

# CITY OF WILDOMAR CITY COUNCIL AND WILDOMAR CEMETERY DISTRICT AGENDA

5:30 P.M. – CLOSED SESSION  
6:30 P.M. – REGULAR MEETING

July 10, 2019  
Council Chambers  
23873 Clinton Keith Road, Suite 106, Wildomar CA



Marsha Swanson, Mayor/Chair, District 5  
Dustin Nigg, Mayor Pro Tem/Vice Chair, District 2  
Ben J. Benoit, Council Member/Trustee, District 1  
Bridgette Moore, Council Member/Trustee, District 4  
Joseph Morabito, Council Member/Trustee, District 3

Gary Nordquist  
City Manager/General Manager

Thomas D. Jex  
City Attorney/District Counsel

## **WILDOMAR CITY COUNCIL AND WILDOMAR CEMETERY DISTRICT REGULAR MEETING AGENDA July 10, 2019**

**ORDER OF BUSINESS:** Public sessions of all regular meetings of the City Council begin at 6:30 p.m. Closed Sessions begin at 5:30 p.m. or such other time as noted.

**REPORTS:** All agenda items and reports are available for review at City Hall, 23873 Clinton Keith Road; Mission Trail Library, 34303 Mission Trail Boulevard; and on the City's website at the following address: [http://www.cityofwildomar.org/government/agendas\\_\\_\\_minutes](http://www.cityofwildomar.org/government/agendas___minutes). Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection at City Hall during regular business hours.

**PUBLIC COMMENTS:** Prior to the business portion of the agenda, the City Council will receive public comments regarding any items or matters within the jurisdiction of the governing body. The Mayor will separately call for testimony at the time of each public hearing. If you wish to speak, please complete a "Public Comment Card" available at the Chamber door. The completed form is to be submitted to the City Clerk prior to an individual being heard. Lengthy testimony should be presented to the Council in writing (15 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker.

**ADDITIONS/DELETIONS:** Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

**CONSENT CALENDAR:** Consent Calendar items will be acted on by one roll call vote unless Council members, staff, or the public request the item be discussed and/or removed from the Consent Calendar for separate action.

**NOTICE: City Council meetings may be live-streamed, photographed and/or videotaped. Attendance at the meeting constitutes consent by members of the public to the City's and any third party's use in any media, without compensation or further notice, of audio, video, and/or pictures of meeting attendees.**

**PLEASE TURN ALL DEVICES TO VIBRATE/MUTE/OFF FOR THE DURATION OF THE MEETING. YOUR COOPERATION IS APPRECIATED.**

**CALL TO ORDER – CLOSED SESSION - 5:30 P.M.**

**ROLL CALL**

**PUBLIC COMMENTS**

**CLOSED SESSION**

The City Council will meet in closed session pursuant to the provisions of Government Code Section 54956.9(d)(2) and (3) to confer with legal counsel with regard to one matter of potential exposure to litigation.

**RECONVENE INTO OPEN SESSION**

**ANNOUNCEMENTS**

**ADJOURN CLOSED SESSION**

## **CALL TO ORDER – REGULAR SESSION - 6:30 P.M.**

### **ROLL CALL**

### **FLAG SALUTE**

### **PRESENTATIONS**

1. Staff Introductions: Kimberly Davidson  
Nicholas Neidiffer  
John Chesworth  
Steven Matheny
2. Proclamation – Census 2020
3. Southern California Edison Wildfire Mitigation Efforts
4. Other City Recognitions/Presentations

### **SPECIAL ORDER OF BUSINESS**

Celebration of the City of Wildomar's 11th year of incorporation!  
Refreshments will be served.

### **PUBLIC COMMENTS**

This is the time when the Council receives general public comments regarding any items or matters within the jurisdiction that **do not** appear on the agenda.

State law allows the Council to only talk about items that are listed on the agenda. **Speakers are allowed to raise issues not listed on the agenda; however, the law does not allow the City Council to discuss those issues during the meeting.** After hearing the matter, the Mayor will turn the matter over to the City Manager who will put you in contact with the proper Staff person.

Each speaker is asked to fill out a Public Comments Card available at the Chamber door and submit the card to the City Clerk. **Lengthy testimony should be presented to the Council in writing (15 copies) and only pertinent points presented orally.** The time limit established for public comments is three minutes per speaker.

Prior to taking action on any item that is on the agenda, the public will be permitted to comment at the time it is considered by the City Council.



## **APPROVAL OF THE AGENDA AS PRESENTED**

The City Council to approve the agenda as it is herein presented, or, if it is the desire of the City Council, the agenda can be reordered, added to, or have items tabled at this time.

### **1.0 CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Council, the Public, or Staff request to have specific items removed from the Consent Calendar for separate discussion and/or action.

#### **1.1 Reading of Ordinances**

**RECOMMENDATION:** Staff recommends that the City Council approve the reading by title only of all ordinances on this agenda.

#### **1.2 Minutes – May 8, 2019 Regular Meeting**

**RECOMMENDATION:** Staff recommends that the City Council approve the Minutes as presented.

#### **1.3 Warrant and Payroll Registers**

**RECOMMENDATION:** Staff recommends that the City Council approve the following:

1. Warrant Register dated 06-06-2019 in the amount of \$1,071,135.23;
2. Warrant Register dated 06-13-2019 in the amount of \$287,915.25;
3. Warrant Register dated 06-20-2019 in the amount of \$116,467.23;
4. Warrant Register dated 06-27-2019 in the amount of \$485,199.96;
5. Wire Transfer Register dated 06-07-2019 in the amount of \$1,015,641.00;
6. Payroll Register dated 07-01-2019 in the amount of \$89,406.83

#### **1.4 Treasurer's Report**

**RECOMMENDATION:** Staff recommends that the City Council approve the Treasurer's Report for May 2019.

**1.5 FY 2018 State Homeland Security Program (SHSP) Award**

**RECOMMENDATION:** Staff recommends that the City Council:

1. Accept \$5,177 in funding from Riverside County's FY 2018 State Homeland Security Program (SHSP); and
2. Adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, APPROVING PARTICIPATION IN THE FY 2018 STATE HOMELAND SECURITY PROGRAM (SHSP) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS FOR AND ON BEHALF OF THE CITY

**1.6 Appointments to the Public Agency Risk Sharing Authority of California (PARSAC)**

**RECOMMENDATION:** Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, RESCINDING RESOLUTION NO. 2011-03, RESOLUTION NO. 2013-33, RESOLUTION NO. 2015-02 AND RESOLUTION NO. 2019-31 AND APPOINTING A REPRESENTATIVE AND ALTERNATE TO THE PUBLIC AGENCY RISK SHARING AUTHORITY OF CALIFORNIA (PARSAC) BOARD OF DIRECTORS

**1.7 Social Work Action Group (SWAG) Contract**

**RECOMMENDATION:** Staff recommends that the City Council approve and authorize the City Manager to execute a contract with Social Work Action Group (SWAG) to provide services to the City of Wildomar for the fiscal year 2019-20.

**1.8 City Hall Facility Lease- Ninth Amendment**

**RECOMMENDATION:** Staff recommends the City Council approve and authorize the City Manager to sign the proposed Ninth Amendment to the City Hall Facility Lease.

**1.9 Establish Speed Zones on Grand Avenue and on Clinton Keith Road**

**RECOMMENDATION:** Staff recommends that the Council take the following actions:

1. Establish radar-enforceable Speed Limits on two (2) arterial roadways in the City of Wildomar; Grand Avenue between Corydon Street and Clinton Keith Road, and on Clinton Keith Road between Grand Avenue and Carrington Street. The Engineering and Traffic Survey for these roadways include (7) seven certified speed zone segments (See Attachment B); and,
2. Adopt the attached ordinance (See Attachment No. A) entitled:

ORDINANCE NO. 2019- \_\_\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 10.16 OF TITLE 10  
TO THE WILDOMAR MUNICIPAL CODE ESTABLISHING SPEED  
LIMITS ON CERTAIN STREETS; and,

3. Direct the City Engineer to post speed limit signs based on the adopted Ordinance.

**1.10 Adoption of Caltrans' Local Assistance Procedures Manual Chapter 10**

**RECOMMENDATION:** Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING AN ADOPTION OF CALTRANS' LOCAL  
ASSISTANCE PROCEDURES MANUAL CHAPTER 10

**2.0 PUBLIC HEARINGS**

**2.1 Faith Bible Church Project (PA No. 17-0111):**

**RECOMMENDATION:** The Planning Commission recommends that the City Council take the following actions:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2019-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION (SCH #2019049175) AND MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR THE FAITH BIBLE CHURCH PROJECT (PA NO. 17-0111) CONSISTING OF GENERAL PLAN AMENDMENT AND PLOT PLAN TO BUILD A 27,489 SQUARE-FOOT CHURCH (1,030 SEATS) ON APPROXIMATELY 25 ACRES LOCATED AT CURRENT TERMINUS OF DEPASQUALLE ROAD AND GLAZEBROOK ROAD (APN: 376-410-024 AND 376-410-002).

2. Adopt a Resolution entitled:

RESOLUTION NO. 2019-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT NO. 17-0111 TO CHANGE THE EXISTING LAND USE DESIGNATIONS FROM COMMERCIAL OFFICE (CO) AND MEDIUM DENSITY RESIDENTIAL (MDR) TO COMMERCIAL RETAIL (CR) FOR THE FAITH BIBLE CHURCH PROJECT LOCATED AT THE CURRENT TERMINUS OF DEPASQUALLE ROAD AND GLAZEBROOK ROAD (APN: 376-410-024 AND 376-410-002)

3. Adopt a Resolution entitled:

RESOLUTION NO. 2019-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, APPROVING PLOT PLAN NO. 17-0111 TO ESTABLISH A 27,489 SQUARE-FOOT CHURCH (1,030 SEATS), INCLUDING A 16,486 SQUARE-FOOT CHILDREN'S MINISTRY BUILDING, AND AN 18,024 SQUARE-FOOT GYMNASIUM TO BE CONSTRUCTED OVER SEVEN (7) PHASES, INCLUDING ON-SITE AND OFF-SITE IMPROVEMENTS FOR THE FAITH BIBLE CHURCH LOCATED AT CURRENT TERMINUS OF DEPASQUALLE ROAD AND GLAZEBROOK ROAD (APN: 376-410-024 AND 376-410-002)

**2.2 Consideration of Territory to be Annexed to Community Facilities District No. 2013-1 (Services), Calling an Election, Ordering the Levy and Collection of Special Taxes, and Declaring the Election Results for CFD 2013-1 (Services), Annexation No. 16**

**RECOMMENDATION:** Staff recommends that the City Council

1. Open the public hearing;
2. Take testimony;
3. Close the public hearing;
4. Adopt Resolution entitled:

RESOLUTION NO. 2019 - 40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, CALLING AN ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS THE QUESTION OF LEVYING A SPECIAL TAX WITHIN THE AREA PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES) (ANNEXATION NO. 16)

5. Hold the election;
6. Canvass the election; and
7. Adopt a Resolution entitled:

RESOLUTION NO. 2019 - 41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, DECLARING ELECTION RESULTS FOR COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES) (ANNEXATION NO. 16)

**2.3 ORDINANCE NO. 168. An Interim Urgency Ordinance of the City Council of the City of Wildomar Continuing the Provisions of Ordinance No. 167 for a period of ten (10) months and fifteen (15) days Adopting a Moratorium on the Establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar and a finding that the Project is Exempt from CEQA Under CEQA Guidelines Section 15061(B)(3).**

**RECOMMENDATION:** Staff recommends that the City Council adopt an Interim Urgency Ordinance entitled:

ORDINANCE NO. 168

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR CONTINUING THE PROVISIONS OF ORDINANCE No. 167 FOR A PERIOD OF TEN (10) MONTHS AND

FIFTEEN (15) DAYS ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES OR HOOKAH OR VAPOR LOUNGES WITHIN THE CITY OF WILDOMAR AND A FINDING THAT THE PROJECT IS EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTION 15061(B)(3)

### **3.0 GENERAL BUSINESS**

#### **3.1 Resolution to Form a CSCDA Community Facilities District and a Memorandum of Understanding with Sunbelt Communities, LLC Pertaining to Bundy Canyon Road Right of Way**

**RECOMMENDATION:** Staff recommends that the City Council:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR (1) AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (THE "AUTHORITY") TO FORM A COMMUNITY FACILITIES DISTRICT WITHIN THE TERRITORIAL LIMITS OF THE CITY OF WILDOMAR TO FINANCE CERTAIN PUBLIC IMPROVEMENTS AND DEVELOPMENT IMPACT FEES; (2) EMBODYING A JOINT COMMUNITY FACILITIES AGREEMENT SETTING FORTH THE TERMS AND CONDITIONS OF THE COMMUNITY FACILITIES DISTRICT FINANCING; (3) APPROVING AN ACQUISITION AGREEMENT AMONG THE AUTHORITY, THE CITY AND THE DEVELOPER; AND (4) AUTHORIZING STAFF TO COOPERATE WITH THE AUTHORITY AND ITS CONSULTANTS IN CONNECTION THEREWITH

2. Authorize the City Manager to execute the Memorandum of Understanding.

**3.2 Amendment of Municipal Code Chapter 13.12 (Stormwater Drainage System Protection) – Set Public Hearing**

**RECOMMENDATION:** Staff recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 13.12  
(STORMWATER DRAINAGE SYSTEM PROTECTION) OF THE  
WILDOMAR MUNICIPAL CODE.

**3.3 Establishment of the Sign Code Update (ZOA 19-02) Subcommittee**

**RECOMMENDATION:** Staff recommends that the City Council select and approve two Councilmembers to serve on a temporary ad-hoc Sign Code Update Subcommittee providing guidance to staff in drafting regulations and other permitting processes for signs in the City of Wildomar.

**COUNCIL COMMUNICATIONS**

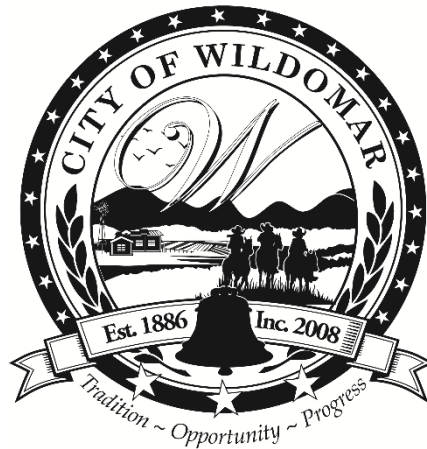
1. Community events
2. Regional events
3. Chamber of Commerce
4. Riverside Conservation Authority (RCA)
5. Riverside Transit Agency (RTA)
6. Riverside County Transportation Commission (RCTC)
7. League of California Cities
8. Southern California Association of Governments (SCAG)
9. Riverside County Habitat Conservation Agency (RCHCA)
10. Western Riverside Council of Governments (WRCOG)
11. South Coast Air Quality Management District (SCAQMD)
12. Ad Hoc & Subcommittees

**CITY MANAGER REPORT**

**FUTURE AGENDA ITEMS**

**ADJOURN THE CITY COUNCIL**

***In accordance with Government Code Section 54952.3, I, Janet Morales, City of Wildomar Acting City Clerk, do hereby declare that the Board of Trustees will receive no compensation or stipend for the convening of the following regular meeting of the Wildomar Cemetery District.***



Marsha Swanson, Chair  
Dustin Nigg, Vice Chair  
Ben J. Benoit, Trustee  
Bridgette Moore, Trustee  
Joseph Morabito, Trustee

Gary Nordquist  
General Manager

Thomas D. Jex  
District Counsel



## **CALL TO ORDER THE WILDOMAR CEMETERY DISTRICT**

### **ROLL CALL**

### **PUBLIC COMMENTS**

### **BOARD COMMUNICATIONS**

#### **APPROVAL OF THE AGENDA AS PRESENTED**

The Board of Trustees to approve the agenda as it is herein presented, or if it is the desire of the Board, the agenda can be reordered at this time.

