices,

Task 1 Assumptions:

- No subconsultant agreements will be processed
- CONSULTANT will prepare and submit monthly invoices covering the periods of March 2025 to ~~September~~ October 2025.

- CONSULTANT will prepare and submit Weekly Reports consisting of a two-page summary of work performed, work anticipated, potential issues and decisions needed by CITY, and a task budget table showing original budget, prior billed amounts, current billed amount, total billed amount to date and remaining budget amounts

Task 1 Deliverables:

- Monthly invoices and reports

Task 2.8 – Additional Services, Supplemental Budget for Construction Management Services

CONSULTANT will provide Construction Management services consisting of tracking and managing project submittals and clarifications, reviewing of project schedules, logging, tracking and managing project cost changes (PCOs) and change orders, attending and facilitating project meetings, preparing reports and project punchlists.

Subtask 2.8.1 – Conduct Weekly Progress and Schedule Meetings

CONSULTANT will cover the project status at weekly progress meetings with the CITY and construction contractor by covering a variety of topics and issues related to project safety, CITY operations and maintenance concerns, specific current issues, status of key RFIs and submittals, and other items for third party quality control testing, and closeout issues.

Subtask 2.8.2 – Prepare and Distribute Meeting Minutes

CONSULTANT will provide agenda topics to the CITY for preparation of the weekly progress meeting agendas. City will prepare and issue meeting minutes.

Subtask 2.8.3 – Process Contractor's Submittals

CONSULTANT will review general conformance of project submittals and submit to the Project's Design Engineer and/or CITY for technical review. CONTRACTOR will manage, prepare and issue comments by the Design Engineer and CITY, including resubmittals, submitted by the construction Contractor. CONSULTANT will manage and track the review and approval status.

Subtask 2.8.4 – Process Contractor's RFIs

CONSULTANT will process, manage and issue responses to Requests for Information (RFI) submitted by the construction Contractor. CONTRACTOR will review RFIs and coordinate with the design team disciplines and coordinate the final response to the construction Contractor.

Subtask 2.8.5 – Review Contractor's Monthly Pay Requests

CONSULTANT will review payment applications submitted by the construction Contractor to verify the requested amount reflects the progress of the work and the required project monthly schedule update CONTRACTOR will review up to three monthly progress payments.

Subtask 2.8.6 – Review Contract Change Order Requests

CONSULTANT will manage project potential change orders (PCO) for the Project and establish a change order control system, identifying each PCO item to a unique tracking number.

~~CONTRACTOR~~ CONSULTANT will review change order requests submitted by the construction Contractor for merit, entitlement and general conformance to the contract documents.

~~CONTRACTOR~~ CONSULTANT will review change order quotes submitted by the construction Contractor for accuracy. ~~CONTRACTOR~~ CONSULTANT will prepare contract change orders (CCOs) for the CITY to review and process. ~~CONTRACTOR~~ CONSULTANT will maintain and update a log of PCO items consisting of cost, schedule impacts, status and total change order amounts for the Project.

Subtask 2.8.7 – Coordinate Change Orders with City and Contractor

CONSULTANT will prepare draft change orders and review and coordinate versions with the CITY and the construction Contractor.

Subtask 2.8.8 – Project Closeout Services

Prior to the completion and acceptance of the project and before final payment to the construction Contractor, CONSULTANT will provide project closeout services during the post-construction phase. CONSULTANT will review the final requirements of the contract documents and prepare a written Notice of Completion for the CITY. CONSULTANT will review the final payment requested by the construction Contractor, verify completion of the work, and make a recommendation to the CITY as a condition for final payment.

Subtask 2.8.9 – Preconstruction Services

CONSULTANT will prepare an agenda and conduct a preconstruction meeting with the CITY and construction contractor. CONSULTANT will prepare meeting minutes to document the key discussions at the preconstruction meeting.

Task 3 – Field Observation Services

Subtask 3.1 – Inspection of Contractor's Work

CONSULTANT will provide a ~~part~~ **full-time** Field Inspector for routine daily field observation to verify the construction contractor's progress and compliance with contract documents.

Subtask 3.2 – Travel Time

CONSULTANT is required to reimburse staff for travel time beyond the local office (2999 Oak Road, Suite 800 Walnut Creek, California) beyond 50 miles, per the CA Prevailing Wage Travel and Subsistence policies.

Subtask 3.3 – Daily Report Preparation

Field Inspection staff will prepare daily a report depicting a general overview of construction activities, construction equipment and labor, work performed, materials used, observed delays, and deficiencies.

Subtask 3.4 – Maintain Digital Photo Records of Work in Progress: CONSULTANT will use iPhone electronic devices to take digital photos of the work and save files daily.

Subtask 3.5 – Archive Daily Report and Photo Document to City ftp website: CONSULTANT upload daily report files and photograph files for the Project, to the City's ftp website upon completion of the Project.

Subtask 3.6 – Quality Control Test Results Review: CONSULTANT will review reports provided by the City's independent on-call materials testing firm and review test results for concrete, soils and asphalt paving for conformance with the contract requirements.

Subtask 3.7 – Final Punchlist and Tracking: CONSULTANT prepare a final Project punchlist of deficient work and track the status of completion of the punchlist items.

Task 3 Assumptions:

- Construction inspection duration is six months (April 2025 through ~~September~~ **October 2025**)
- Field observation services based on part-time inspection, up to ~~3~~ **5 site visits per week**.
- Field observation services will be based on workdays, Monday through Friday, excluding recognized holidays
- Daily report deliverables will be made available to the CITY via email
- Photographs will be made available to the CITY via file transfer protocol (ftp) upload to the City ftp site at Project Closeout
- CITY will make available to the CONSULTANT copies of approved construction permit, drawings and specifications
- CITY will make available to the CONSULTANT copies of approved construction contractor submittals including review comments

- CITY will make available to the CONSULTANT copies of Requests For Information (RFIs) and official responses to RFIs
- CITY will provide a 3rd party independent materials testing firm. CONSULTANT will coordinate with the City's materials testing firm to schedule testing and special inspections for concrete, soils and asphalt paving tests.

Task 3 Deliverables:

- Daily Field Reports in .pdf format, provided within 24 hours of the date of inspection
- Photographs in .jpg format, provided on a periodic weekly or monthly basis

4.0 SERVICES BY OTHERS

CITY will provide the following services and responsibilities, among others:

- Labor Compliance. Services related to the review of the construction Contractor's monthly certified payroll, including employee interviews.
- Legal Services. Services related to contract review, bidding irregularities, protests, claims, and related items.
- Project Administration. Responsibility and authority related to the approval of any changes to the specifications, plans, or other contractual obligations of CITY.
- Permits. All permit applications, fees, agency approvals, and coordination thereof.
- Control Systems Programming. Coordination of PLC/HMI Plant Process Control System programming and operational testing work to determine compliance with CITY requirements and CITY needs.
- Factory Visits. CITY will attend selected factory visits and testing programs at the factory to witness compliance with the Contract Documents and CITY requirements.
- Provide CM Field Office, Furnishings, and internet connection (through the construction Contractor), if required.
- Provide CM Field Office Supplies and Equipment (through the construction Contractor), if required.
- Services for bid disputes or rebidding the project.
- Reports to Public Agencies such as funding agencies or permitting agencies.

Fee Estimate

The fee estimate for this Amendment No. 1 is \$143,717.

TASK	Stantec										Expenses ^{3,4}	Total Costs	Amendment #1
	Project Manager	Project Controls	Project Engineer	Project Accountant	Construction Inspector PW	Construction Inspector Non-PW	Labor Hours	Flat Rate Disbursement ²	Labor Costs	Subconsultant Fees			
	S. Chavez	G. Roundy	L. Diaz	T. Hay	H. Khodagam	H. Khodagam				Terracon			
1	Project Coordination and Management	\$297	\$246	\$170	\$206	\$185	\$165	\$12.50					
	Budget through 6/30/25						0	\$0	\$1,767	\$1,038		\$2,908	\$0
	Remaining original budget - thru 10/31/25								\$11,535			\$11,535	
2	CM Services												
2.1	Submittals/RFIs/Cos/Meetings/Site Visits (8 hrs per week/12 weeks, 6 hrs per week/6 weeks, 4hrs per week, 6 weeks) - thru 6/30/25	119.5		3.5			20	143	\$1,788	\$41,174		\$200	\$41,394
2.1	Submittals/RFIs/Cos/Meetings/Site Visits (15 hrs per week/14 weeks, 8 hrs per week/5 weeks) - thru 10/31/25	250						250	\$3,125	\$77,375		\$200	\$77,595
2.2	Contract Administration - Pay Requests, Change Orders (4 hrs per week/24 weeks) - thru 6/20/25	0		33.5			34	\$419	\$6,114			\$200	\$6,334
3	Inspection Services												
3.1	Site Inspection (24 hrs per week/16 weeks, 16 hrs per week/6 weeks) - Prevailing Wage - thru 6/30/25				157		157	\$1,963	\$31,008	\$15,815		\$1,469	\$50,020
3.1.1	Additional Welding Inspection						0	\$0	\$0	\$3,878			\$4,266
3.1	Site Inspection (36 hrs per week/19 weeks) - Prevailing Wage - thru 10/31/25				684		684	\$8,550	\$135,090	\$5,000		\$7,754	\$149,119
3.2	Site Inspection (3 hrs per week/18 weeks, 2 hrs per week/6 weeks) - Non-Prevailing Wage - thru 6/20/25	16				18	34	\$419	\$8,058			\$528	\$8,639
3.2	Non-Prevailing Wage (4 hrs per week/19 weeks) - thru 10/31/25					76	76	\$950	\$13,490			\$528	\$14,071
REVISED BUDGET ESTIMATE		386	0	37	0	841	114	1377	\$17,213	\$323,843	\$24,693	\$10,879	\$365,881
ORIGINAL BUDGET		176	28	98	6	528	66	902	\$11,275	\$196,901	\$17,465	\$5,502	\$222,164
AMENDMENT 1 BUDGET ESTIMATE		210	-28	-61	-6	313	48	475	\$5,938	\$126,942	\$7,228	\$5,377	\$143,717

1. Task rates escalate 3% for 2026 by 1/1/26
2. Flat Rate Disbursement \$12.50 per Stantec labor hour
3. Travel expenses include mileage charged at IRS rate
4. Travel expenses include \$8 daily Caltrans Benicia bridge toll



Contract ID # 22-005T13

CITY OF BENICIA

250 East L Street, Benicia, CA 94510

TASK ORDER NO. 13

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

Stantec

Stantec Master Agreement

Task: Construction Management and Inspection Services for the Water Treatment Plant Miscellaneous Mechanical Improvements Project

1. Task Order

1.1. Purpose

The purpose of this TASK ORDER is to authorize and direct CONTRACTOR to proceed with the work specified in Attachment A of this TASK ORDER, in accordance with the provisions of the AGREEMENT identified as Contract #22-005 between the parties hereto dated February 15, 2022.

1.2. Scope of Work

The work authorized by this TASK ORDER is outlined in the "Scope of Services" attached hereto as Attachment A.

1.3. Time of Performance

The work authorized by this TASK ORDER shall commence upon execution by both parties and shall be prosecuted diligently to completion.

Commencement Date: February 18, 2025

Completion Date: June 30, 2026

1.4. Compensation And Payment

Compensation shall be on a specific rate of compensation basis as provided in the AGREEMENT identified as Contract #22-005 between the parties hereto dated February 15, 2022. The cost of the work authorized by this TASK ORDER is not to exceed \$222,164. Payment shall be in accordance with the aforementioned AGREEMENT.

1.5. Effective Date

This TASK ORDER shall become effective immediately upon its execution by both parties.

Title: Stantec Master Agreement

#22-005

1.6. Items and Conditions

All items and conditions contained in the AGREEMENT identified as Contract #22-005 dated February 15, 2022, between the City of Benicia and Stantec are incorporated herein by reference.

EXECUTED February 18, 2025

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“Stantec”

By: Stephen Chavez
Principal Civil Engineer
Its: _____

“City”

DocuSigned by:
By: Mario Giuliani
9FA31784A98E490...
Its: City Manager

“Department”

DocuSigned by:
By: Danielle Bonham
EE90AF266EE8439...
Its: Public works director

“City Attorney”

Signed by:
By: Ben Stock
3294F30F0AD74E3...
Its: City Attorney



SCOPE OF SERVICES

Construction Management and Inspection Services for the City of Benicia Water Treatment Plant Miscellaneous Mechanical Improvements Project

Task Order #13 of Contract #22-005

1.0 PROJECT OVERVIEW

The CLIENT (CITY) owns and operates a water treatment plant (WTP) facility that serves the local residential, business and industrial community. The WTP receives raw water from a 36" Cordelia RW Pipeline and a 42" Lake Hermann RW Pipeline.

The City is planning a construction Project to address a wide range of facility issues which include replacement of failed piping underneath the operations building, backwash valve and meter replacement, sedimentation basin isolation from direct filtration process, sedimentation basin slide gate repair, filter slide gate replacement, minor structural repairs to the Raw Diversion Structure, slide gate modifications and replacement at the Raw Water Diversion Structure.

The CITY requests Stantec Consulting Services Inc. (CONSULTANT) provide a scope and estimate of costs to perform construction management and inspection services for the Project through a Task Order under the 2022 On Call Master Agreement for Design, CM and PM Engineering Services (contract #22-005, dated February 16, 2022).

The scope of services consists of the following tasks per **Section 3.0 Scope of Services**:

- Task 1 – Project Management
- Task 2 – Construction Management Services
- Task 3 – Field Observation Services

2.0 PROJECT SCHEDULE

The task and services are based on the following project schedule:

- CITY's authorization of CONSULTANT's task order amendment and notice to proceed is provided by March 2025.
- Construction Period duration anticipated for six consecutive months starting March 2025 through September 2025.

3.0 SCOPE OF SERVICES

Task 1 – Project Management

Subtask 1.1 – Project Setup/Monthly Cost Controls

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
CITY OF BENICIA
WTP MISCELLANEOUS MECHANICAL IMPROVEMENTS PROJECT

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Upon authorization and notice to proceed provided by the CITY, CONSULTANT will establish internal project budgets and controls.

Subtask 1.2 – Invoicing and Monthly Reports

CONSULTANT will maintain communication with the CITY to review project status and identify and solve issues as they arise. CONSULTANT will set up internal project budgets, manage and monitor the total budget and schedule for tasks within this Scope of Services, prepare and submit monthly reports and invoices,

Task 1 Assumptions:

- One subconsultant agreements will be processed
- CONSULTANT will prepare and submit monthly invoices covering the periods of March 2025 to September 2025.
- CONSULTANT will prepare and submit Weekly Reports consisting of a two-page summary of work performed, work anticipated, potential issues and decisions needed by CITY, and a task budget table showing original budget, prior billed amounts, current billed amount, total billed amount to date and remaining budget amounts

Task 1 Deliverables:

- Monthly invoices and reports

Task 2.8 – Additional Services, Supplemental Budget for Construction Management Services

CONSULTANT will provide Construction Management services consisting of tracking and managing project submittals and clarifications, reviewing of project schedules, logging, tracking and managing project cost changes (PCOs) and change orders, attending and facilitating project meetings, preparing reports and project punchlists.

Subtask 2.8.1 – Conduct Weekly Progress and Schedule Meetings

CONSULTANT will cover the project status at weekly progress meetings with the CITY and construction contractor by covering a variety of topics and issues related to project safety, CITY operations and maintenance concerns, specific current issues, status of key RFIs and submittals, and other items for third party quality control testing, and closeout issues.

Subtask 2.8.2 – Prepare and Distribute Meeting Minutes

CONSULTANT will provide agenda topics to the CITY for preparation of the weekly progress meeting agendas. City will prepare and issue meeting minutes.



Subtask 2.8.3 – Process Contractor's Submittals

CONSULTANT will review general conformance of project submittals and submit to the Project's Design Engineer and/or CITY for technical review. CONTRACTOR will manage, prepare and issue comments by the Design Engineer and CITY, including resubmittals, submitted by the construction Contractor. CONSULTANT will manage and track the review and approval status.

Subtask 2.8.4 – Process Contractor's RFIs

CONSULTANT will process, manage and issue responses to Requests for Information (RFI) submitted by the construction Contractor. CONSULTANT will review RFIs and coordinate with the CITY and design team disciplines and coordinate the final response to the construction Contractor.

Subtask 2.8.5 – Review Contractor's Monthly Pay Requests

CONSULTANT will review payment applications submitted by the construction Contractor to verify the requested amount reflects the progress of the work and the required project monthly schedule update. CONTRACTOR will review up to three monthly progress payments.

Subtask 2.8.6 – Review Contract Change Order Requests

CONSULTANT will manage project potential change orders (PCO) for the Project and establish a change order control system, identifying each PCO item to a unique tracking number. CONTRACTOR will review change order requests submitted by the construction Contractor for merit, entitlement and general conformance to the contract documents. CONTRACTOR will review change order quotes submitted by the construction Contractor for accuracy. CONTRACTOR will prepare contract change orders (CCOs) for the CITY to review and process. CONTRACTOR will maintain and update a log of PCO items consisting of cost, schedule impacts, status and total change order amounts for the Project.

Subtask 2.8.7 – Coordinate Change Orders with City and Contractor

CONSULTANT will prepare draft change orders and review and coordinate versions with the CITY and the construction Contractor.

Subtask 2.8.8 – Project Closeout Services

Prior to the completion and acceptance of the project and before final payment to the construction Contractor, CONSULTANT will provide project closeout services during the post-construction phase. CONSULTANT will review the final requirements of the contract documents and prepare a written Notice of Completion for the CITY. CONSULTANT will review the final payment requested by the construction Contractor, verify completion of the work, and make a recommendation to the CITY as a condition for final payment.

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
CITY OF BENICIA
WTP MISCELLANEOUS MECHANICAL IMPROVEMENTS PROJECT

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Subtask 2.8.9 – Preconstruction Services

CONSULTANT will prepare an agenda and conduct a preconstruction meeting with the CITY and construction contractor. CONSULTANT will prepare meeting minutes to document the key discussions at the preconstruction meeting.

Task 3 – Field Observation Services

Subtask 3.1 – Inspection of Contractor's Work

CONSULTANT will provide a **part-time** Field Inspector for routine daily field observation to verify the construction contractor's progress and compliance with contract documents.

Subtask 3.2 – Travel Time

CONSULTANT is required to reimburse staff for travel time beyond the local office (2999 Oak Road, Suite 800 Walnut Creek, California) beyond 50 miles, per the CA Prevailing Wage Travel and Subsistence policies.

Subtask 3.3 – Daily Report Preparation

Field Inspection staff will prepare daily a report depicting a general overview of construction activities, construction equipment and labor, work performed, materials used, observed delays, and deficiencies.

Subtask 3.4 – Maintain Digital Photo Records of Work in Progress: CONSULTANT will use iPhone electronic devices to take digital photos of the work and save files daily.

Subtask 3.5 – Archive Daily Report and Photo Document to City ftp website:

CONSULTANT upload daily report files and photograph files for the Project, to the City's ftp website upon completion of the Project.

Subtask 3.6 – Quality Control Test Results Review: CONSULTANT will review reports provided by the City's independent on-call materials testing firm and review test results for concrete, soils and asphalt paving for conformance with the contract requirements.

CONSULTANT will retain Terracon Consultant's, Inc. (SUBCONSULTANT) to perform periodic field and lab testing of materials.

Earthwork

SUBCONSULTANT will obtain samples of in-situ soil for laboratory tests, perform in-place field density testing and during the subgrade preparation of pavement repair and backfilling of trenches for water pipe replacement.

Aggregate Base Course

SUBCONSULTANT will obtain samples of the aggregate base for laboratory tests, perform in-place field density testing and perform periodic observations during the subgrade

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
CITY OF BENICIA
WTP MISCELLANEOUS MECHANICAL IMPROVEMENTS PROJECT

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preparation of pavement repair and backfilling of trenches for water pipe replacement.

Concrete Testing

During concrete placements, SUBCONSULTANT will perform observation, sampling and testing for the concrete used for base of the wall, concrete sump, floor opening closure repair project. The concrete will be sampled and tested for slump and temperature at the time of placement. Additional services related to concrete include:

- ☐ Verification of approved design mix
- ☐ Observations of placement procedures, consolidation, and curing and protection
- ☐ Casting 1 set of 5 (4-inch by 8-inch) cylinders for each 150 cubic yards or per day (whichever is smaller)

Hot Mix Asphalt (HMA) Pavement Testing

SUBCONSULTANT will collect HMA samples for Theoretical Maximum Specific Gravity (Rice). During asphalt placements, observation, field density testing will be performed by Terracon for the new asphalt pavement.

Subtask 3.7 – Final Punchlist and Tracking: CONSULTANT prepare a final Project punchlist of deficient work and track the status of completion of the punchlist items.

Task 3 Assumptions:

- Construction inspection duration is six months (April 2025 through September 2025)
- Field observation services based on part-time inspection, up to 3 site visits per week.
- Field observation services will be based on workdays, Monday through Friday, excluding recognized holidays
- Daily report deliverables will be made available to the CITY via email
- Photographs will be made available to the CITY via file transfer protocol (ftp) upload to the City ftp site at Project Closeout
- CITY will make available to the CONSULTANT copies of approved construction permit, drawings and specifications
- The following inspections/testing for the project are assumed:
 - Field Density Testing (Compaction), 3 Site Visits – 2 Modified Proctor tests
 - Asphalt Density Testing, 1 Site Visit – 1 Asphalt Rice Density Test and 4 Core Density and Thickness tests
 - Concrete Sampling, 5 Site Visits – 25 4" x 8" cylinder tests

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
CITY OF BENICIA
WTP MISCELLANEOUS MECHANICAL IMPROVEMENTS PROJECT

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- Rebar Inspection, 1 Site Visits
- Field Welding Inspection, 2 Site Visits

Task 3 Deliverables:

- Daily Field Reports in .pdf format, provided within 24 hours of the date of inspection
- Photographs in .jpg format, provided on a periodic weekly or monthly basis

4.0 SERVICES BY OTHERS

CITY will provide the following services and responsibilities, among others:

- Labor Compliance. Services related to the review of the construction Contractor's monthly certified payroll, including employee interviews.
- Legal Services. Services related to contract review, bidding irregularities, protests, claims, and related items.
- Project Administration. Responsibility and authority related to the approval of any changes to the specifications, plans, or other contractual obligations of CITY.
- Permits. All permit applications, fees, agency approvals, and coordination thereof.
- Control Systems Programming. Coordination of PLC/HMI Plant Process Control System programming and operational testing work to determine compliance with CITY requirements and CITY needs.
- Factory Visits. CITY will attend selected factory visits and testing programs at the factory to witness compliance with the Contract Documents and CITY requirements.
- Provide CM Field Office, Furnishings, and internet connection (through the construction Contractor), if required.
- Provide CM Field Office Supplies and Equipment (through the construction Contractor), if required (CITY does not require nor will provide for this project).
- Services for bid disputes or rebidding the project.
- Reports to Public Agencies such as funding agencies or permitting agencies.

**Construction Management and Inspection Services for the WTP Miscellaneous Mechanical Improvements Project
City of Benicia
Proposal Fee Estimate**

TASK			Stantec 1								Subconsultant Fees	Expenses 3,4	Total Costs		
			Project Manager	Project Controls	Project Engineer	Project Accountant	Construction Inspector PW	Construction Inspector Non-PW	Labor Hours	Flat Rate Disbursement 2				Labor Costs	
			S. Chavez	G. Roundy	L. Diaz	T. Hay	H. Khadaam	H. Khadaam							Terracon
			\$297	\$246	\$170	\$206	\$185	\$165		\$12.50					Mat. Test'g
1		Project Coordination and Management	12	28	2	6			48	\$600	\$12,628	\$1,650		\$14,443	
2		CM Services													
	2.1	Submittals/RFIs/Cos/Meetings/Site Visits (8 hrs per week/12 weeks, 6 hrs per week/6 weeks, 4hrs per week, 6 weeks)	108						108	\$1,350	\$33,426		\$200	\$33,646	
	2.2	Contract Administration - Pay Requests, Change Orders (4 hrs per week/24 weeks)	48		96				144	\$1,800	\$32,376		\$200	\$32,596	
3		Inspection Services													
	3.1	Site Inspection (24 hrs per week/16 weeks, 16 hrs per week/6 weeks) - Prevailing Wage					528		528	\$6,600	\$104,280		\$4,574	\$109,311	
	3.2	Site Inspection (3 hrs per week/18 weeks, 2 hrs per week/6 weeks) - Non-Prevailing Wage	8					66	74	\$925	\$14,191		\$528	\$14,772	
	3.3	Materials Testing (Terracon)							0	\$0	\$0	\$15,815		\$17,397	
TOTAL			176	28	98	6	528	66	902	\$11,275	\$196,901	\$17,465	\$5,502	\$222,164	

1. Task rates escalate 3% for 2026 by 1/1/26
2. Flat Rate Disbursement \$12.50 per Stantec labor hour
3. Travel expenses include mileage charged at IRS rate



CONTRACT # 22 - 005**AGREEMENT FOR MASTER PROFESSIONAL ENGINEERING SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into this 16th day of February 2022 between the City of Benicia, a municipal corporation in Solano County, California, (hereinafter "CITY") and Stantec Consulting Services Inc. with its primary office located at 3301 C Street Suite 1900, Sacramento, CA, 95816 (hereinafter "CONSULTANT") (collectively, "the Parties").

THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings and intentions:

WHEREAS, CITY's staff does not have the expertise or capacity to perform this work in-house. The CONSULTANT has the expertise necessary for this specialized project; and

WHEREAS, CITY desires to contract with CONSULTANT and CONSULTANT to contract with CITY for provision by CONSULTANT to CITY for professional services as further described herein, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the parties herein contained, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

CONSULTANT shall provide services for specific projects as may be requested by CITY; such services shall be defined, scheduled and authorized in subsequent Task Orders. Services may include, but not be limited to:

A. General Engineering:

Tasks including, but not limited to, the following:

- Ad-hoc engineering analysis/technical memoranda.
- Management of small to medium maintenance projects including preparation of engineering studies, project planning, and coordination with other agencies and utilities.
- Preparation of environmental documents and implementation of mitigation measures in project design.
- Preparation of permit applications from appropriate agencies.
- Perform project design at the 35%, 65%, 95% and 100% levels including plans, specifications, estimate, and schedule as required by the City.
- Provide design support services during construction and prepare final record drawings based on as-built drawings provided by the City.
- Development and capital improvement plan checking for conformance with City of Benicia Engineering Design Standards and Standard Plans (City Standards), Regional Water Quality Control Board requirements, State of

California Standards and industry standards as applicable.

B. Construction Management and Inspection Services

Tasks including, but not limited to, the following:

1. Construction Management:

- Construction Management Services during Pre-Construction
 - Review contract documents including plans and specifications
 - Review Traffic Control Plans
 - Facilitate the Pre-Construction Conference
- Construction Management Services during Construction
 - Project coordination and correspondence
 - Schedule management, progress meetings and reports
 - Monitor project funding. Review "schedule of values" and contract item payments, material quantities, and change order payments.
 - Labor compliance assurance
 - Public relations
 - Site safety monitoring
 - Monthly payment review and recommendation
 - Submittal review and management
 - Requests for Information (RFI)
 - Contract Change Orders (CCO)
 - Construction observation services and project documentation
 - Preliminary claim mitigation and resolution
- Construction Management Services during Post-Construction
 - Perform final observation/walkthrough
 - Review construction contractor's "As-Built" drawings
 - Prepare Project completion report
 - Provide Record drawings input, review, O&Ms
 - Review construction contractor's Final pay application

2. Construction Inspection:

- Construction inspection of various water and wastewater projects.
- Field visits for each assigned project as directed by the City. During each site visit, the inspector shall observe and make a written report of relevant items, including the date and time of visit (arrival and departure), the weather conditions at the site, a list of all persons present at the site including employees, subcontractors, and others; a description of the site conditions regarding status of construction and other relevant conditions; a description of all materials stored on site; a description of all major equipment on site; a

description of activity at the site including work being performed, materials being installed, equipment active versus idle, laborers active versus idle; monitoring of traffic control and safety operations, etc. The inspector's daily report for each project shall be submitted to the City no later than 24 hours following the date and time of the inspector's visit.

- Comparison of the material quality of the work to the requirements of the contract (including all relevant plans, specifications, submittals and schedule). The inspector's comparisons shall include checking grades, sizes, elevations and locations of structures, field measurements, and traffic control. The inspector shall note any deficiencies or deviations in the contractor's work (including: contractor behind schedule, areas of work which do not conform to the plans and specifications, materials which do not conform to the plans and specifications, and areas of work which were performed without obtaining an inspection required).
- Notification of any deficiencies or deviations in the contractor's work. Inspector shall immediately notify the City and provide a draft report of deficient work.
- Immediate notification to the authorized contractor representative, and the City, in the event that the inspector observes, or otherwise learns of, an issue at the construction site which involves a risk of imminent harm to person or property. The inspector shall take such action which, under the circumstances and the professional opinion of the inspector, will lead to a timely resolution of the risk of harm. The inspector shall follow up with a written report to the City.
- Take pre-project photographs of active project site(s) and progress photographs on a daily basis, sufficient in number to depict the pre-project conditions and the scope of major activities being performed by the contractor.
- Preparation of punch lists summarizing the items not completed by the contractor in accordance with project plans, specifications and/or contract documents, as directed by the City.
- Tracking and documenting changes to the project and submittal of a "red-line" markup of the project plans to the City.

C. Project Management

Tasks including, but not limited to, the following:

- Develop projects scope of work, coordinates and monitors project development teams, project schedules and budgets.

- Serve as liaison between City personnel, contractors, consultants and the public for assigned projects.
- Prepare, disseminate, and oversee project budgets, requests for proposals, agreements, contracts, invitation for bids, and purchase orders.
- Manage various consultant agreements through the planning, design, construction, testing, operations and maintenance phases of a project.
- Evaluate project bids and proposals and make recommendations for award of contracts and execution of agreements.
- Ensure that project plans, specifications, and estimate are reviewed and approved for construction.
Monitor project progress, attend project meetings, and prepare and submit status reports.
- Oversee project construction, ensures that the projects are constructed in accordance with the project's approved plans and specifications, and close out project documentation and archives appropriate records.
- Prepare, negotiate, substantiate and maintain control of all potential project construction change orders, tracks all project costs and reviews and approves progress payments.
- Develop and update project schedules.
- Apply for permits and utility services necessary for the project.
- Compose and prepare reports, resolutions and agreements for the City Council seeking approval of contracts or acceptance of projects.
- Interface with other City departments, outside agencies and consulting firms as necessary to complete assignments.

CONSULTANT shall be an independent contractor and shall have responsibilities for and control over the details and means of providing its services under this Agreement. CONSULTANT agrees that its services shall be performed with due diligence and in accordance with generally accepted **engineering** practices.

CONSULTANT shall use reasonable efforts to perform and coordinate all activities in a manner so that the projects will be completed according to the established project schedules.

CONSULTANT's services are rendered for the benefit of the City and not for the benefit of the construction contractors or any other party. CONSULTANT does not guarantee or have responsibility for the performance or quality assurance of the work performed by construction contractors or other parties and is not responsible for the means, methods, techniques, sequences, procedures and use of equipment whatsoever which are employed by the construction contractor or any other party, or for placing into operation any plant or equipment or for safety precautions and programs incidental thereto, whether or not reviewed, accepted, inspected, certified or approved by CONSULTANT. Any acceptance, inspection, approval, certification or review by CONSULTANT of any work performed by others, whether express or implied, shall not relieve such other parties from their responsibilities for the proper performance of their work nor create a legal duty in favor of such other party.

2. AUTHORIZED REPRESENTATIVES

Authorized representatives shall represent CITY and CONSULTANT in all matters pertaining to the services to be ordered by CITY or rendered by CONSULTANT under this Agreement except where approval for the CITY is specifically required by City Council. The CITY's authorized representative shall be **the City Engineer**. Said **authorized representative** is authorized to execute Task Orders on behalf of CITY, including providing for CONSULTANT to be compensated not more than **\$300,000** for each project. Task Orders providing for more than **\$200,000** compensation for one project shall be presented to the City Council (or City Manager) for its consideration. CONSULTANT's authorized representative shall be **Stephen Chavez, Principal Civil Engineer**.

3. REQUIRED LICENSES, CERTIFICATES AND PERMITS

Any licenses, certificates or permits required by the federal, state, CITY or municipal governments for CONSULTANT to provide the services and work in any Task Order must be procured by CONSULTANT and be valid at the time CONSULTANT enters into this Agreement. Further, during the term of this Agreement, CONSULTANT must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by CONSULTANT at no expense to the CITY.

4. COMPENSATION

CONSULTANT shall be compensated, not to exceed **\$300,000** per fiscal year for basic services rendered under Section 1, as more particularly described in authorized Task Orders and/or Rate Schedule attached as Exhibit A, in accordance with the terms and conditions included therein. CONSULTANT may update its Rate Schedule on an annual basis.

CONSULTANT may submit monthly statements for services rendered; all statements shall include adequate documentation demonstrating work performed during the billing period and shall conform to Federal Funding invoicing requirements, if applicable. It is intended that payments to CONSULTANT will be made by CITY within thirty (30) days of receipt of invoice. CONSULTANT's failure to secure CITY's written authorization for additional compensation or changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the price or time due, whether by way of compensation, restitution, quantum merit, or similar relief.