#### **4.0 CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Board, the Public, or Staff request that specific items are removed from the Consent Calendar for separate discussion and/or action.

##### **4.1 Minutes – May 8, 2019 Regular Meeting**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Minutes as presented.

##### **4.2 Warrant Register**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the following:

1. Warrant Register dated 06-06-2019, in the amount of \$11,425.80;
2. Warrant Register dated 06-20-2019, in the amount of \$1,383.77;
3. Warrant Register dated 06-27-2019, in the amount of \$34.87.

##### **4.3 Treasurer's Report- May 2019**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Treasurer's Report for May 2019.

#### **5.0 PUBLIC HEARINGS**

There are no items scheduled.

## **6.0 GENERAL BUSINESS**

There are no items scheduled.

## **GENERAL MANAGER REPORT**

## **FUTURE AGENDA ITEMS**

## **ADJOURN WILDOMAR CEMETERY DISTRICT**

### **City Council/Wildomar Cemetery District Regular Meeting Schedule**

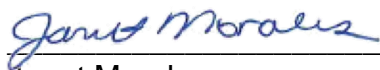
|              |             |         |
|--------------|-------------|---------|
| August 14    | December 11 | April 8 |
| September 11 | January 8   | May 13  |
| October 9    | February 12 | June 10 |
| November 13  | March 11    | July 8  |

If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Any person that requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, may request such modification, accommodation, aid or service by contacting the City Clerk either in person or by phone at 951/677-7751, no later than 10:00 a.m. on the day preceding the scheduled meeting.

I, Janet Morales, Wildomar Acting City Clerk, do certify that on July 3, 2019, by 6:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations:

Wildomar City Hall, 23873 Clinton Keith Road;  
U.S. Post Office, 21392 Palomar Street;  
Wildomar Library, 34303 Mission Trail Blvd.



Janet Morales  
Acting City Clerk

**CITY OF WILDOMAR  
CITY COUNCIL REGULAR MEETING MINUTES  
May 8, 2019**

**CALL TO ORDER – CLOSED SESSION - 5:30 P.M.**

The closed session of May 8, 2019 of the Wildomar City Council was called to order by Mayor Swanson at 5:33 p.m. at the Wildomar Council Chambers, 23873 Clinton Keith Road, Suite 106, Wildomar, California.

City Council Roll Call showed the following:

Members in attendance: Council Member Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson

Members absent: Council Member Benoit

Staff in attendance: City Manager Nordquist, City Attorney Jex and Acting City Clerk Morales

**PUBLIC COMMENTS**

There were no speakers.

**CLOSED SESSION**

Acting City Clerk Morales read the following:

The City Council will meet in closed session pursuant to the provisions of Government Code Section 54956.9(d)(2) and (3) to confer with legal counsel with regard to one matter of potential exposure to litigation.

The City Council convened into closed session at 5:34pm with Council Member Benoit absent.

**RECONVENE INTO OPEN SESSION**

At 6:30 p.m. the City Council reconvened into open session with Council Member Benoit present.

**ANNOUNCEMENTS**

City Attorney Jex stated there is no reportable action.

**ADJOURN CLOSED SESSION**

There being no further business, Mayor Swanson adjourned the closed session at 6:30 p.m.

### **CALL TO ORDER – REGULAR SESSION - 6:30 P.M.**

The Regular meeting of May 8, 2019 of the Wildomar City Council was called to order by Mayor Swanson at 6:30 p.m. at the Wildomar Council Chambers, 23873 Clinton Keith Road, Suite 106, Wildomar, California.

City Council Roll Call showed the following:

Members in attendance: Council Members Benoit, Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson

Members absent: None.

Staff in attendance: City Manager Nordquist, Assistant City Manager York, City Attorney Jex, Planning Director Bassi, Admin Services Director Riley, Accounting Manager Howell, Acting City Clerk Morales, Intern II Luna, Associate Planner Garcia

The flag salute was led by Mayor Pro Tem Dustin Nigg

### **PRESENTATIONS**

1. The Mayor presented a Proclamation for Mental Health Month
2. The Mayor presented a Certificate of Recognition to the Rotary Club of Wildomar for their 10yr Anniversary
3. The Mayor introduced Fire Chief John Crater and Division Chief Jodie Gray
4. Tyler Masters presented the Western Community Energy Presentation

### **PUBLIC COMMENTS**

Laura Girard from Sycamore Academy spoke regarding their upcoming art show; and presented a check to the City from proceeds collected from the Snack Bar at the City's egg hunt events.

David Masters, resident, spoke regarding mother/daughter and father/son dances and request to sponsor this type of event.

George W. Taylor, resident, spoke regarding code enforcement and an abandoned car parked near his residence.

Kenneth Mayes, resident, spoke regarding, updating the Municipal Code and updating ordinance section regarding licenses for tobacco retailers.

Monty Goddard, resident, spoke regarding Police quarterly reports and police budget.

### **COUNCIL COMMUNICATIONS**

The City Council Members spoke regarding the various committees, commissions, and boards that they serve on locally and regionally and community events, including:

1. Community events
2. Regional events
3. Chamber of Commerce
4. Riverside Conservation Authority (RCA)
5. Riverside Transit Agency (RTA)
6. Riverside County Transportation Commission (RCTC)
7. League of California Cities
8. Southern California Association of Governments (SCAG)
9. Riverside County Habitat Conservation Agency (RCHCA)
10. Western Riverside Council of Governments (WRCOG)
11. South Coast Air Quality Management District (SCAQMD)
12. Ad Hoc & Subcommittees

### **APPROVAL OF THE AGENDA AS PRESENTED**

**A MOTION** was made by Councilmember Morabito, seconded by Mayor Pro Tem Nigg to approve the agenda as presented.

**MOTION** carried 5-0, by the following vote:

YEA: Benoit, Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson

NAY: None

ABSTAIN: None

RECUSE: None

ABSENT: None

## **1.0 CONSENT CALENDAR**

Monty Goddard, resident, spoke regarding agenda item #1.7.

**A MOTION** was made by Councilmember Benoit, seconded by Mayor Pro Tem Nigg to approve the consent calendar.

**MOTION** carried 5-0, by the following vote:

YEA: Benoit, Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson  
NAY: None  
ABSTAIN: None  
RECUSE: None  
ABSENT: None

### **1.1 Reading of Ordinances**

Approved the reading by title only of all ordinances on this agenda.

### **1.2 Minutes – March 13, 2019 Regular Meeting**

Approved the minutes from the March 13, 2019 Regular Meeting.

### **1.3 Warrant and Payroll Registers**

Approved the following:

1. Warrant Register dated 04-04-2019 in the amount of \$326,860.86;
2. Warrant Register dated 04-11-2019 in the amount of \$1,040,448.43;
3. Warrant Register dated 04-18-2019 in the amount of \$104,415.84;
4. Warrant Register dated 04-25-2019 in the amount of \$67,410.16;
5. Wire Transfer Register dated 04-01-2019 in the amount of \$1,292.42;
6. Wire Transfer Register dated 04-30-2019 in the amount of \$54,581.12;
7. Payroll Register dated 04-01-2019 in the amount of \$92,538.16.

### **1.4 Treasurer's Report**

Approved the Treasurer's Report for April 2019.

### **1.5 Grading Agreement for Wildomar Crossings Retail Center (Parcel Map No. 37311 / Plot Plan No. 16-0134)**

Authorized the City Manager to execute the Grading Agreement with Wildomar Crossing, LLC. Upon completion and receipt of all necessary documents.

**1.6 Notice of Intent to hold a Public Hearing for placing liens on parcels with unpaid charges or trash collection services**

Provided a Notice of Intent to hold a Public Hearing on June 12, 2019, for placing liens on parcels with unpaid charges on trash collection services.

**1.7 Ordinance No. 166 Second Reading – Ordinance Prohibiting Parking, Standing or Stopping of Commercial Vehicles on Public Streets or Highways within the City**

Adopted an Ordinance entitled:

ORDINANCE NO. 166  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AMENDING TITLE 10 CHAPTER 10.20,  
SECTION 10.20.150 (COMMERCIAL VEHICLES) OF THE WILDOMAR  
MUNICIPAL CODE PROHIBITING THE PARKING, STANDING OR  
STOPPING OF COMMERCIAL VEHICLE

**1.8 Landscaping and Lighting Maintenance District No. 89-1 Consolidated-Initiating Proceeding for Levy and Collection of Assessments**

Adopted a Resolution entitled:

RESOLUTION NO. 2019 - 27  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, INITIATING PROCEEDINGS FOR THE  
LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR  
2019-20 FOR ALL ZONES OF LANDSCAPING AND LIGHTING  
MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED OF THE CITY  
OF WILDOMAR PURSUANT TO THE LANDSCAPING AND  
LIGHTING ACT OF 1972

**1.9 Landscaping and Lighting Maintenance District No. 89-1- Consolidated-Approval of Engineer's Report and Intention to Levy**

1) Adopted a Resolution entitled:

RESOLUTION NO. 2019 - 28  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, APPROVING THE ANNUAL  
ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND  
COLLECTION OF ASSESSMENTS FOR ALL ZONES OF

LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-  
CONSOLIDATED, FISCAL YEAR 2019-20

- 2) Adopted a Resolution entitled:

RESOLUTION NO. 2019 - 29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, DECLARING ITS INTENTION TO LEVY  
AND COLLECT ASSESSMENTS FOR ALL ZONES OF LANDSCAPE  
AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-  
CONSOLIDATED, FISCAL YEAR 2019 – 29

**1.10 Community Service Areas Notice of Intent to Establish Charges for FY 2019-20**

Adopted a Resolution entitled:

RESOLUTION NO. 2019 - 30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, SETTING THE PUBLIC HEARING TO  
ESTABLISH SERVICE AREA CHARGES WITHIN THE CITY FOR  
FISCAL YEAR 2019-20

**1.11 Police Services Contract Amendment**

Approved and authorized the City Manager to execute the First Amendment to the Agreement for Law Enforcement Services between the City of Wildomar and the County of Riverside.

**1.12 Contract for Fire Protection and Related Services**

Approved the Cooperative Agreement between the City of Wildomar and the County of Riverside for Fire Protection and Related Services and authorized the City Manager to sign the Agreement.

**1.13 Appointments to the Public Agency Risk Sharing Authority of California (PARSAC)**

Adopted a Resolution entitled:

RESOLUTION NO. 2019 - 31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, RESCINDING RESOLUTION NO. 2011-  
03, RESOLUTION NO. 2013-33 AND RESOLUTION NO. 2015-02  
AND APPOINTING A REPRESENTATIVE AND ALTERNATE TO THE  
PUBLIC AGENCY RISK SHARING AUTHORITY OF CALIFORNIA  
(PARSAC) BOARD OF DIRECTORS



## **2.0 PUBLIC HEARINGS**

There are no items scheduled.

## **3.0 GENERAL BUSINESS**

### **3.1 Cannabis Regulation Discussion and Direction to Staff**

Acting City Clerk Morales read the title.

City Manager Nordquist presented the staff report.

Eric Filar, resident, provided public comment in favor and opposition of the agenda item.

Gina Castanon, resident, with minutes donated from Ruben Castanon, resident, provided public comment in favor of the agenda item.

Veronica Langworthy, resident, provided public comment in opposition of the agenda item.

David Masters, resident, provided public comment in favor of the agenda item.

Greg Langworthy, resident, provided public comment.

George W. Taylor, resident, provided public comment.

**A MOTION** was made by Mayor Pro Tem Nigg, seconded by Councilmember Benoit to bring back an ordinance within 6-8 months, allowing cannabis; and directed staff to place an item on the June 12, 2019 Regular Meeting Agenda to select two members to serve on the cannabis subcommittee who will assist staff in drafting the ordinance; and, to direct staff to model the ordinance after the City of Lake Elsinore's and Riverside County's existing ordinances.

**MOTION** carried 3-2, by the following vote:

YEA: Benoit, Morabito, Mayor Pro Tem Nigg,

NAY: Moore, Mayor Swanson

ABSTAIN: None

RECUSE: None

### **3.2 City of Wildomar Commercial Design Standards and Guidelines**

Acting City Clerk Morales read the title.

Associate Planner Garcia presented the staff report.

Karen Gulley, Design Consultant with Placeworks made a presentation to the City Council.

Gina Castanon, resident, provided public comment in favor of the agenda item.

**A MOTION** was made by Councilmember Benoit, seconded by Mayor Pro Tem Nigg, to adopt a Resolution entitled:

RESOLUTION NO. 2019-32  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, APPROVING THE CITY OF WILDOMAR  
COMMERCIAL DESIGN STANDARDS AND GUIDELINES  
DOCUMENT FOR NEW COMMERCIAL RETAIL DEVELOPMENT  
PROJECTS

**MOTION** carried 5-0, by the following vote:

YEA: Benoit, Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson

NAY: None

ABSTAIN: None

RECUSE: None

ABSENT: None

### **3.3 Pavement Management Program Update and Unpaved Roadway Enhancement Program**

Acting City Clerk Morales read the title.

Assistant City Manager York presented the staff report.

City Council received and filed the Pavement Management Report Update dated January 2019.

**3.4 Presentation of Final Recommendations for 11 Acre and 27 Acre Park Master Plan(s)**

Acting City Clerk Morales read the title.

Mayor Pro Tem Nigg recused himself from the presentation.

Assistant City Manager York presented the Staff Report.

RRM Design Group made a presentation to the City Council.

David Masters, resident, provided public comment.

Monty Goddard, resident, provided public comment.

City Council received and filed the park master plans and budgetary cost estimates.

**CITY MANAGER REPORT**

City Manager Nordquist presented the report.

**FUTURE AGENDA ITEMS**

RV Ordinance- Councilmember Morabito

Temporary Sign Ordinance- Councilmember Morabito

Parking Spaces for new development- Councilmember Moore

Distances for Tobacco/Vape/Smoke Shops near schools- Councilmember Benoit

Franchise Subcommittee Meeting- Mayor Swanson

**ADJOURN THE CITY COUNCIL**

There being no further business, Mayor Swanson declared the meeting adjourned at 8:29 p.m.

Submitted by:

Approved by:

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Janet Morales  
Acting City Clerk

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Marsha Swanson  
Mayor

**CITY OF WILDOMAR CITY COUNCIL**  
**Agenda Item #1.3**  
**CONSENT CALENDAR**  
**Meeting Date: July 10, 2019**

---

**TO:** Mayor and City Council Members  
**FROM:** Robert Howell, Finance Manager  
**SUBJECT:** Warrant and Payroll Registers

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve the following:

1. Warrant Register dated 06-06-2019 in the amount of \$1,071,135.23;
2. Warrant Register dated 06-13-2019 in the amount of \$287,915.25;
3. Warrant Register dated 06-20-2019 in the amount of \$116,467.23;
4. Warrant Register dated 06-27-2019 in the amount of \$485,199.96;
5. Wire Transfer Register dated 06-07-2019 in the amount of \$1,015,641.00;
6. Payroll Register dated 07-01-2019 in the amount of \$89,406.83.