5. EMPLOYEE WAGES; RECORDS; APPRENTICES

CONSULTANT shall pay prevailing wages to its employees on any agreement in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by the Director of the State of California Department of Industrial Relations, are on file at the County's Capital Projects Office and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. CONSULTANT shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. CONSULTANT and all Subconsultants shall keep and maintain accurate employee payroll records for Work performed under the

Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. CONSULTANT shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then CONSULTANT shall pay federal Davis Bacon wages and comply with applicable federal requirements.

6. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless: To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), CONSULTANT shall defend, indemnify, and hold harmless CITY, its officers, directors, officials, and employees (collectively, "**Indemnitees**") from and against any and all claims, suits, expenses, liability, cause of action, loss, cost, damage, injury (including, without limitation, injury to or death of any person, including an employee of CONSULTANT or its Subconsultants), at law or equity, (including without limitation, court costs, reasonable attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) (collectively "**Liabilities**"), that arise out of, pertain to, or relate to any negligence, or willful misconduct of CONSULTANT, any Subconsultant, anyone directly employed or retained by them, or anyone that they control. CONSULTANT's obligations to indemnify, defend and hold harmless the Indemnitees shall not apply to the extent that such Liabilities are caused by the sole-negligence, or willful misconduct of such Indemnitee but shall apply to all other Liabilities.

(b) Intellectual Property Indemnification: CONSULTANT represents that the professional services provided by CONSULTANT pursuant to this Agreement do not infringe on any other copyrighted work or intellectual property owned by others. CONSULTANT shall defend, indemnify and hold harmless the CITY from all Liabilities, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in arising from or relating to CONSULTANT's services provided to the CITY under this Agreement.

(c) Subconsultant Agreements: CONSULTANT shall place in its agreements with Subconsultants and cause its Subconsultants to agree to the indemnification and insurance provisions in this Agreement in favor of the CITY and the Indemnitees in the exact form and substance as those contained in this Agreement.

(d) Duty to Cooperate: CONSULTANT shall notify CITY immediately in writing of any claim or damage related to activities or services performed under this Agreement. CONSULTANT shall cooperate with CITY in the investigation and disposition of all Liabilities arising out of the activities or services under this Agreement. Without limiting the foregoing, CONSULTANT shall take all steps necessary to assist the CITY in the defense of any and all Liabilities brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project. Any additional services or work under this paragraph shall be compensated as Additional Services.

7. STANDARD OF PERFORMANCE

CONSULTANT represents to CITY that the services shall be performed in an expeditious manner, and with the degree of skill and care that is required by current, accepted engineering procedures and practices. CONSULTANT further agrees that the services shall be in conformance with generally accepted professional standards prevailing at the time the work is performed.

8. OWNERSHIP AND MAINTENANCE OF DOCUMENTS

All documents furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT's services in respect to this project. They are not intended nor represented to be suitable for reuse by others on extensions of this project or on any other project. Any reuse without specific written verification and adoption by CONSULTANT for the specific purposes intended will be at user's sole risk and without liability or legal exposure and expenses to CONSULTANT, including attorney's fees arising out of such unauthorized reuse.

CONSULTANT's records, documents, calculations, and all other instruments of service pertaining to actual project shall be given to CITY at the completion of the project upon full payment of all monies owed to the Consultant. The CITY reserves the right to specify the file format that electronic document deliverables are presented to the CITY. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by CONSULTANT under the Agreement shall be vested in the CITY, none of which shall be used in any manner whatsoever, by any person, firm, corporation or agency without the expressed written consent of the CITY. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to the CITY without restriction or limitations on their use. CONSULTANT may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of CITY during the term of this Agreement, unless required by law.

9. INSURANCE

CONSULTANT shall, at its own expense, procure and maintain in full force at all times during the term of this Agreement the following insurance:

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and professional liability insurance, shall name as additional insureds CITY, its officers, and employees on each of them:

<u>Policy</u>	<u>Minimum Limits of Coverage</u>
(i) Workers' Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto)	Bodily Injury/Property Damage At least \$2,000,000 each occurrence

- | | |
|--|---|
| (iii) General Liability Insurance
Services Office Commercial General
Liability coverage on an occurrence basis
(occurrence form CG 0001) | At least \$2,000,000 per occurrence and
\$4,000,000 aggregate |
| (iv) Errors and Omissions/
Professional's Liability, errors and
omissions liability insurance appropriate to
the CONSULTANT's profession. | Generally at least \$1,000,000 per
claim and \$2,000,000 aggregate |

(b) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) For any claims related to this Project, the Additional Insured coverage under CONSULTANT's insurance policy shall be primary and non-contributory as respects CITY, its officers, officials, and employees. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be in excess of the CONSULTANT's insurance and shall not contribute with it and shall be at least as broad as CG 20 01 04 13;
- (ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, or employees;
- (iii) The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;
- (iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.
- (v) The limits of insurance required in the contract may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City before the CITY's own insurance or self-insurance shall be called upon to protect it as a named insured.

(c) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A: VII] unless CONSULTANT requests and obtains CITY's express written consent to the contrary.

(d) Verification of Coverage. CONSULTANT must provide certificates of insurance for all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT's insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

(e) Deductibles and Self-Insured Retentions. All self-insured retentions (SIR) must be disclosed to the CITY's Risk Management for approval and shall not reduce the limits of liability. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insurance retention as respects the CITY, its officers, officials, agents, employees and volunteers; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Policies containing any self-insured (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the CITY. The CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

(f) Covenant to Provide Workers' Compensation Insurance. CONSULTANT warrants that it is aware of the provisions of the California 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. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(g) Waiver of Subrogation. CONSULTANT and CONSULTANT's insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, and employees for losses paid under CONSULTANT's workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

10. SUSPENSION OF WORK

CITY may, at any time, by ten (10) days' written notice, suspend further performance by CONSULTANT. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services performed and reimbursable expenses incurred prior to the suspension date. During the period of suspension, CONSULTANT shall not receive any payment for services, or expenses, except for reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

11. TERMINATION

CITY may terminate this Agreement for any reason upon ten (10) days' written notice to the other party. CITY may terminate the Agreement upon five (5) days' written notice if CONSULTANT breaches this Agreement. In the event of any termination, CONSULTANT shall promptly deliver to the CITY any and all finished and unfinished reports or other written, recorded, photographic, or visual materials, documents, data and other deliverables ("Work Materials") prepared for the CITY prior to the effective date of such termination, all of which shall become CITY's sole property. After receipt of the Work Materials, CITY will pay CONSULTANT for the services performed as of the effective date of the termination.

12. NONDISCRIMINATION

(a) During performance of this Agreement, CONSULTANT and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for

employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation, sexual orientation, or sex. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the CITY's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

13. CONFLICT OF INTEREST

(a) CONSULTANT covenants and represents 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 the 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 CITY. CONSULTANT agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the CITY in the performance of this Agreement.

(b) CONSULTANT is not a designated employee within the meaning of the Political Reform Act because CONSULTANT:

- (i) Will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation or counsel independent of the control and direction of the CITY or of any CITY official, other than normal contract monitoring; and
- (ii) Possesses no authority with respect to any CITY decision beyond the rendition of information, advice, recommendation or counsel. (2Cal. Code Regs. § 18700(a) (2)).

14. INDEPENDENT CONTRACTOR

In assuming and performing the services, CONSULTANT is an independent contractor and shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly provided for in the Agreement. All persons, if any, hired by CONSULTANT, shall be employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of the CITY in any respect. CONSULTANT shall have responsibility for and control over the means of providing services under this Agreement.

15. COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, State of California, and local laws, rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services.

16. CHOICE OF LAW

This Agreement shall be administered and interpreted under California law as if written by both parties. If any provision in this Agreement is held by any court to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force. **If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state court situated in the County of Solano, State of California or, if necessary, in a federal court situated in the City and County of Sacramento, California.**

17. ENFORCEABILITY; INTERPRETATION

In the event that any of the provisions or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The illegality or invalidity of any of the provisions or portions of application of any of the provisions of the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of application of any of the provisions of the Agreement. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

18. INTEGRATION

The Agreement contains the entire Agreement and understanding between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or contemporaneous agreements, commitments, representation, writings, and discussions between CONSULTANT and CITY, whether oral or written.

19. SUCCESSORS AND ASSIGNS; NO THIRD PARTY BENEFICIARIES; NO JOINT VENTURE

CITY and CONSULTANT respectively, bind themselves, their successors, assigns, and legal representatives to the terms and obligations of this Agreement. CONSULTANT shall not assign or transfer any interest in the Agreement without the CITY's prior written consent, which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach of this provision shall be void. This Agreement is not intended and shall not be construed to create any third party benefit the event. This Agreement is not intended and shall not be construed to create a joint venture or partnership between the parties. CONSULTANT, its officers, employees and agents shall not have any power to bind or commit the CITY to any decision.

20. FINANCIAL RECORDS

Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to CITY if and when required.

21. NON-WAIVER

The waiver by either party of any breach of any term, covenant, or condition contained in the Agreement, or any default in their performance of any obligations under the Agreement shall not be deemed a waiver of any other breach or default of the same or any other term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default constitute a continuing waiver of same.

22. NOTICES

All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to CITY's address as shown below, or such other places as CITY or CONSULTANT may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of mailing thereof or upon personal delivery.

To City: Kyle Ochendusko, Interim Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510

To Consultant: Stephen Chavez, Principal Civil Engineer
Stantec Consulting Services Inc.
3301 C Street Suite 1900
Sacramento, CA 95816

23. TERM

The term of this Agreement shall be from the date executed above through **three years ending June 30, 2025**, with the option of one **two-year** extension upon mutual agreement by both CITY and CONSULTANT for a total of up to **five years**. The City Manager is authorized to approve the extension.

24. NON-LIABILITY

No member of the CITY and no other officer, employee or agent of the CITY shall be personally liable to CONSULTANT or otherwise in the event of any default or breach of the CITY, or for any amount which may become due to CONSULTANT or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

25. EXECUTION

Each individual or entity executing this Agreement on behalf of CONSULTANT represents and warrants that he or she or it is duly authorized to execute and deliver this Agreement on behalf of CONSULTANT and that such execution is binding upon CONSULTANT.

This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement in three (3) copies as of the date and year first written above.

CONSULTANT

CITY OF BENICIA
A Municipal Corporation

BY: Stephen Chavez

Title: Principal Civil Engineer

Erik Upson
Erik Upson
CITY MANAGER

RECOMMENDED BY:

Kyle Ochendusko
Kyle Ochendusko
DEPARTMENT HEAD

APPROVED AS TO FORM:

Benjamin L. Stock
Benjamin L. Stock
CITY ATTORNEY

ATTACHMENT:

-EXHIBIT A: TASK ORDER/RATE SCHEDULE

EXHIBIT A
Task Order/Rate Schedule

EXHIBIT A**2022 BILLING RATE SCHEDULE**

Below are typical rates for the proposed staff. Rates are adjusted annually as allowed by the City.

TABLE 1			
Name	Classification	Role	Rate
Steven Beck	Vice President	Principal-In-Charge/ QA-QC	\$295.00
Gabe Aronow	Principal Professional I	Design Lead	\$279.00
Stephen Chavez	Principal Professional I	Construction Management Lead	\$279.00
Beth Cohen	Principal Professional II	Project Management Lead	\$250.00
Conan Monson	Supervising Professional I	Construction Manager	\$235.00
Darin Bailey	Senior Professional I	Senior Inspector ¹	\$193.00
Mitchell Padilla	Associate Professional	Inspector ¹	\$155.00
Aleksandr Vakulchik	Associate Professional	Inspector ¹	\$155.00
Habib Khadaam	Associate Professional	Inspector ¹	\$155.00
Bill Whalen, CTS	CTS Subconsultant	NACE Coatings Special Inspector ²	\$155.00
Robert Rucker	Senior Professional I	Civil	\$193.00
Cameron Ripple	Professional II	Civil	\$141.00
Steve Stoll	Senior Professional I	Structural	\$279.00
Sean Neprud	Senior Professional I	Mechanical	\$193.00
Josh Dela Cruz	Senior Professional II	Electrical	\$188.00
Phil Atkinson	Supervising Professional II	I&C/SCADA	\$224.00
Jim Loucks	Senior Estimator	Cost Estimating Lead	\$259.00
Rupeet Malholtra	Professional I	SWPPP	\$175.00
Bernadette Bezy	Professional I	Environmental	\$206.00
Patrick Herrmann	Professional I	Safety	\$175.00
Keith Rutherford	Principal Professional II	Traffic Plan Reviewer	\$250.00
Rich Stowell	Senior Professional I	WW Permitting Assistance	\$193.00
Craig Moyle	Professional I	Public Outreach	\$175.00
Honey George	Professional I	Scheduling	\$175.00

¹ non-prevailing wage rate

² not including other subconsultant markups and fees

Flat Rate Disbursement	\$12.50 per hour
ODC Markup - Other Direct Costs/Reimbursable Expenses (excluding Flat Rate Disbursement)	10%
Subcontract Markup - Labor and Reimbursable Expenses	5%
Vehicle Mileage - Reimbursable Expense	IRS Rate
Annual Rate escalation, adjusted January 1 st each year	3%

PREVAILING WAGE INSPECTION RATES

Below are typical rates for the staff performing field inspection of public works construction projects. Rates are proposed for each year running from July 1st through June 30th for straight time, overtime and double time hours.

TABLE 2	
Inspector Prevailing Wage Rates	Hourly Rates (ST/OT/DT)
CONTRACTOR billing rate for straight time (ST) prevailing wage rate work from 7/1/21-6/30/22	\$182.00
CONTRACTOR billing rate for overtime (OT) prevailing wage rate work is from 7/1/21-6/30/22	\$245.00
CONTRACTOR billing rate for double time (DT) prevailing wage rate work is from 7/1/21-6/30/22	\$308.00
CONTRACTOR billing rate for straight time (ST) prevailing wage rate work from 7/1/22-6/30/23	\$192.00
CONTRACTOR billing rate for overtime (OT) prevailing wage rate work is from 7/1/22-6/30/23	\$259.00
CONTRACTOR billing rate for double time (DT) prevailing wage rate work is from 7/1/22-6/30/23	\$326.00
CONTRACTOR billing rate for straight time (ST) prevailing wage rate work from 7/1/23-6/30/24	\$204.00
CONTRACTOR billing rate for overtime (OT) prevailing wage rate work is from 7/1/23-6/30/24	\$275.00
CONTRACTOR billing rate for double time (DT) prevailing wage rate work is from 7/1/23-6/30/24	\$346.00

2022 STANTEC STANDARD RATES

Below are typical rates for the staff based on billing level and type of position, intended to be used for staff not already provided in Table 1 and Table 2. Rates are adjusted annually as allowed by the City.



SCHEDULE OF BILLING RATES – 2022

Billing Level	Hourly Rate	Description
2	\$116	Junior Level position - Independently carries out assignments of limited scope using standard procedures, methods and techniques - Assists senior staff in carrying out more advanced procedures - Completed work is reviewed for feasibility and soundness of judgment - Graduate from an appropriate post-secondary program or equivalent - Generally, one to three years' experience
4	\$122	
5	\$137	
6	\$142	Fully Qualified Professional Position - Carries out assignments requiring general familiarity within a broad field of the respective profession - Makes decisions by using a combination of standard methods and techniques - Actively participates in planning to ensure the achievement of objectives - Works independently to interpret information and resolve difficulties - Graduate from an appropriate post-secondary program, with credentials or equivalent - Generally, three to six years' experience
7	\$155	
8	\$160	
9	\$171	First Level Supervisor or first complete Level of Specialization - Provides applied professional knowledge and initiative in planning and coordinating work programs - Adapts established guidelines, as necessary to address unusual issues - Decisions accepted as technically accurate, however may on occasion be reviewed for soundness of judgment - Graduate from an appropriate post-secondary program, with credentials or equivalent - Generally, five to nine years' experience
10	\$177	
11	\$190	
12	\$200	Highly Specialized Technical Professional or Supervisor of groups of professionals - Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise - Participates in short and long range planning to ensure the achievement of objectives - Makes responsible decisions on all matters, including policy recommendations, work methods, and financial controls associated with large expenditures - Reviews and evaluates technical work - Graduate from an appropriate post-secondary program, with credentials or equivalent - Generally, ten to fifteen years' experience with extensive, broad experience
13	\$206	
14	\$226	
15	\$237	Senior Level Consultant or Management - Recognized as an authority in a specific field with qualifications of significant value - Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise - Independently conceives programs and problems for investigation - Participates in discussions to ensure the achievement of program and/or project objectives - Makes responsible decisions on expenditures, including large sums or implementation of major programs and/or projects - Graduate from an appropriate post-secondary program, with credentials or equivalent - Generally, more than twelve years' experience with extensive experience
16	\$252	
17	\$261	
18	\$262	Senior Level Management under review by Vice President or higher - Recognized as an authority in a specific field with qualifications of significant value - Responsible for long range planning within a specific area of practice or region - Makes decisions which are far reaching and limited only by objectives and policies of the organization - Plans/approves projects requiring significant human resources or capital investment - Graduate from an appropriate post-secondary program, with credentials or equivalent - Generally, fifteen years' experience with extensive professional and management experience
19	\$271	
20	\$281	
21	\$295	

T-3 2022

SUBCONSULTANT STANDARD RATES

Below are typical rates for subconsultant, Construction Testing Services (CTS) for 2022. Rates are adjusted annually as allowed by the City.



inspecting
testing
engineering

2022 FEE SCHEDULE - P206275 01/14/2022 PERSONNEL FEES AND BASIS OF CHARGES INSPECTIONS, ENGINEERING & SPECIAL SERVICES

	Standard Rate/Hour	Discounted Rate/Hour
* FIELD INSPECTION AND LABORATORY SERVICE		
Steel Value	\$250.00	\$138.00
Nondestructive - UT, MT, PT	\$250.00	\$138.00
Steel Value/UT Combination	\$250.00	\$138.00
Concrete RCI	\$250.00	\$138.00
Concrete ICC	\$250.00	\$138.00
Masonry	\$250.00	\$138.00
Fireproofing	\$250.00	\$138.00
Steel Vast Nailing/Framing/Load Down	\$250.00	\$138.00
Soil Technician w/Nuclear Gauge and/or Sand Cone (portal-to-portal)	\$250.00	\$138.00
Asphalt Technician (portal-to-portal)	\$250.00	\$138.00
Shoring/Solder Pans	\$250.00	
Roofing & Waterproofing	\$250.00	\$138.00
Multi-Occupied Inspector	\$250.00	
Inspector Requiring Q1 Pay Grade	\$250.00	
Specialty Inspector or Where Formal Certification is Required - NACE Coating Level 1	\$500.00	\$150.00
Field Inspector with Special Enhancement	\$250.00	
Safety Manager/Safety Inspector/Onsite Safety Accountability Supervisor (JSAS)	\$500.00	
Laboratory Technician	\$250.00	
Add'l and Sample Preparation Time	\$250.00	
Technician Travel	\$250.00	
**PROFESSIONAL ENGINEERING SERVICES		
Principal Engineer (Civil/Structural)	\$365.00	
Geotechnical Engineer	\$270.00	
Professional Geologist	\$305.00	
Consulting Engineer (Civil/Structural)	\$300.00	
Associate Engineer, Licensed	\$250.00	
Project Manager	\$250.00	\$150.00
Staff Engineer	\$250.00	\$150.00
Field Supervisor	\$250.00	\$150.00
ASNT Level III	\$250.00	
Drafting	\$165.00	
Quality Control Manager	QOR	
SPECIAL SERVICES		
Portable and Mobile Laboratories, NDT and Soils	QOR	
* Epoxy Bolt/Expansion Anchor - Installation Observation	\$250.00	
* Epoxy Bolt/Expansion Anchor - Proof Load Testing (portal-to-portal)	\$250.00	
* Coating, 1 Person (including equipment) (portal-to-portal)	\$305.00	
* Coating, 2 Persons (including equipment) (portal-to-portal)	\$480.00	
* Asphalt Coating (portal-to-portal)	\$330.00	
Project Research	QOR	
Ultrasonic Testing for Non-Metallic Materials	QOR	
Pavement Rehabilitation Analysis Using Corections	QOR	
Roof Moisture Survey	QOR	
Soil Drilling Equipment	QOR	
Geotechnical Site Investigations/Foundation Reports	QOR	
Estimating Concrete Strength by the Maturity Method - Equipment Fee \$125/Day	ASTM C1074	
Gamma-Gamma Logging of C-CH Piles (Daily Rate)	CT235	\$3,500.00
FCI/AAMA Window and Skylight Testing (Daily Rate)	ASTM E1105, AAMA 501.2, 502.503	\$3,500.00
Pachometer, Schmidt Hammer, Window Probe, Studmore - Equipment Fee \$115/Day (portal-to-portal)		\$305.00
Ultrasonic Pulse Velocity Testing - Equipment Fee \$250/Day (portal-to-portal)	ASTM C597	\$650.00
Impact Echo Testing - Equipment Fee \$250/Day (portal-to-portal)	ASTM C1363	\$305.00
Floor Flatness Testing FFFL - Equipment Fee \$115/Day (portal-to-portal)	ASTM E1155	\$305.00
Surface Frictional Properties Using Pendulum Tester - Equipment Fee \$115/Day (portal-to-portal)	ASTM E303	\$305.00
Measuring Moisture Vapor Emission Rate (Calcium Chloride) - \$55/h (portal-to-portal)	ASTM F1869	\$305.00
Relative Humidity Testing - \$75/h (portal-to-portal)	ASTM F2170	\$305.00
Fenestration - Equipment Fee \$115/day (portal-to-portal)		\$305.00
QPR - Equipment Fee \$115/day (portal-to-portal)		\$305.00
Administration, Secretarial, Special Projects, Notary, Certified Payroll		\$400.00
Concrete/Cure/Mortar Mix Design Review (less than 48 hours notice - \$500)		\$400.00
Welding Procedure Review (less than 48 hours notice - \$500)		\$400.00
Procedure Qualification Record (PQR) - Standard Procedure (document fee)		\$500.00
Welding Procedure Specification (WPS) - Standard Procedure (document fee)		\$500.00
Welder Qualification Test Record (WQTR) - Standard Procedure (document fee)		\$500.00
DSA Interim Reports		\$100.00
Geotechnical Pad Letter (less than 48 hours notice - \$550)		\$550.00
Final Letter (less than 48 hours notice - \$550)		\$550.00
EXPERT WITNESS TESTIMONY		
Court appearance, per day	\$2,500.00	
Court appearance, per half day	\$1,250.00	

* Field inspection and laboratory technician services will be billed in accordance with minimums shown on Basis of Charges.

** Professional engineering services will be billed in two hour increments.



inspecting
testing
engineering

BASIS OF CHARGES

GENERAL

Fees for tests and inspection include cost of technician, testing equipment and regular reports. Engineering services will be charged at applicable rates and will require travel and mileage charges for equipment transport and storage per code (portal to portal) from the nearest CTS laboratory. Soil testing with nuclear gauge and/or sand cone equipment and inspection requiring equipment will require applicable travel and mileage charges for equipment transport and storage per code (portal-to-portal) from the nearest CTS laboratory. Fees for special projects, services overseas, or elsewhere in the United States, will be quoted on request. With your notification to Client, charges are subject to change at any time. Construction Testing Services reserves the right to adjust the rates quoted in this contract based upon any direct or secondary wage increases and/or changes in any industry requirements.

MINIMUM HOURLY CHARGES - INSPECTION

Technician personnel and the following minimum charges are contracted commitment:

One-half day or less	4 hours
Over one-half day	8 hours
Start-up time (less than 2 hours notice - 4 hour charge)	2 hours

WORKING HOURS AND PREMIUM TIME

Regular workday is the first 8 hours between 8:00 am and 6:00 pm Monday through Friday. Premium time is as follows:

Overtime: Weekdays and Saturdays (last 8 hours)	1.5 x quoted hourly rate
Overtime: Saturdays (over 8 hours) and Sundays (last 8 hours)	2 x quoted hourly rate
Overtime: Sundays (over 8 hours) and holidays	3 x quoted hourly rate
Shift differential, swap and graveyard -	

(Night performed between 2:00 pm and 4:00 am)

12.5% / hour additional to base or quoted rate.

MISCELLANEOUS CHARGES - Only Where Applicable

Nuclear Services Fee	\$40.00/minute
Facilities Charge: Plus \$1.00/page (info for cover page)	\$7.00/minimum
Wireless Router/Data Card for remote internet	\$125.00/day
First Monday Rental Fee	\$100.00/month
Electronic Reporting Fees/Subscriptions (PlanGrid, BIM, etc.)	At Cost
Parking Fees	At Cost
Air Travel	Cost Plus 10%
Outside Services	Cost Plus 20%
Subsistence (per Union contract)	\$130.00/day
Subsistence Premium: Mass Allowance (over 100 miles one way) (per Union contract)	\$30.00/day
Subsistence Premium: Mass Allowance (over 150 miles one way) (per Union contract)	\$85.00/day
Mileage	Standard Federal Rate
Sample Pickup	\$95.00/trip
Sample Pickup Trip Charge	QOR
Weekend Sample Pickup	\$110.00/trip
Project Administration	~~10% of Monthly Invoice~~ 10% of Monthly Invoice
Samples Made by Others: Concrete Cylinders	\$130 + Test
Samples Made by Others: All Other Tests	\$55.00 + Test
Laboratory Sample Witness Fee	\$130.00
Laboratory Sample Storage Fee (per sample)	\$120.00
EZ Cure Boxes (Thermally Controlled During Curing)	QOR
Returned Check Fee	\$150.00
Additional Sample Retention	QOR

TESTS

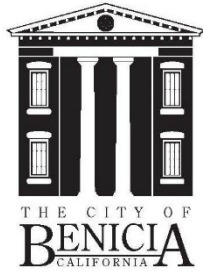
Testing fees shown include normal time for performing test. Samples requiring special preparation will be charged at the laboratory technician rate. Fees for tests not listed will be quoted upon request. There will be a minimum charge of \$100.00 for any engineering report. Please note some tests may be tested by subcontractors. Samples delivered to the laboratory after 3:00pm or samples needing results within 24 hours will incur a 50% markup.

INSURANCE

The liability of Construction Testing Services (CTS) is limited to CTS's contract value.

PAYMENT

Invoices will be submitted monthly or bi-monthly for services performed during the preceding month and are payable on receipt. Interest of 1.5% per month (not to exceed the maximum rate allowable by law) will be payable on any amounts not paid within 30 days; payment thereafter to be applied first to accrued interest and then to the principal unpaid amount. Attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by client. Visa, MasterCard and American Express payments are accepted however fees will apply. Visa and MasterCard payments require an additional .9% on top of the amount of the invoice being paid. American Express payments require an additional .4% on top of the amount of the invoice being paid.



AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
CONSENT CALENDAR

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF FIRST AMENDMENT TO AGREEMENT WITH NEW IMAGE LANDSCAPE COMPANY FOR LANDSCAPE MAINTENANCE OF MEDIANS, RIGHTS-OF-WAY AND CITY FACILITIES**

EXECUTIVE SUMMARY:

The City currently has an agreement with New Image Landscape Co. to maintain a total of 40 medians, rights-of-way, and City facilities throughout the City. Three additional facilities need to be added to the agreement (Water Treatment Plant, Wastewater Treatment Plant, and Bus Hub). With so few staff within our Parks Division, the City does not have the staff capacity to perform this work in-house in a manner that meets our community standards. As such, the use of an outside contractor is needed.

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving an amendment with New Image Landscape Company (Attachment 2) for Landscape Maintenance of Medians, Rights-of-Way, and City Facilities at a not-to-exceed cost of \$624,000 for the two-year term and authorizing the City Manager or Finance Director to sign the Agreement on behalf of the City.

BUDGET INFORMATION:

The current annual maintenance cost is \$284,952, plus an additional amount of \$15,048 for materials and emergency irrigation repairs, for an annual total of \$300,000. Original agreement is attached (Attachment 3). The amendment will add \$12,000 per year, to \$312,000 per year, for a total not-to-exceed cost of \$624,000 for the two-year term of the contract which expires on January 30, 2027. The Adopted Budgets for FY26 and FY27 have accounted for the addition of three these facilities (Org/Objects 7508020-7008 - \$5,400; 7108030-7008 - \$3,000; 0108050-7008 - \$3,600) to cover the additional total cost of \$12,000 per year.

BACKGROUND:

The Public Works Department's Parks Division has the responsibility of maintaining the Landscape Maintenance of Medians, Rights-of-Way, and City Facilities for the entire city, including the City Cemetery, Community Center, and City Hall. This agreement does not include the 28 city parks that Parks staff continues to maintain in-house. City

Council approval is required when contracts for services exceeds \$200,000 for the Public Works Department (Benicia Municipal Code: 3.10.030C Procurement of Services).

NEXT STEPS:

If approved, the Agreement will be routed for signatures and work will commence for the addition of the three new locations when an executed contract is in place.

ALTERNATIVE ACTIONS:

If Council does not approve the agreement, the work relating to the three facilities will not commence.

CEQA Analysis	This activity does not meet the definition of a project as described in Title 14 of the California Code of Regulations, §15378(a).
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ATTACHMENTS:

1. Resolution – First Amendment to Agreement - New Image Landscape Company for Landscape Maintenance of Medians, Rights-of-Way and City Facilities
2. Agreement – First Amendment to Agreement - New Image Landscape Company for Landscape Maintenance of Medians, Rights-of-Way and City Facilities
3. Original Agreement – New Image Landscape Company

For more information contact: Danielle Bonham, Public Works Director

Phone: 707-746-4240

E-mail: PW@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A FIRST AMENDMENT TO AGREEMENT WITH NEW IMAGE LANDSCAPE COMPANY FOR LANDSCAPE MAINTENANCE OF MEDIANS, RIGHTS-OF-WAY AND CITY FACILITIES AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

WHEREAS, the City currently has an agreement with New Image Landscaping Co. to maintain a total of 40 medians, rights-of-way, and City facilities throughout the City; and

WHEREAS, Parks staff does not have the capacity to perform this work in-house and the use of an outside contractor is needed; and

WHEREAS, the Water Treatment Plant, Wastewater Treatment Plant, and Bus Hub facilities had a contract with another vendor that recently expired; and

WHEREAS, the City's purchasing policy requires Council approval when a contract for services exceeds \$200,000 (Benicia Municipal Code: 3.10.030 Procurement of Services); and

WHEREAS, the current annual maintenance cost is \$284,952, plus an additional amount of \$15,048 for materials and emergency irrigation repairs, for an annual total of \$300,000; and

WHEREAS, the amendment will add \$12,000 per year for a total not-to-exceed cost of \$624,000 for the two-year term of the contract which expires on January 30, 2027; and

WHEREAS, the Adopted Budgets for FY26 and FY27 have accounted for the addition of three these facilities to cover the additional total cost of \$12,000 per year (Org/Objects 7508020-7008 - \$5,400; 7108030 - \$3,000; 0108050-7008 - \$3,600) to cover the additional total cost of \$12,000 per year.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the amendment to agreement with New Image Landscape Co. to add the Water Treatment Plant, Wastewater Treatment Plant and Bus Hub to the Landscape Maintenance of Medians, Rights-of-Way, and City Facilities agreement, in the amount of \$12,000 per year with a total not-to-exceed amount of \$624,000 and authorizing the City Manager or Finance Director to sign the Agreement on behalf of the City.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

FIRST AMENDMENT TO AGREEMENT

This FIRST Amendment of the Agreement, entered into August 19, 2025, by and between the City of Benicia, a municipal corporation (hereinafter "CITY") and New Image Landscape Company, a Corporation, with its primary office located at 3250 Darby Common, Fremont CA, 94539 (hereinafter "CONTRACTOR"), is made with reference to the following:

1. Recitals

A. On January 7, 2025, an agreement identified as Contract ID # 25-068 was entered into by and between CITY and CONTRACTOR, ("Agreement"); and

B. CITY and CONTRACTOR desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

2. Amendments

2.1. Services Being Provided

Services Contractor Agrees to Perform paragraph of the Agreement is modified to include: Landscape services at the additional sites listed in Exhibit A to this Amendment. These sites are in addition to those identified in Attachment A of the original Agreement (Bus Hub, Wastewater Treatment Plant and Water Treatment Plant Landscape Services).

2.2. Compensation

Compensation paragraph of the Agreement is modified to: This contract is being increased in the amount of \$24,000, for a new total amount not to exceed \$624,000.

2.3. End of Amendments

Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused the modification of Agreement to be executed on August 19, 2025.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

"New Image Landscape Company"

By:  _____

Its: Regional Manager

"City"

By: _____

Its: _____

"City Attorney"

By: _____

Its: City Attorney

New Image proposal to add additional sites for landscape services

Jobsite Name:	Monthly Cost:	Annual Cost:	
WATER TREATMENT PLANT	\$450.00	\$5,400.00	
WASTEWATER TREATMENT PLANT	\$250.00	\$3,000.00	
BUS HUB	\$300.00	\$3,600.00	
TOTAL PRICE	\$1000.00	\$12,000.00	

Contract ID # 25-068

PROFESSIONAL MAINTENANCE OR REPAIRS SERVICES AGREEMENT

(OVER \$50,000)

BETWEEN

CITY OF BENICIA AND

New Image Landscape Company

This Professional Services Agreement (the "Agreement") is dated January 7, 2025, and is by and between the City of Benicia, a political subdivision of the State of California ("City") and New Image Landscape Company, a California Corporation, licensed to do business in California, ("Consultant") relating to Landscape Maintenance of Medians, Right-of-Ways and City Facilities ("Services").