**DISCUSSION:**

The City of Wildomar requires that the City Council audit payments of demands and direct the City Manager to issue checks. The Warrant and Payroll Registers are submitted for approval.

**FISCAL IMPACT:**

These Warrant, Wire Transfer and Payroll Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2018/19 Budget.

Submitted by:  
Robert Howell  
Finance Manager

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Voucher List 06/06/2019  
Voucher List 06/13/2019  
Voucher List 06/20/2019  
Voucher List 06/27/2019

Wire Transfer Register 06/07/2019  
Payroll Register 07/01/2019

**Voucher List**  
**City of Wildomar**

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**06/06/2019 1:45:57PM**

Bank code : wf

| Voucher        | Date     | Vendor  | Invoice      | PO # | Description/Account                      | Amount            |
|----------------|----------|---|--------------|------|--|-------------------|
| 210791         | 6/6/2019 | 000312 ADAME LANDSCAPE, INC.                    | 79123        |      | MAY 2019 MONTHLY LANDSCAPE MAINTENANCE   | 250.00            |
| <b>Total :</b> |          |   |              |      |  | <b>250.00</b>     |
| 210792         | 6/6/2019 | 000554 AT & T                                   | 52819        |      | TELEPHONE LONG DISTANCE P/E 5/28/19      | 40.05             |
| <b>Total :</b> |          |   |              |      |  | <b>40.05</b>      |
| 210793         | 6/6/2019 | 001399 BEATTY, JONATHAN                         | 60119        |      | INTERPRETING - PICNIC IN THE PARK        | 100.00            |
| <b>Total :</b> |          |   |              |      |  | <b>100.00</b>     |
| 210794         | 6/6/2019 | 000009 BEN BENOIT                               | 60419        |      | REIMBURSEMENT FOR ISCS CONFERENCE 2019   | 539.96            |
| <b>Total :</b> |          |   |              |      |  | <b>539.96</b>     |
| 210795         | 6/6/2019 | 000992 CHERISHED MEMORIES PHOTOGRAPHY 2352012   |              |      | CITY COUNCIL CANVAS WRAP PHOTOS          | 1,023.62          |
| <b>Total :</b> |          |   |              |      |  | <b>1,023.62</b>   |
| 210796         | 6/6/2019 | 000068 COUNTY OF RIVERSIDE, FIRE DEPARTM 233315 |              |      | 01/01/19-03/31/19 FIRE PROTECTION SERVIC | 619,800.72        |
| <b>Total :</b> |          |   |              |      |  | <b>619,800.72</b> |
| 210797         | 6/6/2019 | 000035 COUNTY OF RIVERSIDE, TLMA                | TL0000014709 |      | APRIL 2019 SLF COSTS FY 18/19            | 515.04            |
| <b>Total :</b> |          |   |              |      |  | <b>515.04</b>     |
| 210798         | 6/6/2019 | 000501 DEPARTMENT OF FORESTRY AND, FIRE         | 1199502      |      | 7/1/18-6/30/19 WILDLAND FIRE PROTECTION  | 32,631.13         |
| <b>Total :</b> |          |   |              |      |  | <b>32,631.13</b>  |
| 210799         | 6/6/2019 | 000022 EDISON                                   | 52219        |      | 03/28/19-05/17/19 ELECTRIC ZONE          | 645.74            |
|                |          |   | 52519        |      | 04/17/19-05/22/19 ELECTRIC               | 148.54            |
| <b>Total :</b> |          |   |              |      |  | <b>794.28</b>     |
| 210800         | 6/6/2019 | 000012 ELSINORE VALLEY MUNICIPAL, WATER C 53019 |              |      | RELOCATION: CONNECTION SERVICE FEE       | 15,720.00         |
| <b>Total :</b> |          |   |              |      |  | <b>15,720.00</b>  |
| 210801         | 6/6/2019 | 000012 ELSINORE VALLEY MUNICIPAL, WATER C       | 9831286      |      | 04/08/19-05/08/19 WATER ZONE 52 LOC 01   | 94.32             |
|                |          |   | 9831343      |      | 04/08/19-05/08/19 WATER ZONE 29 LOC 02   | 36.37             |
|                |          |   | 9831625      |      | 04/08/19-05/08/19 WATER ZONE 71 LOC 01   | 155.72            |
|                |          |   | 9831824      |      | 04/17/19-05/08/19 WATER 32687 GRUWELL -  | 53.70             |
|                |          |   | 9831906      |      | 04/08/19-05/08/19 WATER MARNA OBRIEN     | 2,559.87          |

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**City of Wildomar**

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| Voucher        | Date     | Vendor                                    | Invoice     | PO #    | Description/Account                      | Amount          |
|----------------|----------|---|-------------|---------|--|-----------------|
| 210801         | 6/6/2019 | 000012 ELSINORE VALLEY MUNICIPAL, WATER C | (Continued) |         |  |                 |
|                |          |   | 9836516     |         | 04/12/19-05/12/19 WATER ZONE 3 LOC 7 M1  | 69.39           |
|                |          |   | 9836528     |         | 04/12/19-05/12/19 WATER HERITAGE PARK (A | 130.96          |
|                |          |   | 9839073     |         | 04/13/19-05/13/19 WATER ZONE 3 LOC 25 M1 | 343.65          |
|                |          |   | 9839075     |         | 04/13/19-05/13/19 WATER ZONE 3 LOC 25 M2 | 691.41          |
|                |          |   | 9840841     |         | 04/13/19-05/13/19 WATER ZONE 3 LOC 24 M1 | 414.51          |
|                |          |   | 9842173     |         | 04/13/19-05/13/19 WATER MALAGA GATEWAY P | 112.15          |
| <b>Total :</b> |          |   |             |         |  | <b>4,662.05</b> |
| 210802         | 6/6/2019 | 001222 FOBRO CONSULTING LLC               | 78          |         | 05/18/19-05/31/19 ACCOUNTING CONTRACTUAL | 4,400.00        |
| <b>Total :</b> |          |   |             |         |  | <b>4,400.00</b> |
| 210803         | 6/6/2019 | 000685 GREAT AMERICA FINANCIAL SERVIC     | 24875469    |         | CANON COPIER SYST #25-1249376            | 214.24          |
| <b>Total :</b> |          |   |             |         |  | <b>214.24</b>   |
| 210804         | 6/6/2019 | 001297 HOWELL, ROBERT                     | 53019       |         | 5/19/19-5/22/19 MILEAGE REIMBURSEMENT    | 290.00          |
| <b>Total :</b> |          |   |             |         |  | <b>290.00</b>   |
| 210805         | 6/6/2019 | 001327 JANTZ, ADAM                        | 52919       |         | 5/22/19 MILEAGE REIMBURSEMENT            | 26.91           |
| <b>Total :</b> |          |   |             |         |  | <b>26.91</b>    |
| 210806         | 6/6/2019 | 001357 M & J PAUL ENTERPRISES INC         | 060819COW   |         | HEALTH & FITNESS FAIR - MARNA OBRIEN     | 2,265.00        |
| <b>Total :</b> |          |   |             |         |  | <b>2,265.00</b> |
| 210807         | 6/6/2019 | 001376 MANUEL BUILDING PROFESSIONAL, MAI  | 50119       | 0000222 | 90 DAY PARK MAINTENANCE SERVICE AS PER A | 3,762.46        |
| <b>Total :</b> |          |   |             |         |  | <b>3,762.46</b> |
| 210808         | 6/6/2019 | 000649 MINT PRINT MEDIA                   | 2522        |         | BANNER FOR MEMORIAL DAY EVENT            | 120.02          |
| <b>Total :</b> |          |   |             |         |  | <b>120.02</b>   |
| 210809         | 6/6/2019 | 000914 MMASC                              | 52719       |         | ANNUAL MEMBERSHIP DUES - J MORALES       | 85.00           |
| <b>Total :</b> |          |   |             |         |  | <b>85.00</b>    |

**Voucher List**  
**City of Wildomar**

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**Bank code :** wf

| <b>Voucher</b> | <b>Date</b> | <b>Vendor</b>                             | <b>Invoice</b> | <b>PO #</b> | <b>Description/Account</b>               | <b>Amount</b>     |
|----------------|-------------|---|----------------|-------------|--|-------------------|
| 210810         | 6/6/2019    | 000040 MPS                                | 72721          |             | CODE ENFORCEMENT ADMIN CITATION BOOKS    | 1,702.91          |
| <b>Total :</b> |             |   |                |             |  | <b>1,702.91</b>   |
| 210811         | 6/6/2019    | 001337 MPS SECURITY                       | 0808-8821      |             | SECURITY SERVICE - CRAFT BREW FEST       | 385.00            |
| <b>Total :</b> |             |   |                |             |  | <b>385.00</b>     |
| 210812         | 6/6/2019    | 001060 PATRIOT PIPELINE INC               | 021            |             | GRAND AVE / BATSON LN SINK HOLE          | 15,461.00         |
| <b>Total :</b> |             |   |                |             |  | <b>15,461.00</b>  |
| 210813         | 6/6/2019    | 000185 PITNEY BOWES                       | 1012918225     |             | 06/16/19-09/15/19 POSTAGE METER RENTAL   | 97.88             |
| <b>Total :</b> |             |   |                |             |  | <b>97.88</b>      |
| 210814         | 6/6/2019    | 001244 PLATINUM BUSINESS SOLUTIONS, LLC   | 1023           |             | 05/18/19-05/31/19 ACCOUNTING CONTRACTUAL | 4,400.00          |
| <b>Total :</b> |             |   |                |             |  | <b>4,400.00</b>   |
| 210815         | 6/6/2019    | 000526 PRINT POSTAL                       | 14993          |             | MEMORIAL DAY FLYERS                      | 110.02            |
| <b>Total :</b> |             |   |                |             |  | <b>110.02</b>     |
| 210816         | 6/6/2019    | 000186 RIGHTWAY                           | 248159         |             | 5/28/19 MEMORIAL DAY EVENT               | 351.26            |
| <b>Total :</b> |             |   |                |             |  | <b>351.26</b>     |
| 210817         | 6/6/2019    | 000415 RIVERSIDE COUNTY FLOOD CONTROL, I  | 53019          |             | RELOCATION: FORMAL OFFER TO PURCHASE RIG | 15,000.00         |
| <b>Total :</b> |             |   |                |             |  | <b>15,000.00</b>  |
| 210818         | 6/6/2019    | 000047 RIVERSIDE COUNTY, SHERIFF'S DEPART | SH00000035308  |             | APRIL 2019 CONTRACT LAW ENFORCEMENT      | 341,702.87        |
| <b>Total :</b> |             |   |                |             |  | <b>341,702.87</b> |
| 210819         | 6/6/2019    | 001241 SIEMENS MOBILITY, INC.             | 5610168283     |             | APRIL 2019 TRAFFIC SIGNAL MAINTENANCE    | 1,494.50          |
|                |             |   | 5620022558     |             | APRIL 2019 TRAFFIC SIGNAL RESPONSE CALL  | 2,218.54          |
| <b>Total :</b> |             |   |                |             |  | <b>3,713.04</b>   |
| 210820         | 6/6/2019    | 000181 STATE BOARD OF EQUALIZATION        | 53019          |             | RELOCATION: RECORDING FEE                | 350.00            |
| <b>Total :</b> |             |   |                |             |  | <b>350.00</b>     |
| 210821         | 6/6/2019    | 000094 STAUFFERS LAWN EQUIPMENT           | 179281         |             | DEPARTMENTAL SUPPLIES                    | 190.92            |

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City of Wildomar

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| Voucher                        | Date     | Vendor | Invoice                         | PO #        | Description/Account                    | Amount                        |
|--------------------------------|----------|--------|---------------------------------|-------------|--|-------------------------------|
| 210821                         | 6/6/2019 | 000094 | 000094 STAUFFERS LAWN EQUIPMENT | (Continued) |  |                               |
| Total :                        |          |        |                                 |             |  | 190.92                        |
| 210822                         | 6/6/2019 | 000437 | VERIZON WIRELESS                | 9830652353  | 05/23/19-06/22/19 DATA INTERNET CHARGE | 353.83                        |
|                                |          |        |                                 | 9830652354  | 05/23/19-06/22/19 DATA INTERNET CHARGE | 76.02                         |
| Total :                        |          |        |                                 |             |  | 429.85                        |
| 32 Vouchers for bank code : wf |          |        |                                 |             |  | Bank total : 1,071,135.23     |
| 32 Vouchers in this report     |          |        |                                 |             |  | Total vouchers : 1,071,135.23 |



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**City of Wildomar**

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Bank code : wf

| Voucher        | Date      | Vendor                             | Invoice  | PO # | Description/Account                      | Amount           |
|----------------|-----------|------------------------------------|----------|------|--|------------------|
| 210827         | 6/13/2019 | 001002 ARCHITERRA DESIGN GROUP     | 25788    |      | 04/25/19-05/29/19 PLAN CHECK - 3RD PC    | 337.18           |
|                |           |                                    | 25789    |      | 04/25/19-05/29/19 PLAN CHECK - 2ND CD    | 518.63           |
|                |           |                                    | 25790    |      | 04/25/19-05/29/19 PLAN CHECK - 2ND CD    | 625.00           |
| <b>Total :</b> |           |                                    |          |      |  | <b>1,480.81</b>  |
| 210828         | 6/13/2019 | 001291 BUNDLE BANDS INDUSTRIES INC | 398      |      | BLDG DEPARTMENTAL SUPPLIES - BANDS/CLIP  | 153.11           |
| <b>Total :</b> |           |                                    |          |      |  | <b>153.11</b>    |
| 210829         | 6/13/2019 | 000785 CORELOGIC SOLUTIONS, LLC    | 81965157 |      | MAY 2019 CODE ENFORCEMENT SOFTWARE       | 150.00           |
| <b>Total :</b> |           |                                    |          |      |  | <b>150.00</b>    |
| 210830         | 6/13/2019 | 000011 CR&R INC.                   | 315105   |      | 5/01/19 & 6/01/19 3YD BOX - FIRE STATIO  | 303.93           |
| <b>Total :</b> |           |                                    |          |      |  | <b>303.93</b>    |
| 210831         | 6/13/2019 | 000058 DEPARTMENT OF JUSTICE       | 381394   |      | FINGERPRINT APP (SOLORIO & DAVIDSON)     | 64.00            |
| <b>Total :</b> |           |                                    |          |      |  | <b>64.00</b>     |
| 210832         | 6/13/2019 | 001326 DETRAY DRILLING             | 61019    |      | RELOCATION PAYMENT                       | 14,547.00        |
| <b>Total :</b> |           |                                    |          |      |  | <b>14,547.00</b> |
| 210833         | 6/13/2019 | 000022 EDISON                      | 53019A   |      | 04/29/19-05/29/19 ELECTRIC - BASEBALL FI | 35.09            |
|                |           |                                    | 53019B   |      | 04/29/19-05/29/19 ELECTRIC - 21400 PALOM | 97.33            |
|                |           |                                    | 60119A   |      | 05/01/19-06/01/19 ELECTRIC - CSA 103 PAL | 41.50            |
|                |           |                                    | 60119B   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 94.07            |
|                |           |                                    | 60119C   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 66.64            |
|                |           |                                    | 60119D   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 117.98           |
|                |           |                                    | 60119E   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 13.34            |
|                |           |                                    | 60119F   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 173.27           |
|                |           |                                    | 60119G   |      | 05/01/19-06/01/19 ELECTRIC - CFD 2013-1  | 66.64            |
|                |           |                                    | 60119H   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 205.02           |
|                |           |                                    | 60119I   |      | 05/01/19-06/01/19 ELECTRIC - WILDOMAR CI | 56.85            |

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Bank code : wf

| Voucher | Date      | Vendor                                    | Invoice  | PO # | Description/Account                      | Amount                |
|---------|-----------|---|----------|------|--|-----------------------|
| 210833  | 6/13/2019 | 000022 EDISON                             |          |      | (Continued)                              | <b>Total : 967.73</b> |
| 210834  | 6/13/2019 | 000012 ELSINORE VALLEY MUNICIPAL, WATER D | 9842762  |      | 04/16/19-05/16/19 WATER ZONE 42 LOC 01 M | 369.41                |
|         |           |   | 9843014  |      | 04/16/19-05/16/19 WATER ZONE 42 LOC 03 M | 156.89                |
|         |           |   | 9843015  |      | 04/16/19-05/16/19 WATER ZONE 42 LOC 02 M | 234.17                |
|         |           |   | 9845665  |      | 04/19/19-05/19/19 WATER ZONE 3 LOC 23 M1 | 179.74                |
|         |           |   | 9845872  |      | 04/19/19-05/19/19 WATER ZONE 30 LOC 2    | 57.49                 |
|         |           |   | 9845912  |      | 04/19/19-05/19/19 WATER ZONE 3 LOC 49 M1 | 60.54                 |
|         |           |   | 9846163  |      | 04/19/19-05/19/19 WATER ZONE 51 LOC 1    | 84.67                 |
|         |           |   | 9846328  |      | 04/19/19-05/19/19 WATER BASEBALL FIELD   | 541.57                |
|         |           |   | 9846369  |      | 04/19/19-05/19/19 WATER WINDSONG PARK    | 512.29                |
|         |           |   | 9846876  |      | 04/19/19-05/19/19 WATER ZONE 3 LOC 29 M1 | 262.01                |
|         |           |   | 9846954  |      | 04/19/19-05/19/19 WATER ZONE 3 LOC 29 M2 | 182.81                |
|         |           |   | 9846957  |      | 04/19/19-05/19/19 WATER ZONE 30 LOC 1    | 158.14                |
|         |           |   | 9847056  |      | 04/19/19-05/19/19 WATER ZONE 3 LOC 42 &  | 137.06                |
|         |           |   | 9847452  |      | 04/19/19-05/19/19 WATER 22450 1/2 CERVER | 91.05                 |
|         |           |   | 9847693  |      | 04/19/19-05/19/19 WATER 22450 CERVERA    | 92.89                 |
|         |           |   | 9848789  |      | 04/19/19-05/19/19 WATER ZONE 62 - 22933  | 100.19                |
|         |           |   | 9848875  |      | 04/19/19-05/19/19 WATER ZONE 67 - ARNNET | 54.44                 |
|         |           |   | 9849440  |      | 04/21/19-05/21/19 WATER ZONE 3 LOC 35 M1 | 83.93                 |
|         |           |   |          |      | <b>Total :</b>                           | <b>3,359.29</b>       |
| 210835  | 6/13/2019 | 000941 FRONTIER                           | 60119A   |      | 06/01/19-06/30/19 OFFICE TELEPHONE CHARG | 380.30                |
|         |           |   | 60119B   |      | 06/01/19-06/30/19 TELEPHONE CHARGES      | 50.89                 |
|         |           |   |          |      | <b>Total :</b>                           | <b>431.19</b>         |
| 210836  | 6/13/2019 | 000685 GREAT AMERICA FINANCIAL SERVIC     | 24917646 |      | CANON COLOR COPIER SYST #13-1228588      | 214.24                |
|         |           |   |          |      | <b>Total :</b>                           | <b>214.24</b>         |

**Voucher List**  
**City of Wildomar**

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**06/13/2019 10:24:00AM**

**Bank code :** wf

| <b>Voucher</b> | <b>Date</b> | <b>Vendor</b>                             | <b>Invoice</b> | <b>PO #</b> | <b>Description/Account</b>                  | <b>Amount</b>     |
|----------------|-------------|---|----------------|-------------|---|-------------------|
| 210837         | 6/13/2019   | 000016 INNOVATIVE DOCUMENT SOLUTIONS      | 207831         |             | 05/01/19-05/31/19 CONTRACT COPIER<br>SERVIC | 965.62            |
| <b>Total :</b> |             |   |                |             |   | <b>965.62</b>     |
| 210838         | 6/13/2019   | 000072 INTERWEST CONSULTING GROUP         | 49513          |             | APRIL 2019 CONTRACTUAL SVC                  | 205,961.63        |
| <b>Total :</b> |             |   |                |             |   | <b>205,961.63</b> |
| 210839         | 6/13/2019   | 001357 M & J PAUL ENTERPRISES INC         | 052219COW      |             | CAMP OUT 2019 - MARNA OBRIEN                | 1,635.00          |
| <b>Total :</b> |             |   |                |             |   | <b>1,635.00</b>   |
| 210840         | 6/13/2019   | 000431 MOORE, BRIDGETTE                   | 60119          |             | REIMBURSEMENT: PICNIC IN THE PARK<br>SUPPLI | 219.28            |
| <b>Total :</b> |             |   |                |             |   | <b>219.28</b>     |
| 210841         | 6/13/2019   | 001046 MUNICIPAL CONSULTING SERVICES, LLC | 61019          |             | 05/25/19-06/07/19 INTERIM FINANCE<br>DIRECT | 4,770.00          |
| <b>Total :</b> |             |   |                |             |   | <b>4,770.00</b>   |
| 210842         | 6/13/2019   | 000018 ONTRAC                             | 8936682        |             | PROJECT RELATED SHIPPING COSTS              | 48.45             |
| <b>Total :</b> |             |   |                |             |   | <b>48.45</b>      |
| 210843         | 6/13/2019   | 000526 PRINT POSTAL                       | 15012          |             | JUST SAY NO POSTERS - HOMELESS              | 190.31            |
| <b>Total :</b> |             |   |                |             |   | <b>190.31</b>     |
| 210844         | 6/13/2019   | 000051 RCHCA                              | 61019          |             | MAY 2019 KANGAROO RAT FEE                   | 250.00            |
| <b>Total :</b> |             |   |                |             |   | <b>250.00</b>     |
| 210845         | 6/13/2019   | 000401 SOUTHERN CALIFORNIA EDISON         | 61119          |             | RELOCATE FACILITIES BUNDY CANYON RD<br>PHAS | 25,500.00         |
| <b>Total :</b> |             |   |                |             |   | <b>25,500.00</b>  |
| 210846         | 6/13/2019   | 000790 SPARKLETTS                         | 60119          |             | THROUGH 6/1/19 DRINKING WATER - CITY<br>HAL | 79.84             |
|                |             |   | 60219          |             | THROUGH 6/2/19 DRINKING WATER - CITY<br>HAL | 45.84             |
| <b>Total :</b> |             |   |                |             |   | <b>125.68</b>     |
| 210847         | 6/13/2019   | 001400 SPEEDY VEHICLE REGISTRATION        | 60419          |             | LIVE SCAN - T SOLORIO & K DAVIDSON          | 40.00             |
| <b>Total :</b> |             |   |                |             |   | <b>40.00</b>      |
| 210848         | 6/13/2019   | 000918 TKE ENGINEERING INC                | 2019-232       |             | 03/31/19-05/04/19 CONTRACTUAL SVCS          | 1,522.00          |

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| Voucher        | Date      | Vendor                                   | Invoice     | PO # | Description/Account                | Amount          |
|----------------|-----------|--|-------------|------|------------------------------------|-----------------|
| 210848         | 6/13/2019 | 000918 TKE ENGINEERING INC               | (Continued) |      |                                    |                 |
|                |           |  | 2019-318    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 195.00          |
|                |           |  | 2019-319    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 1,158.00        |
|                |           |  | 2019-320    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 166.50          |
|                |           |  | 2019-321    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 305.00          |
|                |           |  | 2019-322    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 333.00          |
|                |           |  | 2019-323    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 491.50          |
|                |           |  | 2019-324    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 658.00          |
|                |           |  | 2019-325    |      | 03/31/19-05/04/19 CONTRACTUAL SVCS | 928.77          |
| <b>Total :</b> |           |  |             |      |                                    | <b>5,757.77</b> |
| 210849         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, ( | 363916      |      | FIRE STATION EXPENSE               | 267.86          |
|                |           |  | 50319A      |      | FIRE STATION EXPENSE               | 147.51          |
|                |           |  | 50319B      |      | FIRE STATION EXPENSE               | 33.57           |
|                |           |  | 50319C      |      | FIRE STATION EXPENSE               | -33.02          |
|                |           |  | 50719       |      | FIRE STATION EXPENSE               | 46.15           |
|                |           |  | 50819       |      | FIRE STATION EXPENSE               | 282.31          |
|                |           |  | 50919       |      | FIRE STATION EXPENSE               | 26.72           |
|                |           |  | 51419       |      | FIRE STATION EXPENSE               | 27.14           |
|                |           |  | 51519       |      | FIRE STATION EXPENSE               | 53.06           |
|                |           |  | 51519       |      | FIRE STATION EXPENSE               | 21.67           |
|                |           |  | 52119       |      | FIRE STATION EXPENSE               | 25.66           |
|                |           |  | 94236975    |      | FIRE STATION EXPENSE               | 186.71          |
|                |           |  | H22847      |      | FIRE STATION EXPENSE               | 79.82           |
|                |           |  | SO68794     |      | FIRE STATION EXPENSE               | 705.79          |
| <b>Total :</b> |           |  |             |      |                                    | <b>1,870.95</b> |
| 210850         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, ( | 200003647   |      | CSMFO 5/16/19 MEETING              | 30.00           |
|                |           |  | 214666      |      | GFOA CONFERENCE - LUNCH            | 8.01            |
|                |           |  | 305         |      | GFOA CONFERENCE - HOTEL            | 205.50          |
|                |           |  | 3140255     |      | DEPARTMENTAL SUPPLIES - A/P CHECKS | 67.55           |
|                |           |  | 32540       |      | GFOA CONFERENCE - PARKING          | 20.00           |
|                |           |  | 33035       |      | GFOA CONFERENCE - PARKING          | 20.00           |
|                |           |  | 33708       |      | GFOA CONFERENCE - PARKING          | 20.00           |
|                |           |  | 406706      |      | ANNUAL LUNCH MEETING               | 27.00           |
|                |           |  | 50319       |      | CREDIT: RETURN 1 PK A/P CHECKS     | -20.88          |
|                |           |  | 51919       |      | GFOA CONFERENCE - LUNCH            | 16.50           |
|                |           |  | 52119       |      | GFOA CONFERENCE - LUNCH            | 29.02           |
|                |           |  | 6826609     |      | DEPARTMENTAL SUPPLIES - A/P CHECKS | 141.95          |

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| Voucher | Date      | Vendor | Invoice  | PO # | Description/Account                  | Amount          |
|---------|-----------|--------|--|------|--------------------------------------|-----------------|
| 210850  | 6/13/2019 | 000006 | 000006 WELLS FARGO PAYMENT REMITTANCE, (Continued) |      | <b>Total :</b>                       | <b>564.65</b>   |
| 210851  | 6/13/2019 | 000006 | WELLS FARGO PAYMENT REMITTANCE, ( 3114025879       |      | APA CONFERENCE 2019 - HOTEL DEPOSIT  | 250.15          |
|         |           |        | E2200  |      | - BA                                 |                 |
|         |           |        |  |      | APA CONFERENCE 2019 - BASSI          | 1,215.00        |
|         |           |        |  |      | <b>Total :</b>                       | <b>1,465.15</b> |
| 210852  | 6/13/2019 | 000006 | WELLS FARGO PAYMENT REMITTANCE, ( 1902             |      | ICSC CONFERENCE - BREAKFAST -        | 78.00           |
|         |           |        | 311  |      | YORK/MORAL                           |                 |
|         |           |        | 36598  |      | ICSC CONFERENCE - HOTEL - YORK       | 571.86          |
|         |           |        | 51919  |      | ICSC CONFERENCE - AIRPORT PARKING -  | 96.00           |
|         |           |        | 9  |      | YORK                                 |                 |
|         |           |        |  |      | ICSC CONFERENCE - DINNER -           | 115.43          |
|         |           |        |  |      | YORK/MORALES                         |                 |
|         |           |        |  |      | ICSC CONFERENCE - LUNCH - YORK       | 18.00           |
|         |           |        |  |      | <b>Total :</b>                       | <b>879.29</b>   |
| 210853  | 6/13/2019 | 000006 | WELLS FARGO PAYMENT REMITTANCE, ( 1031423750       |      | PHOTOSHOP/ADOBE ACROBAT (12 MTHS)    | 238.33          |
|         |           |        | 1044   |      | DRY CLEANING - EVENT TABLECLOTH      | 88.00           |
|         |           |        | 107448   |      | CITY COUNCIL MEETING                 | 162.04          |
|         |           |        | 1546   |      | CITY SHIRTS FOR ICSC 2019            | 124.95          |
|         |           |        | 1762   |      | ICSC TRAVEL - MEAL- MORALES          | 51.30           |
|         |           |        | 2865001  |      | NON-DEPT DEPT SUPPLIES - ADAPTERS    | 38.00           |
|         |           |        | 3121144418   |      | CITY MANAGER'S OFFICE SUPPLIES       | 28.47           |
|         |           |        | 312143659  |      | COMM. SVC. OFFICE SUPPLIES           | 26.00           |
|         |           |        | 312144650  |      | COMM. SVC. OFFICE SUPPLIES           | 82.63           |
|         |           |        | 313  |      | ICSC TRAVEL - HOTEL- MORALES         | 541.96          |
|         |           |        | 3981   |      | 2019 HEALTH PERMIT - CRAFT BREW FEST | 203.72          |
|         |           |        | 43019  |      | DEPARTMENTAL SUPPLIES                | 73.59           |
|         |           |        | 4325954  |      | COMM. SVC & MARNA OBRIEN DEPT        | 75.00           |
|         |           |        |  |      | SUPPLIES -                           |                 |
|         |           |        | 4337684  |      | COMM. SVC/ DEPT SUPPLIES             | 21.00           |
|         |           |        | 4358118  |      | STAR WARS EVENT SUPPLIES             | 75.00           |
|         |           |        | 50219  |      | STAR WARS EVENT SUPPLIES             | 8.61            |
|         |           |        | 50319  |      | STAR WARS EVENT SUPPLIES - MARNA     | 27.19           |
|         |           |        |  |      | OBRIEN                               |                 |
|         |           |        | 50319  |      | STAR WARS EVENT SUPPLIES - MARNA     | 5.92            |
|         |           |        |  |      | OBRIEN                               |                 |
|         |           |        | 50419  |      | STAR WARS EVENT SUPPLIES - MARNA     | 27.62           |
|         |           |        |  |      | OBRIEN                               |                 |