Recitals

WHEREAS, City wishes to retain Consultant to provide Landscape Maintenance of Medians, Right-of-Ways and City Facilities and related services;

WHEREAS, Consultant was selected by means of City's consultant selection process, and represents that they possess all necessary training, licenses and permits to perform the services required by City as set forth in this Agreement, and that their performance of such services will conform to the standard of practice consistent with a firm having experience and expertise in performing professional services of like nature and complexity working on similar, successfully completed projects;

WHEREAS, Government Code section 53060 permit the City to enter into agreements for professional temporary services with individuals specially trained and experienced and competent to perform those services; and

WHEREAS, the services proposed in this Agreement are professional and temporary in nature.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

1. Agreement

1.1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

- A. **Agreement:** This Agreement consists of this Agreement, together with all attachments and appendices and other documents incorporated herein by reference.
- B. **Consultant:** New Image Landscape Company

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

- C. **City:** City of Benicia
- D. **Project:** Landscape Maintenance of Medians, Right-of-Ways and City Facilities, 25-068
- E. **Services:** All work, labor, materials and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation architectural, engineering, building information modeling, coordination, and administrative services. Services that may be required, dependent on Project needs, are further described in the appendices.
- F. **Subconsultants:** Consultant's subconsultants, contractors and subcontractors, of any tier.

1.2. Term of Agreement

- A. This Agreement will conclude on January 30, 2027 unless it is extended in accordance with paragraph B below.
- B. This Agreement may be extended by mutual agreement of the parties hereto. Any extension shall be in written form, signed by both parties, and shall specify the length of the extension and compensation.

1.3. Services Consultant Agrees to Perform

- A. Consultant shall perform all Services described in Attachment A, and provide all Deliverables described in Attachment A, attached hereto and incorporated by reference as though fully set forth herein.
- B. Consultant may recover compensation for extended services as set forth in Attachment A, in conformance with the City's Purchasing Policy and Benicia Municipal Code.
- C. Should the progress of the Services under this Agreement at any time fall behind schedule for any reason other than Excusable Delays, Consultant shall apply such additional manpower and resources as necessary without Additional Services Compensation to bring progress of the Services under this Agreement back on schedule and consistent with the standard of professional skill and care required by this Agreement. Time is of the essence in the performance of this Agreement. Excusable Delays include acts of God, acts of the public enemy, and delays beyond Consultant's reasonable control as determined at the sole discretion of City.

1.4. Compensation

- A. City shall compensate Consultant according to the policies and procedures established by City. Compensation shall not exceed \$600,000 dollars without a fully approved and executed contract amendment or change order.
- B. Billing will occur upon completion of work. Payment is expected within 30 days. Consultant has the option to invoice for services or reimbursables no more than once a month. Payment shall be in accordance with the project-specific scope of work for work performed, not a retainer or

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equal monthly payments. Statement will generally describe the services performed and applicable rate or rates. Statements for reimbursement should include a reasonable itemization of requested compensation.

- C. City shall not incur any charges under this Agreement, nor shall any payments become due to Consultant for any payment period on the Project, until City receives all deliverables required under Attachment A, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where Consultant has partially completed one or more deliverables due during a payment period, and if Consultant demonstrates diligent progress thereon, then City may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon City. City shall not be liable for, and Consultant shall not be entitled to, any payment for Services performed before this Agreement's execution.
- D. City will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). City will make payment for questioned amounts(s) upon City's receipt of any requested documentation verifying the claimed amount(s) and City's determination that the amount is due under the terms of this Agreement. City shall advise Consultant, in writing, within 15 calendar days of receipt of the requested documentation. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of City including, without limitation, Consultant's transmittal of all deliverables to City required by Attachment A, and services required by Attachment A.
- E. Invoices furnished by Consultant under this Agreement must be in a form acceptable to City. All amounts paid by City to Consultant shall be subject to audit by City. Payment shall be made by City to Consultant at the address stated in Section 1.6, Qualified Personnel below.
- F. City may set off against payments due Consultant under this Agreement any sums that City determines that Consultant owes to City because of their errors, omissions, breaches of this Agreement, delays or other acts that caused City monetary damages. Prior to exercising such right, City must demand and attend mediation pursuant to Section 1.21, Disputes: Paragraph C below of this Agreement, to be attended by City, Consultant, and any applicable insurance carriers; such mediation to occur within 30 calendar days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the City's demand, then the Solano City Superior Court may upon application by any party make such selection for the parties. If a party other than City refuses to mediate under this Compensation: Paragraph E, then City shall have satisfied its obligations under this Paragraph.
- G. Consultant shall pay prevailing wages to its employees on any contract in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the City's Public Works Department and may

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be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subcontractors shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.

- H. Pursuant to Labor Code Section 1771(a), Consultant represents that it and all of its Subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant covenants that any additional or substitute Subcontractors will be similarly registered and qualified.

1.5. Maximum Costs

- A. City's obligation hereunder shall not at any time exceed the amount approved by City for payment to the Consultant pursuant to the terms of this Agreement.
- B. Except as may be provided by applicable law governing emergency conditions, City has not authorized its City Council, supervisors, employees, officers and agents to request Consultant to perform Services or to provide materials, equipment and supplies that would result in Consultant performing Services or providing materials, equipment and supplies that exceed the scope of the Services, materials, equipment and supplies agreed upon in the Agreement unless the City amends the Agreement in writing and approves the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- C. City shall not reimburse Consultant for Services, materials, equipment or supplies provided by Consultant beyond the scope of the Services, materials, and office equipment and supplies agreed upon in the Agreement and unless approved by a written amendment to the Agreement having been executed and approved in the same manner as this Agreement.

1.6. Qualified Personnel

For purposes of this Agreement, except for notices specified under Notices to the Parties below, City and Consultant shall direct all communications to each other as follows:

City:

Jose Urquilla
Deputy Director Operations
City of Benicia
250 East L Street

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

Benicia, CA 94510
Phone: (707) 297-5396
Email: jurquilla@ci.benicia.ca.us

Consultant:

Justin Alcantara
Landscape Maintenance of Medians, Right-of-Ways, and City Facilities
3250 Darby Common, Fremont, CA 94539

Phone: (510) 226-9191

Email: jalcantara@newimagelandscape.com

Services under this Agreement shall be performed only by qualified, competent personnel under the supervision of and/or in the employment of Consultant. Consultant shall conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Consultant.

Consultant agrees that professional personnel assigned to the Project will be those listed in Attachment A, and by this reference incorporated herein, and that the listed personnel will continue their assignments on the Project during the entire term of this Agreement. It is recognized that the listed personnel may in the future cease to be employed by Consultant and because of the termination of such employment no longer able to provide Services. However, Consultant agrees that replacement of any of the listed personnel during the Agreement period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of City, which shall not be unreasonably withheld. Any costs associated with replacement of personnel shall be borne exclusively by Consultant.

Consultant agrees that should the above personnel not continue their assignments on the Project during the entire term of this Agreement, then Consultant shall not charge City for the cost of training or "bringing up to speed" replacement personnel. City may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at Consultant's cost.

1.7. Representations

- A. Consultant represents that it has reviewed Attachment A, and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule of \$\$600,000 and within the times specified for each individual Project.
- B. Consultant represents that it is qualified to perform the Services and it possesses, and will continue to possess at its sole cost and expense, the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to time such licenses and/or permits are required. Consultant also represents that it has knowledge of, and will comply with, all applicable building codes, laws, regulations and ordinances.

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- C. Consultant represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.
- D. The granting of any progress payment by City, or the receipt thereof by Consultant, or any inspection, review, approval or oral statement by any representative of City or any other governmental entity, shall in no way waive or limit the obligations in this Representations or lessen the liability of Consultant for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

1.8. Indemnification and General Liability

- A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify, and hold harmless City, its officers, City Council, directors, officials, agents employees, and volunteers(collectively "Indemnitees") from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Consultant or its Subconsultants) expense and liability of every kind, nature, and description, at law or equity, that arises out of, pertain to, or relate to (including without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) any negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify an Indemnatee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence active negligence, or willful misconduct of such Indemnatee but shall apply to all other Liabilities.
- B. Consultant shall defend (including providing legal counsel reasonably acceptable to City at no cost to City), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, suit, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by City, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement.

1.9. Liability of City

- A. Except as provided in Attachment A, City's obligations under this Agreement shall be limited to the payment of the compensation provided for in Services Consultant Agrees to Perform, Compensation, and Maximum Costs of this Agreement.

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- B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.
- C. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by any of its employees, even though such equipment be furnished, rented or loaned to Consultant by City. The acceptance or use of such equipment by Consultant or any of its employees shall be construed to mean that Consultant accepts full responsibility for and shall exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the Consultant, its employees, City employees or third parties, or to property belonging to any of the above.
- D. Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which City or Consultant may have under this Agreement or any applicable law. All rights and remedies of City or Consultant, whether under this Agreement or other applicable law, shall be cumulative.

1.10. Independent Contractor; Payment of Taxes and Other Expenses

- A. Consultant shall be deemed at all times to be independent contractors and shall be wholly responsible for the manner in which Consultant perform the Services required by the terms of this Agreement. Consultant shall be fully liable for the acts and omissions of it their Subconsultants, employees and agents.
- B. Nothing contained herein shall be construed as creating an employment, agency or joint venture relationship between City and Consultant. Consultant acknowledge that neither they nor any of their employees or agents shall, for any purpose whatsoever, be deemed to be City employees, and shall not be entitled to receive any benefits conferred on City employees, including without limitation workers' compensation, pension, health, insurance or other benefits.
- C. Consultant shall be solely responsible for payment of any required taxes, including California sales and use taxes, city business taxes and United States income tax withholding and social security taxes, levied upon this Agreement, the transaction, or the Services delivered pursuant hereto.
- D. Consultant shall make its designated representative available as much as reasonably possible to City staff during the City's normal working hours or as otherwise requested by City. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's Services only and not as to the means by which such a result is obtained.

1.11. Insurance

Prior to execution of this Agreement, Consultant shall furnish to City Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in the **Insurance Requirements Section**, which are included and made a part of this Agreement. Consultant shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in the Insurance Requirements. In the event Consultant fails to maintain any required insurance, City may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due Consultant under this Agreement (or Consultant shall promptly reimburse City for such expense).

1.12. Suspension of Services

- A. City may, without cause, order Consultant to suspend, delay or interrupt Services pursuant to this Agreement, in whole or in part, for such periods of time as City may determine in its sole discretion. City shall deliver to Consultant written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Consultant shall be compensated for such delay to the extent provided under this Agreement.
- B. Notwithstanding anything to the contrary contained in this Suspension of Services, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which Consultant is responsible.

1.13. Termination of Agreement for Cause

- A. If at any time City believes Consultant may not be adequately performing their obligations under this Agreement, that Consultant may fail to complete the Services as required by this Agreement, or that City has provided written notice of observed deficiencies in Consultant's performance, City may request from Consultant prompt written assurances of performance and a written plan, acceptable to City, to correct the observed deficiencies in Consultant's performance ("Cure Plan"). The Cure Plan must include, as applicable, evidence of necessary resources, correction plans, Subconsultant commitments, schedules and recovery schedules, and affirmative commitments to correct the asserted deficiencies, must meet all applicable requirements and show a realistic and achievable plan to cure the breach. Consultant shall provide such written assurances and Cure Plan within ten (10) calendar days of the date of notice of written request. Consultant acknowledges and agrees that any failure to provide written assurances and Cure Plan to correct observed deficiencies, in the required time, is a material breach under this Agreement.
- B. Consultant shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate Consultant's right to proceed under the Agreement, in whole or in part, for cause:
 - 1. Should Consultant make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be

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adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against Consultant in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Consultant or of all or any substantial part of the properties of Consultant, or if Consultant, its directors or shareholders, take action to dissolve or liquidate Consultant; or

2. Should Consultant commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan); or
3. Should Consultant violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within ten (10) calendar days of the date of the notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan.)

C. In the event of termination by City as provided herein for cause:

1. City shall compensate Consultant for the value of the Services delivered to City upon termination as determined in accordance with the Agreement, subject to all rights of offset and back charges, but City shall not compensate Consultant for its costs in terminating the Services or any cancellation charges owed to third parties.
2. Consultant shall deliver to City possession of all tangible aspects of the Services in their then condition including, but not limited to, all copies (electronic, CAD, and PDF format, and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with a Project, and all supplies and aids dedicated solely to performing Services which, in the normal course of the Services, would be consumed or only have salvage value at the end of the Services period.

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3. Consultant shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the Agreement. The provisions of this Paragraph shall not be interpreted to diminish any right that City may have to claim and recover damages for any breach of this Agreement, but rather, Consultant shall compensate City for all loss, cost, damage, expense, and/or liability suffered by City as a result of such termination and failure to comply with the Agreement, including without limitation City's costs incurred in connection with finding a replacement.
- D. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience pursuant to Termination of Agreement of Convenience below, and Consultant shall have no greater rights than they would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by Consultant.

1.14. Termination of Agreement for Convenience

- A. City may terminate performance of the Services under the Agreement in accordance with this Termination of Agreement for Convenience in whole, or from time to time in part, whenever City shall determine that termination is in the City's best interests. Termination shall be effected by City delivering to Consultant, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination ("Notice of Termination") specifying the extent to which performance of the Services under the Agreement is terminated.
- B. After receipt of a Notice of Termination, and except as otherwise directed by City, Consultant shall:
 1. Stop Services under the Agreement on the date and to the extent specified in the Notice of Termination;
 2. Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the Agreement which is not terminated;
 3. Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
 4. Assign to City in the manner, at times, and to the extent directed by City, all right, title, and interest of Consultant under orders and subcontracts so terminated. City shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;

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5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of City to the extent City may require. City's approval or ratification shall be final for purposes of this clause;
 6. Transfer title and possession of Consultant's and their Subconsultants' work product to City, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by City, completed and uncompleted designs and specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services terminated by the Notice of Termination; City acknowledges that said documents were prepared for the purpose of the Project.
 7. Complete performance of any part of the Services that were not terminated by the Notice of Termination; and
 8. Take such action as may be necessary, or as City may direct, for the protection and preservation of property related to this Agreement which is in Consultant's possession and in which City has or may acquire an interest.
- C. After receiving a Notice of Termination, Consultant shall submit to City a termination claim, in the form and with the certification City prescribes. The claim shall be submitted promptly, but in no event later than three months from the effective date of the termination, unless one or more extensions in writing are granted by City upon Consultant's written request made within such three month period or authorized extension. However, if City determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three-month period or extension. If Consultant fails to submit the termination claim within the time allowed, City may determine, on basis of information available to it, the amount, if any, due to Consultant because of the termination. City shall then pay to Consultant the amount so determined.
- D. Subject to provisions of Termination of Agreement for Convenience: Paragraph C above, Consultant and City may agree upon the whole or part of the amount or amounts to be paid to Consultant because of any termination of Services under this Paragraph. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement price of Services terminated. The Agreement may be amended accordingly, and Consultant shall be paid the agreed amount.
- E. If Consultant and City fail, under Termination of Agreement for Convenience: Paragraph D above, to agree on the whole amount to be paid to Consultant because of termination of Services under this Agreement for Convenience: Paragraph E, then Consultant's entitlement to

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compensation for Services specified in the Agreement which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of:

1. Reasonable value of Consultant's Services performed prior to Notice of Termination, based on Consultant's entitlement to compensation under Attachment A, Payments to Consultant. Such amount or amounts shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by Consultant, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of ten (10) percent of Consultant's total costs of performing the Services.
 2. When, in opinion of City, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable value of Consultant's Services will be the estimated reasonable cost of performing Services in compliance with the requirements of the Agreement, and any excessive actual cost shall be disallowed.
 3. Reasonable cost to Consultant of handling material returned to vendors, delivered to City or otherwise disposed of as directed by City.
- F. Except as provided in this Agreement, in no event shall City be liable for costs incurred by Consultant (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the Agreement or subcontracts, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim or a lawsuit, pre-judgment interest, or any other expense that is not reasonable or authorized under Agreement for Convenience: Paragraph E above.
- G. This Paragraph shall not prohibit Consultant from recovering costs necessary to discontinue further Services under the Agreement as provided for in Agreement for Convenience: Paragraph B above or costs authorized by City to settle claims from Subconsultants.
- H. In arriving at amounts due Consultant under this Agreement for Convenience, there shall be deducted:
1. All unliquidated advance or other payments on account theretofore made to Consultant, applicable to the terminated portion of Agreement,
 2. Any substantiated claim that City may have against Consultant in connection with this Agreement, and

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3. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by Consultant or sold under the provisions of this Agreement for Convenience, and not otherwise recovered by or credited to City.
- I. If the termination for convenience hereunder is partial, before settlement of the terminated portion of this Agreement, Consultant may file with City a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement that is not terminated. City may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of City and Consultant to agree upon amount or amounts to be paid to Consultant for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit City's rights and remedies pursuant to this Agreement or at law.

1.15. Conflicts of Interest/Other Agreements

- A. Consultant represents that it is familiar with Section 1090 and Section 87100, et seq., of the Government Code of the State of California, the Conflict of Interest Code, Resolution 06-23, adopted by the City on October 3, 2006, and that it does not know of any facts that constitute a violation of those sections.
- B. Consultant represents that it has completely disclosed to City all facts bearing upon any possible interests, direct or indirect, which Consultant believes any member of City, or other officer, agent or employee of City or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by City for cause. Consultant shall comply with the City's conflict of interest codes and their reporting requirements.
- C. Consultant covenants that it presently has no interest, and during the term of this Agreement shall not have any interest, direct or indirect, that would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Consultant represents to and agrees with the City that Consultant has no present, and in the future during the term of this Agreement will not have any, conflict of interest between providing the City the Services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including, but not limited to, any federal or state wildlife, environmental or regulatory agency) that has any interest adverse or potentially adverse to the City, as determined in the reasonable judgment of the City.

1.16. Proprietary or Confidential Information of City; Publicity

- A. Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may

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contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agree that all private, confidential, or proprietary information disclosed by City to or discovered by Consultant in the performance of the Services shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the City's interests where such confidential information could be used adversely to the City's interests. Consultant shall notify the City immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with the Services pursuant to this Agreement.

- B. Any publicity or press releases with respect to the Project or Services shall be under the City's sole discretion and control. Consultant shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without City's prior written consent. Consultant shall have the right, however, without City's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
- C. The provisions of this Proprietary of Confidential Information of City; Publicity shall remain fully effective indefinitely after termination of Services to the City hereunder.

1.17. Notices to the Parties

- A. All notices (including requests, demands, approvals or other communications other than ordinary course Project communications) under this Agreement shall be in writing and shall include the word "NOTICE" in the subject line.
- B. Notice shall be sufficiently given for all purposes as follows:
 - 1. When personally delivered to the recipient, notice is effective on delivery.
 - 2. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - 3. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 - 4. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this Notice to the Parties.
- C. Any correctly-addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service,

- D. Addresses for the purpose of giving notice are set forth in Qualified Personnel: Paragraph A above. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address or fax number, or both, by giving the other party notice of the change in any manner permitted by this Notice to the Parties.

1.18. Record Keeping and Audit Requirements

- A. Consultant shall keep such full and detailed accounting records as are necessary for proper financial management of the Project. Consultant shall maintain a complete and current set of all books and records relating to the construction of the Project. City shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Consultant relating to the work contemplated by this Contract. Within 90 calendar days after Final Completion, Consultant shall deliver to City those records necessary for City to perform a financial audit of the Project ("Final Audit").
- B. Invoice and progress/final reports and all required audit reports shall be submitted to City in a timely manner.
- C. Maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to Consultant's work on the Project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the financial statement, to the accounting records, and to the supporting documentation. These records shall be maintained for a period of three years after Final Completion of the Project, and shall be subject to examination and/or audit by City or designees, state government auditors or designees.
- D. Make such books, records, supporting documentations, and other evidence available to City or designees, their designated representatives, during the course of the Project and for a period of three years after Final Completion of the Project, and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, Consultant agrees to include a similar right of City to audit records and interview staff in any subcontract related to the performance of this Contract.

1.19. Subcontracting/Assignment/City Employees

- A. Consultant and City agree that Consultant's unique talents, knowledge and experience form a basis for this Agreement and that the Services to be performed by Consultant under this Agreement are personal in character. Therefore, Consultant shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder unless approved by City in a written instrument executed and approved by the City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Subcontracting/Assignment/City Employees: Paragraph A shall confer no rights on any party and shall be null and void.

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- B. Consultant shall not employ or engage, or attempt to employ or engage, any person who is or was employed by City or any department thereof at any time that this Agreement is in effect, and for a period of two years after the termination of this Agreement or the completion of the Services, without the written consent of City.

1.20. Other Obligations

- A. Discrimination, Equal Employment Opportunity and Business Practices. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, gender, actual or perceived sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, City ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.
- B. Drug-Free Workplace Policy. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns shall be deemed a material breach of this Agreement.
- C. Compliance with Americans with Disabilities Act and Rehabilitation Act. Consultant acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Consultant shall provide the Services specified in this Agreement in a manner that complies with the standard of care established under this Agreement regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns shall constitute a material breach of this Agreement. Consultant shall comply with §504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- D. Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Consultant to penalties, including but not limited to: (a) termination of this Agreement; (b) disqualification of the Consultant from bidding on or being awarded a City contract for a period of up to 3 years; (c) liquidated damages of \$2,500 per violation; and/or (d) imposition of other appropriate contractual and civil remedies and sanctions. To effectuate the provisions of this section, the

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City shall have the authority to examine Consultant's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Consultant under this Agreement or any other agreement between Consultant and City. Consultant shall report to the City the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 calendar days of such filing, provided that within such 30 days such entity has not notified Consultant that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Consultant shall provide City with a copy of their response to the complaint when filed.

- E. Employee Wages; Records; Apprentices: Consultant shall pay prevailing wages to its employees on any agreement in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by the Director of the State of California Department of Industrial Relations, are on file at the County's Capital Projects Office and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subconsultants shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.

1.21. Disputes

- A. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Project Manager and a principal of the Consultant who shall attempt, in good faith, to resolve the dispute. Such referral shall be initiated by written request from either party, and a meeting between the Project Manager and principal of the Consultant shall then take place within five (5) calendar days of the date of the request.
- B. Provided that City continues to compensate Consultant in accordance with this Agreement, Consultant shall continue its Services throughout the course of any and all disputes. Nothing in this Agreement shall allow Consultant to discontinue Services during the course of any dispute. Consultant's failure to continue Services during any and all disputes shall be considered a

material breach of this Agreement Consultant agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement including, but not limited to, the time to complete the Services. Consultant also agrees that should Consultant discontinue Services due to a dispute or disputes, City may terminate this Agreement for cause as provided herein.

- C. In the event of claims exceeding \$50,000, as a precondition to commencing litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of JAMS (Judicial Arbitration and Mediation Services), in Benicia, California, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the Solano City Superior Court from an approved list of JAMS qualified construction mediators. The parties may initially agree to engage in discovery prior to mediation. This Agreement is further subject to the provisions Chapter 9 (commencing with section 9204 of the Public Contracts Code and, to the extent there is no conflict, Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000 dispute through mediation. This Agreement hereby incorporates the provisions of section 9204 and of Article 1.5 as though fully set forth herein. Should parties proceed with discovery, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 201 9, et seq., and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

1.22. Agreement Made in California; Venue

- A. This Agreement shall be deemed to have been executed in the City of Benicia, County of Solano. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this Agreement shall be in the Superior Court of the County of Solano unless the parties agree otherwise in a written amendment to this Agreement.

1.23. Compliance with Laws

- A. Consultant shall comply with the Standard of Care in the interpretation and application of all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the date hereof. Consultant shall comply with all security requirements imposed by authorities with jurisdiction over any Project, and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.
- B. Consultant represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations and be consistent with the Standard of Care.

1.24. Miscellaneous

- A. All section and paragraph captions are for reference only and shall not be considered in construing this Agreement.
- B. As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by City of the final Certificate for Payment, or termination of this Agreement, whichever is earlier. This Miscellaneous: Paragraph B shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall commence to run on discovery of the defect and its cause. However, the applicable statutes of repose, California Code of Civil Procedure, Sections 337.1 and 337.15, shall continue to apply.
- C. Any provisions or portion thereof of this Agreement that is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law. In dispute resolution arising from this Agreement, the fact finder shall receive detailed instructions on the meaning and requirements of this Agreement.
- D. Either party's waiver of any breach, or the omission or failure of either party, at any time, to in force in force any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to in force or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- E. Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.
- F. Consultant acknowledges that Consultant, and all Subconsultants hired by Consultant to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Subconsultants hired by Consultant to perform services under this Agreement are in compliance with the IRCA. In addition, Consultant agrees to indemnify, defend and hold harmless the City, its agents, officers and employees, from any liability, damages or causes of

action arising out of or relating to any claims that Consultant's employees, or the employees of any Subconsultant hired by Consultant, are not authorized to work in the United States for Consultant or its Subconsultant and/or any other claims based upon alleged RCA violations committed by Consultant or Consultant's Subconsultant(s).

1.25. Entire Agreement; Modifications

- A. The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' Agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this Agreement.
- B. To the extent this Agreement conflicts with the terms of any proposal, invoice, or other document submitted to or by either party, the terms of this Agreement shall control.
- C. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of City, Consultant expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- D. Consultant, in any price proposals for changes in the Services that increase the Agreement amount, or for any additional Services, shall break out and list its costs and use percentage markups. Consultant shall require their Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Consultant's price proposals.
- E. Consultant and its Subconsultants shall, upon request by City, permit inspection of all original unaltered Agreement bid estimates, subcontract Agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- F. Changes in the Services made pursuant to this Entire Agreement; Modifications and extensions of the Agreement time necessary by reason thereof shall not in any way release Consultant's representations and agreements pursuant to this Agreement.
- G. Whenever the words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood as the direction, requirement, or permission of City. The words

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"approval", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to City, unless otherwise indicated by the context.

2. Insurance Requirements

2.1. INSURANCE REQUIREMENTS

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated January 7, 2025, by and between New Image Landscape Company, hereinafter referred to as "Consultant", and the City of Benicia, hereinafter referred to as "City", providing for professional services.

2.2. 1. Consultant's Duty to Show Proof of Insurance

Consultant, in order to protect City and its City Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance tracking platform. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to City a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to City prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

2.3. Insurance Requirements: Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be

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at least two million dollars (\$2,000,000) each occurrence and four million dollars (\$4,000,000) aggregate.

2.4. Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

2.5. Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

2.6. Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

2.7. Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2.8. Insurance terms and conditions:

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

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3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

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3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“New Image Landscape Company”

Signed by: 2/12/2025
By: Russell Takehara
46E92C9708FE4A7...

Its: VP

“City”

DocuSigned by:
By: Mario Giuliani
9FA31784A98E490...

Its: City Manager

“City Attorney”

Signed by:
By: Ben Stock
3294F30F0AD74E3...

Its: City Attorney

Attachment A

Description of responsibilities

Brief description of responsibilities of key professional personnel, emphasizing experience directly related to responsibilities on this project.

Phuong Nguyen	Executive Assistant	Assists General Manager with all landscape operations
Jeffrey Suzuki	General Manager	Oversees all landscape operations
Juan Pablo Sanchez	Assistant Account Manager	PoC for day to day maintenance reporting and issues
	Tree Care Operation	Overall Tree Care/Pesticide
Luis Barrera	Manager	Application/Pruning/Demolition
Jesus Zaragoza	Field Supervisor	On-Site Inspections/Supervision/Quality Reports

Scope of Services: Description

The City of Benicia has taken great pride in the landscapes that make up the Medians, Right-of-Ways, and City Facilities. New Image Landscape Company will take equally great pride in the opportunity to service these locations and the city organization as part a of this service agreement. We feel that our team has the knowledge of the requirements it takes to get the job done with the highest standard of quality, but likewise would be very open to feedback if there was any on how we can provide the best level of service to the City of Benicia.

(2) The NILC Landscape Management Program includes various service components with the intent on delivering an inclusive, comprehensive maintenance plan that meets and exceeds the scope of work requirements provided in this RFP, and also to provide the communication and management personnel to have a successful relationship with the City and its staff. The Landscape Management Program services include, but are not limited to:

- Turf Mowing/Edging and Power Blowing
- Weed Control (Pesticide Application/Integrated Pest Management – IPM)
- Irrigation Repair Services and Irrigation System Diagnostic Checks
- Irrigation/Water Management
- Basic Tree Care
- Plant/Shrub Trimming and Care

Attachment A

- Storm Water Treatment Measures

We have provided a summary of each service category below, but we believe the strongest element of our Landscape Management Program is our people. We make it a high priority to meet with each individual and best understand their goals and expectations of the contract.

We will set up an initial meeting with the City of Benicia team, making a dedicated effort to review our implementation schedule and any expectations the City may have on this contract. Ideally, we would like to continue with monthly production meetings to follow up on progress and ensure that quality control levels are continuously met.

We feel very grateful to have this opportunity and are very equipped to handle all City of Benicia projects.

Implementation Schedule (First 30 Days)

- Initial Meeting with NILC Landscape Account Manager and City of Benicia Team.
- Initial Meeting will cover:
 - Review of Implementation Schedule
 - Reviewing any modifications to current Service Schedule as well as additions of new areas to schedule
 - Schedule Irrigation System Checks with City Personnel
 - Outline Extra Work/Enhancement Goals for Year
- First 2 Weeks: Intensive Review and Inspection of NILC Service Team and Service Schedule
 - Field Supervisors and Landscape Managers will work closely with the City POC and NILC Service Team to ensure optimal scheduling/routing and to review current conditions of the working areas.
- Irrigation System Checks
 - NILC Irrigation Team will conduct initial checks of all irrigation systems per schedule developed by NILC Account Manager and City of Benicia Team
 - Please see Irrigation section for complete detail on Irrigation Scope of Work
- 30 Day Follow Up Meeting

Attachment A

- NILC Landscape Account Manager to review first 30 days progress with City of Benicia team requesting feedback on services performed.
- Schedule recurring monthly meetings for continuous feedback and goal setting.

New Image Landscape Company: Operational Policies.

NILC shall furnish all supervision, labor, tools, equipment, and material to properly maintain the landscaped areas in an attractive condition throughout the term of the contract as described in the specifications herein.

- All landscape workers shall be under the on-site supervision of an experienced maintenance Foreman/Crew Leader and Field Supervisor.
- It is against the policy of New Image Landscape Company for the company or employees of the company to enter into agreements with individual homeowners to maintain their properties.
- Upon request, the supervisor will notify the City Landscape Manager/POC when work or specific tasks are performed.
- All work will be performed in accordance with standard horticultural practices using procedures accepted by the industry.
- All work shall be scheduled to assure that horticultural tasks are undertaken at the proper time.
- Schedules may vary throughout the year as weather conditions dictate.
- Optional services are available and considered extra work with related charges.
- New Image Landscape Company recognizes the following holidays: New Year's Day, Presidents Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day. If the service day for your account falls on one of these holidays, service will be postponed until the following scheduled service day.
- Landscape maintenance will be done based on the appearance of the landscape and not on a per hour basis.
- 24-Hour Emergency Hotline Service available at 1 (888) 399 – 8594.

Attachment A

Inspections

New Image Landscape Company will, in the presence of the City Landscape Manager/POC, conduct a pre-startup inspection to list any observed problems or inadequacies on the site such as tree, shrub, ground cover conditions, irrigation deficiencies, and the general overall appearance. The list will help to determine what will be the routine responsibility of New Image and show where improvement, repair, and/or upgrades may be required.

Should a clean-up of the property be needed prior to the contract start-up, additional manpower separate from the regular maintenance field personnel will be brought in to bring the property up to the level at which it will be maintained at an additional cost.

The maintenance supervisor and City Landscape Manager/POC may walk the project site together once each month to review maintenance practices and plant condition.

Irrigation

During the first month of service, New Image will conduct an irrigation evaluation to determine the current condition of the system. This inspection will include controllers, remote control valves and valve boxes, sprinkler heads and risers, piping, and wiring (if necessary). This evaluation will identify any adjustments, alterations, and/or repairs that may be necessary. The irrigation system will be checked per contract term or more often if the need arises.

The scope of the irrigation check will include:

1. Adjust the programming of controllers to apply water in accordance with plant requirements based on weather and soil conditions while minimizing water runoff.
2. Clean and adjust the sprinkler heads and nozzles as needed. Adjust spray patterns to ensure proper coverage and prevent any over-spray onto paved areas or buildings.
3. Remote control valves will be checked for proper operation. Valve boxes to be cleared of debris.
4. Water and electricity for controllers are to be supplied by the customer.
5. Emergency repairs that are critical or necessary to the continued operation of the irrigation system are deemed authorized without the necessity of extra work authorization.

Attachment A

6. All damage done to the irrigation system due to contractor's negligence shall be the responsibility of the contractor and must be repaired within 48 hours at the contractor's expense.
7. If the existing irrigation system consists of a drip-system component, there may be an additional charge for any irrigation run-through's.
- 8.

Optional services as an extra work charge include:

8. Certified water audits.
9. Water budget record keeping.
10. Hand watering.
11. Repairs, modifications, alterations, or additions to the irrigation system.

Weed Control

The objective is to maintain all landscaped areas including turf, ground cover, and shrub areas essentially in a weed-free condition. Weeds shall not be allowed to be present for more than 30 days or to reach a size of more than six inches at any time. Weeds may be controlled by chemical or mechanical means where necessary, as well as hand weeding. Open weed abatement areas may be maintained by mowing.

Optional services as an extra work charge include:

- Weed abatement of open areas.
- Eradication of established invasive plants e.g. Bermuda grass, bent grass, Kikuyu grass, etc.

Attachment A

Turf Management

Turf Management shall consist of mowing, trimming, fertilization, pest control, and any other procedure consistent with good horticultural practices to ensure normal, vigorous, and healthy growth of turf areas. During the first month of service, New Image will conduct a survey of all lawn areas to determine the current condition of the turf. The survey will determine if there are any problem areas that may need more than normal maintenance such as renovation, re-seeding / re-sodding, dethatching, aeration, selective weed, insect, fungus, or disease control and header replacement / removal. Once any problem areas are identified and a resolution is determined, we can make recommendations and schedule the work at an additional cost during the appropriate season.

The scope of turf management plan:

12. All turf areas will be mowed on a weekly scheduled basis during the growing season from March 1st through October 31st, bi-weekly in November and February, and once per month in December and January, or as needed during the winter months.
13. Lawns will be mowed to a height of 2" to 2 1/2".
14. Edging along sidewalks and curbs shall be performed at every mowing.
15. Lawns bordering ground cover areas shall be edged monthly to prevent grasses from spreading into ground cover areas.
16. After mowing and edging, all clippings will be removed from the sidewalks, driveways, and curbs and removed from the site.
17. Mulching of lawn clipping to re-incorporate organic material back into the turf may occur.
18. Fertilization Program in line with Contract Requirements – type of fertilization will be determined by the season and any specific nutritional needs of the lawn, as agreed upon with municipality.
19. Minor pesticide application is defined as spot spraying, or individual application of herbicide, fungicide or insecticide chemicals. Usually applied from a hand sprayer or manually applied. Pesticides are lawfully applied when necessary, to control plant material damage by pests.

Attachment A

Shrubs and Groundcover

Shrubs and ground cover will be checked on a continual basis throughout the term of the contract duration. Shrubs should be checked for appropriate pruning and thinning, shearing or hedging, and compatibility within the areas in which they are planted. Hard pruning or cutting back will be done in the winter to allow new growth or flushing out during the oncoming spring season. Ground cover will be checked for appropriate selection and suitability for the areas required, proper coverage within the planting areas, and for general health and condition.

The scope of shrub and ground cover care:

20. Shrub pruning, thinning, and trimming shall be accomplished on a regular basis to maintain a neat appearance.
21. Shrubs shall be pruned to promote strength and accentuate the shrubs' natural forms and features, minimize balling, shearing, etc.
22. Plant material shall be fertilized on a regular basis before showing any sign of nutritional deficiencies.
23. Minor pesticide application.

Attachment A

Additional Services:

Water Management:

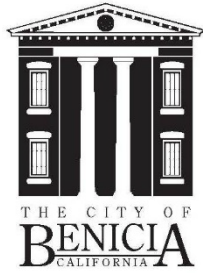
1. New Image Landscape seeks to prevent waste and ensure reasonable use of water supplied by the City's water distribution system.
2. Water use limitations will be designed to promote the use of drip irrigation and other low volume irrigation methods that reduce outdoor water use by applying water more efficiently than traditional irrigation methods.
3. Reduction of water demands through water conservation will reduce the per capita amount of water used by city customers, and will also reduce the city's costs for electrical energy, equipment and chemicals utilized to pump and treat water supplied to the City's water distribution system.
4. Reduction of water use through water conservation protects and promotes the public health, safety, and welfare by conserving a vital resource that is subject to ever-increasing demands.

Tree Management Services

1. New Image Landscape Company also utilizes a Tree Care Division which is assigned to each large tree project that has been assigned.
2. NILC's Tree Division is well-tasked to remove, replace and/or transplant large trees in addition to applying any pesticides or herbicides deemed necessary by Tree Division Manager.

Attachment A

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Benicia Community Center	12	Month	\$1,722.00	\$20,664.00
2	Benicia Terrace	12	Month	\$140.00	\$1,680.00
3	Chelsea Hills	12	Month	\$407.00	\$4,884.00
4	City Cemetery	12	Month	\$4,107.00	\$49,284.00
5	City Hall Complex	12	Month	\$3,733.00	\$44,796.00
6	Clock Tower COQ	12	Month	\$1,417.00	\$17,004.00
7	Clos Duvall	12	Month	\$220.00	\$2,640.00
8	Columbus Parkway	12	Month	\$424.00	\$5,088.00
9	Corporation Yard	12	Month	\$480.00	\$5,760.00
10	Drolette Way	12	Month	\$693.00	\$8,316.00
11	East 2nd Street Hillcrest Ave.	12	Month	\$398.00	\$4,776.00
12	East 2nd Street Medians	12	Month	\$591.00	\$7,092.00
13	East 2nd Street Slope	12	Month	\$155.00	\$1,860.00
14	East 5th Street	12	Month	\$45.00	\$540.00
15	East E Street	12	Month	\$351.00	\$4,212.00
16	Fire Station 12	12	Month	\$437.00	\$5,244.00
17	Fleetside	12	Month	\$1,165.00	\$13,980.00
18	Golden Slopes Median	12	Month	\$332.00	\$3,984.00
19	Goodyear Road	12	Month	\$198.00	\$2,376.00
20	Grant and Polk Triangle	12	Month	\$84.00	\$1,008.00
21	Gull Point	12	Month	\$98.00	\$1,176.00
22	John's Place	12	Month	\$143.00	\$1,716.00
23	McAllister Median Sides	12	Month	\$122.00	\$1,464.00
24	Military West	12	Month	\$352.00	\$4,224.00
25	Olive Branch Court	12	Month	\$292.00	\$3,504.00
26	Rose Drive	12	Month	\$1,622.00	\$19,464.00
27	Semple Crossing	12	Month	\$654.00	\$7,848.00
28	Southampton Road Medians	12	Month	\$1,354.00	\$16,248.00
29	St. Augustine Pathway	12	Month	\$274.00	\$3,288.00
30	Vacant Home - 365 East I Street	12	Month	\$227.00	\$2,724.00
31	Vacant Home - 472 East N Street	12	Month	\$227.00	\$2,724.00
32	West 11th Street Public Access	12	Month	\$100.00	\$1,200.00
33	West 13th Street Public Access	12	Month	\$100.00	\$1,200.00
34	West 14th Street Public Access	12	Month	\$100.00	\$1,200.00
35	West 8th Street Public Access	12	Month	\$184.00	\$2,208.00
36	West C Street Public Access	12	Month	\$100.00	\$1,200.00
37	West E Street Public Access	12	Month	\$100.00	\$1,200.00
38	West H Street Public Access	12	Month	\$100.00	\$1,200.00
39	West L Street Public Access	12	Month	\$145.00	\$1,740.00
40	West Manor Carolina Drive	12	Month	\$353.00	\$4,236.00
	Total				\$284,952.00



**AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
BUSINESS ITEM**

TO : City Manager

FROM : Public Works Director

SUBJECT : **AUTHORIZE THE CITY MANAGER TO VOTE “YES,” SIGN AND SUBMIT BALLOTS FOR CITYWIDE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT ON BEHALF OF THE CITY**

EXECUTIVE SUMMARY:

The City owns 58 parcels included in the proposed Citywide Parks, Landscape and Lighting Assessment District (PLLAD) and subject to the assessment fee. Consider adopting a Resolution authorizing the City Manager to vote “yes,” sign and submit the PLLAD ballots on behalf of the City for the parcels owned by the City that are subject to the assessment fee.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) authorizing the City Manager to vote “Yes,” sign and submit the ballots on behalf of the City for the parcels owned by the City that are subject to the proposed PLLAD assessment fee.

BUDGET INFORMATION:

There are no budget impacts with allowing the City Manager to sign and submit the ballots.

BACKGROUND:

The City currently has a landscape and lighting district with only approximately 25% of properties contributing to the City’s costs of maintaining improvements. This district consists of five zones, one of which consists of residential areas established in 1989 and lacks an annual inflation adjustment factor. As a result, funding has not kept pace with rising costs for materials, utilities, labor, and other essential services, making it increasingly difficult to maintain the level of service the community expects. The district also only funds five out of the 28 parks. To ensure consistent, reliable funding, the City is proposing a new citywide assessment to replace the current system, ensuring all property owners contribute fairly. This would create a more equitable funding approach, where everyone receiving a special benefit from Benicia’s parks and landscaping pays an assessment.

The new assessment district will be considered for approval by the City Council at a public hearing that will be held on October 14, 2025. At that hearing, all property owners are provided an opportunity to submit an Assessment Ballot to identify whether the owner votes “Yes” (“I support for the proposed yearly assessment for the parks, landscape and lighting improvements and maintenance”) or “No” (“I oppose proposed yearly assessment for parks, landscape and lighting improvements and maintenance”). Each ballot is weighted based on the dollar amount of the proposed assessment the property owner will pay. If the weighted “No” ballots are greater than the weighted “Yes” ballots, the City may not approve the new assessment district. The total amount of annual assessments within the proposed new district is \$1,891,417, and the amount of the weighted ballots for the 58 parcels owned by the City is \$14,808.78.

Any future increases to the PLLAD, except for annual CPI, shall require a 4/5 vote by Council.

At the December 3, 2023, City Council meeting, Council directed staff to pursue a Citywide assessment ballot measure.

On June 18, 2024, City Council adopted the Parks, Trails and Open Space Master Plan, which identified the need for additional funding.

On July 1, 2025, City Council adopted a resolution to Initiate Proceedings to form a Citywide District.

On July 15, 2025, City Council adopted two resolutions:

1. Establishing Assessment Setting Procedures for the PLLAD Under Proposition 218 and AB2257
2. Declaring Intention to Form the Citywide PLLAD, Approval of Preliminary Engineer’s Report, and Noticing the Public Hearing for Levying and Collecting Assessments for FY 2026/2027

NEXT STEPS:

A Public Hearing is set for October 14, 2025.

ALTERNATIVE ACTIONS:

If the resolution is not approved, then the City would not submit ballots.

CEQA Analysis	Landscaping and Lighting District assessments are exempt from the California Environmental Quality Act (CEQA) under Guidelines Selection 15378 (b) (4), because government fiscal activities, which do not involve any commitment to any specific project, which may result in a potentially significant physical impact on the environment is not considered a project.
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ATTACHMENTS:

1. Resolution - Authorizing the City Manager to Vote “Yes,” Sign, and Submit the PLLAD Ballots on Behalf of the City
2. Sample Ballot with Information Guide

For more information contact: Danielle Bonham, Public Works Director
Phone: 707-746-4240
E-mail: PW@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY MANAGER TO VOTE “YES,” SIGN, AND SUBMIT THE BALLOTS ON BEHALF OF THE CITY FOR THE PARCELS OWNED BY THE CITY THAT ARE SUBJECT TO THE PROPOSED CITYWIDE PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT

WHEREAS, the City of Benicia has initiated a ballot proceeding to establish a Citywide Parks, Landscape and Lighting Assessment District (PLLAD); and

WHEREAS, the ballot proceeding requires that ballots be mailed to the owners of all parcels that are subject to the proposed fee, and those ballots must be signed by the property owner or an authorized representative of the owner; and

WHEREAS, the City owns 58 parcels that are subject to the PLLAD, and the City Council wishes to cast an affirmative vote for each of the 58 parcels and authorize the City Manager to sign those ballots on behalf of the City Council; and

WHEREAS, the City supports the formation of a PLLAD, which will further fund the operations, maintenance, and capital projects for the PLLAD; and

WHEREAS, any future increases to the PLLAD, except for annual CPI, shall require a 4/5 vote by Council.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby authorize the City Manager to cast the ballots and is directed to indicate a “yes” vote on the ballots representing the 58 City-owned parcels.

BE IT FURTHER RESOLVED that the City Manager of the City of Benicia is hereby authorized to sign those ballots and submit them to the City Clerk prior to October 14, 2025, at 6:00 p.m.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

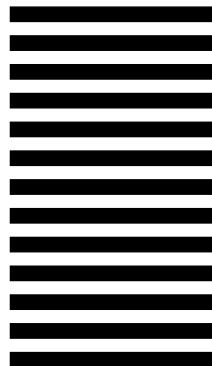
OFFICIAL MAIL

CITY OF BENICIA
PARKS, LANDSCAPE AND LIGHTING
ASSESSMENT DISTRICT BALLOT

Do Not Open Before October 14, 2025



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 6 BENICIA CA

POSTAGE WILL BE PAID BY ADDRESSEE

CITY OF BENICIA
250 E L STREET
BENICIA CA 94510-9804



158

PLEASE COMPLETE YOUR BALLOT
AND MAIL IT BACK PROMPTLY

Official Notice and Ballot Information Guide (Continued)



This funding will improve Benicia Community Park

Notice of Public Hearing

A public hearing will be held on Tuesday, October 14, 2025 at 6:00 PM at the Council Chambers at Benicia City Hall, located at 250 East L Street, Benicia, CA 94510. All members of the public are welcome and encouraged to attend. Ballots from property owners shall remain sealed until the conclusion of the public testimony portion of the City Council hearing, after which tabulation will begin.

Tabulation Process

Ballots are weighted by the proposed amount of assessment (your number of votes equal the amount of your assessment) and will be tabulated accordingly by the City Clerk. The proposed assessment shall not be imposed if weighted ballots submitted in opposition to the proposed assessment exceed the weighted ballots submitted in favor of the proposed assessment. If a majority of weighted ballots returned are in support, the proposed assessment may be levied for fiscal year 2026-27 and may be continued in future years. The City Clerk will announce results of the ballot proceedings at the City Council meeting on November 4, 2025. The City Council will consider appropriate action at that time.

Proposition 218 Compliance Objections

To legally challenge the proposed assessment, you must submit a separate written objection under AB 2257 that clearly explains how the assessment violates Proposition 218. Your objection must identify a specific requirement in Proposition 218 and explain why the proposed assessment fails to meet it and include (1) the name of the property owner, (2) the street address or assessor’s parcel number, and (3) the signature of the property owner. General complaints, personal opinions, or opposition to paying does not meet the definition of “objection” under AB 2257.

The objection must be submitted separately from your ballot by October 2, 2025 by (1) Mail or hand-delivered to City Manager’s Office, 250 East L Street, Benicia, CA 94510; (2) Email at pw@ci.benicia.ca.us; or (3) Faxed to (707) 746-1637. Do not include your objection inside the ballot envelope. Objections submitted with ballots do not meet the definition of “objection” under AB 2257.

City staff will review all timely written objections and provide a written response to each one before the close of the public hearing. These responses will be presented to the City Council for consideration prior to any decision to approve the assessment. Only those who submit valid and timely objections will preserve their right to challenge the assessment in court.

Additional Information

For more information concerning the citywide Parks, Landscape and Lighting Assessment District and proposed assessments, please contact Public Works at (707) 746-4240. You may find more information about the proposed assessment at <https://engagebenicia.com/en/folders/parks>



This funding will improve quality of trails and paths

All ballots must be received on or before October 14, 2025 to be counted



OFFICIAL NOTICE
PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT

Ballot Information Guide

Why Did You Receive This Ballot?

You received this ballot because you own property in the City of Benicia. The City is considering a citywide funding system, called a Parks, Landscape and Lighting Assessment District, or PLLAD, that would help support the maintenance and enhancement of parks, trails, open spaces, landscaping and lighting throughout the City. If approved, all property owners would contribute annually to improve our parks, landscaping and lighting on street medians and park facilities.

As required by Proposition 218, this funding initiative will be decided by mailed ballot, which is included with this notice. It will allow property owners in the City to decide whether to create a new citywide funding mechanism to replace the existing outdated assessment district.

Why Is This Assessment Being Proposed?

Currently, about 25% of property owners contribute to an existing assessment district consisting of five zones. The existing district was created in 1989 and only applies to five out of 28 parks in the City. The existing district does not adjust for inflation and has not kept up with today’s costs for labor, utilities, repairs or basic supplies. The City currently has \$55 million in deferred maintenance on our parks, trails, landscape and lighting.

The new citywide PLLAD would replace the existing district and all property owners would contribute to fund the needed maintenance and improvements in our parks, trails, landscape, lighting and street medians.



Community Meetings

Join us at our upcoming community meetings to learn more, ask questions, and connect directly with City staff. Scan the QR code to view meeting dates and locations.



This funding will replace the beloved Playground of Dreams at City Park with an architectural design honoring its history

What This Funding Initiative Provides

In 2024, the City approved a Parks, Trails, and Open Space Master Plan after an extensive public outreach effort. The total amount of the proposed assessment chargeable to the entire district is \$1,891,417 and would enable the City to begin addressing community-desired improvements, expand maintenance efforts in parks across the City, and maintain landscaping and lighting on street medians. If implemented, the City could begin funding the following improvements:

- Upgrade playground equipment
- Add/upgrade shade structures
- Upgrade amenities (i.e., tables, benches, BBQ grills, water fountain/bottle filling stations, etc.)
- Improve quality of trails and/or paths
- Expand lighting for ball fields at Community Park
- Construct synthetic all-weather fields at Community Park
- Enhance public restrooms



This funding will maintain and improve Alvarez 9th Street Park

All ballots must be received on or before October 14, 2025 to be counted

PARKS, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT

Official Notice and Ballot Information Guide (Continued)



How Would the Assessment Work?

Each property would pay the assessment based on a concept called a Single-Family Equivalent (SFE). This is a method for estimating the special benefits derived from parks, public landscaping and lighting. A typical house (single family residence) is assigned one (1) SFE while other property types are assigned more or fewer SFEs based on their property type (condo, commercial, vacant, etc.), number of units and property size. Each property's rate per SFE is further adjusted by its location and access to parks, grouped into three zones:

Zone	Distance to Nearest Park	Annual Rate per SFE	Monthly Equivalent
A	Within ½ mile	\$208.26	\$ 17.36
B	½ to 1½ miles	60% of Zone A	≈ \$10.42
C	Over 1½ miles	20% of Zone A	≈ \$3.47

Your ballot will show the specific amount proposed for your property(s). This amount is based on the number of SFEs assigned to your property(s), multiplied by the applicable zone's rate per SFE. The Preliminary Engineer's Report details the assessment methodology and can be found at <https://engagebenicia.com/en/folders/parks>

How Were These Zones Determined?

Zones are based not only on the straight-line distance to a park, but also on practical accessibility. Factors such as major roadways, freeways, and other barriers that affect how easily a property owner can access a park were considered. Therefore, two homes located the same distance from a park might fall into different zones if access to the park differs.

Property Owners Inside Existing District

If you live in one of the five existing zones, your current assessment would be replaced by the new citywide PLLAD. For a typical house (single family residence), the proposed change would increase your costs by about \$71.70/year (\$5.98/month). Still, it would result in more services and upgrades to provide special benefits to each property in neighborhoods throughout the City.

Property Owners Outside Existing District

If you live outside the existing district, you don't pay into the current assessment. The proposed citywide PLLAD would ensure that everyone proportionately shares the cost and the special benefits of more resources to support park services for each owner's property.

What if the Funding Initiative Fails?

If there is a majority protest by property owners submitting a ballot opposed to the proposed assessment, the City may not have adequate funding to maintain existing levels of service or complete community-desired park improvements. Only the five parks currently covered under the existing district would continue receiving limited funds, and future improvements would be delayed or limited.

Public Accountability Safeguards

The fund will be managed under strict rules. They can only be used for parks, public landscaping, and lighting. No funds may go to the City's General Fund. Each year, the budget is publicly reviewed, independently audited, and a public hearing is held to continue the assessment unless ended by the City Council.



Will Assessments Increase in the Future?

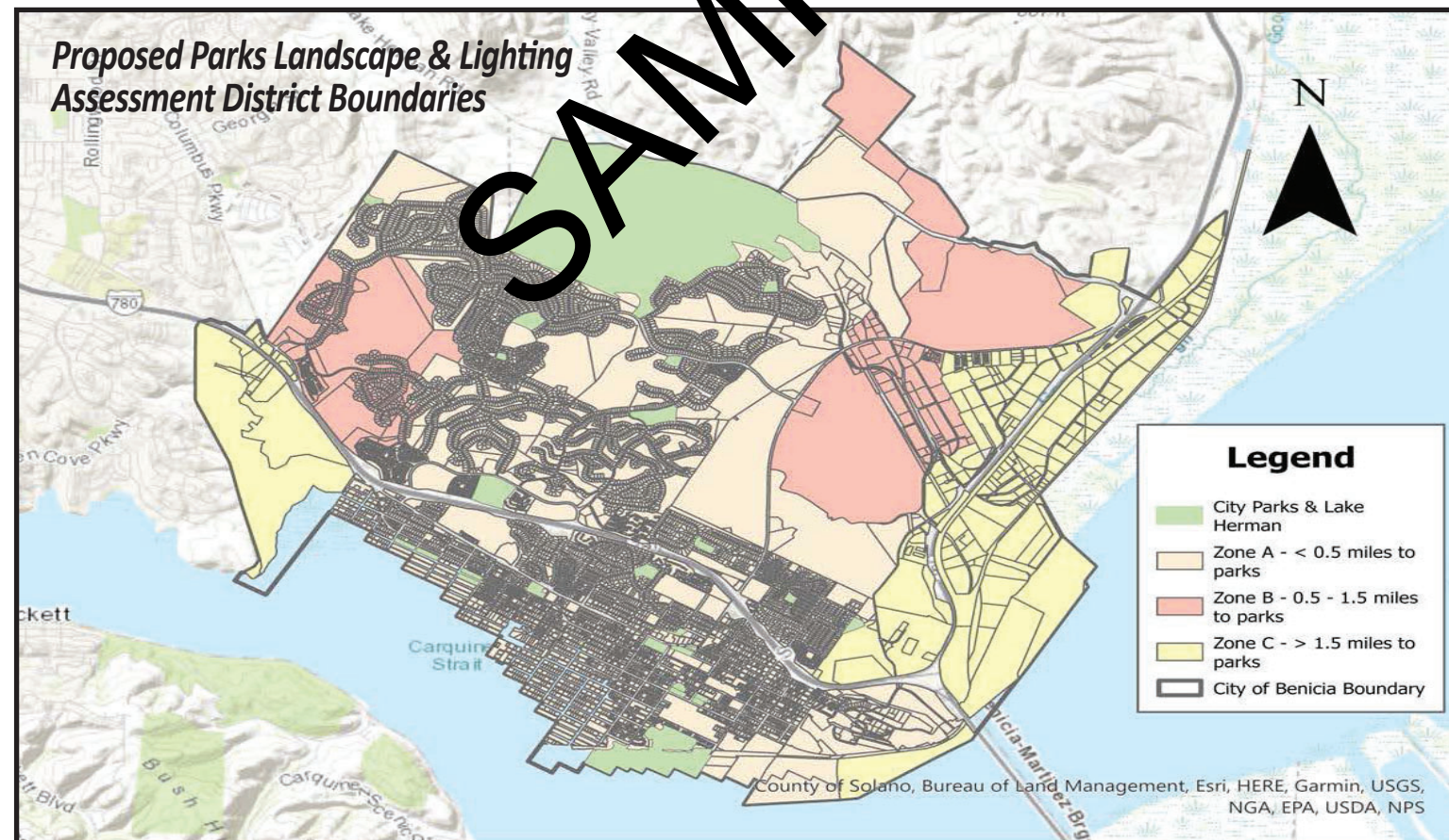
If approved, the assessment will begin in fiscal year 2026-27. Each year, the maximum allowed assessment amount will increase by inflation set by the change in the Bay Area Consumer Price Index (CPI), not to exceed 4% each year. The actual rate charged will be set annually by the City Council at a public hearing and may be less than the maximum.

Ballot Instructions

To be tabulated, your official ballot must be signed, marked "Yes" or "No," and received by the Ballot Tabulator (City Clerk) before the conclusion of the public testimony portion of the public hearing, which begins at 6:00 PM on October 14, 2025 in the Council Chambers at Benicia City Hall, located at 250 East L Street, Benicia, CA 94510. You may return your ballot in either of the following ways:

- **By Mail:** Use the return envelope provided in your ballot packet. Be sure the City Clerk receives it before 6:00 PM on October 14, 2025. Postmarks do not count.
- **In Person (Before the Hearing):** Deliver it to the City Clerk's Office at Benicia City Hall, 250 East L Street, Benicia, CA 94510, before 6:00 PM on October 14, 2025.
- **In Person (At the Hearing):** Bring it to the public hearing scheduled for October 14, 2025, at 6:00 PM in the Council Chambers at Benicia City Hall.

If you lose your ballot, need a replacement ballot, or want to change your vote, please contact Public Works at (707) 746-4240 to request another ballot.



All ballots must be received on or before October 14, 2025 to be counted

Official Assessment Ballot

PARKS, LANDSCAPE AND LIGHTING ASSESSMENT

BY THE CITY OF BENICIA

- ☐ YES, I support the proposed yearly assessment for parks, landscape and lighting improvements and maintenance.*
- ☐ NO, I oppose the proposed yearly assessment for parks, landscape and lighting improvements and maintenance.*

Signed _____ Date _____

Signature of Recorded Property Owner, or Authorized Representative

Print Name _____

*I hereby declare, under penalty of perjury, that I am the property owner or owner's authorized representative of the parcel(s) identified on this official assessment ballot.
(The proposed assessment amount is printed on the back of this ballot.)

INSTRUCTIONS FOR THE COMPLETION AND RETURN OF OFFICIAL ASSESSMENT BALLOTS

This assessment ballot may be completed by the persons or firms owning the property or properties identified by parcel number on this ballot. An explanation of who may complete the assessment ballot on behalf of the recorded property owner and additional instructions are provided on the other side of this Official Assessment Ballot.

To be tabulated, assessment ballots MUST be received before the end of the public hearing, scheduled on Tuesday, October 14, 2025 at 6:00 p.m. at the regularly scheduled meeting located at the City Council Chambers, 250 East L St., Benicia, CA 94510. You are invited to attend this Public Hearing.

You may return your assessment ballot in the following ways:

- 1) Mail your assessment ballot to the address shown on the enclosed return envelope. Ballots must be received by October 14, 2025.
- 2) Deliver it in person during the October 14, 2025 Public Hearing scheduled for 6:00 p.m. at the City Council Chambers, 250 East L St., Benicia, CA 94510.

FOLD SO THAT THIS SIDE IS ON THE INSIDE OF THE FOLD BEFORE PLACING THIS BALLOT IN THE RETURN ENVELOPE

Who May Complete This Official Assessment Ballot

1. If the property is owned by an individual, the individual may sign.
2. If a property is owned by more than one person, (a) any one may sign for all, or (b) call (707) 746-4240 to request a proportional assessment ballot for multiple owners.
3. If the property is owned by a corporation, the assessment ballot may be signed for the corporation by an officer or officers authorized to make contracts or by resolution of the corporation's Board of Directors.
4. If the property is owned by another legal entity, the assessment ballot may be signed by any person authorized by law to make contracts for the entity.
5. If the property is owned by a public agency, the assessment ballot may be signed by any person authorized by law to make contracts for the agency or by resolution of the agency's Governing Board.

Please see other side to complete this assessment ballot.

Steps for Completing the Official Assessment Ballot

1. Verify that the owner name and parcel number(s) listed on the assessment ballot are correct. If they are not correct, please call (707) 746-4240.
2. Fill in or clearly mark the oval next to the word "YES" or "NO" to approve or disapprove of the proposed assessment. You may use a pencil or pen.
3. Sign and date the assessment ballot. Only official assessment ballots which are signed and marked with the property owner's support or opposition will be counted. After marking your vote, simply FOLD the assessment ballot so that your vote is on the inside of the fold. Then place the assessment ballot in the return envelope provided. No postage is necessary to mail back your assessment ballot.
4. If you make a mistake in completing your assessment ballot or wish to change or withdraw your assessment ballot, please call (707) 746-4240.
(See enclosed notice for further information)

← **FOLD HERE** (this side should be on outside after fold)



City of Benicia
City Clerk's Office
250 East L Street
Benicia, CA 94510

PRESORTED
FIRST CLASS
U.S. POSTAGE PAID
SACRAMENTO, CA
PERMIT NO. 333

OFFICIAL BALLOT ENCLOSED

FOR PROPERTY OWNERS IN THE CITY OF BENICIA FOR A PROPOSED
PARKS, LANDSCAPE AND LIGHTING ASSESSMENT

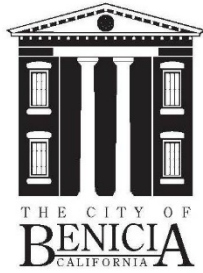
SAMPLE

OFFICIAL MAIL

OFFICIAL ASSESSMENT BALLOT
ENCLOSED

PLEASE OPEN IMMEDIATELY

MUST BE RECEIVED ON OR BEFORE October 14, 2025



AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
BUSINESS ITEM

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **STATE OF CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) PROHOUSING DESIGNATION APPLICATION**

EXECUTIVE SUMMARY:

The California Department of Housing and Community Development (HCD) administers the Prohousing Designation program which recognizes local efforts to address housing needs and provides funding opportunities to affordable housing development. A draft Prohousing Designation application has been prepared and circulated for public review. City Council public hearing and action is required to authorize the application to HCD.

RECOMMENDATION:

Conduct the public hearing and adopt the resolution (Attachment 1) authorizing the application the State of California Prohousing Designation Program.

BUDGET INFORMATION:

There are no direct fiscal impacts in connection with application to and participation in the Prohousing Designation Program. Achieving a Prohousing Designation would make the City eligible for future funding opportunities, including transportation related funding.

BACKGROUND:

Prohousing Designation is a recognition of the work that cities have done to address important community needs including housing supply and affordability. The Prohousing Designation makes the City eligible to apply for, or receive additional consideration in support of, funding programs for affordable housing, transportation infrastructure, and environmental sustainability. Receiving a Prohousing Designation documents a jurisdiction's commitment to implementing local policies that remove obstacles to new housing. The designation also benefits applicants seeking to build affordable housing projects, within the Prohousing jurisdiction, when applying for funding. Applicants seeking to build affordable housing projects in local governments that receive the Prohousing Designation can receive priority processing or funding points when applying for several funding programs, including Permanent Local Housing Allocation (PLHA), Affordable Housing and Sustainable Communities (AHSC), Infill Infrastructure Grant (IIG), Transformative Climate Communities (TCC), and more.

Housing developers seeking to build affordable housing projects in local governments that receive the Prohousing Designation can receive priority processing or funding points when applying for several funding programs, including Permanent Local Housing Allocation (PLHA), Affordable Housing and Sustainable Communities (AHSC), Infill Infrastructure Grant (IIG), Transformative Climate Communities (TCC), and more.

Work Program

The Prohousing Designation Application is included on the City Council's adopted work program for this fiscal year.

Prohousing Designation Application

The draft Prohousing Designation application (Attachment 1) consists of 5 appendices:

- Appendix 1: the formal resolution authorizing a jurisdiction to apply for a Prohousing Designation
- Appendix 2: the jurisdiction's proposed policy completion schedule
- Appendix 3: the jurisdiction's project proposal scoring sheet
- Appendix 4: examples of enhancement factors
- Appendix 5: supporting documentation

Threshold requirements for participation in the program include maintenance of a certified Housing Element, public participation, and compliance with applicable state housing law related to the Permit Streamlining Act and CEQA.

The core of the draft Prohousing Designation application is focused on Appendix 3, the project proposal scoring sheet which assigns points in the following categories:

- Favorable Zoning and Land Use
- Acceleration of Housing Production Timeframes
- Reduction of Construction and Development Costs
- Providing Financial Subsidies

A minimum of 30 points must be reached to achieve a Prohousing Designation. Jurisdictions may qualify for enhancement factors, which are extra points for policies that align with state priorities, such as mitigating climate change, promoting fair housing, and preventing displacement. Points are received for both enacted and proposed policies, if the proposed policies are implemented within two years. The draft application anticipates a score of 53 points (43 categorical points plus 10 enhancement points) as follows (see Attachment 1, Appendix 3):

- | | |
|---|-----------|
| • Favorable Zoning and Land Use | 22 points |
| • Acceleration of Housing Production Timeframes | 12 points |
| • Reduction of Construction and Development Costs | 8 points |
| • Providing Financial Subsidies | 11 points |

Public Review and Coordination

The City circulated the Prohousing Designation application for two statutory 30-day public comment periods, described in further detail below. Notice of the review periods was distributed via the City's Housing Element Listserve, City of Benicia this Week, and social media. The draft application was made available on the City's website at www.ci.benicia.ca.us/prohousing and at the Benicia Public Library.

The first public comment period was initiated on June 2, 2025. Written comments on the draft Prohousing Designation application were accepted until 5:00 PM on July 2, 2025.