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| Voucher        | Date      | Vendor   | Invoice          | PO # | Description/Account                      | Amount          |
|----------------|-----------|--|------------------|------|--|-----------------|
| 210853         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, (Continued) | 51919            |      | ICSC TRAVEL - AIRFARE - MORALES          | 30.00           |
|                |           |  | 51919            |      | ICSC TRAVEL - TAXI - MORALES             | 37.18           |
|                |           |  | 52119            |      | ICSC TRAVEL - AIRFARE- MORALES           | 30.00           |
|                |           |  | 810654           |      | COMM. SVCS DEPT SUPPLIES - RIBBON CUTTIN | 26.99           |
|                |           |  | 83578168         |      | BLDG & SAFETY ONLINE PAYMENT             | 59.95           |
|                |           |  | 9032229          |      | PARKS ADMIN DEPT SUPPLIES                | 81.46           |
|                |           |  | 9417             |      | ICSC TRAVEL - MEAL- MORALES              | 47.37           |
|                |           |  | 97204            |      | VIDEO HOSTING SOFTWARE                   | 250.00          |
|                |           |  | C433422          |      | PARKING PLACARDS FOR STAFF               | 148.69          |
|                |           |  | CL305152         |      | CITY MANAGER DEPT SUPPLIES - FLASH DRIVE | 448.00          |
|                |           |  | JPSQDC           |      | PARSAC BOARD MEETING - FLIGHT - MORALES/ | 483.92          |
|                |           |  | SC10023714J9FPH  |      | IPMA HUMAN RESOURCE MEMBERSHIP - S STANT | 79.00           |
| <b>Total :</b> |           |  |                  |      |  | <b>3,621.89</b> |
| 210854         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, (           | 101027           |      | REPLACEMENT PARTS FOR ELEC. MOWER        | 32.10           |
|                |           |  | 119735           |      | LIGHT TOWER FOR RIN EVENT                | 276.20          |
|                |           |  | 3                |      | WINDSONG - REPLACEMENT PLAQUES           | 46.22           |
|                |           |  | 50919            |      | CEMETERY OFFICE SUPPLIES                 | 152.23          |
|                |           |  | 50919            |      | CEMETERY OFFICE SUPPLIES                 | 60.10           |
|                |           |  | 51719            |      | BASEBALL FIELD DEPT SUPPLIES             | 191.69          |
|                |           |  | 5182019          |      | PARK BIKE RACK REPAIR                    | 75.00           |
|                |           |  | 75630            |      | CEMETERY DIESEL                          | 63.00           |
|                |           |  | 80451            |      | CEMETERY FUEL                            | 74.47           |
|                |           |  | 92227            |      | CEMETERY EQUIPMENT FUEL                  | 88.54           |
|                |           |  | 947549           |      | PARK DEPARTMENTAL SUPPLIES               | 10.86           |
| <b>Total :</b> |           |  |                  |      |  | <b>1,070.41</b> |
| 210855         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, (           | 309121488        |      | BLDG DEPT & NON-DEPT OFFICE SUPPLIES     | 253.69          |
|                |           |  | 4779848772568100 |      | ADMIN - CA LABOR CODE MID YEAR LEGAL UPD | 35.00           |
|                |           |  | 51619            |      | NON-DEPT OFFICE SUPPLIES                 | 21.56           |
| <b>Total :</b> |           |  |                  |      |  | <b>310.25</b>   |
| 210856         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, (           | 50319            |      | NON-DEPT SOFTWARE SUBSCRIPTION           | 14.99           |

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| Voucher                        | Date      | Vendor   | Invoice | PO # | Description/Account            | Amount                      |
|--------------------------------|-----------|--|---------|------|--------------------------------|-----------------------------|
| 210856                         | 6/13/2019 | 000006 WELLS FARGO PAYMENT REMITTANCE, (Continued) | 949185  |      | CITY MANAGER OFFICE SUPPLIES   | 5.63                        |
| Total :                        |           |  |         |      |                                | 20.62                       |
| 210857                         | 6/13/2019 | 000131 WESTERN RIVERSIDE COUNTY, RCA               | 61019   |      | MAY 2019 MSHCP MITIGATION FEES | 2,104.00                    |
| Total :                        |           |  |         |      |                                | 2,104.00                    |
| 210858                         | 6/13/2019 | 000055 WRCOG                                       | 61019   |      | MAY 2019 TUMF FEES             | 8,873.00                    |
| Total :                        |           |  |         |      |                                | 8,873.00                    |
| 32 Vouchers for bank code : wf |           |  |         |      |                                | Bank total : 287,915.25     |
| 32 Vouchers in this report     |           |  |         |      |                                | Total vouchers : 287,915.25 |

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| Voucher | Date      | Vendor                                     | Invoice                  | PO #    | Description/Account   | Amount             |
|---------|-----------|--|--------------------------|---------|---|--------------------|
| 210859  | 6/20/2019 | 000031 AFLAC, REMITTANCE PROCESSING, CEN   | 54511                    |         | JUNE 2019 MEDICAL INSURANCE BENEFIT   | 3,885.15           |
|         |           |  |                          |         | <b>Total :</b>  | <b>3,885.15</b>    |
| 210860  | 6/20/2019 | 000033 AMERICAN FORENSIC NURSES            | 72159                    |         | BLOOD DRAW (1) UR. SPEC (2)   | 165.00             |
|         |           |  |                          |         | <b>Total :</b>  | <b>165.00</b>      |
| 210861  | 6/20/2019 | 000007 ANIMAL FRIENDS OF THE VALLEY,, INC. | APR.2019                 |         | APRIL 2019 ANIMAL CONTROL SERVICE   | 7,000.00           |
|         |           |  |                          |         | <b>Total :</b>  | <b>7,000.00</b>    |
| 210862  | 6/20/2019 | 000034 BIO-TOX LABORATORIES                | 38050                    |         | RC SHERIFF - LAB SERVICES   | 46.00              |
|         |           |  |                          |         | <b>Total :</b>  | <b>46.00</b>       |
| 210863  | 6/20/2019 | 000367 CINTAS CORPORATION                  | 5013969939               |         | NON-DEPT FIRST AID & SAFETY #201/207  | 117.24             |
|         |           |  |                          |         | <b>Total :</b>  | <b>117.24</b>      |
| 210864  | 6/20/2019 | 001132 CIRCLE OF SAFE-T INC                | 822                      |         | POLICE DEPT - SART EXAM - CASE<br>#WI912700                                       | 1,200.00           |
|         |           |  |                          |         | <b>Total :</b>  | <b>1,200.00</b>    |
| 210865  | 6/20/2019 | 000011 CR&R INC.                           | 314986<br>315017         |         | 05/15/19 DUMP 40YD BOX & DISPOSAL FEE<br>06/01/19 4 YD BOX - BASEBALL FIELD       | 1,467.81<br>137.60 |
|         |           |  |                          |         | <b>Total :</b>  | <b>1,605.41</b>    |
| 210866  | 6/20/2019 | 000027 DIRECT TV                           | 36376475501              |         | 06/12/19-07/11/19 CABLE SERVICES - CITY   | 145.98             |
|         |           |  |                          |         | <b>Total :</b>  | <b>145.98</b>      |
| 210867  | 6/20/2019 | 000637 EAGLE'S MARK, EAGLE GRAPHIC CREAT   | IN19-16835<br>IN19-16937 |         | COMMUNITY SVC DEPT SUPPLIES<br>FIRE DEPT. DEPARTMENTAL SUPPLIES                   | 13.05<br>56.55     |
|         |           |  |                          |         | <b>Total :</b>  | <b>69.60</b>       |
| 210868  | 6/20/2019 | 000812 ECONOMIC DEVELOPMENT AGENCY, LIE    | 2019-31                  |         | APRIL 2019 DIF LIBRARY  | 1,162.21           |
|         |           |  |                          |         | <b>Total :</b>  | <b>1,162.21</b>    |
| 210869  | 6/20/2019 | 000022 EDISON                              | 60719A<br>60719B         |         | 05/01/19-06/01/19 ELECTRIC - WILDOMAR<br>CI<br>04/12/19-06/01/19 ELECTRIC CSA 103 | 46.00<br>13,645.41 |
|         |           |  |                          |         | <b>Total :</b>  | <b>13,691.41</b>   |
| 210870  | 6/20/2019 | 000342 FENCE MASTERS                       | 91660                    | 0000220 | INSTALL BARRIER GATES FOR MARNA<br>OBRIEN P                                       | 8,123.00           |



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| Voucher | Date      | Vendor                                  | Invoice   | PO #    | Description/Account                      | Amount                  |
|---------|-----------|---|-----------|---------|--|-------------------------|
| 210870  | 6/20/2019 | 000342 000342 FENCE MASTERS             |           |         | (Continued)                              | <b>Total : 8,123.00</b> |
| 210871  | 6/20/2019 | 001222 FOBRO CONSULTING LLC             | 79        |         | 06/01/19-06/14/19 ACCOUNTING CONTRACTUAL | 4,612.56                |
|         |           |   |           |         | <b>Total :</b>                           | <b>4,612.56</b>         |
| 210872  | 6/20/2019 | 000941 FRONTIER                         | 60719     |         | 06/07/19-07/06/19 TELEPHONE CHARGES      | 50.89                   |
|         |           |   |           |         | <b>Total :</b>                           | <b>50.89</b>            |
| 210873  | 6/20/2019 | 000499 INLAND EMPIRE LANDSCAPE INC      | 31790     |         | MAY 2019 LANDSCAPE MAINTENANCE           | 8,071.72                |
|         |           |   |           |         | <b>Total :</b>                           | <b>8,071.72</b>         |
| 210874  | 6/20/2019 | 000304 JOE A. GONSALVES & SON           | 157461    |         | JUNE 2019 CONTRACTUAL LEGISLATIVE ADVOCA | 3,000.00                |
|         |           |   |           |         | <b>Total :</b>                           | <b>3,000.00</b>         |
| 210875  | 6/20/2019 | 001337 MPS SECURITY                     | 0808-8799 | 0000211 | WILDOMAR PARKS PATROL SERVICES (90 DAYS) | 2,277.08                |
|         |           |   |           |         | <b>Total :</b>                           | <b>2,277.08</b>         |
| 210876  | 6/20/2019 | 001210 MURRIETA/WILDOMAR CHAMBER, OF CC | 33656     |         | NETWORKING BREAKFAST - CITY MANAGER      | 20.00                   |
|         |           |   |           |         | <b>Total :</b>                           | <b>20.00</b>            |
| 210877  | 6/20/2019 | 001005 PEOPLEREADY INC                  | 24788900  |         | CONTRACTUAL SVC - CRAFT BREWFEST - LABOR | 931.70                  |
|         |           |   | 24806812  |         | CONTRACTUAL SVC - PICNIC IN THE PARK - L | 145.20                  |
|         |           |   | 24818819  |         | CONTRACTUAL SVC - HEALTH FAIR - LABOR    | 484.00                  |
|         |           |   | 24834134  |         | CONTRACTUAL SVC - PICNIC IN THE PARK - L | 145.20                  |
|         |           |   |           |         | <b>Total :</b>                           | <b>1,706.10</b>         |
| 210878  | 6/20/2019 | 000875 PIE NATION PIZZERIA              | 61919     |         | CAMP OUT IN THE PARK 6/22/19 - PIZZA     | 450.00                  |
|         |           |   |           |         | <b>Total :</b>                           | <b>450.00</b>           |
| 210879  | 6/20/2019 | 000185 PITNEY BOWES                     | 60619     |         | POSTAGE METER REFILL 5/24/19             | 503.50                  |
|         |           |   |           |         | <b>Total :</b>                           | <b>503.50</b>           |
| 210880  | 6/20/2019 | 001244 PLATINUM BUSINESS SOLUTIONS, LLC | 1024      |         | 06/01/19-06/14/19 ACCOUNTING CONTRACTUAL | 4,475.54                |

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| Voucher                        | Date      | Vendor   | Invoice  | PO #    | Description/Account                      | Amount                             |
|--------------------------------|-----------|--|----------|---------|--|------------------------------------|
| 210880                         | 6/20/2019 | 001244 001244 PLATINUM BUSINESS SOLUTIONS, LLC (Continued) |          |         |  | <b>Total : 4,475.54</b>            |
| 210881                         | 6/20/2019 | 000526 PRINT POSTAL  | 14907    |         | SAVE THE DATE FLYERS                     | 258.73                             |
|                                |           |  |          |         | <b>Total :</b>                           | <b>258.73</b>                      |
| 210882                         | 6/20/2019 | 000228 REGISTRAR OF VOTERS                                 | 2746     |         | ELECTION SERVICES FOR NOV. 6, 2018       | 36,996.97                          |
|                                |           |  |          |         | <b>Total :</b>                           | <b>36,996.97</b>                   |
| 210883                         | 6/20/2019 | 000186 RIGHTWAY  | 249029   |         | 5/30/19-06/26/19 - RENT - WINDSONG PARK  | 175.25                             |
|                                |           |  |          |         | <b>Total :</b>                           | <b>175.25</b>                      |
| 210884                         | 6/20/2019 | 000809 SO CALIFORNIA MULCH, INC                            | 18460    | 0000219 | 201 CY CERTIFIED PLAYGROUND CHIPS - DELI | 9,070.13                           |
|                                |           |  |          |         | <b>Total :</b>                           | <b>9,070.13</b>                    |
| 210885                         | 6/20/2019 | 001306 SOCIAL WORK ACTION GROUP                            | 5312019  |         | MAY 2019 CONTRACTUAL SERVICE             | 2,587.76                           |
|                                |           |  |          |         | <b>Total :</b>                           | <b>2,587.76</b>                    |
| 210886                         | 6/20/2019 | 001418 WEBB MUNICIPAL FINANCE, LLC                         | 20190137 |         | MEASURE Z ANNUAL ADMIN FY 18/19          | 5,000.00                           |
|                                |           |  |          |         | <b>Total :</b>                           | <b>5,000.00</b>                    |
| 28 Vouchers for bank code : wf |           |  |          |         |  | <b>Bank total : 116,467.23</b>     |
| 28 Vouchers in this report     |           |  |          |         |  | <b>Total vouchers : 116,467.23</b> |

**Voucher List**  
**City of Wildomar**

Page: 1

06/27/2019 11:02:41AM

Bank code : wf

| Voucher        | Date      | Vendor                           | Invoice     | PO # | Description/Account                      | Amount           |
|----------------|-----------|----------------------------------|-------------|------|--|------------------|
| 210891         | 6/27/2019 | 000312 ADAME LANDSCAPE, INC.     | 79435       |      | JUNE 2019 MONTHLY LANDSCAPE MAINTENANCE  | 250.00           |
| <b>Total :</b> |           |                                  |             |      |  | <b>250.00</b>    |
| 210892         | 6/27/2019 | 000033 AMERICAN FORENSIC NURSES  | 72200       |      | BLOOD DRAW (2) UR. SPEC. (1) DRY RUN (1) | 195.00           |
| <b>Total :</b> |           |                                  |             |      |  | <b>195.00</b>    |
| 210893         | 6/27/2019 | 000008 AT&T MOBILITY             | X0620202019 |      | 06/13/19-07/12/19 COUNCIL MOBILE PHONE   | 57.10            |
| <b>Total :</b> |           |                                  |             |      |  | <b>57.10</b>     |
| 210894         | 6/27/2019 | 001419 BERNARD, BRIANNA          | 62019       |      | 6/19/19 PLANNING COMMISSION MEETING      | 75.00            |
| <b>Total :</b> |           |                                  |             |      |  | <b>75.00</b>     |
| 210895         | 6/27/2019 | 000994 CFT NV DEVELOPMENTS, LLC  | 070119      |      | JULY 2019 CITY HALL MTHLY LEASE 1029-K10 | 27,231.30        |
| <b>Total :</b> |           |                                  |             |      |  | <b>27,231.30</b> |
| 210896         | 6/27/2019 | 001180 CPSI                      | 1472        |      | APRIL 2019 PROF. SVCS. - BUNDY CYN WIDEN | 7,361.08         |
|                |           |                                  | 1491        |      | MAY 2019 PROF. SVCS. - BUNDY CYN WIDENIN | 9,424.04         |
| <b>Total :</b> |           |                                  |             |      |  | <b>16,785.12</b> |
| 210897         | 6/27/2019 | 000011 CR&R INC.                 | 2025        |      | 05/01/19-05/31/19 STREET SWEEPER & BIKE  | 455.86           |
| <b>Total :</b> |           |                                  |             |      |  | <b>455.86</b>    |
| 210898         | 6/27/2019 | 001292 CRISP IMAGING             | 131169      |      | PROJECT RELATED REPROGRAPHICS            | 32.63            |
| <b>Total :</b> |           |                                  |             |      |  | <b>32.63</b>     |
| 210899         | 6/27/2019 | 000002 CRYSTAL CLEAN MAINTENANCE | 603H        |      | JUNE 2019 JANITORIAL SERVICES - CITY HAL | 1,998.00         |
| <b>Total :</b> |           |                                  |             |      |  | <b>1,998.00</b>  |
| 210900         | 6/27/2019 | 000037 DATA TICKET, INC.         | 101424      |      | MAY 2019 ONLINE/SSN CITATION PROCESSING  | 200.00           |
|                |           |                                  | 101806      |      | MAY 2019 DAILY CITE PROCESSING           | 150.00           |
| <b>Total :</b> |           |                                  |             |      |  | <b>350.00</b>    |

**Voucher List**  
**City of Wildomar**

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| <b>Bank code :</b> wf |           |   |              |         |  |                   |
|-----------------------|-----------|---|--------------|---------|--|-------------------|
| Voucher               | Date      | Vendor                                    | Invoice      | PO #    | Description/Account                      | Amount            |
| 210901                | 6/27/2019 | 000058 DEPARTMENT OF JUSTICE              | 381686       |         | MAY 2019 POLICE BLOOD ALCOHOL ANALYSIS   | 140.00            |
| <b>Total :</b>        |           |   |              |         |  | <b>140.00</b>     |
| 210902                | 6/27/2019 | 000637 EAGLE'S MARK, EAGLE GRAPHIC CREAT  | IN19-16970   |         | PLANNING COMMISSION SUPPLIES - NAME PLAT | 52.20             |
| <b>Total :</b>        |           |   |              |         |  | <b>52.20</b>      |
| 210903                | 6/27/2019 | 001343 FILAR, ERIC                        | 62019        |         | 6/19/19 PLANNING COMMISSION MEETING      | 75.00             |
| <b>Total :</b>        |           |   |              |         |  | <b>75.00</b>      |
| 210904                | 6/27/2019 | 001222 FOBRO CONSULTING LLC               | 80           |         | 06/15/19-06/28/19 ACCOUNTING CONTRACTUAL | 4,400.00          |
| <b>Total :</b>        |           |   |              |         |  | <b>4,400.00</b>   |
| 210905                | 6/27/2019 | 000685 GREAT AMERICA FINANCIAL SERVIC     | 25000633     |         | 2 - CANON COLOR COPIER SYST. #16-0966269 | 407.82            |
| <b>Total :</b>        |           |   |              |         |  | <b>407.82</b>     |
| 210906                | 6/27/2019 | 000072 INTERWEST CONSULTING GROUP         | 50238        |         | MAY 2019 CONTRACTUAL SVC                 | 190,086.52        |
| <b>Total :</b>        |           |   |              |         |  | <b>190,086.52</b> |
| 210907                | 6/27/2019 | 000879 LLOYD, JOHN                        | 62019        |         | 6/19/19 PLANNING COMMISSION MEETING      | 75.00             |
| <b>Total :</b>        |           |   |              |         |  | <b>75.00</b>      |
| 210908                | 6/27/2019 | 001046 MUNICIPAL CONSULTING SERVICES, LLC | 62419        |         | 06/08/19-06/21/19 INTERIM FINANCE DIRECT | 4,662.00          |
| <b>Total :</b>        |           |   |              |         |  | <b>4,662.00</b>   |
| 210909                | 6/27/2019 | 000084 MUNISERVICES, LLC                  | INV06-006233 |         | SALES & USE TAX REPORTING SUTA SVC FOR T | 24.23             |
| <b>Total :</b>        |           |   |              |         |  | <b>24.23</b>      |
| 210910                | 6/27/2019 | 000510 OCHOA'S BACKFLOW SYSTEMS           | 10820        | 0000224 | ANNUAL BACKFLOW TESTING OF 21 ZONES      | 1,100.00          |
| <b>Total :</b>        |           |   |              |         |  | <b>1,100.00</b>   |
| 210911                | 6/27/2019 | 001089 O'NEILL S & E                      | 2229         |         | CAMP OUT 2019 - TSHIRTS                  | 1,335.45          |
| <b>Total :</b>        |           |   |              |         |  | <b>1,335.45</b>   |
| 210912                | 6/27/2019 | 000778 PARSONS TRANSPORTATION GRP INC     | 1905A895     |         | 03/29/19-04/26/19 PROF. SVC. AGREEMENT # | 3,513.32          |

**Voucher List**  
**City of Wildomar**

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Bank code : wf

| Voucher | Date      | Vendor                                       | Invoice      | PO # | Description/Account                         | Amount            |
|---------|-----------|--|--------------|------|---|-------------------|
| 210912  | 6/27/2019 | 000778 000778 PARSONS TRANSPORTATION GRP INC | (Continued)  |      |   |                   |
|         |           |  |              |      | <b>Total :</b>                              | <b>3,513.32</b>   |
| 210913  | 6/27/2019 | 001107 PLACEWORKS                            | 68914        |      | MAY 2019 CONTRACTUAL SVC. - PROJECT<br>RELA | 2,565.00          |
|         |           |  | 68916        |      | MAY 2019 CONTRACTUAL SVC. - ADMIN<br>WORK   | 25.00             |
|         |           |  | 68917        |      | MAY 2019 CONTRACTUAL SVC. - ADMIN<br>WORK   | 25.00             |
|         |           |  | 68928        |      | MAY 2019 CONTRACTUAL SVC. - ADMIN<br>WORK   | 126.00            |
|         |           |  | 68929        |      | MAY 2019 CONTRACTUAL SVC. - PROJECT<br>RELA | 253.53            |
|         |           |  | 68930        |      | MAY 2019 CONTRACTUAL SVC. - PROJECT<br>RELA | 750.00            |
|         |           |  | 69091        |      | MAY 2019 CONTRACTUAL SVC. - ADMIN<br>WORK   | 5,682.00          |
|         |           |  |              |      | <b>Total :</b>                              | <b>9,426.53</b>   |
| 210914  | 6/27/2019 | 001244 PLATINUM BUSINESS SOLUTIONS, LLC      | 1025         |      | 06/15/19-06/28/19 ACCOUNTING<br>CONTRACTUAL | 4,741.72          |
|         |           |  |              |      | <b>Total :</b>                              | <b>4,741.72</b>   |
| 210915  | 6/27/2019 | 000042 PV MAINTENANCE, INC.                  | 005-218      |      | MAY 2019 CITYWIDE MAINTENANCE<br>CONTRACTUA | 43,863.58         |
|         |           |  |              |      | <b>Total :</b>                              | <b>43,863.58</b>  |
| 210916  | 6/27/2019 | 000415 RIVERSIDE COUNTY FLOOD CONTROL, I     | FC0000017396 |      | FY 18/19 SANTA MARGARITA NPDES COST<br>SHAR | 119,304.18        |
|         |           |  |              |      | <b>Total :</b>                              | <b>119,304.18</b> |
| 210917  | 6/27/2019 | 000289 RIVERSIDE COUNTY SHERIFF, TECHNIC/    | SH0000035561 |      | 07/01/18-06/30/19 RIV CNTY<br>SHERIFF-COMMU | 32,986.00         |
|         |           |  |              |      | <b>Total :</b>                              | <b>32,986.00</b>  |
| 210918  | 6/27/2019 | 001101 SIGNS BY TOMORROW                     | 23475        |      | WILDOMAR PUBLIC HEARING SIGN                | 547.50            |
|         |           |  |              |      | <b>Total :</b>                              | <b>547.50</b>     |
| 210919  | 6/27/2019 | 001393 SOCALGAS                              | 61219        |      | 05/09/19-06/10/19 GAS - FIRE DEPT 32637     | 43.62             |
|         |           |  |              |      | <b>Total :</b>                              | <b>43.62</b>      |
| 210920  | 6/27/2019 | 001021 SPICER CONSULTING GROUP               | 412          |      | FY 18/19 ANNUAL ADMIN LLMD89-1C/CSA<br>22,  | 2,583.33          |

**Voucher List**  
City of Wildomar

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Bank code : wf

| Voucher                               | Date      | Vendor                            | Invoice            | PO # | Description/Account                         | Amount                             |
|---------------------------------------|-----------|-----------------------------------|--------------------|------|---|------------------------------------|
| 210920                                | 6/27/2019 | 001021 SPICER CONSULTING GROUP    | (Continued)<br>413 |      | CFD 2013-1 ANNEX #16 100% COMPLETE -<br>TES | 5,000.00                           |
| <b>Total :</b>                        |           |                                   |                    |      |   | <b>7,583.33</b>                    |
| 210921                                | 6/27/2019 | 000995 STRONG, KIM                | 62019              |      | 6/19/19 PLANNING COMMISSION MEETING         | 75.00                              |
| <b>Total :</b>                        |           |                                   |                    |      |   | <b>75.00</b>                       |
| 210922                                | 6/27/2019 | 001243 THRILLOGY ENTERPRISES, LLC | JM190713-570       |      | TAPSNAP PHOTO BOOTH - CITY BIRTHDAY<br>7/13 | 1,000.00                           |
| <b>Total :</b>                        |           |                                   |                    |      |   | <b>1,000.00</b>                    |
| 210923                                | 6/27/2019 | 000918 TKE ENGINEERING INC        | 2019-422           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 390.00                             |
|                                       |           |                                   | 2019-423           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 820.00                             |
|                                       |           |                                   | 2019-424           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 4,141.00                           |
|                                       |           |                                   | 2019-425           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 604.45                             |
|                                       |           |                                   | 2019-426           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 2,839.50                           |
|                                       |           |                                   | 2019-427           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 1,545.50                           |
|                                       |           |                                   | 2019-428           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 1,495.00                           |
|                                       |           |                                   | 2019-429           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 296.50                             |
|                                       |           |                                   | 2019-477           |      | 05/05/19-06/01/19 CONTRACTUAL SVC           | 195.00                             |
| <b>Total :</b>                        |           |                                   |                    |      |   | <b>12,326.95</b>                   |
| <b>33 Vouchers for bank code : wf</b> |           |                                   |                    |      |   | <b>Bank total : 485,199.96</b>     |
| <b>33 Vouchers in this report</b>     |           |                                   |                    |      |   | <b>Total vouchers : 485,199.96</b> |

Voucher List  
City of Wildomar

Page: 1

06/06/2019 2:28:53PM

Bank code : wf

| Voucher                       | Date     | Vendor   | Invoice | PO # | Description/Account                      | Amount                        |
|-------------------------------|----------|--|---------|------|--|-------------------------------|
| 37                            | 6/6/2019 | 001274 GOLDEN STATE ESCROW INC                 | 18611ks |      | ESCROW CHARGES FOR 22551 ELBOW CREEK TRA | 15,641.00                     |
| Total :                       |          |  |         |      |  | 15,641.00                     |
| 38                            | 6/7/2019 | 001341 MANAGEMENT PROGRAM, CALIFORNIA / 060719 |         |      | ADDITIONAL INVESTMENT FUND PURCHASE      | 1,000,000.00                  |
| Total :                       |          |  |         |      |  | 1,000,000.00                  |
| 2 Vouchers for bank code : wf |          |  |         |      |  | Bank total : 1,015,641.00     |
| 2 Vouchers in this report     |          |  |         |      |  | Total vouchers : 1,015,641.00 |

**City of Wildomar**  
**Payroll Warrant Register**  
**7/1/2019**

| <b>ACH Date</b> | <b>Payee</b>      | <b>Description</b>    | <b>Amount</b>                     |
|-----------------|-------------------|-----------------------|-----------------------------------|
| 5/2/2019        | Heartland Payroll | 05/25/2019-06/07/2019 | \$ 44,052.48                      |
| 5/16/2019       | Heartland Payroll | 06/08/2019-06/21/2019 | 43,877.24                         |
| 5/31/2019       | Heartland Payroll | 06/01/2019-06/30/2019 | <u>1,477.11</u>                   |
|                 |                   | <b>TOTAL</b>          | <b><u><u>\$ 89,406.83</u></u></b> |



**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #1.4**

**CONSENT CALENDAR**

**Meeting Date: July 10, 2019**

---

**TO:** Mayor and City Council Members

**FROM:** James R. Riley, Administrative Services Director

**PREPARED BY:** Robert Howell, Finance Manager

**SUBJECT:** Treasurer's Report

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve the Treasurer's Report for May 2019.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of May 2019. Beginning in February the City has diversified its portfolio by adding the California Asset Management Program to its city investments. This additional investment program allows the City to potentially increase the interest earned on the money held.

**FISCAL IMPACT:**

None.

Submitted by:  
James R. Riley  
Administrative Services Director

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Treasurer's Report

**CITY OF WILDOMAR  
TREASURER'S REPORT FOR  
CASH AND INVESTMENT PORTFOLIO  
May 2019**

**CITY CASH**

| <u>FUND</u> | <u>ACCOUNT</u> | <u>INSTITUTION</u> | <u>BEGINNING<br/>BALANCE</u> | <u>+<br/>DEPOSITS</u>  | <u>(-)<br/>WITHDRAWALS</u> | <u>ENDING<br/>BALANCE</u> | <u>RATE</u> |
|-------------|----------------|--------------------|------------------------------|------------------------|----------------------------|---------------------------|-------------|
| AII         | AII            | WELLS FARGO        | \$ 4,553,284.97              | \$ 1,663,329.69        | \$ (2,166,500.41)          | \$ 4,050,114.25           | 0.000%      |
|             |                | <b>TOTAL</b>       | <b>\$ 4,553,284.97</b>       | <b>\$ 1,663,329.69</b> | <b>\$ (2,166,500.41)</b>   | <b>\$ 4,050,114.25</b>    |             |

**CITY INVESTMENT**

| <u>FUND</u> | <u>ISSUER</u>                       | <u>BOOK VALUE</u>      | <u>FACE VALUE</u>      | <u>MARKET VALUE</u>    | <u>PERCENT<br/>OF<br/>PORTFOLIO</u> | <u>DAYS<br/>TO MAT.</u> | <u>STATED<br/>RATE</u> |
|-------------|-------------------------------------|------------------------|------------------------|------------------------|-------------------------------------|-------------------------|------------------------|
| AII         | LOCAL AGENCY INVESTMENT FUND        | \$ 1,116,843.12        | \$ 1,116,843.12        | \$ 1,116,843.12        | 100.00%                             | 0                       | 2.449%                 |
| AII         | CALIFORNIA ASSET MANAGEMENT PROGRAM | \$ 1,510,674.06        | \$ 1,510,674.06        | \$ 1,510,674.06        | 100.00%                             | 0                       | 2.520%                 |
|             | <b>TOTAL</b>                        | <b>\$ 2,627,517.18</b> | <b>\$ 2,627,517.18</b> | <b>\$ 2,627,517.18</b> | <b>100.00%</b>                      |                         |                        |

**CITY**                      **TOTAL CASH AND INVESTMENT**                      **\$ 6,677,631.43**

**CITY INVESTMENT (Continued)**

| <u>FUND</u> | <u>ISSUER</u>                       | <u>BEGINNING<br/>BALANCE</u> | <u>+<br/>DEPOSITS/<br/>PURCHASES</u> | <u>(-)<br/>WITHDRAWALS/<br/>SALES/<br/>MATURITIES</u> | <u>ENDING<br/>BALANCE</u> | <u>STATED<br/>RATE</u> |
|-------------|-------------------------------------|------------------------------|--------------------------------------|---|---------------------------|------------------------|
| AII         | LOCAL AGENCY INVESTMENT FUNDS       | \$ 1,116,843.12              | \$ 0.00                              | \$ 0.00   | \$ 1,116,843.12           | 2.449%                 |
| AII         | CALIFORNIA ASSET MANAGEMENT PROGRAM | \$ 1,507,452.71              | \$ 3,221.35                          | \$ 0.00   | \$ 1,510,674.06           | 2.520%                 |
|             | <b>TOTAL</b>                        | <b>\$ 2,624,295.83</b>       | <b>\$ 3,221.35</b>                   | <b>\$ 0.00</b>  | <b>\$ 2,627,517.18</b>    |                        |

In compliance with the California Code Section 53646, as Director of Finance/City Treasurer for the City of Wildomar, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the City's expenditure requirements for the next six months, and that all investments are in compliance with the City's Statement of Investment Policy.