Though not statutorily required, the draft application was presented to the Planning Commission at a special meeting on June 26, 2025. No formal action was taken, and no public comments were received.

A courtesy technical assistance meeting with HCD staff was conducted on June 19, 2025 to receive informal feedback on the draft application. Based on that meeting, the application was updated to provide additional detail and documentation as well as completion of Appendix 5: Homelessness: 7 Principles for Addressing Encampments. The application was re-issued for public comment on July 8, 2025 and comments were accepted through August 8, 2025.

In total, three public comments were received on the draft application included as Attachment 2.

Notice of public hearing for this agenda item was published in the Benicia Herald on August 3, 2025 and posted at City Hall on July 31, 2025.

CONSISTENCY WITH THE GENERAL PLAN:

Submission of the City's Prohousing Designation application is consistent with all Housing Element Goals, Programs, and Policies, which are inclusive of the General Plan, because all Housing Element Goals, Programs, and Policies facilitate and support the provision of safe and adequate housing for current and future residents of all income levels. Prohousing Designation would improve eligibility for the City and prospective project applicants to access funding for housing development, energy efficiency, infrastructure, as well as transportation.

NEXT STEPS:

Following the City Council's action, the Prohousing Designation application will be submitted to HCD for a statutory 60-day review period. If HCD provides comments that would necessitate revisions, the application will be recirculated prior to resubmittal.

ALTERNATIVE ACTIONS:

The City may provide alternative direction on the substance of the draft application or decline to authorize submittal of the application to HCD. Changes to the application will require an additional 30-day public comment period. If the application is not authorized, the City and potential housing developers will not be eligible to receive the benefits of the Prohousing Designation.

CEQA Analysis	Approval of the City's Prohousing Designation application is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the Prohousing Designation application will have a significant effect on the environment.
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ATTACHMENTS:

1. Resolution with Exhibit A: Prohousing Designation Application
2. Public Comments Received through August 8, 2025

For more information contact: Suzanne Thorsen, AICP, Assistant City Manager

Phone: 707-746-4280

E-mail: sthorsen@ci.benicia.ca.us

RESOLUTION NO. 25-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING APPLICATION TO AND PARTICIPATION IN THE PROHOUSING DESIGNATION PROGRAM

WHEREAS, Government Code section 65589.9 established the Prohousing Designation Program (“Program”), which creates incentives for jurisdictions that are compliant with state housing element requirements and that have enacted Prohousing local policies; and

WHEREAS, such jurisdictions will be designated Prohousing, and, as such, will receive additional points or other preference during the scoring of their competitive Applications for specified housing and infrastructure funding; and

WHEREAS, the California Department of Housing and Community Development (“Department”) has adopted regulations (Cal. Code Regs., tit. 25, § 6600 et seq.) to implement the Program (“Program Regulations”), as authorized by Government Code section 65589.9, subdivision (d); and

WHEREAS, the City of Benicia (“Applicant”) desires to submit an Application for a Prohousing Designation (“Application”).

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby find the foregoing recitals true and correct:

1. Applicant is hereby authorized and directed to submit an Application to the Department.
2. Applicant acknowledges and confirms that it is currently in compliance with applicable state housing law.
3. Applicant acknowledges and confirms that it will continue to comply with applicable housing laws and to refrain from enacting laws, developing policies, or taking other local governmental actions that may or do inhibit or constrain housing production. Examples of such local laws, policies, and actions include moratoriums on development; local voter approval requirements related to housing production; downzoning; and unduly restrictive or onerous zoning regulations, development standards, or permit procedures. Applicant further acknowledges and confirms that the Prohousing Policies in its Application comply with its duty to Affirmatively Further Fair Housing pursuant to Government Code sections 8899.50 and 65583. Applicant further acknowledges and confirms that its General Plan is in alignment with an adopted sustainable communities strategy pursuant to Public Resources Code sections 21155- 21155.4. Applicant further acknowledges and confirms that its policies for the treatment of homeless encampments on public property comply do and will continue to comply with the

Constitution and that it has enacted best practices in its jurisdiction that are consistent with the United States Interagency Council on Homelessness' "7 Principles for Addressing Encampments" (June 17, 2022, update).

4. If the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver all documents required or deemed necessary or appropriate to participate in the Program, and all amendments thereto (the "Program Documents").
5. Applicant acknowledges and agrees that it shall be subject to the Application, the terms and conditions specified in the Program Documents, the Program Regulations, and any and all other applicable law.
6. The City Manager is authorized to execute and deliver the Application and the Program Documents on behalf of the Applicant for participation in the Program.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
PROHOUSING DESIGNATION APPLICATION
[see next page]

Prohousing Designation Program Application



**State of California
Governor Gavin Newsom**

**Tomiquia Moss, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
Department of Housing and Community Development**

**Megan Kirkeby, Deputy Director
Division of Housing Policy Development**

651 Bannon Street
Sacramento, CA 95811

Website: <http://www.hcd.ca.gov/planning-and-community-development/prohousing-designation-program>

Email: ProhousingPolicies@hcd.ca.gov

February 2025

Prohousing Designation Program Application Package Instructions

The applicant is applying for a Prohousing Designation under the Prohousing Designation Program (“**Prohousing**” or “**Program**”), which is administered by the Department of Housing and Community Development (“**Department**”) pursuant to Government Code section 65589.9.

The Program creates incentives for Jurisdictions that are compliant with State Housing Element Law and that have enacted Prohousing Policies. These incentives will take the form of additional points or other preference in the scoring of applications for competitive housing and infrastructure programs. The administrators of each such program will determine the value and form of the preference.

In order to be considered for a Prohousing Designation, the applicant must accurately complete all sections of this application, including any relevant appendices. The Department reserves the right to request additional clarifying information from the applicant.

This application is subject to Government Code section 65589.9 and to the regulations (Cal. Code Regs., tit. 25, § 6600 et seq.) adopted by the Department in promulgation thereof (“**Regulations**”). All capitalized terms in this application shall have the meanings set forth in the Regulations.

All applicants must submit a complete, signed application package to the Department, in electronic format, in order to be considered for a Prohousing Designation. Please direct electronic copies of the completed application package to the following email address: ProhousingPolicies@hcd.ca.gov.

A complete application will include all items identified in the Application Checklist.

In relation to **Appendix 1**, the Formal Resolution for the Prohousing Designation Program, please use ~~strike through~~ and underline if proposing any modifications to the text of the Resolution. Please be aware, any substantive deviations from the Formal Resolution may result in an incomplete application and will likely be subject to additional internal review and potential delays.

Appendix 2, the Proposed Policy Completion Schedule, applies only if an application includes proposed policies.

Appendix 3, Self-Scoring Sheet and Sample Self-Scoring Sheet, includes a blank template to be completed by the applicant as part of the application, as well as a Sample Self-Scoring Sheet with an example of how this template may be completed.

Appendix 4 lists examples of Prohousing Policies with enhancement factors to aid applicants in understanding how enhancement factors may be applied.

Appendix 5 provides a sample template to assist applicants with confirming the treatment of homeless encampments within the jurisdiction is consistent with USICH's "7 Principles for Addressing Encampments."

Appendix 6 provides a checklist to confirm that a Diligent Public Participation Process was conducted.

Appendix 7 is where the applicant will include any additional information and supporting documentation for the application.

If you have questions regarding this application or the Program, or if you require technical assistance in preparing this application, please email ProhousingPolicies@hcd.ca.gov.

Application Checklist

	Yes	No
Application Information	☒	☐
Certification and Acknowledgement	☒	☐
The Legislative Information form is completed.	☒	☐
The Threshold Requirements Checklist is completed.	☒	☐
A duly adopted and certified Formal Resolution for the Prohousing Designation Program is included in the application package. (See Appendix 1 for the Formal Resolution for the Prohousing Designation Program form.)	☒	☐
If applicable, the Proposed Policy Completion Schedule is completed. (See Appendix 2 .)	☒	☐
The Self-Scoring Sheet is completed. (See Appendix 3 for the Self-Scoring Sheet and the Sample Self-Scoring Sheet.)	☒	☐
One-page summary describing consistency with the 7 Principles for Addressing Encampments is completed. (See Appendix 5 for a template to assist.)	☒	☐
The checklist confirming that a Diligent Public Participation process was conducted. (See Appendix 6 for the template.)	☒	☐
Additional information and supporting documentation (Applicant to provide as Appendix 7 .)	☒	☐

Application Information

Applicant (Jurisdiction):	City of Benicia
Applicant Mailing Address:	230 East L Street
City:	Benicia
ZIP Code:	94510
Website:	https://www.ci.benicia.ca.us/contactus
Authorized Representative Name:	Suzanne Thorsen
Authorized Representative Title:	Assistant City Manager/ Community Development Director
Phone:	(707) 746-4280
Email:	SThorsen@ci.benicia.ca.us
Contact Person Name:	Vivien Togonon
Contact Person Title:	Associate Planner
Phone:	(707) 746-4278
Email:	VTogonon@ci.benicia.ca.us
Proposed Total Score (Based on Appendix 3):	[55]

CERTIFICATION AND ACKNOWLEDGMENT

As authorized by the Formal Resolution for the Prohousing Designation Program (Resolution No. 25-XX), which is attached hereto and incorporated by reference as if set forth in full, I hereby submit this full and complete application on behalf of the applicant.

I certify that all information and representations set forth in this application are true and correct.

I further certify that any proposed Prohousing Policy identified herein will be enacted within two (2) years of the date of this application submittal.

I acknowledge that this application constitutes a public record under the California Public Records Act (Gov. Code, § 6250 et seq.) and is therefore subject to public disclosure by the Department.

Signature: _____

Name and Title: [Vivien Togonon, Associate Planner]

Date: [August 19, 2025]

Legislative Information

District	Number	Legislators Name(s)
State Assembly District	11	Assemblymember Lori Wilson
State Senate District	3	Senator Christopher Cabaldon

Applicants can find their respective State Senate representatives at <https://www.senate.ca.gov/>, and their respective State Assembly representatives at <https://www.assembly.ca.gov/>

Threshold Requirements Checklist

The applicant meets the following threshold requirements in accordance with Section 6604 of the Regulations:

	Yes	No
The applicant is a Jurisdiction.	☒	☐
The applicant has adopted a Compliant Housing Element.	☒	☐
The applicant has submitted or will submit a legally sufficient Annual Progress Report prior to designation.	☒	☐
The applicant has completed or agrees to complete, on or before the relevant statutory deadlines, any rezone program or zoning that is necessary to remain in compliance with Government Code sections 65583, subdivision (c)(1), and 65584.09, subdivision (a), and with California Coastal Commission certification where appropriate.	☒	☐
The applicant is in compliance, at the time of the application, with applicable state housing law, including, but not limited to those included in Government Code section 65585, subdivision (j); laws relating to the imposition of school facilities fees or other requirements (Gov. Code, § 65995 et seq.); Least Cost Zoning Law (Gov. Code, § 65913.1); Permit Streamlining Act (Gov. Code, § 65920 et seq.); and provisions relating to timeliness of CEQA processing by local governments in Public Resources Code sections 21080.1, 21080.2, and 21151.5(a).	☒	☐
The applicant further acknowledges and confirms that its treatment of homeless encampments on public property complies with and will continue to comply with the constitutional rights of persons experiencing homelessness and that it has submitted a one-page summary to the Department demonstrating how the applicant has enacted best practices in their jurisdiction related to the treatment of unhoused individuals camping on public property, consistent with United States Interagency Council on Homelessness' "7 Principles for Addressing Encampments," (June 17, 2022 update), hereby incorporated by reference.	☒	☐
The applicant has duly adopted and certified, by the applicant's governing body, a Formal Resolution for the Prohousing Designation Program, which is hereby incorporated by reference. (A true and correct copy of the resolution is included in this application package.)	☒	☐

Scoring Criteria
Category 1: Favorable Zoning and Land Use

Category	Prohousing Policy Description	Points
1A	Sufficient sites, including rezoning, to accommodate 150 percent or greater of the current or draft RHNA, whichever is greater, by total and income category. These additional sites must be identified in the Jurisdiction's housing element adequate sites inventory, consistent with Government Code section 65583, subdivisions (a)(3) and (c)(1).	3
1B	Permitting missing middle housing uses (e.g., duplexes, triplexes, and fourplexes) by right in existing low-density, single-family residential zones in a manner that exceeds the requirements of SB 9 (Chapter 162, Statutes of 2021, Gov. Code, §§ 65852.21, 66411.7).	3
1C	Sufficient sites, including rezoning, to accommodate 125 to 149 percent of the current or draft RHNA, whichever is greater, by total and income category. These points shall not be awarded if the applicant earns three points pursuant to Category (1)(A) above. These additional sites must be identified in the Jurisdiction's housing element adequate sites inventory, consistent with Government Code section 65583, subdivisions (a)(3) and (c)(1).	2
1D	Density bonus programs that allow additional density for additional affordability beyond minimum statutory requirements (Gov. Code, § 65915 et seq.).	2
1E	Increasing allowable density in low-density, single-family residential areas beyond the requirements of state Accessory Dwelling Unit Law, (Gov. Code, §§ 65852.2, 65852.22) (e.g., permitting more than one converted ADU; one detached, new construction ADU; and one JADU per single-family lot), and in a manner that exceeds the requirements of SB 9 (Chapter 192, Statutes of 2021, Gov. Code, §§ 65852.21, 66411.7). These policies shall be separate from any qualifying policies under Category (1)(B).	2
1F	Eliminating minimum parking requirements for residential development as authorized by Government Code section 65852.2; adopting vehicular parking ratios that are less than the relevant ratio thresholds at subparagraphs (A), (B), and (C) of Gov. Code section 65915, subdivision (p)(1); or adopting maximum parking requirements at or less than ratios pursuant to Gov. Code section 65915, subdivision (p).	2
1G	Zoning or incentives that are designed to increase affordable housing development in a range of types, including, but not limited to, large family units, Supportive Housing, housing for transition age foster youth, and deep affordability targeted for Extremely Low-Income Households in all parts of the Jurisdiction, with at least some of the zoning, other land use designation methods, or incentives being designed to increase affordable housing development in higher resource areas shown in the TCAC/HCD Opportunity Map, and with the Jurisdiction having confirmed that it considered and addressed potential environmental justice issues in adopting and implementing	2

	this policy, especially in areas with existing industrial and polluting uses.	
1H	Zoning or other land use designation methods to allow for residential or mixed uses in one or more non-residential zones (e.g., commercial, light industrial). Qualifying non-residential zones do not include open space or substantially similar zones.	1
1I	Modification of development standards and other applicable zoning provisions or land use designation methods to promote greater development intensity. Potential areas of focus include floor area ratio, height limits, minimum lot or unit sizes, setbacks, and allowable dwelling units per acre. These policies must be separate from any qualifying policies under Category (1)(B) above.	1
1J	Establishment of a Workforce Housing Opportunity Zone, as defined in Government Code section 65620, or a Housing Sustainability District, as defined in Government Code section 66200.	1
1K	Establishment of an inclusionary housing program requiring new developments to include housing affordable to and reserved for low- and very low-income households, consistent with the requirements of AB 1505 (Chapter 376, Statutes of 2017, Gov. Code, § 65850.01).	1
1L	Other zoning and land use actions not described in Categories (A)-(K) of this section that measurably support the Acceleration of Housing Production.	1

Scoring Criteria
Category 2: Acceleration of Housing Production Timeframes

Category	Prohousing Policy Description	Points
2A	Establishment of ministerial approval processes for multiple housing types, including, for example, single-family, multifamily and mixed-use housing.	3
2B	Acceleration of Housing Production through the establishment of streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying Environmental Impact Reports (EIR), and related documents.	2
2C	Documented practice of streamlining housing development at the project level, such as by enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law, (e.g., Pub. Resources Code, §§ 21155.1, 21155.4, 21159.24, 21159.25; Gov. Code, § 65457; Cal Code Regs., tit. 14, §§ 15303, 15332; Pub. Resources Code, §§ 21094.5, 21099, 21155.2, 21159.28).	2
2D	Establishment of permitting processes that take less than four months to complete. Policies under this category must address all approvals necessary to issue building permits.	2
2E	Absence or elimination of public hearings for projects consistent with zoning and the general plan.	2
2F	Priority permit processing or reduced plan check times for homes affordable to Lower-Income Households.	1
2G	Establishment of consolidated or streamlined permit processes that minimize the levels of review and approval required for projects, and that are consistent with zoning regulations and the general plan.	1
2H	Absence, elimination, or replacement of subjective development and design standards with objective development and design standards that simplify zoning clearance and improve approval certainty and timing.	1
2I	Establishment of one-stop-shop permitting processes or a single point of contact where entitlements are coordinated across city approval functions (e.g., planning, public works, building) from entitlement application to certificate of occupancy.	1
2J	Priority permit processing or reduced plan check times for ADUs/JADUs or multifamily housing.	1
2K	Establishment of a standardized application form for all entitlement applications.	1
2L	Documented practice of publicly posting status updates on project permit approvals on the internet.	1
2M	Limitation on the total number of hearings for any project to three or fewer. Applicants that accrue points pursuant to category (2)(E) are not eligible for points under this category.	1
2N	Other policies not described in Categories (2)(A)-(M) of this section that quantifiably decrease production timeframes or promote the streamlining of approval processes.	1

Scoring Criteria
Category 3: Reduction of Construction and Development Costs

Category	Prohousing Policy Description	Points
3A	Waiver or significant reduction of development impact fees for residential development with units affordable to Lower-Income Households. This provision does not include fees associated with the provision of housing affordable to Lower-Income Households (e.g., inclusionary in lieu fees, affordable housing impact fees, and commercial linkage fees).	3
3B	Adoption of policies that result in less restrictive requirements than Government Code sections 65852.2 and 65852.22 to reduce barriers for property owners to create ADUs/JADUs. Examples of qualifying policies include, but are not limited to, development standards improvements, permit processing improvements, dedicated ADU/JADU staff, technical assistance programs, and pre-approved ADU/JADU design packages.	2
3C	Adoption of other fee reduction strategies separate from Category (3)(A), including fee deferrals and reduced fees for housing for persons with special needs. This provision does not include fees associated with the provision of housing affordable to Lower-Income Households (e.g., inclusionary in lieu fees, affordable impact fees and commercial linkage fees).	1
3D	Accelerating innovative housing production through innovative housing types (e.g., manufactured homes, recreational vehicles, park models, community ownership, and other forms of social housing) that reduce development costs.	1
3E	Measures that reduce costs for transportation-related infrastructure or programs that encourage active modes of transportation or other alternatives to automobiles. Qualifying policies include, but are not limited to, publicly funded programs to expand sidewalks or protect bike/micro-mobility lanes, creation of on-street parking for bikes, transit-related improvements, or establishment of carshare programs.	1
3F	Adoption of universal design ordinances pursuant to Health and Safety Code section 17959.	1
3G	Establishment of pre-approved or prototype plans for missing middle housing types (e.g., duplexes, triplexes, and fourplexes) in low-density, single-family residential areas.	1
3H	Adoption of ordinances that reduce barriers, beyond existing law, for the development of housing affordable to Lower-Income Households.	1
3I	Other policies not described in Categories (3)(A)-(H) of this section that quantifiably reduce construction or development costs.	1

Scoring Criteria
Category 4: Providing Financial Subsidies

Category	Prohousing Policy Description	Points
4A	Establishment of a housing fund or contribution of funds towards affordable housing through proceeds from approved ballot measures.	2
4B	Establishment of local housing trust funds or collaboration on a regional housing trust fund, which include the Jurisdiction's own funding contributions. The Jurisdiction must contribute to the local or regional housing trust fund regularly and significantly. For the purposes of this Category, "regularly" shall be defined as at least annually, and "significant" contributions shall be determined based on the impact the contributions have in accelerating the production of affordable housing.	2
4C	Demonstration of regular use or planned regular use of funding (e.g., federal, state, or local) for preserving assisted units at-risk of conversion to market rate uses and conversion of market rate uses to units with affordability restrictions (e.g., acquisition/rehabilitation). For the purposes of this category, "regular use" can be demonstrated through the number of units preserved annually by utilizing this funding source.	2
4D	Provide grants or low-interest loans for ADU/JADU construction affordable to Lower- and Moderate-Income Households.	2
4E	A comprehensive program that complies with the Surplus Land Act (Gov. Code, § 54220 et seq.) and that makes publicly owned land available for affordable housing, or for multifamily housing projects with the highest feasible percentage of units affordable to Lower Income Households. A qualifying program may utilize mechanisms such as land donations, land sales with significant write-downs, or below-market land leases.	2
4F	Establishment of an Enhanced Infrastructure Financing District or similar local financing tool that, to the extent feasible, directly supports housing developments in an area where at least 20 percent of the residences will be affordable to Lower-Income Households.	2
4G	Prioritization of local general funds to accelerate the production of housing affordable to Lower-Income Households.	2
4H	Directed residual redevelopment funds to accelerate the production of affordable housing.	1
4I	Development and regular (at least biennial) use of a housing subsidy pool, local or regional trust fund, or other similar funding source sufficient to facilitate and support the development of housing affordable to Lower-Income Households.	1

4J	Prioritization of local general funds for affordable housing. This point shall not be awarded if the applicant earns two points pursuant to Category (4)(G).	1
4K	Providing operating subsidies for permanent Supportive Housing.	1
4L	Providing subsidies for housing affordable to Extremely Low-Income Households.	1
4M	Other policies not described in Categories (4)(A)-(L) of this section that quantifiably promote, develop, or leverage financial resources for housing affordable to Lower-Income Households.	1

Project Proposal Enhancement Factors

The Department shall utilize enhancement factors to increase the point scores of Prohousing Policies. An individual Prohousing Policy may not use more than one enhancement factor. Each Prohousing Policy will receive extra points for enhancement factors in accordance with the chart below.

Category	Prohousing Policy Description	Points
1	The policy represents one element of a unified, multi-faceted strategy to promote multiple planning objectives, such as efficient land use, access to public transportation, housing affordable to Lower-Income Households, climate change solutions, and/or hazard mitigation.	2
2	Policies that promote development consistent with the state planning priorities pursuant to Government Code section 65041.1.	1
3	Policies that diversify planning and target community and economic development investments (housing and non-housing) toward place-based strategies for community revitalization and equitable quality of life in lower opportunity areas. Such areas include, but are not limited to, Low Resource and High Segregation & Poverty areas designated in the most recently updated TCAC/HCD Opportunity Maps, and disadvantaged communities pursuant to Health and Safety Code sections 39711 and 39715 (California Senate Bill 535 (2012)).	1
4	Policies that go beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.	1
5	Rezoning and other policies that support intensification of residential development in Location Efficient Communities.	1
6	Rezoning and other policies that result in a net gain of housing capacity while concurrently mitigating development impacts on or from Environmentally Sensitive or Hazardous Areas.	1
7	Zoning policies, including inclusionary housing policies, that increase housing choices and affordability, particularly for Lower-Income Households, in High Resource and Highest Resource areas, as designated in the most recently updated TCAC/HCD Opportunity Maps.	1
8	Other policies that involve meaningful actions towards Affirmatively Furthering Fair Housing outside of those required pursuant to Government Code sections 65583, subdivision (c)(10), and 8899.50, including, but not limited to, outreach campaigns, updated zoning codes, and expanded access to financing support.	1

Self-Scoring Sheet Instructions

The Department shall validate applicants' scores based on the extent to which each identified Prohousing Policy contributes to the Acceleration of Housing Production. The Department shall assess applicants' Prohousing Policies in accordance with statutory requirements and the Regulations.

The Department shall further assess applicants' Prohousing Policies using the following four scoring categories: Favorable Zoning and Land Use, Acceleration of Housing Production Timeframes, Reduction of Construction and Development Costs, and Providing Financial Subsidies. Applicants shall demonstrate that they have enacted or proposed at least one policy that significantly contributes to the Acceleration of Housing Production in each of the four categories. A Prohousing Designation requires a total score of 30 points or more across all four categories.

Instructions

Please utilize one row of the Self-Scoring Sheet for each Prohousing Policy.

- **Category Number:** Select the relevant category number from the relevant Scoring Criteria list in this application. Where appropriate, applicants may utilize a category number more than once.
- **Concise Written Description of Prohousing Policy:** Set forth a brief description of the enacted or proposed Prohousing Policy.
- **Enacted or Proposed:** Identify the Prohousing Policy as enacted or proposed. For proposed Prohousing Policies, please complete **Appendix 2: Proposed Policy Completion Schedule**.
- **Documentation Type:** For enacted Prohousing Policies, identify the relevant documentary evidence (e.g., resolution, zoning code provisions). For proposed Prohousing Policies, identify the documentation which shows that implementation of the policy is pending.
- **Web Links/Electronic Copies:** Insert the Web link(s) to the relevant documentation or indicate that electronic copies of the documentation have been attached to this application as **Appendix 7**.
- **Points:** Enter the appropriate number of points using the relevant Scoring Criteria list in this application.
- **Enhancement Category Number (optional):** If utilizing an enhancement factor for a particular Prohousing Policy, enter the appropriate category number using the relevant Scoring Criteria list in this application.
- **Enhancement Points (optional):** If utilizing an enhancement factor for a particular Prohousing Policy, enter the point(s) for that Prohousing Policy.
- **Total Points:** Add the enhancement point(s) to the Prohousing Policy's general point score.

Appendix 1: Formal Resolution for the Prohousing Designation Program

Formal Resolution for the PROHOUSING Designation Program

RESOLUTION NO. 25-XX

A RESOLUTION OF THE GOVERNING BODY OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING APPLICATION TO AND PARTICIPATION IN THE PROHOUSING DESIGNATION PROGRAM

WHEREAS, Government Code section 65589.9 established the Prohousing Designation Program (“Program”), which creates incentives for jurisdictions that are compliant with state housing element requirements and that have enacted Prohousing local policies; and

WHEREAS, such jurisdictions will be designated Prohousing, and, as such, will receive additional points or other preference during the scoring of their competitive Applications for specified housing and infrastructure funding; and

WHEREAS, the California Department of Housing and Community Development (“Department”) has adopted regulations (Cal. Code Regs., tit. 25, § 6600 et seq.) to implement the Program (“Program Regulations”), as authorized by Government Code section 65589.9, subdivision (d); and

WHEREAS, the City of Benicia (“Applicant”) desires to submit an Application for a Prohousing Designation (“Application”).

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia finds the foregoing recitals are true and correct;

1. Applicant is hereby authorized and directed to submit an Application to the Department.
2. Applicant acknowledges and confirms that it is currently in compliance with applicable state housing law.
3. Applicant acknowledges and confirms that it will continue to comply with applicable housing laws and to refrain from enacting laws, developing policies, or taking other local governmental actions that may or do inhibit or constrain housing production. Examples of such local laws, policies, and actions include moratoriums on development; local voter approval requirements related to housing production; downzoning; and unduly restrictive or onerous zoning regulations, development standards, or permit procedures. Applicant further acknowledges and confirms that the Prohousing Policies in its Application comply with its duty to Affirmatively Further Fair Housing pursuant to Government Code sections 8899.50 and 65583. Applicant further acknowledges and confirms that its general plan is in alignment with an adopted sustainable communities strategy pursuant to Public Resources Code sections 21155- 21155.4. Applicant further acknowledges and confirms that its policies for the treatment of homeless encampments on public property comply do and will continue to comply with the Constitution and that it has enacted best practices in its jurisdiction that are consistent with the United States Interagency Council on Homelessness’ “7 Principles for Addressing Encampments” (June 17, 2022, update).

4. If the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver all documents required or deemed necessary or appropriate to participate in the Program, and all amendments thereto (the “Program Documents”).
5. Applicant acknowledges and agrees that it shall be subject to the Application, the terms and conditions specified in the Program Documents, the Program Regulations, and any and all other applicable law.
6. The City Manager is authorized to execute and deliver the Application and the Program Documents on behalf of the Applicant for participation in the Program.

On motion of Council Member XXXXX, seconded by Council Member XXXXX, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of August 2025 by the following vote:

Ayes:

Noes:

Absent:

Abstain: |

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Appendix 2: Proposed Policy Completion Schedule

Category Number	Concise Written Description of Proposed Policy	Key Milestones and Milestone Dates		Anticipated Completion Date	Notes
2J	Per Housing Element Program 1.12, the City is currently developing a Pre-Approved ADU Program (PADU). While the City already allows a streamlined review that only requires a building permit, the pre-approved plans will allow property owners to develop pre-approved ADUs on their sites, reducing plan check times. The City is currently accepting applications from design professionals to have their pre-approved ADUs approved by the City. Once the City approves the pre-approved ADUs, the City will post a brief description of the size/type of the pre-approved ADU and vendor contact information.	Shared on City website and the Benicia Permit Center a portal to submit pre-approved ADU plan.	As of May 2025	December of 2025	
		Share the pre-approved ADUs plans and vendor contact information.	December 2025		
3E	Per Housing Element Program 5.04, the City committed to expanding active transportation facilities in eastern Benicia to reduce automobile dependence and improve connections to existing pedestrian and bicycle routes, such as the Carquinez Strait Scenic Loop Trail. In 2022, the City rezoned a 13.5-acre area at the "Eastern Gateway" to support mixed-use and multi-family housing development, requiring 12-foot landscaped sidewalks to transform the underutilized commercial corridor into a pedestrian- and cyclist-friendly corridor. The area previously lacked ADA-compliant infrastructure, with cracked sidewalks and missing curb ramps. However, the existing above and below ground infrastructure in the area poses barriers to new development.	Completed rezoning project site at the "Eastern Gateway."	2022	Spring 2026	
		Held Community Workshop #1 for the Eastern Gateway Infrastructure Master Plan.	February of 2025		
		Begin construction of Scout property frontage improvements (sidewalks and landscape bulb-outs).	May 2026		

	To address these constraints, the City is in the early stages of developing a comprehensive Eastern Gateway Infrastructure Master Plan. This plan will outline strategies to overcome infrastructure challenges and advance the community's vision for a walkable, bike-friendly neighborhood. Key components will include Class II and III bicycle lanes, new and improved sidewalks, curb extensions, ADA curb ramps, traffic safety striping, and solutions to stormwater and fire truck access issues. The General Plan Circulation Element will be amended to align with the Master Plan, the countywide Active Transportation Plan, and applicable state requirements. Community engagement is currently underway. The Master Plan will develop a broader strategy to expand access to public transportation, promote pedestrian-oriented development, and mitigate climate impacts by reducing car reliance.				
3F	Per Housing Element Program 5.03, the City is currently reviewing whether to adopt residential standards in the City's Building Code to encourage universal design features in new homes. The Program also committed the City to provide information on universal design at the City's Permit Center and develop informational resources for the City's website, which the City has completed.	Reviewing whether to adopt standards in Building Code.	Current action	December of 2026	
		Shared information on universal design on City website (www.ci.benicia.ca.us/housing).	As of May 2025	May 2025	
		Review whether to adopt an optional appendix in the City's Building Code for universal design.	In progress	Anticipated adoption March 2026	
3I	Per Housing Element Program 1.12, the City is currently developing a Pre-Approved ADU Program (PADU) and technical assistance services. The pre-approved ADU plans will alleviate the cost of developing ADU plans for applicants opting	Shared on City website and the Benicia Permit Center a portal to submit pre-approved ADU plan.	As of May 2025	December of 2025	
		Shared the pre-approved ADUs plans and vendor contact information.	December 2025	December 2025	

	into the program. The PADU also is focused on providing mobility opportunities for lower-income households in areas of higher median incomes, including the RCAA, and in higher resource, concentrated affluence areas to promote housing mobility for lower- and moderate-income households. This allows residents to reduce design costs and lessens constraints on the approval process through pre-approved City plans.				
4E	Per Housing Element Program 1.16, the City has initiated the Surplus Lands Act process to develop city-owned sites into 100% affordable housing and mixed-income housing projects. Nine of these sites (17 parcels total) from the Housing Element sites inventory required additional attention because they include lower-income units or are non-vacant, or because they require rezoning (opportunity sites). In early 2023, the City Council approved to rezone these nine sites for housing development. This process also included outreach to affordable housing developers to notify them of the land made available through the Surplus Lands Act. In 2024, three sites were identified for disposition, with NOAs and RFPs issued. The City plans to release three more RFPs by 2026 and another three by 2028. The City is currently reviewing project proposals in response to two of the disposed sites. Project proposals are currently under review, and the City is considering contributing land at below-market rates to support affordable development.	City Council approved to rezone the nine City-owned sites for housing development.	Early 2023	August 2027	
		Identified 3 of the sites in accordance to Surplus Land Act law. Shared a NOA for the Fire Museum Site and RFPs for the Scout Property site and the Senior Center Site.	March 31, 2025: NOA released January 2025: RFPs released		
		Dispose three sites for affordable housing development.	End of 2025		
		Enter disposition agreements for the three sites.	August 2027		
4M	Per Housing Element Program 4.04 (p. 24), the City is currently collaborating with	Hired a consultant to produce an informational memo on outreach to	May 2025	June 2025	

	mobile home park owners to determine the feasibility of maintaining existing parks and assess future plans. A memo detailing engagement strategies and relevant state legislation was provided to the City in June 2025. The hired consultant team that was hired to work with the City spoke with two park owners and confirmed they plan to remain open and in operation, which affirms this housing option will be maintained to conserve the existing housing stock. The City commits to assist owners in accessing state or federal funds for improvements to substandard or dilapidated parks and units, or to convert the park to resident ownership. The City will apply for available funding on an annual basis until funds are secured to help with park improvements since at this time the City understands all parks currently plan to remain open. The City's quantified objective is to work with owners of mobile home parks to maintain 238 units of affordable housing to prevent displacement of occupants.	mobile home park owners. Received the memo by the consultant team.			
		Consultant spoke with two park owner to learn future operation plans.	May 2025	June 2025	
		Annually check-in with park owners on status of park.	Annual Action	Annual Action	

Appendix 3: Self-Scoring Sheet and Sample Self-Scoring Sheet

Self-Scoring Sheet

Category Number	Concise Written Description of Prohousing Policy	Enacted or Proposed	Documentation Type (e.g., resolution, zoning code)	Insert Web Links to Documents or Indicate that Electronic Copies are Attached as Appendix 7	Points	Enhancement Category Number	Enhancement Points	Total Points
1A	The RHNA allocation for Benicia is 750 total housing units. The City has 3,319 “pipeline” projects that are subtracted from the RHNA, leaving a remaining RHNA of 2,569. The City has identified 1,167 units with adequate zoning in the Housing Element Inventory and are consistent with Government Code section 65583, subdivisions (a)(3) and (c)(1). The 6th Cycle Housing Element Update (HEU) demonstrates there are a sufficient number of sites, including rezoning, to accommodate 155 percent of the RHNA by total income and income category on non-vacant land.	Enacted	Housing Element	6th Cycle Housing Element (pp. 37 and 40)	3			3

1E	Amended Benicia Municipal Code (BMC) Section 17.70.470 (Housing for Religious and Community Institutional Uses) to allow up to 4 ADUs and 4 JADUs on sites with religious and institutional uses in the single-family residential (RS) zone, exceeding the requirements of State ADU and SB 9 law. This implemented Housing Element Program 2.05. Enhancement Factor 4: The zoning policy increases housing choices and affordability, particularly for Lower-Income Households, in High Resource areas and areas with concentrated affluence. The City's objective is to develop 50 lower-income units citywide with 25 units in areas of high medium income, high resource, or concentrated affluence.	Enacted	Zoning Code and Housing Element	6th Cycle Housing Element (pp. 16-17) 17.70.470 (Housing for Religious and Community Institutional Uses)	2	7	1	3
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1G	Adopted Section 17.70.430 (Objective Planning and Design Standards for Mixed Use Residential and Multifamily Development Projects), requiring all new housing developments, including transitional and supportive housing, to comply with the City's objective planning and design standards and support the increase of the types of affordable housing development. This implemented Housing Element Program 1.14. Additionally, the City adopted Ordinance No. 23-06, which streamlines design review requirements in historic districts and determines that these amendments are categorically exempt from CEQA under the "Construction or Conversion of Small Structures" and "Existing Facilities" exemptions The City also adopted zoning code amendments (Section 17.28.020) to permit supportive housing without discretionary review in zones that allow residential, multifamily, or mixed uses, including applicable nonresidential zones. This implemented Housing Element Program 3.01. Enhancement Factor 4: Together, these policies aim to expand affordable housing opportunities and streamline the development	Enacted	Housing Element, Zoning Code, and Ordinance	6th Cycle Housing Element (pp. 12 and 19) 17.70.430 (Objective Planning and Design Standards for Mixed Use Residential and Multifamily Development Projects) 17.28.020 (CC, CO, CG, and CW districts – Land use regulations) Ordinance No. 23-6 (electronic copy attached as Appendix 5) Ordinance No. 24-1 (electronic copy attached as Appendix 5) City Council's First Reading of Staff Report of Ordinance No. 24-1	2	4	1	3
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	process across high-resource and other areas of the City by going beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.			(electronic copy attached as Appendix 5) City Council's Second Reading of Staff Report of Ordinance No. 24-1 (electronic copy attached as Appendix 5)					
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1H	Allows single-family and multifamily housing in two nonresidential zoning districts, the Community Commercial (CC) and Commercial Office (CO) Districts. The City selected the CC and CO Districts to allow these residential uses to lend itself to mixed use due to the location of CC parcels within established neighborhoods, as this is a neighborhood commercial district. In addition, CO is an office/commercial zoning district that is intended to allow residential-scale commercial/office and residential development that is distinct from retail commercial corridors. Enhancement Factor 5: By allowing single-family and multifamily housing in an increased number of zoning districts and areas with different services, this policy promotes infill development consistent with the state planning priorities pursuant to Government Code section 65041.1.	Enacted	Zoning Code	17.28.020 (CC, CO, CG, and CW districts – Land use regulations)	1	2	1	2
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11	Adopted a new Housing Opportunity Zone (HZ) District to provide an opportunity for high-density multiple-family residential development at higher land coverage and density than other residential districts, and in close proximity to stores, services, schools, and public transportation. The City also allowed special needs housing by-right and does not allow single-family residential uses in this zone. Enhancement Factor 8: The adoption of the HZ District was part of the City's AFFH efforts to improve housing mobility, reduce displacement risk, reduce concentration of poverty and lower-income households, and increase the supply of affordable housing in higher opportunity and higher-income areas.	Enacted	Zoning Code and Housing Element	17.24 (Residential Districts) 6th Cycle Housing Element (p. 129)	1	8	1	2
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1K	Adopted an Inclusionary Housing Ordinance (IHO) consistent with State law requirements in Section 17.70.320 (Inclusionary Housing). The IHO was updated to improve the feasibility of housing development including inclusionary units, as well as the administration of the ordinance. While there is housing development in the pipeline, it predates the implementation of this new ordinance. Therefore, no new housing development proposals are currently in the pipeline for which the new inclusionary housing ordinance would apply. The City expects, however, that the new ordinance will facilitate the production of inclusionary housing units, as well as the rehabilitation and preservation of existing affordable units, as implementation proceeds in the future. Enhancement Factor 4: As an inclusionary housing policy, the zoning policy increases housing goes beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.	Enacted	Zoning Code	17.70.320 (Inclusionary Housing)	1	4	1	2
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1L	Adopted Chapter 17.64 (Housing Opportunity Sites Overlay District) designating specific Housing Opportunity Sites within existing residential zones. Additionally, this District is located in various areas throughout the City within close proximity to medium to higher density areas, as well as mixed-use, industrial, and public and semi-public zoning districts which contain public and semi-public amenities that influence greater density and intensity to encourage an influx of affordable housing development. Enhancement Factor 2: This overlay district directly addresses state-mandated housing element requirements to accommodate housing in infill locations with modified development regulations to increase the feasibility of affordable housing development opportunities.	Enacted	Zoning Code and City Ordinance	17.64 (Housing Opportunity Sites Overlay District) Ordinance No. 23-3 (electronic copy attached as Appendix 5)	1	2	1	2
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2A	Per Housing Element Program 2.06, the City adopted zoning amendments in Section 17.108.020.C (Objective Ministerial Review) that established ministerial design review procedures for multifamily and mixed-use residential developments up to two stories in the Mixed Use Infill (MU-L) and Mixed Use Limited (MU-I) Districts. This expands ministerial review of missing middle housing and facilitates housing mobility on sites in the Housing Element inventory. Enhancement Factor 2: This policy accommodates housing in infill locations by alleviating review requirements to increase the feasibility of affordable housing development opportunities.	Enacted	Zoning Code and Housing Element	17.108.020.C (Objective Ministerial Review) 6th Cycle Housing Element (p. 17-18)	3	2	1	4
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2D	The City has a turnaround time schedule for building permits. The turnaround time for new single-family and multifamily housing is no more than 12 weeks. The intake process takes up to five working days, a typical plan review takes up to 10 working days, a larger plan review takes between 10 to 20 days, the plan review letter takes up to four working days after plan review, and payment and issuance takes between one to five working days after approval. Therefore, the City's review is completed within four months.	Enacted	Housing Element and Building Permits Plan Review Turnaround Times Webpage	6th Cycle Housing Element (p. 160) Building Permits Plan Review Turnaround Times Webpage (see "Building Permits" dropdown)	2			2
2G	Per Housing Element Program 2.06, the City adopted an ordinance in Section 17.108.020.C (Objective Ministerial Review) that eliminated the discretionary design review requirement for mixed use and multifamily housing of up to 4 residential units citywide, outside of a historic district. This expands ministerial review of missing middle housing and facilitate housing mobility on sites in the Housing Element inventory. Enhancement Factor 2: This policy accommodates housing in infill locations by alleviating review requirements to increase the feasibility of affordable housing development opportunities.	Enacted	Zoning Code and Housing Element	17.108 (Design Review) 6th Cycle Housing Element (pp. 17-18)	1	2	1	2

2H	Adopted objective planning and design standards for mixed-use and residential multifamily development projects as outlined in Section 17.70.430 (Objective Planning and Design Standards for Mixed Use Residential and Multifamily Development Projects).	Enacted	Zoning Code and Adopted Objective Planning and Design Standards Webpage	17.70.430 (Objective Planning and Design Standards for Mixed Use Residential and Multifamily Development Projects) Adopted Objective Planning and Design Standards	1			1
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2I	The City operates the Benicia Permit Center website, a centralized, modern portal that features tutorial videos and application submission tools. It provides access to the Planning Division, Building Safety Division, and Public Works Department. The Planning Division oversees development review for the City. As of April 14, 2025, the City began recruiting for a newly created Permit Services Specialist position. This role will serve as an ombudsman to the public and is responsible for overseeing permit processes, coordinating fees, and ensuring interdepartmental workflow efficiency for development and construction permits. The Permit Services Specialist will manage entitlement coordination across City departments and ensures streamlined, effective permit procedures.	Enacted	Benicia Permit Center Website Permit Services Specialist Job Posting	Benicia Permit Center Website Screenshots (electronic copy attached as Appendix 5) Permit Services Specialist Job Posting (electronic copy attached as Appendix 5)	1			1
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2J	Per Housing Element Program 1.12, the City is currently developing a Pre-Approved ADU Program (PADU). While the City already allows a streamlined review that only requires a building permit, the pre-approved plans will allow property owners to develop pre-approved ADUs on their sites, reducing plan check times. The City is currently accepting applications from design professionals to have their pre-approved ADUs approved by the City. Once the City approves the pre-approved ADUs, the City will post a brief description of the size/type of the pre-approved ADU and vendor contact information.	Proposed	Housing Element, Zoning Code, and City Website	6th Cycle Housing Element (pp. 11-12) 17.70.060 (Accessory Dwelling Units) City of Benicia Pre-Approved ADU Program for Designers Webpage Benicia Permit Center PADU Webpage (electronic copy attached as Appendix 5)	1			1
2K	On the "Benicia Permit Center" webpage, the City established a "Universal Planning Application" for design review, use permits, variances, zoning permits, general plan amendments, zoning text amendments, re-zoning applications, planned developments, and other application types.	Enacted	Benicia Permit Center Website's Universal Planning Application Webpage City of Benicia Universal Planning Application's Application Types Webpage	Benicia Permit Center Website's Universal Planning Application Webpage City of Benicia Pre-Approved ADU Program for Designers Webpage (electronic copy attached as Appendix 5)	1			1

2L	The City launched a Current Development Applications webpage, providing citywide information on individual project applications. Each entry includes the application number and type, applicant name, submission date, site address, and a brief project description. This webpage undergoes an internal monthly audit process to ensure accuracy. The City also developed a Current & Past Projects webpage, which features individual project webpages with detailed descriptions, site plans, community engagement updates, and a document archive. This page is updated by the Community Development Coordinator as soon as project updates become available or as needed. Depending upon the project, this can include information such as environmental compliance documents, notifications of upcoming or past public hearings, or changes to project scope.	Enacted	City of Benicia Current Development Applications Webpage City of Benicia Current & Past Projects Webpage	City of Benicia Current Development Applications Webpage City of Benicia Current & Past Projects Webpage	1			1
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2N	Adopted a "Fast-Tracking Option" for development plan review procedures in BMC Section 17.112.060.A (Fast-Tracking Option). This option for housing development reviews allows developers to have development plan review be done concurrently with one or more discretionary approvals, including use permits. This aims to significantly shorten the approval timeline. Although this option does not apply to streamlining CEQA processes specifically, required CEQA processes can be handled concurrently with discretionary approvals as well. The Fast-Tracking Option streamlines development such that necessary discretionary approvals can be processed concurrently to accelerate construction start dates.	Enacted	Zoning Code	17.112.060.A (Fast-Tracking Option)	1			1
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3A	The City established a development impact fee reduction process for affordable housing units per a July 1, 2024 memo. This allows applicants to receive reductions for development impact fees based on the percentage of affordable housing units created. Applicants may receive fee reductions based on the percentage of affordable units included in a project. Eligible fees include the Library Impact Fee, Parkland Dedication Quimby In-Lieu Fee, Parkland Improvement Impact Fee, and Transportation Impact Mitigation Fee. The fee reductions are calculated and varies based on the percentage of affordable housing units created. Each affordable housing unit constructed as part of a multi-family residential development project pays a reduced fee that is equal to the percentage of affordable housing units created by the project, rounded up to the nearest whole percent, and capped at 50%. For example, if a 20-unit multi-family housing development included nine affordable housing units (45%), then the impact fees charged for those affordable housing units would be reduced by 45%.	Enacted	City Webpage and Memo	Benicia Development Impact Fees Webpage Benicia Development Impact Fees "Notice of Modified Impact Fees and Capacity Fees - Effective July 1, 2024" Memo	3	1	2	5
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Enhancement Factor 1: The policy represents one element of a unified, multi-faceted strategy to promote multiple planning objectives, such as efficient land use, access to public transportation, housing affordable to Lower-Income Households, climate change solutions, and/or hazard mitigation. The City's 6th Cycle Housing Element Update provides a unifying and multi-faceted strategy. This program advances the multifaceted strategy, specifically Housing Element Policy 1.1 by facilitating the production of housing that is affordable to people with a wide range of incomes. The programs in the Housing Element to achieve this multifaceted policy include coordinating affordable housing development, leveraging financial resources, working with the Public Works Department, and revising zoning regulations to remove governmental constraints to housing development.							
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3B	The City established a development impact fee reduction process specifically for ADUs per a July 1, 2024 memo. This allows applicants to receive reductions for development impact fees based on the proportion to the size of primary residence. Eligible fees include Library Impact Fees, Parkland Dedication Quimby In-Lieu Fees, Parkland Improvement Impact Fees, Transportation Impact Mitigation Fees, Water System Capacity Fees, and Sewer System Capacity Fees. Additionally, per HEU Program 1.12, the City currently does not charge additional fees for ADUs beyond standard building permit fees. Enhancement Factor 2: This policy accommodates housing in infill locations by alleviating review requirements to increase the feasibility of affordable housing development opportunities.	Enacted	City Webpage, Memo, and Housing Element	Benicia Development Impact Fees Webpage Benicia Development Impact Fees "Notice of Modified Impact Fees and Capacity Fees - Effective July 1, 2024" Memo 6th Cycle Housing Element (pp. 11-12)	2	2	1	3
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3C	As stated in Housing Element Program 1.14 (p. 12), the City defers, waives, or reduce certain development fees, portions of fees, or combinations of fees for the affordable portion of any project type, including housing for persons with special needs. On November 19th, 2024, the City adopted a resolution to adopt modified Water System Capacity Fees and Sewer System Capacity Fees for affordable housing units, based on the percentage of affordable housing units in the project. The fee reductions are calculated through the same methodology as provided in Category 3A. The City promotes these incentives to developers on the City's website and during the application process. Additionally, the City also adopted reduced fees for pre-inspections for Family Care Homes in the Master Fee Schedule to support housing development for persons with special needs.	Enacted	Memo, Resolutions, and Housing Element	Benicia Development Impact Fees Webpage Benicia Development Impact Fees "Notice of Modified Impact Fees and Capacity Fees - Effective July 1, 2024" Memo and Resolution No. 21-1 Resolution No. 24-127 (electronic copy attached as Appendix 5) 6th Cycle Housing Element (pp. 11-12)	1			1
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3E	Per Housing Element Program 5.04, the City committed to expanding active transportation facilities in eastern Benicia to reduce automobile dependence and improve connections to existing pedestrian and bicycle routes, such as the Carquinez Strait Scenic Loop Trail. In 2022, the City rezoned a 13.5-acre area at the "Eastern Gateway" to support mixed-use and multi-family housing development, requiring 12-foot landscaped sidewalks to transform the underutilized commercial corridor into a pedestrian- and cyclist-friendly corridor. The area previously lacked ADA-compliant infrastructure, with cracked sidewalks and missing curb ramps. However, the existing above and below ground infrastructure in the area poses barriers to new development. To address these constraints, the City is in the early stages of developing a comprehensive Eastern Gateway Infrastructure Master Plan. This plan will outline strategies to overcome infrastructure challenges and advance the community's vision for a walkable, bike-friendly neighborhood. Key components will include Class II and III bicycle lanes, new and improved sidewalks, curb extensions, ADA	Proposed	Housing Element and City's Project Website	6th Cycle Housing Element (pp. 27-28) City of Benicia Eastern Gateway Project Website	1	1	2	3
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	curb ramps, traffic safety striping, and solutions to stormwater and fire truck access issues. The General Plan Circulation Element will be amended to align with the Master Plan, the countywide Active Transportation Plan, and applicable state requirements. Community engagement is currently underway. Enhancement Factor 1: The Master Plan will develop a broader strategy to expand access to public transportation, promote pedestrian-oriented development, and mitigate climate impacts by reducing car reliance.							
3F	Per Housing Element Program 5.03, the City is currently reviewing whether to adopt residential standards in the City's Building Code to encourage universal design features in new homes. The Program also committed the City to provide information on universal design at the City's Permit Center and develop informational resources for the City's website, which the City has completed.	Proposed	Housing Element and City's Project Website	6th Cycle Housing Element (p. 27) City of Benicia Housing in Benicia Webpage	1			1

3H	Adopted a Community Benefits Program in the BMC as part of their adoption of the Mixed Use-Infill (MU-I) and Mixed Use-Limited (MU-L) zones in 2022. The Community Benefits Program allows streamlined review and increased height and density regulations within the MU-I zone, in exchange for the provision of a defined benefit or benefits, such as affordable housing, artist housing, and infrastructure improvements. Incentives are provided in a three-tier system and includes requiring no minimum site area per unit, an increased allowance of maximum lot coverage, and increased maximum building height. The community benefits increase flexibility in site design and encourages quality housing development for a range of income levels in the zones. Enhancement Factor 1: The Community Benefits Program creates a multi-faceted strategy to streamline housing development, improve public infrastructure, and increase open space land in the City.	Enacted	Zoning Code	17.70.440 (Community Benefits Program)	1	1	2	3
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3I	Per Housing Element Program 1.12, the City is currently developing a Pre-Approved ADU Program (PADU) and technical assistance services. The pre-approved ADU plans will alleviate the cost of developing ADU plans for applicants opting into the program. The PADU also is focused on providing mobility opportunities for lower-income households in areas of higher median incomes, including the RCAA, and in higher resource, concentrated affluence areas to promote housing mobility for lower- and moderate-income households. This allows residents to reduce design costs and lessens constraints on the approval process through pre-approved City plans.	Proposed	Housing Element, Zoning Code, and City Website	6th Cycle Housing Element (pp. 11-12) 17.70.060 (Accessory Dwelling Units) City of Benicia Pre-Approved ADU Program for Designers Webpage Benicia Permit Center PADU Webpage (electronic copy attached as Appendix 5)	1			1
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4E	Per Housing Element Program 1.16, the City has initiated the Surplus Lands Act process to develop city-owned sites into 100% affordable housing and mixed-income housing projects. Nine of these sites (17 parcels total) from the Housing Element sites inventory required additional attention because they include lower-income units or are non-vacant, or because they require rezoning (opportunity sites). In early 2023, the City Council approved to rezone these nine sites for housing development. This process also included outreach to affordable housing developers to notify them of the land made available through the Surplus Lands Act. In 2024, three sites were identified for disposition, with NOAs and RFPs issued. The City plans to release three more RFPs by 2026 and another three by 2028. The City is currently reviewing project proposals in response to two of the disposed sites. Project proposals are currently under review, and the City is considering contributing land at below-market rates to support affordable development.	Proposed	Housing Element and City Website	6th Cycle Housing Element (pp. 13-14) City of Benicia Pre-Approved ADU Program for Designers Webpage	2			2
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4J	Per Housing Element Program 1.01, the City will continue using the General Fund as the funding source for working with the Benicia Housing Authority (BHA) to coordinate affordable housing activities and maintaining relationships with other non-profit housing providers. In April 2025, the City outreached to the BHA, to inquire of BHA's status of its and other local non-profit agency efforts to develop a program that invests in Benicia's existing multifamily housing stock and creates a path to the permanent affordability of these units, in accordance with Housing Element Program 4.05. BHA continues to work with various local community non-profit organizations (e.g., Families in Transition, St. Vincent De Paul, Benicia Action Council) to provide housing support services such as helping unhoused individuals locate affordable units and case-by-case financial assistance for rent payment arrears due to extenuating circumstances, in order to foster self-sufficiency and help low-income individuals maintain permanent housing.	Enacted	Housing Element	6th Cycle Housing Element (pp. 7-8)	1			1
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4L	Per Housing Element Program 3.05, City staff are engaged in the Permanent Local Housing Allocation (PLHA) Program grant process. Funds from previous fiscal years have been received (for Calendar Year (CY) 2019-2021), requested (for CY 2022), and the most recent PLHA application (for our final round of the five-year funding, CY 2023) was recently accepted by HCD on May 27, 2025. One of the eligible uses of PLHA grant funding for the City is for the predevelopment, development, acquisition, rehabilitation, and preservation of multi-family, residential live-work, rental housing that is affordable to extremely low-income households, very low-, low-, or moderate-income households (up to 150 percent of Area Median Income (AMI) in high-cost areas). Additionally, necessary operating subsidies are eligible for units dedicated to all of the stated income levels, include extremely low-income households. The City is on distribution lists for key funding agencies and has obtained PLHA funds for rehabilitation of affordable housing and new transitional housing. PLHA Grant funds are being requested as NOFAs are released.	Enacted	Housing Element	6th Cycle Housing Element (pp. 20-21)	1	4	1	2
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	Thus far, from the City grant recipient standpoint, the Benicia Housing Authority has requested and received funds to support a rehabilitation effort of its senior housing facilities, Casa de Vilarrasa I & II. The City also recently finalized agreements with another agency, Safequest Solano, for the transfer of a City-owned site to the organization. Efforts to renovate the home into a transitional housing facility have not yet begun but are forthcoming. Enhancement Factor 4: This policy increases housing by going beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.							
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4M	Per Housing Element Program 4.04 (p. 24), the City is currently collaborating with mobile home park owners to determine the feasibility of maintaining existing parks and assess future plans. A memo detailing engagement strategies and relevant state legislation was provided to the City in June 2025. The hired consultant team that was hired to work with the City spoke with two park owners and confirmed they plan to remain open and in operation, which affirms this housing option will be maintained to conserve the existing housing stock. The City commits to assist owners in accessing state or federal funds for improvements to substandard or dilapidated parks and units, or to convert the park to resident ownership. The City will apply for available funding on an annual basis until funds are secured to help with park improvements since at this time the City understands all parks currently plan to remain open. The City's quantified objective is to work with owners of mobile home parks to maintain 238 units of affordable housing to prevent displacement of occupants. Enhancement Factor 4: This policy increases housing by going	Proposed	Housing Element	6th Cycle Housing Element (p. 24)	1	4	1	2
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	beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.							
<u>Totals</u>					<u>38</u>	<u>-</u>	<u>15</u>	<u>55</u>

Sample Self-Scoring Sheet

Note: This is a Sample Project Proposal Scoring Sheet; an actual submission may include more specificity when an applicant completes the “Concise Written Description of Prohousing Policy.”

Category Number	Concise Written Description of Prohousing Policy	Enacted or Proposed	Documentation Type (e.g., resolution, zoning code)	Insert Web Links to Documents <u>or</u> Indicate that Electronic Copies are Attached as Appendix 7	Points	Enhancement Category Number	Enhancement Points	Total Points
1B	Permitted missing middle housing uses by allowing duplexes and triplexes by right in existing low-density, single-family residential zones beyond what is required by SB 9.	E	Zoning code	Electronic copy attached	3	6	1	4
1C	Sufficient sites to accommodate 131 percent of the current RHNA with rezoning by total or income category.	P	Resolution	Electronic copy attached	2	1	2	4
1D	Density bonus program exceeds statutory requirements by 12 percent.	E	Zoning code	Electronic copy attached	2			2
1F	Eliminated parking requirements for residential development as authorized by Government Code section 65852.2.	E	Zoning code	Electronic copy attached	2			2
1G	Zoning that that is designed to increase affordable housing for a range of types and for	E	Zoning code	Electronic copy attached	1	1	2	3

Category Number	Concise Written Description of Prohousing Policy	Enacted or Proposed	Documentation Type (e.g., resolution, zoning code)	Insert Web Links to Documents or Indicate that Electronic Copies are Attached as Appendix 7	Points	Enhancement Category Number	Enhancement Points	Total Points
	extremely low-income households.							
1H	Modified development standards/other applicable zoning provisions to allow for residential uses in non-residential zones (light industrial).	E	Zoning code	Electronic copy attached	1	1	2	3
1L	Other zoning and land use actions that measurably support the Acceleration of Housing Production.	P	Resolution	Electronic copy attached	1			1
2B	Streamlined program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying Environmental Impact Reports (EIR), and related documents.	E	Zoning code	Electronic copy attached	2			2
2G	Consolidated permit processes that minimize the levels of review and approval required for projects.	E	Zoning code	Electronic copy attached	1			1
2I	Established a one-stop-shop permitting process.	P	Resolution	Electronic copy attached	1	1	2	3

Category Number	Concise Written Description of Prohousing Policy	Enacted or Proposed	Documentation Type (e.g., resolution, zoning code)	Insert Web Links to Documents <u>or</u> Indicate that Electronic Copies are Attached as Appendix 7	Points	Enhancement Category Number	Enhancement Points	Total Points
2N	Other actions that quantifiably decrease production timeframes.	E	Zoning code	Electronic copy attached	1			1
3A	Waiver of residential development impact fees.	E	Zoning code	Electronic copy attached	3			3
3B	Adopted policies that result in less restrictive requirements than Government Code sections 65852.2 and 65852.22.	P	Resolution	Electronic copy attached	2	1	2	4
3E	Measures that reduce costs for transportation-related infrastructure.	E	Zoning code	Electronic copy attached	1			1
3I	Other actions that quantifiably reduce construction or development costs.	E	Zoning code	Electronic copy attached	1			1
4A	Local housing trust funds.	E	Zoning code	Electronic copy attached	2			2
4C	Regular use of funding for preserving assisted units at-risk of conversion to market-rate uses.	E	Zoning code	Electronic copy attached	2	2	1	3
4E	Establishes a program that complies with the Surplus Land Act and offers below-market land leases for affordable housing.	E	Zoning code		2			2

Category Number	Concise Written Description of Prohousing Policy	Enacted or Proposed	Documentation Type (e.g., resolution, zoning code)	Insert Web Links to Documents <u>or</u> Indicate that Electronic Copies are Attached as Appendix 7	Points	Enhancement Category Number	Enhancement Points	Total Points
4G	Prioritization of local general funds for affordable housing.	E	Zoning code		2			2
4M	Other actions that leverage financial resources for housing.	E	Zoning code		1			1
TOTAL					33		12	45

Appendix 4: Examples of Prohousing Policies with Enhancement Factors

If a Prohousing Policy incorporates any of the enhancement factors specified in the Project Proposal Enhancement Factors chart, it will receive extra points as indicated therein. Examples of such qualifying Prohousing Policies include the following:

Category 1: Favorable Zoning and Land Use

- Rezoning sufficient sites to accommodate 150 percent or greater of the Regional Housing Needs Allocation by total or income category, including sites in Location Efficient Communities.
- Rezoning sufficient sites to accommodate 150 percent or greater of the Regional Housing Needs Allocation by total or income category, including sites in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Rezoning to accommodate 125 to 149 percent of the Regional Housing Needs Allocation in downtown commercial corridors or other infill locations.
- Expanding density bonus programs to exceed statutory requirements by 10 percent or more in Location Efficient Communities.
- Reducing or eliminating parking requirements for residential development as authorized by Government Code section 65852.2 in Location Efficient Communities.
- Increasing allowable density in low-density, single-family residential areas beyond the requirements of state Accessory Dwelling Unit Law in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Modification of development standards and other applicable zoning provisions to promote greater development intensity in downtown commercial corridors or other infill locations.
- Coupling rezoning actions with policies that go beyond state law requirements in reducing displacement of lower-income households and conserving existing housing stock that is affordable to lower-income households.

Category 2: Acceleration of Housing Production Timeframes

- Ministerial approval processes for multifamily housing in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Streamlined, program-level CEQA analysis and certification of specific plans in Location Efficient Communities.
- Documented practice of streamlining housing development at the project level in downtown commercial corridors and other infill locations.
- Expedited permit processing for housing affordable to lower-income households in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).

Category 3: Reduction of Construction and Development Costs

- Fee waivers for affordable housing in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Fee waivers or reductions for higher density housing in downtown commercial corridors or other infill locations.
- Measures that reduce costs and leverage financial resources for transportation-related infrastructure or programs in Low Resource and High Segregation & Poverty areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Adoption of universal design ordinances to increase housing choices and affordability for persons with disabilities in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Permitting innovative housing types, such as manufactured homes, recreational vehicles or park models, in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).

Category 4: Providing Financial Subsidies

- Targeting local housing trust funds to acquisition or rehabilitation of existing affordable units, or to affordable units at risk of converting to market rate uses, in Low Resource and High Segregation & Poverty areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Marketing grants and other financial products for ADUs/JADUs in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Utilizing publicly owned land for affordable housing in High Resource and Highest Resource areas (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Establishment of an Enhanced Infrastructure Financing District or similar local financing tool in a Low Resource or High Segregation & Poverty area (as designated in the most recently updated TCAC/HCD Opportunity Maps).
- Directing residual redevelopment funds or general funds to conservation or preservation of affordable housing in areas at high risk of displacement.

Appendix 5: Homeless Encampment Template

[Subchapter 6.6 Prohousing Designation Program](#) requires applicants to confirm that its treatment of encampments on public property complies with and will continue to comply with the constitutional rights of persons experiencing homelessness. An application must include a one-page summary demonstrating how the applicant has enacted best practices in their jurisdiction related to the treatment of unhoused individuals camping on public property, consistent with the United States Interagency Council on Homelessness' "7 Principles for Addressing Encampments (June 17, 2022). The following template and certification are included to help jurisdictions meet this threshold.

- **Principle 1: Establish a Cross-Agency, Multi-Sector Response to Encampments –** Describe how system partners (name partners) work together to prioritize health and safety both for residents and unsheltered individuals. (350 characters max)

The City of Benicia Police Department works closely with Shelter Solano and Resource Connect Solano to house homeless individuals and provide them with housing referral and essential needs resources and immediate needs assistance such as socks, hygiene products, emergency blankets, among other essential items. See Appendix 5 for the housing and homeless support referrals resource guide utilized by the City of Benicia Police Department.

- **Principle 2: Engage Encampment Residents to Develop Solutions –** Describe street outreach efforts to engage with encampment residents to find alternative shelter, housing, and service options using the housing first approach before an existing encampment is closed. (350 characters max)

The City of Benicia Police Department has two designated homeless liaison officers that work with other County and local jurisdictions for Point-In-Time (PIT) Counts in encampment areas. Homeless liaison officers engage with encampment residents described under Principle 1.

- **Principle 3: Conduct Comprehensive and Coordinated Outreach –** Describe multidisciplinary connection strategies and linkages to resources and permanent housing solutions that is customized to individual needs. If applicable, describe how the jurisdiction uses the coordinated entry system to connect individuals to resources and permanent housing. (350 characters max)

The City of Benicia Police Department engages with homeless individuals to assess their specific needs, as well as determines unique classifications (i.e., homeless veterans) to obtain additional homeless resources for that population, and directs the individual to nearby food bank and pantry locations such as St. Joseph's and St. Dominic's Churches.

- **Principle 4: Address Basic Needs and Provide Storage –** Describe efforts to meet basic needs, health, safety, and access to storage (timeframes) for people experiencing unsheltered homelessness while creating clear pathways to permanent housing. (350 characters max)

Please refer to response under Principle 1. In addition, the City of Benicia Police Department collaborates with the Public Works Department to coordinate with homeless individuals to remove and relocate belongings within two to four weeks and dispose of encampment debris.

- **Principle 5: Ensure Access to Shelter or Housing Options** – Describe how low barrier resources to housing and supportive services are communicated to encampment residents. Include how strategies involve alternative measures to criminalization, focusing on service engagement and harm reduction. (350 characters max)

Please refer to response under Principle 1. In addition, the City of Benicia Police Department has an internal bulletin system that tracks homeless individuals throughout the City, which enhances homeless liaison officer response times to dispatches to homeless individuals at their location.