I also certify that this report reflects all Government Agency pooled investments and all of the City's Bank Balances.

James R. Riley  
James R. Riley  
Administrative Services Director

7/1/2019  
Date

**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #1.5**  
**CONSENT CALENDAR**  
**Meeting Date: July 10, 2019**

---

**TO:** Mayor and City Council Members

**FROM:** Adam Jantz, Administrative Analyst

**SUBJECT:** FY 2018 State Homeland Security Program (SHSP) Award

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Accept \$5,177 in funding from Riverside County's FY 2018 State Homeland Security Program (SHSP); and
2. Adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, APPROVING PARTICIPATION IN THE FY 2018 STATE  
HOMELAND SECURITY PROGRAM (SHSP) AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS FOR AND ON  
BEHALF OF THE CITY

**DISCUSSION:**

The California Office of Emergency Services (CalOES) has approved Riverside County's FY 2018 SHSP application and has authorized the commencement of reimbursement requests to approved Cities. The performance period of this grant is October 10, 2018 – May 31, 2020.

The SHSP grant provides 100% reimbursement to the City for eligible purchases of supplies, materials, equipment and training relating to and conducting Community Emergency Response Team (CERT) program certifications. The CERT program educates people about disaster preparedness and provides resources and training to help citizens plan for and recover from a disaster or emergency.

**FISCAL IMPACT:**

The total grant amount is \$5,177.

Submitted by:  
Adam Jantz  
Administrative Analyst

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

- A. Resolution
- B. FY 2018 SHSP Project Ledger
- C. FY 2018 SHSP Award letter from County of Riverside EMD

# **Attachment A**

**RESOLUTION NO. 2019 - \_\_\_\_\_**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,**  
**APPROVING PARTICIPATION IN THE FY 2018 STATE HOMELAND**  
**SECURITY PROGRAM (SHSP) AND AUTHORIZING THE CITY MANAGER**  
**TO EXECUTE ALL NECESSARY DOCUMENTS FOR AND ON BEHALF OF**  
**THE CITY**

**WHEREAS**, the Department of Homeland Security, Federal Emergency Management Agency have provided funds for the FY 2018 State Homeland Security Program (SHSP); and

**WHEREAS**, the California Office of Emergency Services (CalOES) has been delegated the responsibility for the administration of this grant program establishing necessary procures; and

**WHEREAS**, the Riverside County Office of Emergency Services has been further delegated the responsibility for the administration of this grant program establishing necessary procedures; and

**WHEREAS**, the Riverside County Office of Emergency Services has awarded the City of Wildomar funds for FY 2018; and

**WHEREAS**, said procedures established by the State of California and the County of Riverside require a resolution certifying the approval of the application.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the City Council of the City of Wildomar, California as follows:

1. The City Council approves participation in the FY 2018 State Homeland Security Program; and
2. The City Council appoints the City Manager or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned projects.

**PASSED, APPROVED, AND ADOPTED** this 10th day of July, 2019.

\_\_\_\_\_  
Marsha Swanson  
Mayor

APPROVED AS TO FORM:

ATTEST:

---

Thomas D. Jex  
City Attorney

---

Janet Morales  
Acting City Clerk

# **Attachment B**





Bruce Barton  
Emergency Management Department Director

2/27/2019

Les Chapman  
Janet Morales  
City of Wildomar

RE: FY18 State Homeland Security Program (SHSP)      Award– CERT- \$5,177

Grant #: 2018-0054      CFDA#: 97.067

The California Office of Emergency Services (CalOES) has approved Riverside County's FY18 State Homeland Security Program (SHSP) grant award and in turn EMD has approved your grant award in the above amounts.

Upon approval of pending paperwork this letter serves as authorization to begin spending and requesting reimbursement of your Anti-Terrorism Approval Authority (ATAA) approved projects. The overall performance period of this grant is Oct. 01, 2018– May 31, 2020 however you are required to request reimbursement at a minimum of every 6 months. Equipment purchases must be completed within the first 8 months of this grant and Training must be completed or scheduled within the first year of this grant. Under extenuating circumstances some exceptions may be approved. Riverside County EMD does require you to provide a signed FY18 Grant Assurance and completed and signed Workbook Face-Sheet as soon as possible. Modifications and Reimbursement Requests cannot be processed until we receive these documents. Please remember that changes to your grant will require the approval of the OA prior to incurring any costs. All modifications, EHP's, sole source procurement, EOC and construction requests require additional approvals from CalOES through the OA prior to incurring any costs. Your Agency's Financial Workbook outlining your approved spending is included on the CD provided to you.

By accepting this award it will be understood that you are agreeing to comply with all applicable federal, state and local requirements of the grant as put forth in the FY18 Grant Assurances, federal and state guidances, and all provisions of 2 CFR 200 including part F-"Audit Requirements". Performance Bonds are required for any equipment item over \$249,999 or any vehicle, aviation, or watercraft regardless of cost that is being paid for with any portion of grant funds. Federal funds cannot be awarded to any entity that has been debarred. You will be expected to provide quarterly reports by January 1, April 1, July 1 and October 1 of each year for all open grants. Any funds found owed as a result of a final review or audit must be refunded to the County within 15 days upon receipt of an invoice from Riverside County EMD.

As always, please feel free to contact us with any questions you may have. I look forward to working with you and appreciate your cooperation and support.

Regards,

*Kim Dana*

Kim Dana  
Administrative Services Analyst II  
Riverside County EMD  
951-955-0419

---

4210 RIVERWALK PARKWAY, SUITE 300

RIVERSIDE, CALIFORNIA 92505

T: 951.358.7100 ♦ F: 951.358.7105 ♦ WEB: WWW.RIVCOPHEPR.ORG ♦ TDD: 951.358.5124

# **Attachment C**

City of Wildomar  
065-00000  
2018-0054

|                     |                     |
|---------------------|---------------------|
| <b>LEDGER TYPE:</b> | Initial Application |
| Today's Date:       | November 1, 2018    |

|                                    |  |                 |  |
|------------------------------------|--|-----------------|--|
| <b>Subgrant Performance Period</b> | <b>Start Date:</b>                       | October 1, 2018 |  |
|                                    | <b>End Date:</b>                         | May 31, 2020    |  |
| <b>Approval: Cal OES ONLY</b>      | <b>Date &amp; Initials (Prog. REP.):</b> |                 |  |

[illegible]

## CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (Cal OES)

## TRAINING

*Alterations to this document may result in delayed application approval, modification requests, or reimbursement requests. Subrecipients may be asked to revise and/or re-submit any altered Financial Management Forms Workbook.*

|       |             |
|-------|-------------|
| CFDA# | HSGP 97.067 |
|-------|-------------|

City of Wildomar  
065-00000  
2018-0054

|                     |                     |
|---------------------|---------------------|
| <b>LEDGER TYPE:</b> | Initial Application |
| Today's Date:       | November 1, 2018    |

|                                    |                               |                 |
|------------------------------------|-------------------------------|-----------------|
| <b>Subgrant Performance Period</b> | <b>Start Date:</b>            | October 1, 2018 |
|                                    | <b>End Date:</b>              | May 31, 2020    |
| <b>Approval: Cal OES ONLY</b>      | Date & Initials (Prog. REP.): |                 |

[illegible]

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #1.6**

**CONSENT CALENDAR**

**Meeting Date: July 10, 2019**

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**TO:** Mayor and City Council Members

**FROM:** Janet Morales, Acting City Clerk

**SUBJECT:** Appointments to the Public Agency Risk Sharing Authority of California (PARSAC)

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, RESCINDING RESOLUTION NO. 2011-03, RESOLUTION NO. 2013-33, RESOLUTION NO. 2015-02 AND RESOLUTION NO. 2019-31 AND APPOINTING A REPRESENTATIVE AND ALTERNATE TO THE PUBLIC AGENCY RISK SHARING AUTHORITY OF CALIFORNIA (PARSAC) BOARD OF DIRECTORS

**BACKGROUND:**

On May 8<sup>th</sup>, the City Council approved to appoint the Risk Manager as the Director and the Finance Manager as the Alternate for the Public Agency Risk Sharing Authority of California (PARSAC) Board. Since that time, the Finance Manager has taken the role of Risk Manager, therefore, the City Council must appoint another person to the board. Staff is recommending that the City Council appoint the Finance Manager as the Director and the City Clerk as the alternate.

In order for PARSAC to recognize these changes the Council must adopt a formal Resolution and also rescind Resolution No. 2011-03, 2013-33, 2015-02 and 2019-31. Once adopted, the City Clerk will send a certified copy of the Resolution to PARSAC after which the City's representative and alternate will be official.

**FISCAL IMPACTS:**

None.

Submitted by:  
Janet Morales  
Acting City Clerk

Approved By:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**  
Resolution

**RESOLUTION NO. 2019 - \_\_\_\_\_**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
**WILDOMAR, CALIFORNIA, RESCINDING RESOLUTION NO. 2011-03,**  
**RESOLUTION NO. 2013-33, RESOLUTION NO. 2015-02 AND**  
**RESOLUTION NO. 2019-31 AND APPOINTING A REPRESENTATIVE**  
**AND ALTERNATE TO THE PUBLIC AGENCY RISK SHARING**  
**AUTHORITY OF CALIFORNIA (PARSAC) BOARD OF DIRECTORS**

**WHEREAS**, the City of Wildomar (the “City”) is a party to the Revised and Restated Joint Powers Agreement creating the Public Agency Risk Sharing Authority of California, dated December 2, 2010 (the “Joint Powers Agreement”) and, as such, is a Member Agency of the Public Agency Risk Sharing Authority of California (“PARSAC”), as that term is defined in the Joint Powers Agreement; and

**WHEREAS**, pursuant to the Joint Powers Agreement, each Member Agency of PARSAC is required to appoint a Director and an Alternate Director to act in the Director’s absence, to represent the City/Town as if the City/Town itself were present and acting on the PARSAC Board of Directors for all matters which come before such Board of Directors, and also for the Director to be eligible for serving on the PARSAC Executive Committee.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Wildomar, California, does hereby rescind Resolution Nos. 2011-03, 2013-33, 2015-02 and 2019-31 in their entirety; and

**BE IT FURTHER RESOLVED** that the City Council hereby appoints the Finance Manager to serve as its Director on the PARSAC Board of Directors to act on behalf of the City; and appoints the City Clerk to serve as Alternate Director in the absence of the Director; and

**BE IT FURTHER RESOLVED** that the City Clerk is instructed to inform the Secretary of PARSAC of the above appointments by sending a certified copy of this Resolution to PARSAC’s business office.

**PASSED, APPROVED, AND ADOPTED** this 10th day of July, 2019.

\_\_\_\_\_  
Marsha Swanson  
Mayor

**APPROVED AS TO FORM:**

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Thomas D. Jex  
City Attorney

**ATTEST:**

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Janet Morales  
Acting City Clerk



**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #1.7**  
**CONSENT CALENDAR**  
**Meeting Date: July 10, 2019**

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**TO:** Mayor and City Council Members

**FROM:** James R. Riley, Administrative Services Director

**SUBJECT:** Social Work Action Group (SWAG) Contract

**STAFF REPORT**

**RECOMMENDATIONS:**

Staff recommends the City Council approve and authorize the City Manager to execute a contract with Social Work Action Group (SWAG) to provide services to the City of Wildomar for the fiscal year 2019-20.

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**BACKGROUND/DISCUSSION:**

In October 2018, the City Manager approved a three-month contract with SWAG to provide much needed homeless services for the City. The agreement was limited to six hours a week and was extended twice to provide services to June 30, 2019.

After the passage of the sales tax measure, Measure AA, funding was made available for additional homeless services. The approval of this new contract agreement with SWAG will provide for twenty hours (20) per work of homeless services.

**FISCAL IMPACT:**

The contract is for \$65,000 for fiscal year 2019-20 at a rate of \$60.00 per hour, plus reimbursement for specific direct client costs. The funds for the fiscal year 2019-20 are included in the biennial 2019-2021 budget in the Measure AA fund.

Submitted by:  
James R. Riley  
Administrative Services Director

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

1. Agreement for Homeless Services Between City and SWAG

# **AGREEMENT FOR SERVICES**

**By and Between**

**THE CITY OF WILDOMAR,  
a municipal corporation**

**and**

**SOCIAL WORK ACTION GROUP**

**a California Non-Profit**

**AGREEMENT FOR SERVICES  
BETWEEN  
THE CITY OF WILDOMAR, CALIFORNIA  
AND  
SOCIAL WORK ACTION GROUP**

This Agreement for Services ("Agreement") is entered into as of this 10th day of July, 2019 by and between the City of Wildomar, a municipal corporation ("City") and Social Work Action Group, a California Non-Profit ("Service Provider"). City and Service Provider are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

**RECITALS**

A. City has sought, by direct negotiations and proposal, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Service Provider, following submission of a proposal for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Wildomar's Municipal Code, City has authority to enter into this Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Service Provider for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

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

**SECTION 1. TERM OF AGREEMENT.**

Subject to the provisions of Section 20 "Termination of Agreement" of this Agreement, the Term of this Agreement is for one-year commencing on the date first ascribed above.

**SECTION 2. SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.**

(a) Scope of Services. Service Provider agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

(b) Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Service Provider shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Service Provider to continue performing the Services.

### **SECTION 3. ADDITIONAL SERVICES.**

Service Provider shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

### **SECTION 4. COMPENSATION AND METHOD OF PAYMENT.**

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Service Provider the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed sixty-five thousand dollars (\$65,000), unless additional compensation is approved in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement. In accordance with California Government Code Section 8546.7, if the Not to Exceed Amount exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement and the Service Provider's books and records related to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

(b) Each month Service Provider shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Service Provider contracts. Sub-Service Provider charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Service Provider to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Service Provider for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Service Provider which are disputed by City, City will use its best efforts to cause Service Provider to be paid within forty-five (45) days of receipt of Service Provider's correct and undisputed invoice.

(d) Payment to Service Provider for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Service Provider.