- **Principle 6: Develop Pathways to Permanent Housing and Supports** – Describe Housing First strategies emphasizing low barriers, a harm-reduction model, and services to support people obtaining permanent housing more efficiently. Identify efforts to align federal, state, and local funding/programs to provide clear pathways to permanent housing. (350 characters max)

Please refer to response under Principle 5. Further, the City of Benicia Police Department refers homeless individuals to Resource Connect Solano, which provides housing continuum of care, secures funding from the State, Federal Department of Housing and Urban Development, and private organizations for pathways to permanent housing opportunities.

- **Principle 7: Create a Plan for What Will Happen to Encampment Sites After Closure** – Describe plans for former encampment spaces (long-term solutions to prevent encampments from reoccurring). Include efforts to emphasize safety, accessibility, and inclusivity that improve infrastructure. Example: Communities can include curb cuts to increase mobility access and enhanced lighting to encourage safety. (350 characters max)

The City of Benicia Police Department is in process of drafting a municipal code section to address homeless encampments, with anticipated adoption in 2026. The code section outlines noticing and citation procedures for homeless individuals, provision of homeless informational and needs resources, and encampment notification procedures.

Certification and Authorization:

Signature of Authorized Representative

Date

Appendix 6: Public Participation Checklist

Pursuant to Sections 6601, 6602, and 6605, applicants are required to demonstrate how they have engaged in a “Diligent Public Participation Process.”

Please complete this checklist, and sign, to confirm that the applicant has complied with this requirement. Attach and reference any comments you received during the process.

Regulation Text	Explanation	Yes	No
Outreach through a variety of methods and languages to ensure access to the public process and provide opportunities for public input.	Applicant should use methods such as newspaper ads, email, social media, fliers, etc., to inform the public that an application has been drafted and posted for public comment. Language access should reflect languages spoken in your local community and should be available in multiple languages in print media or upon request for digital media.	☒	☐
Specific effort to engage all segments of the community, including individuals or representatives of lower-income and special needs households, for-profit and non-profit developers, and special needs service providers.	Individuals and organizations representing lower-income and special needs households, for-profit and non-profit developers, and special needs service providers should be engaged, informed of, and offered an opportunity to comment on the application. Outreach lists utilized for Housing Element compliance would suffice.	☒	☐
Availability of the draft document to the public, including notification to interested parties and all segments of the community, for thirty (30) calendar days and subsequent versions for seven (7) calendar days.	Applicants should post the application in print and digital forms, collect comments, and incorporate those comments into the application if necessary. Making the application available to the public could be satisfied by posting the application online and/or announcements through other mediums (e.g., local newspapers) so long as these forums include diverse segments of the community, including individuals or representatives of lower-income and special needs households, for-profit and non-profit developers, and special needs service providers.	☒	☐
Public hearings and informative meetings.	For the purposes of satisfying this requirement, a City Council or Board of Supervisors meeting informing the public of the jurisdiction's intent to submit a Prohousing Designation Program application, in addition to any subsequent meetings necessary to make revisions in response to public comment, will satisfy this requirement.	☒	☐

Consideration of comments, including incorporation of comments into a jurisdiction's application and Prohousing Policies as appropriate.	Provide all comments received with a description of how the comment was incorporated into the application. If the comment is not appropriate for incorporation, please describe why.	☒	☐
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Certification and Authorization:

Signature of Authorized Representative

Date

Appendix 7: Additional Information and Supporting Documentation

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From: [REDACTED]
To: [Planning](#)
Subject: pro housing
Date: Monday, July 21, 2025 11:10:09 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

So, ultimately, all cities and towns in California should be built out to the maximum?

Why shouldn't towns keep the character they see best?

Is there an absolute maximum number of residents that can live in a small geographic area such as Benicia?

Would 100k population within the city limits be too much? 200k?

And, why would a person making, say 45k and eligible for subsidized housing be prioritized over a person making just a little more, say \$55k?

By giving the housing to the \$45k person, one less residence in town for someone who makes just a bit more, the \$55k person; seems backwards; penalize the person making just a bit more?

Should be free market; it is not that hard to work, then, pick a place one can afford.

And, of course at the same time, if one truly needs help, and can not help themselves, absolutely help; just don't give something away that negatively affects the person who has earned a bit more; the person who earns a bit more should not be "leap frogged";

And yes, the whole lower income earners as a whole, with all the give aways our society offers, has passed up COMPLETELY the entire group of income earners ahead of them (statistically true).

This fact should be publicized so the group that was passed up understands what has actually happened. In a nutshell, the group that got passed up, is paying their income taxes to the group making less income, to in turn, "pass up" the higher earners in effectual net income.

This is wrong.

Free market sounds best.



June 30, 2025

Jason Hade
Planning Manager
City of Benicia
250 East L Street
Benicia, CA 94510

Re: City of Benicia Prohousing Designation Program application

Dear Mr. Hade:

Eden Housing enthusiastically supports the City of Benicia's application to the State of California Department of Housing and Community Development for a Prohousing Designation.

As a non-profit developer of affordable housing communities across California, Eden Housing supports the City's efforts to adopt policies and practices that promote housing development goals to address the State's housing shortage.

In May 2025, Eden Housing was honored to be the selected organization to develop the Senior Center and Scout sites in Benicia. Due to the City's commitment to build new housing, the City will see nearly 100 new affordable senior homes in the heart of the city's civic amenities and in walking distance to shopping, medical care, and recreational facilities.

With a Prohousing Designation, the City will be in a stronger position to financially support Eden's affordable housing development and related community improvements; and it will pave the way for additional housing to be built in Benicia over the coming years.

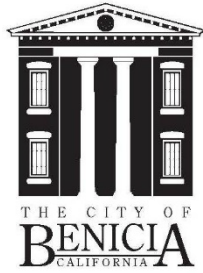
Sincerely,

Tami Strauss
Associate Director of Real Estate Development

From: [REDACTED]
To: [Planning](#)
Subject: Housing
Date: Tuesday, June 3, 2025 6:43:25 PM

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

For the most part, “affordable housing” is cutting in line ahead of another making a bit more.
Sent from my iPhone



AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
COUNCIL MEMBER COMMITTEE REPORT

TO : City Manager

FROM : City Council

SUBJECT : **AD HOC “ACT” TASK FORCE GROUPS UPDATES**

The ad hoc City Council “ACT” Task Force Groups: Advocacy, Collaboration & Transition solicits feedback and participation from stakeholders as they deem helpful to gather information germane to their purpose, including business owners, employees, labor leaders, community members and governmental and non-governmental organizations.

The second City Council meeting of each month serves as an opportunity for the members of Council to report on the progress of each ad hoc group.

Task Force 1: ADVOCATE for Benicia’s Economy: - Mayor Young

This Task Force:

- Serves as a point of contact and leads efforts to work with State Officials such as the Governor’s Office of Economic Development, the California Energy Commission, elected leaders, labor and business representatives to advocate on behalf of Benicia relating to the potential shutdown of the refinery.
- Gathers information and reports on the economic value of the refining operations to Benicia’s economy, county employment, the States economy as well as the importance the Benicia refinery is to Travis Air Force Base.

Task Force 2: COLLABORATE with Community: Non-Profit Organizations, Sports Groups, Benicia Unified School District, Restaurants & Hotels - Council Member Largaespada

This Task Force:

- Coordinates between the various community groups that receive contributions and support from Valero.
- Understands the economic impact to these groups and facilitate collaboration between groups to maximize resources where possible and generate plans on how to proceed with either less funding or new means of revenue. Similarly, with sports groups, the intent is to quantify the financial contribution made to sports groups and how reduced support from Valero could impact users.

- Coordinates with Benicia Unified School District to analyze the impact on property tax revenue to the District and any other direct revenue loss from Valero's cessation of operations.
- Seeks to quantify the economic impact on hotels and restaurants with Valero's exit. The work of Councilmember Largaespada is to coordinate information, facilitate cooperation of resources between groups where feasible, and develop a plan of action on how to overcome the loss of revenue with Valero's departure.

Task Force 3: COLLABORATE with Benicia Industrial Park (BIP): Existing industrial park businesses, Rose Estates and Port of Benicia - Council Member Birdseye

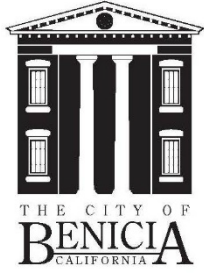
This Task Force:

- Works with impacted BIP businesses; understanding the impact on jobs, lost revenue and impacts on the stream of commerce.
- Coordinates the plans and actions of Rose Estates, the Priority Production Area plan of the Port with redevelopment efforts of the 930 acres of Valero's property with any interested developers.
- There may be an opportunity to synchronize development activity and/or work to incentivize new business development into the BIP including offshore wind manufacturing.

Task Force 4: TRANSITION Prepare for Transition and Redevelopment of Valero's 930 acres: Valero & Signature Development Group - Vice Mayor Macenski & Council Member Scott

This Task Force:

- Collaborates with Valero and Signature Development Group to imagine the possible reuse opportunities for the 930 acres of Valero's property.
- Helps to facilitate stakeholder involvement to solicit public feedback and visioning. Identifies the types of uses, be it residential commercial or industrial and those uses can be best incorporated into Benicia.
- Identifies reports and information that would be helpful to forecast highest and best use for Benicia's economic viability and environmental sustainability.



AGENDA ITEM
CITY COUNCIL MEETING DATE – AUGUST 19, 2025
COUNCIL MEMBER COMMITTEE REPORT

TO : City Council

FROM : City Manager

SUBJECT : **COUNCIL MEMBER COMMITTEE REPORTS**

The outside agency committees on which City of Benicia Council Members serve, are listed below. Please click on the links to view current and past agendas and minutes for all Council Member Committee Reports.

Association of Bay Area Governments (ABAG)

<https://abag.ca.gov/meetings>

Community Action Partnership Solano Joint Powers Authority (CAP Solano JPA)

<http://www.capsolanojpa.org/agendas---minutes.html>

Green Empowerment Zone Board of Directors

<https://www.contracosta.ca.gov/9963/Governing-Board-of-the-Green-Empowerment>

Marin Clean Energy (MCE)

<https://www.mcecleanenergy.org/meeting-archive/>

Solano County Water Agency (SCWA)

<https://www.scwa2.com/governance/board-meetings-agendas-minutes/>

SolTrans Joint Powers Authority

<https://soltrans.org/resources/meetings/>

Solano Transportation Authority (STA)

<https://sta.ca.gov/meetings-agendas/>

Valero Citizens Advisory Committee (CAP)

<https://www.beniciacap.com/>

PROFESSIONAL MAINTENANCE OR REPAIRS SERVICES AGREEMENT

(OVER \$50,000)

BETWEEN

CITY OF BENICIA AND

New Image Landscape Company

This Professional Services Agreement (the "Agreement") is dated January 7, 2025, and is by and between the City of Benicia, a political subdivision of the State of California ("City") and New Image Landscape Company, a California Corporation, licensed to do business in California, ("Consultant") relating to Landscape Maintenance of Medians, Right-of-Ways and City Facilities ("Services").

Recitals

WHEREAS, City wishes to retain Consultant to provide Landscape Maintenance of Medians, Right-of-Ways and City Facilities and related services;

WHEREAS, Consultant was selected by means of City's consultant selection process, and represents that they possess all necessary training, licenses and permits to perform the services required by City as set forth in this Agreement, and that their performance of such services will conform to the standard of practice consistent with a firm having experience and expertise in performing professional services of like nature and complexity working on similar, successfully completed projects;

WHEREAS, Government Code section 53060 permit the City to enter into agreements for professional temporary services with individuals specially trained and experienced and competent to perform those services; and

WHEREAS, the services proposed in this Agreement are professional and temporary in nature.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

1. Agreement

1.1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

- A. **Agreement:** This Agreement consists of this Agreement, together with all attachments and appendices and other documents incorporated herein by reference.
- B. **Consultant:** New Image Landscape Company

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

- C. **City:** City of Benicia
- D. **Project:** Landscape Maintenance of Medians, Right-of-Ways and City Facilities, 25-068
- E. **Services:** All work, labor, materials and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation architectural, engineering, building information modeling, coordination, and administrative services. Services that may be required, dependent on Project needs, are further described in the appendices.
- F. **Subconsultants:** Consultant's subconsultants, contractors and subcontractors, of any tier.

1.2. Term of Agreement

- A. This Agreement will conclude on January 30, 2027 unless it is extended in accordance with paragraph B below.
- B. This Agreement may be extended by mutual agreement of the parties hereto. Any extension shall be in written form, signed by both parties, and shall specify the length of the extension and compensation.

1.3. Services Consultant Agrees to Perform

- A. Consultant shall perform all Services described in Attachment A, and provide all Deliverables described in Attachment A, attached hereto and incorporated by reference as though fully set forth herein.
- B. Consultant may recover compensation for extended services as set forth in Attachment A, in conformance with the City's Purchasing Policy and Benicia Municipal Code.
- C. Should the progress of the Services under this Agreement at any time fall behind schedule for any reason other than Excusable Delays, Consultant shall apply such additional manpower and resources as necessary without Additional Services Compensation to bring progress of the Services under this Agreement back on schedule and consistent with the standard of professional skill and care required by this Agreement. Time is of the essence in the performance of this Agreement. Excusable Delays include acts of God, acts of the public enemy, and delays beyond Consultant's reasonable control as determined at the sole discretion of City.

1.4. Compensation

- A. City shall compensate Consultant according to the policies and procedures established by City. Compensation shall not exceed \$600,000 dollars without a fully approved and executed contract amendment or change order.
- B. Billing will occur upon completion of work. Payment is expected within 30 days. Consultant has the option to invoice for services or reimbursables no more than once a month. Payment shall be in accordance with the project-specific scope of work for work performed, not a retainer or

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equal monthly payments. Statement will generally describe the services performed and applicable rate or rates. Statements for reimbursement should include a reasonable itemization of requested compensation.

- C. City shall not incur any charges under this Agreement, nor shall any payments become due to Consultant for any payment period on the Project, until City receives all deliverables required under Attachment A, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where Consultant has partially completed one or more deliverables due during a payment period, and if Consultant demonstrates diligent progress thereon, then City may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon City. City shall not be liable for, and Consultant shall not be entitled to, any payment for Services performed before this Agreement's execution.
- D. City will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). City will make payment for questioned amounts(s) upon City's receipt of any requested documentation verifying the claimed amount(s) and City's determination that the amount is due under the terms of this Agreement. City shall advise Consultant, in writing, within 15 calendar days of receipt of the requested documentation. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of City including, without limitation, Consultant's transmittal of all deliverables to City required by Attachment A, and services required by Attachment A.
- E. Invoices furnished by Consultant under this Agreement must be in a form acceptable to City. All amounts paid by City to Consultant shall be subject to audit by City. Payment shall be made by City to Consultant at the address stated in Section 1.6, Qualified Personnel below.
- F. City may set off against payments due Consultant under this Agreement any sums that City determines that Consultant owes to City because of their errors, omissions, breaches of this Agreement, delays or other acts that caused City monetary damages. Prior to exercising such right, City must demand and attend mediation pursuant to Section 1.21, Disputes: Paragraph C below of this Agreement, to be attended by City, Consultant, and any applicable insurance carriers; such mediation to occur within 30 calendar days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the City's demand, then the Solano City Superior Court may upon application by any party make such selection for the parties. If a party other than City refuses to mediate under this Compensation: Paragraph E, then City shall have satisfied its obligations under this Paragraph.
- G. Consultant shall pay prevailing wages to its employees on any contract in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the City's Public Works Department and may

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
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be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subcontractors shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.

- H. Pursuant to Labor Code Section 1771(a), Consultant represents that it and all of its Subcontractors are currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant covenants that any additional or substitute Subcontractors will be similarly registered and qualified.

1.5. Maximum Costs

- A. City's obligation hereunder shall not at any time exceed the amount approved by City for payment to the Consultant pursuant to the terms of this Agreement.
- B. Except as may be provided by applicable law governing emergency conditions, City has not authorized its City Council, supervisors, employees, officers and agents to request Consultant to perform Services or to provide materials, equipment and supplies that would result in Consultant performing Services or providing materials, equipment and supplies that exceed the scope of the Services, materials, equipment and supplies agreed upon in the Agreement unless the City amends the Agreement in writing and approves the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- C. City shall not reimburse Consultant for Services, materials, equipment or supplies provided by Consultant beyond the scope of the Services, materials, and office equipment and supplies agreed upon in the Agreement and unless approved by a written amendment to the Agreement having been executed and approved in the same manner as this Agreement.

1.6. Qualified Personnel

For purposes of this Agreement, except for notices specified under Notices to the Parties below, City and Consultant shall direct all communications to each other as follows:

City:

Jose Urquilla
Deputy Director Operations
City of Benicia
250 East L Street

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

Benicia, CA 94510
Phone: (707) 297-5396
Email: jurquilla@ci.benicia.ca.us

Consultant:

Justin Alcantara
Landscape Maintenance of Medians, Right-of-Ways, and City Facilities
3250 Darby Common, Fremont, CA 94539

Phone: (510) 226-9191

Email: jalcantara@newimagelandscape.com

Services under this Agreement shall be performed only by qualified, competent personnel under the supervision of and/or in the employment of Consultant. Consultant shall conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Consultant.

Consultant agrees that professional personnel assigned to the Project will be those listed in Attachment A, and by this reference incorporated herein, and that the listed personnel will continue their assignments on the Project during the entire term of this Agreement. It is recognized that the listed personnel may in the future cease to be employed by Consultant and because of the termination of such employment no longer able to provide Services. However, Consultant agrees that replacement of any of the listed personnel during the Agreement period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of City, which shall not be unreasonably withheld. Any costs associated with replacement of personnel shall be borne exclusively by Consultant.

Consultant agrees that should the above personnel not continue their assignments on the Project during the entire term of this Agreement, then Consultant shall not charge City for the cost of training or "bringing up to speed" replacement personnel. City may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at Consultant's cost.

1.7. Representations

- A. Consultant represents that it has reviewed Attachment A, and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule of \$600,000 and within the times specified for each individual Project.
- B. Consultant represents that it is qualified to perform the Services and it possesses, and will continue to possess at its sole cost and expense, the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to time such licenses and/or permits are required. Consultant also represents that it has knowledge of, and will comply with, all applicable building codes, laws, regulations and ordinances.

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

- C. Consultant represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.
- D. The granting of any progress payment by City, or the receipt thereof by Consultant, or any inspection, review, approval or oral statement by any representative of City or any other governmental entity, shall in no way waive or limit the obligations in this Representations or lessen the liability of Consultant for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

1.8. Indemnification and General Liability

- A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), Consultant shall defend, indemnify, and hold harmless City, its officers, City Council, directors, officials, agents employees, and volunteers(collectively "Indemnitees") from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Consultant or its Subconsultants) expense and liability of every kind, nature, and description, at law or equity, that arises out of, pertain to, or relate to (including without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) any negligence, recklessness, or willful misconduct of Consultant, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify an Indemnatee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence active negligence, or willful misconduct of such Indemnatee but shall apply to all other Liabilities.
- B. Consultant shall defend (including providing legal counsel reasonably acceptable to City at no cost to City), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, suit, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by City, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement.

1.9. Liability of City

- A. Except as provided in Attachment A, City's obligations under this Agreement shall be limited to the payment of the compensation provided for in Services Consultant Agrees to Perform, Compensation, and Maximum Costs of this Agreement.

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
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- B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.
- C. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by any of its employees, even though such equipment be furnished, rented or loaned to Consultant by City. The acceptance or use of such equipment by Consultant or any of its employees shall be construed to mean that Consultant accepts full responsibility for and shall exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the Consultant, its employees, City employees or third parties, or to property belonging to any of the above.
- D. Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which City or Consultant may have under this Agreement or any applicable law. All rights and remedies of City or Consultant, whether under this Agreement or other applicable law, shall be cumulative.

1.10. Independent Contractor; Payment of Taxes and Other Expenses

- A. Consultant shall be deemed at all times to be independent contractors and shall be wholly responsible for the manner in which Consultant perform the Services required by the terms of this Agreement. Consultant shall be fully liable for the acts and omissions of it their Subconsultants, employees and agents.
- B. Nothing contained herein shall be construed as creating an employment, agency or joint venture relationship between City and Consultant. Consultant acknowledge that neither they nor any of their employees or agents shall, for any purpose whatsoever, be deemed to be City employees, and shall not be entitled to receive any benefits conferred on City employees, including without limitation workers' compensation, pension, health, insurance or other benefits.
- C. Consultant shall be solely responsible for payment of any required taxes, including California sales and use taxes, city business taxes and United States income tax withholding and social security taxes, levied upon this Agreement, the transaction, or the Services delivered pursuant hereto.
- D. Consultant shall make its designated representative available as much as reasonably possible to City staff during the City's normal working hours or as otherwise requested by City. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's Services only and not as to the means by which such a result is obtained.

1.11. Insurance

Prior to execution of this Agreement, Consultant shall furnish to City Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in the **Insurance Requirements Section**, which are included and made a part of this Agreement. Consultant shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in the Insurance Requirements. In the event Consultant fails to maintain any required insurance, City may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due Consultant under this Agreement (or Consultant shall promptly reimburse City for such expense).

1.12. Suspension of Services

- A. City may, without cause, order Consultant to suspend, delay or interrupt Services pursuant to this Agreement, in whole or in part, for such periods of time as City may determine in its sole discretion. City shall deliver to Consultant written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Consultant shall be compensated for such delay to the extent provided under this Agreement.
- B. Notwithstanding anything to the contrary contained in this Suspension of Services, no compensation shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by a cause for which Consultant is responsible.

1.13. Termination of Agreement for Cause

- A. If at any time City believes Consultant may not be adequately performing their obligations under this Agreement, that Consultant may fail to complete the Services as required by this Agreement, or that City has provided written notice of observed deficiencies in Consultant's performance, City may request from Consultant prompt written assurances of performance and a written plan, acceptable to City, to correct the observed deficiencies in Consultant's performance ("Cure Plan"). The Cure Plan must include, as applicable, evidence of necessary resources, correction plans, Subconsultant commitments, schedules and recovery schedules, and affirmative commitments to correct the asserted deficiencies, must meet all applicable requirements and show a realistic and achievable plan to cure the breach. Consultant shall provide such written assurances and Cure Plan within ten (10) calendar days of the date of notice of written request. Consultant acknowledges and agrees that any failure to provide written assurances and Cure Plan to correct observed deficiencies, in the required time, is a material breach under this Agreement.
- B. Consultant shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate Consultant's right to proceed under the Agreement, in whole or in part, for cause:
 - 1. Should Consultant make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be

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adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against Consultant in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Consultant or of all or any substantial part of the properties of Consultant, or if Consultant, its directors or shareholders, take action to dissolve or liquidate Consultant; or

2. Should Consultant commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan); or
3. Should Consultant violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within ten (10) calendar days of the date of the notice from City to Consultant demanding such cure; or, if such failure is curable but not curable within such ten (10) calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Consultant to avail themselves of this time period in excess of ten (10) calendar days, Consultant must provide City within the ten (10) calendar day period a written Cure Plan acceptable to City to cure said breach, and then Consultant must diligently commence and continue such cure according to the written Cure Plan.)

C. In the event of termination by City as provided herein for cause:

1. City shall compensate Consultant for the value of the Services delivered to City upon termination as determined in accordance with the Agreement, subject to all rights of offset and back charges, but City shall not compensate Consultant for its costs in terminating the Services or any cancellation charges owed to third parties.
2. Consultant shall deliver to City possession of all tangible aspects of the Services in their then condition including, but not limited to, all copies (electronic, CAD, and PDF format, and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with a Project, and all supplies and aids dedicated solely to performing Services which, in the normal course of the Services, would be consumed or only have salvage value at the end of the Services period.

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3. Consultant shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the Agreement. The provisions of this Paragraph shall not be interpreted to diminish any right that City may have to claim and recover damages for any breach of this Agreement, but rather, Consultant shall compensate City for all loss, cost, damage, expense, and/or liability suffered by City as a result of such termination and failure to comply with the Agreement, including without limitation City's costs incurred in connection with finding a replacement.
- D. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience pursuant to Termination of Agreement of Convenience below, and Consultant shall have no greater rights than they would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by Consultant.

1.14. Termination of Agreement for Convenience

- A. City may terminate performance of the Services under the Agreement in accordance with this Termination of Agreement for Convenience in whole, or from time to time in part, whenever City shall determine that termination is in the City's best interests. Termination shall be effected by City delivering to Consultant, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination ("Notice of Termination") specifying the extent to which performance of the Services under the Agreement is terminated.
- B. After receipt of a Notice of Termination, and except as otherwise directed by City, Consultant shall:
 1. Stop Services under the Agreement on the date and to the extent specified in the Notice of Termination;
 2. Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the Agreement which is not terminated;
 3. Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
 4. Assign to City in the manner, at times, and to the extent directed by City, all right, title, and interest of Consultant under orders and subcontracts so terminated. City shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;

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5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of City to the extent City may require. City's approval or ratification shall be final for purposes of this clause;
 6. Transfer title and possession of Consultant's and their Subconsultants' work product to City, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by City, completed and uncompleted designs and specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services terminated by the Notice of Termination; City acknowledges that said documents were prepared for the purpose of the Project.
 7. Complete performance of any part of the Services that were not terminated by the Notice of Termination; and
 8. Take such action as may be necessary, or as City may direct, for the protection and preservation of property related to this Agreement which is in Consultant's possession and in which City has or may acquire an interest.
- C. After receiving a Notice of Termination, Consultant shall submit to City a termination claim, in the form and with the certification City prescribes. The claim shall be submitted promptly, but in no event later than three months from the effective date of the termination, unless one or more extensions in writing are granted by City upon Consultant's written request made within such three month period or authorized extension. However, if City determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three-month period or extension. If Consultant fails to submit the termination claim within the time allowed, City may determine, on basis of information available to it, the amount, if any, due to Consultant because of the termination. City shall then pay to Consultant the amount so determined.
- D. Subject to provisions of Termination of Agreement for Convenience: Paragraph C above, Consultant and City may agree upon the whole or part of the amount or amounts to be paid to Consultant because of any termination of Services under this Paragraph. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement price of Services terminated. The Agreement may be amended accordingly, and Consultant shall be paid the agreed amount.
- E. If Consultant and City fail, under Termination of Agreement for Convenience: Paragraph D above, to agree on the whole amount to be paid to Consultant because of termination of Services under this Agreement for Convenience: Paragraph E, then Consultant's entitlement to

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compensation for Services specified in the Agreement which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of:

1. Reasonable value of Consultant's Services performed prior to Notice of Termination, based on Consultant's entitlement to compensation under Attachment A, Payments to Consultant. Such amount or amounts shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by Consultant, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of ten (10) percent of Consultant's total costs of performing the Services.
 2. When, in opinion of City, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable value of Consultant's Services will be the estimated reasonable cost of performing Services in compliance with the requirements of the Agreement, and any excessive actual cost shall be disallowed.
 3. Reasonable cost to Consultant of handling material returned to vendors, delivered to City or otherwise disposed of as directed by City.
- F. Except as provided in this Agreement, in no event shall City be liable for costs incurred by Consultant (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the Agreement or subcontracts, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim or a lawsuit, pre-judgment interest, or any other expense that is not reasonable or authorized under Agreement for Convenience: Paragraph E above.
- G. This Paragraph shall not prohibit Consultant from recovering costs necessary to discontinue further Services under the Agreement as provided for in Agreement for Convenience: Paragraph B above or costs authorized by City to settle claims from Subconsultants.
- H. In arriving at amounts due Consultant under this Agreement for Convenience, there shall be deducted:
1. All unliquidated advance or other payments on account theretofore made to Consultant, applicable to the terminated portion of Agreement,
 2. Any substantiated claim that City may have against Consultant in connection with this Agreement, and

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3. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by Consultant or sold under the provisions of this Agreement for Convenience, and not otherwise recovered by or credited to City.
- I. If the termination for convenience hereunder is partial, before settlement of the terminated portion of this Agreement, Consultant may file with City a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement that is not terminated. City may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of City and Consultant to agree upon amount or amounts to be paid to Consultant for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit City's rights and remedies pursuant to this Agreement or at law.

1.15. Conflicts of Interest/Other Agreements

- A. Consultant represents that it is familiar with Section 1090 and Section 87100, et seq., of the Government Code of the State of California, the Conflict of Interest Code, Resolution 06-23, adopted by the City on October 3, 2006, and that it does not know of any facts that constitute a violation of those sections.
- B. Consultant represents that it has completely disclosed to City all facts bearing upon any possible interests, direct or indirect, which Consultant believes any member of City, or other officer, agent or employee of City or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by City for cause. Consultant shall comply with the City's conflict of interest codes and their reporting requirements.
- C. Consultant covenants that it presently has no interest, and during the term of this Agreement shall not have any interest, direct or indirect, that would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Consultant represents to and agrees with the City that Consultant has no present, and in the future during the term of this Agreement will not have any, conflict of interest between providing the City the Services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including, but not limited to, any federal or state wildlife, environmental or regulatory agency) that has any interest adverse or potentially adverse to the City, as determined in the reasonable judgment of the City.

1.16. Proprietary or Confidential Information of City; Publicity

- A. Consultant acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may

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contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agree that all private, confidential, or proprietary information disclosed by City to or discovered by Consultant in the performance of the Services shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data, and shall not accept employment adverse to the City's interests where such confidential information could be used adversely to the City's interests. Consultant shall notify the City immediately in writing if it is requested to disclose any information made known to or discovered by Consultant during the performance of or in connection with the Services pursuant to this Agreement.

- B. Any publicity or press releases with respect to the Project or Services shall be under the City's sole discretion and control. Consultant shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without City's prior written consent. Consultant shall have the right, however, without City's further consent, to include representations of Services among Consultant's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
- C. The provisions of this Proprietary of Confidential Information of City; Publicity shall remain fully effective indefinitely after termination of Services to the City hereunder.

1.17. Notices to the Parties

- A. All notices (including requests, demands, approvals or other communications other than ordinary course Project communications) under this Agreement shall be in writing and shall include the word "NOTICE" in the subject line.
- B. Notice shall be sufficiently given for all purposes as follows:
 - 1. When personally delivered to the recipient, notice is effective on delivery.
 - 2. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - 3. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 - 4. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this Notice to the Parties.
- C. Any correctly-addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service,

- D. Addresses for the purpose of giving notice are set forth in Qualified Personnel: Paragraph A above. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address or fax number, or both, by giving the other party notice of the change in any manner permitted by this Notice to the Parties.

1.18. Record Keeping and Audit Requirements

- A. Consultant shall keep such full and detailed accounting records as are necessary for proper financial management of the Project. Consultant shall maintain a complete and current set of all books and records relating to the construction of the Project. City shall be entitled, upon forty-eight (48) hour written notice, to inspect all books, records, and accounts kept by Consultant relating to the work contemplated by this Contract. Within 90 calendar days after Final Completion, Consultant shall deliver to City those records necessary for City to perform a financial audit of the Project ("Final Audit").
- B. Invoice and progress/final reports and all required audit reports shall be submitted to City in a timely manner.
- C. Maintain adequate fiscal and Project books, records, documents, and other evidence pertinent to Consultant's work on the Project in accordance with generally accepted accounting principles. Adequate supporting documentation shall be maintained in such detail so as to permit tracing transactions from the invoices, to the financial statement, to the accounting records, and to the supporting documentation. These records shall be maintained for a period of three years after Final Completion of the Project, and shall be subject to examination and/or audit by City or designees, state government auditors or designees.
- D. Make such books, records, supporting documentations, and other evidence available to City or designees, their designated representatives, during the course of the Project and for a period of three years after Final Completion of the Project, and provide suitable facilities for access, monitoring, inspection, and copying thereof. Further, Consultant agrees to include a similar right of City to audit records and interview staff in any subcontract related to the performance of this Contract.

1.19. Subcontracting/Assignment/City Employees

- A. Consultant and City agree that Consultant's unique talents, knowledge and experience form a basis for this Agreement and that the Services to be performed by Consultant under this Agreement are personal in character. Therefore, Consultant shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder unless approved by City in a written instrument executed and approved by the City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Subcontracting/Assignment/City Employees: Paragraph A shall confer no rights on any party and shall be null and void.

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- B. Consultant shall not employ or engage, or attempt to employ or engage, any person who is or was employed by City or any department thereof at any time that this Agreement is in effect, and for a period of two years after the termination of this Agreement or the completion of the Services, without the written consent of City.

1.20. Other Obligations

- A. Discrimination, Equal Employment Opportunity and Business Practices. Consultant shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, gender, actual or perceived sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Consultant shall comply with all federal, state and local laws (including, without limitation, City ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.
- B. Drug-Free Workplace Policy. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns shall be deemed a material breach of this Agreement.
- C. Compliance with Americans with Disabilities Act and Rehabilitation Act. Consultant acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Consultant shall provide the Services specified in this Agreement in a manner that complies with the standard of care established under this Agreement regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns shall constitute a material breach of this Agreement. Consultant shall comply with §504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- D. Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Consultant to penalties, including but not limited to: (a) termination of this Agreement; (b) disqualification of the Consultant from bidding on or being awarded a City contract for a period of up to 3 years; (c) liquidated damages of \$2,500 per violation; and/or (d) imposition of other appropriate contractual and civil remedies and sanctions. To effectuate the provisions of this section, the

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City shall have the authority to examine Consultant's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Consultant under this Agreement or any other agreement between Consultant and City. Consultant shall report to the City the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 calendar days of such filing, provided that within such 30 days such entity has not notified Consultant that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Consultant shall provide City with a copy of their response to the complaint when filed.

- E. Employee Wages; Records; Apprentices: Consultant shall pay prevailing wages to its employees on any agreement in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by the Director of the State of California Department of Industrial Relations, are on file at the County's Capital Projects Office and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>]. Consultant shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. Consultant and all subconsultants shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. Consultant shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then Consultant shall pay federal Davis Bacon wages and comply with applicable federal requirements.

1.21. Disputes

- A. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Project Manager and a principal of the Consultant who shall attempt, in good faith, to resolve the dispute. Such referral shall be initiated by written request from either party, and a meeting between the Project Manager and principal of the Consultant shall then take place within five (5) calendar days of the date of the request.
- B. Provided that City continues to compensate Consultant in accordance with this Agreement, Consultant shall continue its Services throughout the course of any and all disputes. Nothing in this Agreement shall allow Consultant to discontinue Services during the course of any dispute. Consultant's failure to continue Services during any and all disputes shall be considered a

material breach of this Agreement Consultant agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement including, but not limited to, the time to complete the Services. Consultant also agrees that should Consultant discontinue Services due to a dispute or disputes, City may terminate this Agreement for cause as provided herein.

- C. In the event of claims exceeding \$50,000, as a precondition to commencing litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of JAMS (Judicial Arbitration and Mediation Services), in Benicia, California, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the Solano City Superior Court from an approved list of JAMS qualified construction mediators. The parties may initially agree to engage in discovery prior to mediation. This Agreement is further subject to the provisions Chapter 9 (commencing with section 9204 of the Public Contracts Code and, to the extent there is no conflict, Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000 dispute through mediation. This Agreement hereby incorporates the provisions of section 9204 and of Article 1.5 as though fully set forth herein. Should parties proceed with discovery, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 201 9, et seq., and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

1.22. Agreement Made in California; Venue

- A. This Agreement shall be deemed to have been executed in the City of Benicia, County of Solano. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this Agreement shall be in the Superior Court of the County of Solano unless the parties agree otherwise in a written amendment to this Agreement.

1.23. Compliance with Laws

- A. Consultant shall comply with the Standard of Care in the interpretation and application of all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the date hereof. Consultant shall comply with all security requirements imposed by authorities with jurisdiction over any Project, and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.
- B. Consultant represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations and be consistent with the Standard of Care.

1.24. Miscellaneous

- A. All section and paragraph captions are for reference only and shall not be considered in construing this Agreement.
- B. As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by City of the final Certificate for Payment, or termination of this Agreement, whichever is earlier. This Miscellaneous: Paragraph B shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall commence to run on discovery of the defect and its cause. However, the applicable statutes of repose, California Code of Civil Procedure, Sections 337.1 and 337.15, shall continue to apply.
- C. Any provisions or portion thereof of this Agreement that is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law. In dispute resolution arising from this Agreement, the fact finder shall receive detailed instructions on the meaning and requirements of this Agreement.
- D. Either party's waiver of any breach, or the omission or failure of either party, at any time, to in force in force any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to in force or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- E. Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.
- F. Consultant acknowledges that Consultant, and all Subconsultants hired by Consultant to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Subconsultants hired by Consultant to perform services under this Agreement are in compliance with the IRCA. In addition, Consultant agrees to indemnify, defend and hold harmless the City, its agents, officers and employees, from any liability, damages or causes of

action arising out of or relating to any claims that Consultant's employees, or the employees of any Subconsultant hired by Consultant, are not authorized to work in the United States for Consultant or its Subconsultant and/or any other claims based upon alleged RCA violations committed by Consultant or Consultant's Subconsultant(s).

1.25. Entire Agreement; Modifications

- A. The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' Agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this Agreement.
- B. To the extent this Agreement conflicts with the terms of any proposal, invoice, or other document submitted to or by either party, the terms of this Agreement shall control.
- C. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of City, Consultant expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- D. Consultant, in any price proposals for changes in the Services that increase the Agreement amount, or for any additional Services, shall break out and list its costs and use percentage markups. Consultant shall require their Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Consultant's price proposals.
- E. Consultant and its Subconsultants shall, upon request by City, permit inspection of all original unaltered Agreement bid estimates, subcontract Agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- F. Changes in the Services made pursuant to this Entire Agreement; Modifications and extensions of the Agreement time necessary by reason thereof shall not in any way release Consultant's representations and agreements pursuant to this Agreement.
- G. Whenever the words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood as the direction, requirement, or permission of City. The words

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"approval", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to City, unless otherwise indicated by the context.

2. Insurance Requirements

2.1. INSURANCE REQUIREMENTS

This is an Appendix to, and made a part of and incorporated by reference to the Agreement dated January 7, 2025, by and between New Image Landscape Company, hereinafter referred to as "Consultant", and the City of Benicia, hereinafter referred to as "City", providing for professional services.

2.2. 1. Consultant's Duty to Show Proof of Insurance

Consultant, in order to protect City and its City Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance tracking platform. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to City a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to City prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

2.3. Insurance Requirements: Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be

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#25-068

at least two million dollars (\$2,000,000) each occurrence and four million dollars (\$4,000,000) aggregate.

2.4. Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

2.5. Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

2.6. Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

2.7. Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2.8. Insurance terms and conditions:

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

Title: Landscape Maintenance of Medians, Right-of-Ways and City Facilities
#25-068

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“New Image Landscape Company”

Signed by: 2/12/2025
By: Russell Takehara
46E92C9708FE4A7...
Its: VP

“City”

DocuSigned by:
By: Mario Giuliani
9FA31784A98E490...
Its: City Manager

“City Attorney”

Signed by:
By: Ben Stock
3294F30F0AD74E3...
Its: City Attorney

Attachment A

Description of responsibilities

Brief description of responsibilities of key professional personnel, emphasizing experience directly related to responsibilities on this project.

Phuong Nguyen	Executive Assistant	Assists General Manager with all landscape operations
Jeffrey Suzuki	General Manager	Oversees all landscape operations
Juan Pablo Sanchez	Assistant Account Manager	PoC for day to day maintenance reporting and issues
	Tree Care Operation	Overall Tree Care/Pesticide
Luis Barrera	Manager	Application/Pruning/Demolition
Jesus Zaragoza	Field Supervisor	On-Site Inspections/Supervision/Quality Reports

Scope of Services: Description

The City of Benicia has taken great pride in the landscapes that make up the Medians, Right-of-Ways, and City Facilities. New Image Landscape Company will take equally great pride in the opportunity to service these locations and the city organization as part a of this service agreement. We feel that our team has the knowledge of the requirements it takes to get the job done with the highest standard of quality, but likewise would be very open to feedback if there was any on how we can provide the best level of service to the City of Benicia.

(2) The NILC Landscape Management Program includes various service components with the intent on delivering an inclusive, comprehensive maintenance plan that meets and exceeds the scope of work requirements provided in this RFP, and also to provide the communication and management personnel to have a successful relationship with the City and its staff. The Landscape Management Program services include, but are not limited to:

- Turf Mowing/Edging and Power Blowing
- Weed Control (Pesticide Application/Integrated Pest Management – IPM)
- Irrigation Repair Services and Irrigation System Diagnostic Checks
- Irrigation/Water Management
- Basic Tree Care
- Plant/Shrub Trimming and Care

Attachment A

- Storm Water Treatment Measures

We have provided a summary of each service category below, but we believe the strongest element of our Landscape Management Program is our people. We make it a high priority to meet with each individual and best understand their goals and expectations of the contract.

We will set up an initial meeting with the City of Benicia team, making a dedicated effort to review our implementation schedule and any expectations the City may have on this contract. Ideally, we would like to continue with monthly production meetings to follow up on progress and ensure that quality control levels are continuously met.

We feel very grateful to have this opportunity and are very equipped to handle all City of Benicia projects.

Implementation Schedule (First 30 Days)

- Initial Meeting with NILC Landscape Account Manager and City of Benicia Team.
- Initial Meeting will cover:
 - Review of Implementation Schedule
 - Reviewing any modifications to current Service Schedule as well as additions of new areas to schedule
 - Schedule Irrigation System Checks with City Personnel
 - Outline Extra Work/Enhancement Goals for Year
- First 2 Weeks: Intensive Review and Inspection of NILC Service Team and Service Schedule
 - Field Supervisors and Landscape Managers will work closely with the City POC and NILC Service Team to ensure optimal scheduling/routing and to review current conditions of the working areas.
- Irrigation System Checks
 - NILC Irrigation Team will conduct initial checks of all irrigation systems per schedule developed by NILC Account Manager and City of Benicia Team
 - Please see Irrigation section for complete detail on Irrigation Scope of Work
- 30 Day Follow Up Meeting

Attachment A

- NILC Landscape Account Manager to review first 30 days progress with City of Benicia team requesting feedback on services performed.
- Schedule recurring monthly meetings for continuous feedback and goal setting.

New Image Landscape Company: Operational Policies.

NILC shall furnish all supervision, labor, tools, equipment, and material to properly maintain the landscaped areas in an attractive condition throughout the term of the contract as described in the specifications herein.

- All landscape workers shall be under the on-site supervision of an experienced maintenance Foreman/Crew Leader and Field Supervisor.
- It is against the policy of New Image Landscape Company for the company or employees of the company to enter into agreements with individual homeowners to maintain their properties.
- Upon request, the supervisor will notify the City Landscape Manager/POC when work or specific tasks are performed.
- All work will be performed in accordance with standard horticultural practices using procedures accepted by the industry.
- All work shall be scheduled to assure that horticultural tasks are undertaken at the proper time.
- Schedules may vary throughout the year as weather conditions dictate.
- Optional services are available and considered extra work with related charges.
- New Image Landscape Company recognizes the following holidays: New Year's Day, Presidents Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day. If the service day for your account falls on one of these holidays, service will be postponed until the following scheduled service day.
- Landscape maintenance will be done based on the appearance of the landscape and not on a per hour basis.
- 24-Hour Emergency Hotline Service available at 1 (888) 399 – 8594.

Attachment A

Inspections

New Image Landscape Company will, in the presence of the City Landscape Manager/POC, conduct a pre-startup inspection to list any observed problems or inadequacies on the site such as tree, shrub, ground cover conditions, irrigation deficiencies, and the general overall appearance. The list will help to determine what will be the routine responsibility of New Image and show where improvement, repair, and/or upgrades may be required.

Should a clean-up of the property be needed prior to the contract start-up, additional manpower separate from the regular maintenance field personnel will be brought in to bring the property up to the level at which it will be maintained at an additional cost.

The maintenance supervisor and City Landscape Manager/POC may walk the project site together once each month to review maintenance practices and plant condition.

Irrigation

During the first month of service, New Image will conduct an irrigation evaluation to determine the current condition of the system. This inspection will include controllers, remote control valves and valve boxes, sprinkler heads and risers, piping, and wiring (if necessary). This evaluation will identify any adjustments, alterations, and/or repairs that may be necessary. The irrigation system will be checked per contract term or more often if the need arises.

The scope of the irrigation check will include:

1. Adjust the programming of controllers to apply water in accordance with plant requirements based on weather and soil conditions while minimizing water runoff.
2. Clean and adjust the sprinkler heads and nozzles as needed. Adjust spray patterns to ensure proper coverage and prevent any over-spray onto paved areas or buildings.
3. Remote control valves will be checked for proper operation. Valve boxes to be cleared of debris.
4. Water and electricity for controllers are to be supplied by the customer.
5. Emergency repairs that are critical or necessary to the continued operation of the irrigation system are deemed authorized without the necessity of extra work authorization.

Attachment A

6. All damage done to the irrigation system due to contractor's negligence shall be the responsibility of the contractor and must be repaired within 48 hours at the contractor's expense.
7. If the existing irrigation system consists of a drip-system component, there may be an additional charge for any irrigation run-through's.
- 8.

Optional services as an extra work charge include:

8. Certified water audits.
9. Water budget record keeping.
10. Hand watering.
11. Repairs, modifications, alterations, or additions to the irrigation system.

Weed Control

The objective is to maintain all landscaped areas including turf, ground cover, and shrub areas essentially in a weed-free condition. Weeds shall not be allowed to be present for more than 30 days or to reach a size of more than six inches at any time. Weeds may be controlled by chemical or mechanical means where necessary, as well as hand weeding. Open weed abatement areas may be maintained by mowing.

Optional services as an extra work charge include:

- Weed abatement of open areas.
- Eradication of established invasive plants e.g. Bermuda grass, bent grass, Kikuyu grass, etc.

Attachment A

Turf Management

Turf Management shall consist of mowing, trimming, fertilization, pest control, and any other procedure consistent with good horticultural practices to ensure normal, vigorous, and healthy growth of turf areas. During the first month of service, New Image will conduct a survey of all lawn areas to determine the current condition of the turf. The survey will determine if there are any problem areas that may need more than normal maintenance such as renovation, re-seeding / re-sodding, dethatching, aeration, selective weed, insect, fungus, or disease control and header replacement / removal. Once any problem areas are identified and a resolution is determined, we can make recommendations and schedule the work at an additional cost during the appropriate season.

The scope of turf management plan:

12. All turf areas will be mowed on a weekly scheduled basis during the growing season from March 1st through October 31st, bi-weekly in November and February, and once per month in December and January, or as needed during the winter months.
13. Lawns will be mowed to a height of 2" to 2 1/2".
14. Edging along sidewalks and curbs shall be performed at every mowing.
15. Lawns bordering ground cover areas shall be edged monthly to prevent grasses from spreading into ground cover areas.
16. After mowing and edging, all clippings will be removed from the sidewalks, driveways, and curbs and removed from the site.
17. Mulching of lawn clipping to re-incorporate organic material back into the turf may occur.
18. Fertilization Program in line with Contract Requirements – type of fertilization will be determined by the season and any specific nutritional needs of the lawn, as agreed upon with municipality.
19. Minor pesticide application is defined as spot spraying, or individual application of herbicide, fungicide or insecticide chemicals. Usually applied from a hand sprayer or manually applied. Pesticides are lawfully applied when necessary, to control plant material damage by pests.

Attachment A

Shrubs and Groundcover

Shrubs and ground cover will be checked on a continual basis throughout the term of the contract duration. Shrubs should be checked for appropriate pruning and thinning, shearing or hedging, and compatibility within the areas in which they are planted. Hard pruning or cutting back will be done in the winter to allow new growth or flushing out during the oncoming spring season. Ground cover will be checked for appropriate selection and suitability for the areas required, proper coverage within the planting areas, and for general health and condition.

The scope of shrub and ground cover care:

20. Shrub pruning, thinning, and trimming shall be accomplished on a regular basis to maintain a neat appearance.
21. Shrubs shall be pruned to promote strength and accentuate the shrubs' natural forms and features, minimize balling, shearing, etc.
22. Plant material shall be fertilized on a regular basis before showing any sign of nutritional deficiencies.
23. Minor pesticide application.

Attachment A

Additional Services:

Water Management:

1. New Image Landscape seeks to prevent waste and ensure reasonable use of water supplied by the City's water distribution system.
2. Water use limitations will be designed to promote the use of drip irrigation and other low volume irrigation methods that reduce outdoor water use by applying water more efficiently than traditional irrigation methods.
3. Reduction of water demands through water conservation will reduce the per capita amount of water used by city customers, and will also reduce the city's costs for electrical energy, equipment and chemicals utilized to pump and treat water supplied to the City's water distribution system.
4. Reduction of water use through water conservation protects and promotes the public health, safety, and welfare by conserving a vital resource that is subject to ever-increasing demands.

Tree Management Services

1. New Image Landscape Company also utilizes a Tree Care Division which is assigned to each large tree project that has been assigned.
2. NILC's Tree Division is well-tasked to remove, replace and/or transplant large trees in addition to applying any pesticides or herbicides deemed necessary by Tree Division Manager.

Attachment A

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Benicia Community Center	12	Month	\$1,722.00	\$20,664.00
2	Benicia Terrace	12	Month	\$140.00	\$1,680.00
3	Chelsea Hills	12	Month	\$407.00	\$4,884.00
4	City Cemetery	12	Month	\$4,107.00	\$49,284.00
5	City Hall Complex	12	Month	\$3,733.00	\$44,796.00
6	Clock Tower COQ	12	Month	\$1,417.00	\$17,004.00
7	Clos Duvall	12	Month	\$220.00	\$2,640.00
8	Columbus Parkway	12	Month	\$424.00	\$5,088.00
9	Corporation Yard	12	Month	\$480.00	\$5,760.00
10	Drolette Way	12	Month	\$693.00	\$8,316.00
11	East 2nd Street Hillcrest Ave.	12	Month	\$398.00	\$4,776.00
12	East 2nd Street Medians	12	Month	\$591.00	\$7,092.00
13	East 2nd Street Slope	12	Month	\$155.00	\$1,860.00
14	East 5th Street	12	Month	\$45.00	\$540.00
15	East E Street	12	Month	\$351.00	\$4,212.00
16	Fire Station 12	12	Month	\$437.00	\$5,244.00
17	Fleetside	12	Month	\$1,165.00	\$13,980.00
18	Golden Slopes Median	12	Month	\$332.00	\$3,984.00
19	Goodyear Road	12	Month	\$198.00	\$2,376.00
20	Grant and Polk Triangle	12	Month	\$84.00	\$1,008.00
21	Gull Point	12	Month	\$98.00	\$1,176.00
22	John's Place	12	Month	\$143.00	\$1,716.00
23	McAllister Median Sides	12	Month	\$122.00	\$1,464.00
24	Military West	12	Month	\$352.00	\$4,224.00
25	Olive Branch Court	12	Month	\$292.00	\$3,504.00
26	Rose Drive	12	Month	\$1,622.00	\$19,464.00
27	Semple Crossing	12	Month	\$654.00	\$7,848.00
28	Southampton Road Medians	12	Month	\$1,354.00	\$16,248.00
29	St. Augustine Pathway	12	Month	\$274.00	\$3,288.00
30	Vacant Home - 365 East I Street	12	Month	\$227.00	\$2,724.00
31	Vacant Home - 472 East N Street	12	Month	\$227.00	\$2,724.00
32	West 11th Street Public Access	12	Month	\$100.00	\$1,200.00
33	West 13th Street Public Access	12	Month	\$100.00	\$1,200.00
34	West 14th Street Public Access	12	Month	\$100.00	\$1,200.00
35	West 8th Street Public Access	12	Month	\$184.00	\$2,208.00
36	West C Street Public Access	12	Month	\$100.00	\$1,200.00
37	West E Street Public Access	12	Month	\$100.00	\$1,200.00
38	West H Street Public Access	12	Month	\$100.00	\$1,200.00
39	West L Street Public Access	12	Month	\$145.00	\$1,740.00
40	West Manor Carolina Drive	12	Month	\$353.00	\$4,236.00
	Total				\$284,952.00

Contract ID # 22-005T13

CITY OF BENICIA

250 East L Street, Benicia, CA 94510

TASK ORDER NO. 13

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

Stantec

Stantec Master Agreement

Task: Construction Management and Inspection Services for the Water Treatment Plant Miscellaneous Mechanical Improvements Project

1. Task Order

1.1. Purpose

The purpose of this TASK ORDER is to authorize and direct CONTRACTOR to proceed with the work specified in Attachment A of this TASK ORDER, in accordance with the provisions of the AGREEMENT identified as Contract #22-005 between the parties hereto dated February 15, 2022.

1.2. Scope of Work

The work authorized by this TASK ORDER is outlined in the "Scope of Services" attached hereto as Attachment A.

1.3. Time of Performance

The work authorized by this TASK ORDER shall commence upon execution by both parties and shall be prosecuted diligently to completion.

Commencement Date: February 18, 2025

Completion Date: June 30, 2026

1.4. Compensation And Payment

Compensation shall be on a specific rate of compensation basis as provided in the AGREEMENT identified as Contract #22-005 between the parties hereto dated February 15, 2022. The cost of the work authorized by this TASK ORDER is not to exceed \$222,164. Payment shall be in accordance with the aforementioned AGREEMENT.

1.5. Effective Date

This TASK ORDER shall become effective immediately upon its execution by both parties.

Title: Stantec Master Agreement

#22-005

1.6. Items and Conditions

All items and conditions contained in the AGREEMENT identified as Contract #22-005 dated February 15, 2022, between the City of Benicia and Stantec are incorporated herein by reference.

EXECUTED February 18, 2025

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

“Stantec”

By: Stephen Chavez
Principal Civil Engineer
Its: _____

“City”

DocuSigned by:
By: Mario Giuliani
9FA31784A98E490...
Its: City Manager

“Department”

DocuSigned by:
By: Danielle Bonham
EE90AF266EE8439...
Its: Public works director

“City Attorney”

Signed by:
By: Ben Stock
3294F30F0AD74E3...
Its: City Attorney



SCOPE OF SERVICES

Construction Management and Inspection Services for the City of Benicia Water Treatment Plant Miscellaneous Mechanical Improvements Project

Task Order #13 of Contract #22-005

1.0 PROJECT OVERVIEW

The CLIENT (CITY) owns and operates a water treatment plant (WTP) facility that serves the local residential, business and industrial community. The WTP receives raw water from a 36" Cordelia RW Pipeline and a 42" Lake Hermann RW Pipeline.

The City is planning a construction Project to address a wide range of facility issues which include replacement of failed piping underneath the operations building, backwash valve and meter replacement, sedimentation basin isolation from direct filtration process, sedimentation basin slide gate repair, filter slide gate replacement, minor structural repairs to the Raw Diversion Structure, slide gate modifications and replacement at the Raw Water Diversion Structure.

The CITY requests Stantec Consulting Services Inc. (CONSULTANT) provide a scope and estimate of costs to perform construction management and inspection services for the Project through a Task Order under the 2022 On Call Master Agreement for Design, CM and PM Engineering Services (contract #22-005, dated February 16, 2022).

The scope of services consists of the following tasks per **Section 3.0 Scope of Services**:

- Task 1 – Project Management
- Task 2 – Construction Management Services
- Task 3 – Field Observation Services

2.0 PROJECT SCHEDULE

The task and services are based on the following project schedule:

- CITY's authorization of CONSULTANT's task order amendment and notice to proceed is provided by March 2025.
- Construction Period duration anticipated for six consecutive months starting March 2025 through September 2025.

3.0 SCOPE OF SERVICES

Task 1 – Project Management

Subtask 1.1 – Project Setup/Monthly Cost Controls

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
CITY OF BENICIA
WTP MISCELLANEOUS MECHANICAL IMPROVEMENTS PROJECT

STANTEC-20250206
PAGE - 1



Upon authorization and notice to proceed provided by the CITY, CONSULTANT will establish internal project budgets and controls.

Subtask 1.2 – Invoicing and Monthly Reports

CONSULTANT will maintain communication with the CITY to review project status and identify and solve issues as they arise. CONSULTANT will set up internal project budgets, manage and monitor the total budget and schedule for tasks within this Scope of Services, prepare and submit monthly reports and invoices,

Task 1 Assumptions:

- One subconsultant agreements will be processed
- CONSULTANT will prepare and submit monthly invoices covering the periods of March 2025 to September 2025.
- CONSULTANT will prepare and submit Weekly Reports consisting of a two-page summary of work performed, work anticipated, potential issues and decisions needed by CITY, and a task budget table showing original budget, prior billed amounts, current billed amount, total billed amount to date and remaining budget amounts

Task 1 Deliverables:

- Monthly invoices and reports

Task 2.8 – Additional Services, Supplemental Budget for Construction Management Services

CONSULTANT will provide Construction Management services consisting of tracking and managing project submittals and clarifications, reviewing of project schedules, logging, tracking and managing project cost changes (PCOs) and change orders, attending and facilitating project meetings, preparing reports and project punchlists.

Subtask 2.8.1 – Conduct Weekly Progress and Schedule Meetings

CONSULTANT will cover the project status at weekly progress meetings with the CITY and construction contractor by covering a variety of topics and issues related to project safety, CITY operations and maintenance concerns, specific current issues, status of key RFIs and submittals, and other items for third party quality control testing, and closeout issues.

Subtask 2.8.2 – Prepare and Distribute Meeting Minutes

CONSULTANT will provide agenda topics to the CITY for preparation of the weekly progress meeting agendas. City will prepare and issue meeting minutes.

**Subtask 2.8.3 – Process Contractor's Submittals**

CONSULTANT will review general conformance of project submittals and submit to the Project's Design Engineer and/or CITY for technical review. CONTRACTOR will manage, prepare and issue comments by the Design Engineer and CITY, including resubmittals, submitted by the construction Contractor. CONSULTANT will manage and track the review and approval status.

Subtask 2.8.4 – Process Contractor's RFIs

CONSULTANT will process, manage and issue responses to Requests for Information (RFI) submitted by the construction Contractor. CONSULTANT will review RFIs and coordinate with the CITY and design team disciplines and coordinate the final response to the construction Contractor.

Subtask 2.8.5 – Review Contractor's Monthly Pay Requests

CONSULTANT will review payment applications submitted by the construction Contractor to verify the requested amount reflects the progress of the work and the required project monthly schedule update. CONTRACTOR will review up to three monthly progress payments.

Subtask 2.8.6 – Review Contract Change Order Requests

CONSULTANT will manage project potential change orders (PCO) for the Project and establish a change order control system, identifying each PCO item to a unique tracking number. CONTRACTOR will review change order requests submitted by the construction Contractor for merit, entitlement and general conformance to the contract documents. CONTRACTOR will review change order quotes submitted by the construction Contractor for accuracy. CONTRACTOR will prepare contract change orders (CCOs) for the CITY to review and process. CONTRACTOR will maintain and update a log of PCO items consisting of cost, schedule impacts, status and total change order amounts for the Project.

Subtask 2.8.7 – Coordinate Change Orders with City and Contractor

CONSULTANT will prepare draft change orders and review and coordinate versions with the CITY and the construction Contractor.

Subtask 2.8.8 – Project Closeout Services

Prior to the completion and acceptance of the project and before final payment to the construction Contractor, CONSULTANT will provide project closeout services during the post-construction phase. CONSULTANT will review the final requirements of the contract documents and prepare a written Notice of Completion for the CITY. CONSULTANT will review the final payment requested by the construction Contractor, verify completion of the work, and make a recommendation to the CITY as a condition for final payment.

SCOPE OF SERVICES, CM AND INSPECTION SERVICES
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**Subtask 2.8.9 – Preconstruction Services**

CONSULTANT will prepare an agenda and conduct a preconstruction meeting with the CITY and construction contractor. CONSULTANT will prepare meeting minutes to document the key discussions at the preconstruction meeting.

Task 3 – Field Observation Services**Subtask 3.1 – Inspection of Contractor's Work**

CONSULTANT will provide a **part-time** Field Inspector for routine daily field observation to verify the construction contractor's progress and compliance with contract documents.

Subtask 3.2 – Travel Time

CONSULTANT is required to reimburse staff for travel time beyond the local office (2999 Oak Road, Suite 800 Walnut Creek, California) beyond 50 miles, per the CA Prevailing Wage Travel and Subsistence policies.

Subtask 3.3 – Daily Report Preparation

Field Inspection staff will prepare daily a report depicting a general overview of construction activities, construction equipment and labor, work performed, materials used, observed delays, and deficiencies.

Subtask 3.4 – Maintain Digital Photo Records of Work in Progress: CONSULTANT will use iPhone electronic devices to take digital photos of the work and save files daily.

Subtask 3.5 – Archive Daily Report and Photo Document to City ftp website:

CONSULTANT upload daily report files and photograph files for the Project, to the City's ftp website upon completion of the Project.

Subtask 3.6 – Quality Control Test Results Review: CONSULTANT will review reports provided by the City's independent on-call materials testing firm and review test results for concrete, soils and asphalt paving for conformance with the contract requirements.

CONSULTANT will retain Terracon Consultant's, Inc. (SUBCONSULTANT) to perform periodic field and lab testing of materials.

Earthwork

SUBCONSULTANT will obtain samples of in-situ soil for laboratory tests, perform in-place field density testing and during the subgrade preparation of pavement repair and backfilling of trenches for water pipe replacement.

Aggregate Base Course

SUBCONSULTANT will obtain samples of the aggregate base for laboratory tests, perform in-place field density testing and perform periodic observations during the subgrade

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preparation of pavement repair and backfilling of trenches for water pipe replacement.

Concrete Testing

During concrete placements, SUBCONSULTANT will perform observation, sampling and testing for the concrete used for base of the wall, concrete sump, floor opening closure repair project. The concrete will be sampled and tested for slump and temperature at the time of placement. Additional services related to concrete include:

- ☐ Verification of approved design mix
- ☐ Observations of placement procedures, consolidation, and curing and protection
- ☐ Casting 1 set of 5 (4-inch by 8-inch) cylinders for each 150 cubic yards or per day (whichever is smaller)

Hot Mix Asphalt (HMA) Pavement Testing

SUBCONSULTANT will collect HMA samples for Theoretical Maximum Specific Gravity (Rice). During asphalt placements, observation, field density testing will be performed by Terracon for the new asphalt pavement.

Subtask 3.7 – Final Punchlist and Tracking: CONSULTANT prepare a final Project punchlist of deficient work and track the status of completion of the punchlist items.

Task 3 Assumptions:

- Construction inspection duration is six months (April 2025 through September 2025)
- Field observation services based on part-time inspection, up to 3 site visits per week.
- Field observation services will be based on workdays, Monday through Friday, excluding recognized holidays
- Daily report deliverables will be made available to the CITY via email
- Photographs will be made available to the CITY via file transfer protocol (ftp) upload to the City ftp site at Project Closeout
- CITY will make available to the CONSULTANT copies of approved construction permit, drawings and specifications
- The following inspections/testing for the project are assumed:
 - Field Density Testing (Compaction), 3 Site Visits – 2 Modified Proctor tests
 - Asphalt Density Testing, 1 Site Visit – 1 Asphalt Rice Density Test and 4 Core Density and Thickness tests
 - Concrete Sampling, 5 Site Visits – 25 4" x 8" cylinder tests

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- Rebar Inspection, 1 Site Visits
- Field Welding Inspection, 2 Site Visits

Task 3 Deliverables:

- Daily Field Reports in .pdf format, provided within 24 hours of the date of inspection
- Photographs in .jpg format, provided on a periodic weekly or monthly basis

4.0 SERVICES BY OTHERS

CITY will provide the following services and responsibilities, among others:

- Labor Compliance. Services related to the review of the construction Contractor's monthly certified payroll, including employee interviews.
- Legal Services. Services related to contract review, bidding irregularities, protests, claims, and related items.
- Project Administration. Responsibility and authority related to the approval of any changes to the specifications, plans, or other contractual obligations of CITY.
- Permits. All permit applications, fees, agency approvals, and coordination thereof.
- Control Systems Programming. Coordination of PLC/HMI Plant Process Control System programming and operational testing work to determine compliance with CITY requirements and CITY needs.
- Factory Visits. CITY will attend selected factory visits and testing programs at the factory to witness compliance with the Contract Documents and CITY requirements.
- Provide CM Field Office, Furnishings, and internet connection (through the construction Contractor), if required.
- Provide CM Field Office Supplies and Equipment (through the construction Contractor), if required (CITY does not require nor will provide for this project).
- Services for bid disputes or rebidding the project.
- Reports to Public Agencies such as funding agencies or permitting agencies.

**Construction Management and Inspection Services for the WTP Miscellaneous Mechanical Improvements Project
City of Benicia
Proposal Fee Estimate**

TASK			Stantec 1								Subconsultant Fees	Expenses 3,4	Total Costs		
			Project Manager	Project Controls	Project Engineer	Project Accountant	Construction Inspector PW	Construction Inspector Non-PW	Labor Hours	Flat Rate Disbursement 2				Labor Costs	
			S. Chavez	G. Roundy	L. Diaz	T. Hay	H. Khadaam	H. Khadaam							Terracon
			\$297	\$246	\$170	\$206	\$185	\$165		\$12.50					Mat. Test'g
1		Project Coordination and Management	12	28	2	6			48	\$600	\$12,628	\$1,650		\$14,443	
2		CM Services													
	2.1	Submittals/RFIs/Cos/Meetings/Site Visits (8 hrs per week/12 weeks, 6 hrs per week/6 weeks, 4hrs per week, 6 weeks)	108						108	\$1,350	\$33,426		\$200	\$33,646	
	2.2	Contract Administration - Pay Requests, Change Orders (4 hrs per week/24 weeks)	48		96				144	\$1,800	\$32,376		\$200	\$32,596	
3		Inspection Services													
	3.1	Site Inspection (24 hrs per week/16 weeks, 16 hrs per week/6 weeks) - Prevailing Wage					528		528	\$6,600	\$104,280		\$4,574	\$109,311	
	3.2	Site Inspection (3 hrs per week/18 weeks, 2 hrs per week/6 weeks) - Non-Prevailing Wage	8					66	74	\$925	\$14,191		\$528	\$14,772	
	3.3	Materials Testing (Terracon)							0	\$0	\$0	\$15,815		\$17,397	
TOTAL			176	28	98	6	528	66	902	\$11,275	\$196,901	\$17,465	\$5,502	\$222,164	

1. Task rates escalate 3% for 2026 by 1/1/26
2. Flat Rate Disbursement \$12.50 per Stantec labor hour
3. Travel expenses include mileage charged at IRS rate