## **SECTION 5. INSPECTION AND FINAL ACCEPTANCE.**

City may inspect and accept or reject any of Service Provider's work under this Agreement, either during performance or when completed. City shall reject or finally accept Service Provider's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Service Provider's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Service Provider's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 16 "Indemnification" and Section 17 "Insurance."

## **SECTION 6. OWNERSHIP OF DOCUMENTS.**

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Service Provider. Upon completion, expiration or termination of this Agreement, Service Provider shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement, Service Provider's guarantees and warranties in Section 9 "Standard of Performance" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

All Final Work Product developed by Service Provider in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Service Provider. Upon completion, expiration or termination of this Agreement, Service Provider shall turn over to City all such Final Work Product if paid for by the City. This provision specifically excludes Service Providers' work notes and drafts, which are owned by Service Provider, not City.

## **SECTION 7. SERVICE PROVIDER'S BOOKS AND RECORDS.**

(a) Service Provider shall maintain any and all documents and records demonstrating or relating to Service Provider's performance of the Services. Service Provider shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Service Provider pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Service Provider's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Service Provider's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

## **SECTION 8. INDEPENDENT CONTRACTOR.**

(a) Service Provider is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Service Provider shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the Services under this Agreement on behalf of Service Provider shall at all times be under Service Provider's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Service Provider or any of Service Provider's officers, employees, or agents except as set forth in this Agreement. Service Provider shall not at any time or in any manner represent that Service Provider or any of Service Provider's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Service Provider , nor any of Service Provider's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Service Provider expressly waives any claim Service Provider may have to any such rights.

## **SECTION 9. STANDARD OF PERFORMANCE.**

Service Provider represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Service Provider shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Service Provider shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Service Provider under this Agreement. In addition to the general standards of performance set forth this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Service Provider's work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

## **SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.**

Service Provider shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Service Provider shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Service Provider to comply with this section.

## **SECTION 11. PREVAILING WAGE LAWS**

It is the understanding of City and Service Provider that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

## **SECTION 12. NONDISCRIMINATION.**

Service Provider shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

### **SECTION 13. UNAUTHORIZED ALIENS.**

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

### **SECTION 14. CONFLICTS OF INTEREST.**

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

(b) City understands and acknowledges that Service Provider is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Service Provider is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Service Provider will perform non-related services for other governmental agencies and private Parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

### **SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.**

(a) All information gained or work product produced by Service Provider in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Service Provider. Service Provider shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Service Provider, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be



considered "voluntary" provided Service Provider gives City notice of such court order or subpoena.

(c) If Service Provider, or any officer, employee, agent or subcontractor of Service Provider, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Service Provider for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Service Provider's conduct.

Service Provider shall promptly notify City should Service Provider, its officers, employees, agents or subcontractors, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Service Provider or be present at any deposition, hearing or similar proceeding. Service Provider agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Service Provider. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response. Service Provider shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made in confidence to a Federal, State, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law or for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

## **SECTION 16. INDEMNIFICATION.**

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Service Provider's services, to the fullest extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) arise out of, are a consequence of, or are in any way attributable to, in whole or in part, any negligent or wrongful act, error or omission of Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or sub-contractors of Service Provider, in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and

expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or sub-contractors of Service Provider.

(c) Indemnification from Sub-Service Providers. Service Provider agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every sub-Service Provider or any other person or entity involved by, for, with or on behalf of Service Provider in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Service Provider fails to obtain such indemnity obligations from others as required herein, Service Provider agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Service Provider and shall survive the termination of this Agreement or this section.

(d) City's Negligence. The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

## **SECTION 17. INSURANCE.**

Service Provider agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Service Provider agrees to provide City with copies of required policies upon request.

## **SECTION 18. ASSIGNMENT.**

The expertise and experience of Service Provider are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Service Provider under this Agreement. In recognition of that interest, Service Provider shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Service Provider's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 20 "Termination of Agreement." City acknowledges, however, that Service Provider, in the performance of its duties pursuant to this Agreement, may utilize sub-contractors.

## **SECTION 19. CONTINUITY OF PERSONNEL.**

Service Provider shall make every reasonable effort to maintain the stability and continuity of Service Provider's staff and sub-contractors, if any, assigned to perform the

Services. Service Provider shall notify City of any changes in Service Provider's staff and sub-contractors, if any, assigned to perform the Services prior to and during any such performance.

## **SECTION 20. TERMINATION OF AGREEMENT.**

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Service Provider. In the event such notice is given, Service Provider shall cease immediately all work in progress.

(b) Service Provider may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Service Provider or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Service Provider, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Service Provider or City, all property belonging exclusively to City which is in Service Provider's possession shall be returned to City. Service Provider shall furnish to City a final invoice for work performed and expenses incurred by Service Provider, prepared as set forth in Section 4 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 "Compensation and Method of Payment" of this Agreement.

## **SECTION 21. DEFAULT.**

In the event that Service Provider is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Service Provider for any work performed after the date of default. Instead, the City may give notice to Service Provider of the default and the reasons for the default. The notice shall include the timeframe in which Service Provider may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Service Provider is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Service Provider does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20 "Termination of Agreement." Any failure on the part of the City to give notice of the Service Provider's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

## **SECTION 22. EXCUSABLE DELAYS.**

Service Provider shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Service Provider. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders,

fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

### **SECTION 23. COOPERATION BY CITY.**

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Service Provider in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

### **SECTION 24. NOTICES.**

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Wildomar  
Attn: City Manager  
23873 Clinton Keith Rd., Suite 201  
Wildomar, CA 92595

To Service Provider: Social Work Action Group (SWAG)  
4055 Jurupa Ave. #25  
Riverside, CA 92506

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

### **SECTION 25. AUTHORITY TO EXECUTE.**

Each of the signatories hereto represents and warrants that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign. Each Party hereto agrees to defend, indemnify, and hold harmless the other Parties hereto against all claims, suits, actions, and demands, including necessary expenses of investigation and reasonable attorneys' fees and costs, arising out of claims that its signatory was not competent or so authorized to execute this Agreement.

### **SECTION 26. ADMINISTRATION AND IMPLEMENTATION.**

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that

commit additional funds, consistent with Section 28 "Amendment" and the City Manager's contracting authority under the Wildomar Municipal Code.

#### **SECTION 27. BINDING EFFECT.**

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

#### **SECTION 28. AMENDMENT.**

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Service Provider and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Wildomar Municipal Code. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void. The City's City Manager may, but is not required to, make minor amendments not affecting substantive terms without further authorization from the City Council. The City Council hereby authorizes the City Manager to execute any such amendments as required by this Agreement or that do not otherwise reduce City's rights under this Agreement. All other amendments shall be approved by the City Council.

#### **SECTION 29. WAIVER.**

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Service Provider shall not constitute a waiver of any of the provisions of this Agreement.

#### **SECTION 30. LAW TO GOVERN; VENUE.**

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

#### **SECTION 31. ATTORNEYS FEES, COSTS AND EXPENSES.**

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

#### **SECTION 32. ENTIRE AGREEMENT.**

This Agreement, including the attached Exhibits "A" through "C", is the entire,

complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Service Provider and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

**SECTION 33. SEVERABILITY.**

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

**SECTION 34. CONFLICTING TERMS.**

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date and year first-above written.

**CITY OF WILDOMAR**

---

Gary Nordquist  
City Manager

**ATTEST:**

---

Janet Morales  
Acting City Clerk

**APPROVED AS TO FORM**

---

Thomas D. Jex  
City Attorney

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**NOTE: SERVICE PROVIDER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO SERVICE PROVIDER'S BUSINESS ENTITY.**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

| CAPACITY CLAIMED BY SIGNER   | DESCRIPTION OF ATTACHED DOCUMENT |
|--|----------------------------------|
| <input type="checkbox"/> INDIVIDUAL                                  | _____                            |
| <input type="checkbox"/> CORPORATE OFFICER                           | TITLE OR TYPE OF DOCUMENT        |
| _____  | _____                            |
| <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED | NUMBER OF PAGES                  |
| <input type="checkbox"/> GENERAL                                     | _____                            |
| <input type="checkbox"/> ATTORNEY-IN-FACT                            | DATE OF DOCUMENT                 |
| <input type="checkbox"/> TRUSTEE(S)                                  | _____                            |
| <input type="checkbox"/> GUARDIAN/CONSERVATOR                        | SIGNER(S) OTHER THAN NAMED ABOVE |
| <input type="checkbox"/> OTHER _____                                 | _____                            |
| _____  | _____                            |

### SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_  
\_\_\_\_\_



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

| CAPACITY CLAIMED BY SIGNER   | DESCRIPTION OF ATTACHED DOCUMENT |
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| <input type="checkbox"/> INDIVIDUAL                                  | _____                            |
| <input type="checkbox"/> CORPORATE OFFICER                           | TITLE OR TYPE OF DOCUMENT        |
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| <input type="checkbox"/> GENERAL                                     | _____                            |
| <input type="checkbox"/> ATTORNEY-IN-FACT                            | DATE OF DOCUMENT                 |
| <input type="checkbox"/> TRUSTEE(S)                                  | _____                            |
| <input type="checkbox"/> GUARDIAN/CONSERVATOR                        | SIGNER(S) OTHER THAN NAMED ABOVE |
| <input type="checkbox"/> OTHER _____                                 | _____                            |
| _____  |                                  |

### SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_

\_\_\_\_\_

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

Social Work Action Group (SWAG) will work in conjunction with the City of Wildomar to facilitate and lead the overall scope of homeless services for the City of Wildomar. Up to 20 hours per week services will be provided with flexibility of schedule to meet the needs of the community with a term of services from July 1, 2019- June 30, 2020. SWAG will provide the following activities and services:

- Assist with the organization and facilitation of the Point-in-Time Count for January 2020.
- Respond to homeless service requests made to and by the City of Wildomar in a timely manner.
- Homeless Street Outreach will be conducted in partnership with law enforcement to address specific “hot spot” areas as identified by SWAG, City of Wildomar staff and the Riverside Sherriff’s Department.
- All individuals encountered will be included in the by-name specifically for the City of Wildomar.
- Individuals found living on the streets will be assessed and provided assistance to exit life on the streets, obtaining admittance and transportation to emergency shelter options, alcohol and drug treatment, connection to mental and physical health providers, etc.
- Conduct Riverside County housing assessments (VI-SPDAT) to unsheltered homeless individuals and families and provide navigation services.
- Provide strategic outreach services in partnership with City of Wildomar and Wildomar school district to identify individuals and families, who are homeless and at-risk of becoming homeless, and connect them to applicable services.
- Facilitate community asset mapping for strategic coordination and alignment of community resources that serve at-risk/homeless population.
- Assist with coordination and facilitation of the Homeless Outreach Community Coalition meetings.
- Participate in city sponsored community events.
- Participate in weekly Coordinated Entry Housing Navigation meetings to advocate and ensure clients are being linked to Riverside County Continuum of Care housing resources.
- Connect unsheltered homeless population to appropriate housing solutions throughout Riverside County.
- SWAG will assist in developing informational content, which will include material for the regional anti-panhandling campaign and disseminate it throughout the community. The campaign will encourage stakeholders, faith-based groups, community groups, businesses, and concerned residents to discourage well-intended activities that enable the chronically homeless to remain on the streets and focus their efforts on long-term solutions.
- SWAG will coordinate a series of lectures open and available to the public.
- Provide support to the City of Wildomar through trainings, presentations and sharing updates related to trends in regional homeless efforts.
- A SWAG Report Card will be provided to community members to provide feedback and input.
- Data collection of key activities and results, community partners/businesses engaged will be reported to the City of Wildomar on a monthly and quarterly basis.
- Attend and participate in City Council meetings, as requested.

## Measurable Outcomes

### *Unsheltered Homeless Individuals/Families*

- Reduce the homeless population by a minimum of 35% of the approximate 13 individuals counted (based on 2018 Point-In-Time Count) which equals 5 individuals.

### *At-risk of becoming Homeless Individuals/Families*

- 100% of at-risk individuals and families who are contacted/ located by SWAG will be tracked and connected to mainstream benefits and housing prevention resources.

### *Community Outreach*

- Outreach to businesses with an emphasis on educating them on homeless services. SWAG will generate a tracking log of all businesses encountered and provide information to the City of Wildomar.
- Outreach to 100% of faith-based organizations as identified by the City of Wildomar and community asset strategic mapping activities.

\* SWAG is actively and concurrently working to secure a partnership with a local university to serve as an intermediary to ensure program success as in a “Pay for Success” program.

**EXHIBIT "B"**  
**COMPENSATION**

| Task   | Cost Estimate |
|--|---------------|
| 1. Outreach Activities   |               |
| 1.1 Staff time, mileage, etc.  | \$62,400      |
| 2. Direct Client Costs   |               |
| 2.1 Greyhound Bus Ticket, RTA bus pass, Basic Needs<br>(water, food, socks, deodorant, tooth brush/ paste, etc.) | \$2,6000      |
| Total  | \$65,000      |

## **EXHIBIT "C"**

### **INSURANCE**

A. Insurance Requirements. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Service Provider shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(1) Commercial General Liability. Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(2) Automobile. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

(3) Workers' Compensation. Workers' Compensation insurance as required by the Labor Code of State of California covering all persons providing Services on behalf of the Service Provider and all risks to such persons under this Agreement.

(4) Professional Liability. Professional liability insurance appropriate to the Service Provider's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

2. Minimum Limits of Insurance. Service Provider shall maintain limits of insurance no less than:

(1) Commercial General Liability. \$1,000,000 general aggregate for bodily injury, personal injury and property damage.

(2) Automobile. \$1,000,000 per accident for bodily injury and property damage. A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits set forth above.

(3) Workers' Compensation. Workers' Compensation as required by the Labor Code of the State of California of not less than \$1,000,000 per occurrence.

(4) Professional Liability. \$1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Policies. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

2. Commercial General Liability and Automobile Liability Coverages.

(1) City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

(2) Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.

(3) Service Provider'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.

(4) Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each sub-contractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #1.8**

**GENERAL BUSINESS**

**Meeting Date: July 10, 2018**

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**TO:** Mayor and City Council Members

**FROM:** Gary Nordquist, City Manager

**SUBJECT:** City Hall Facility Lease-Ninth Amendment

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve and authorize the City Manager to sign the proposed Ninth Amendment to the City Hall Facility Lease.

**BACKGROUND/DISCUSSION:**

Recent discussions with the building's landlord have provided the City with opportunity to acquire additional office space in suite 103 which was recently vacated by another tenant. This suite is located on the first floor just across the hall from the City Council Chambers. This suite is configured with 2 offices and an open space area. The building owner will re-condition the suite to a move-in status by July 15, 2019. These offices would be used for the re-location of the Administrative Service Department which also includes the increasing and confidential services of human resources.

The terms of the lease for this suite would be the same as the City is currently paying for the other suites in the building. The rate is \$1.39 per square foot for rent and an estimated \$0.55 per square foot for the shared operating and other common building expenses. The lease of this suite would be effective July 15, 2019 or when the suite's condition is acceptable for staff occupancy. The lease will conclude December 2021 with one option to extend the lease 3 additional years. These are the same terms as the existing lease.

**FISCAL IMPACT:**

The addition of 1,474 square feet would increase the minimum rent per month by \$2,048.86. In total, the City would 15,506 square feet of the building at a minimum rental cost of \$21,553.34 per month. The City's share of the building's estimated operating expenses at \$0.55 per square foot or \$8,528.30 for a combined total expense of \$30,081.64. Funds are available in the budget for this expense.

**ATTACHMENT:**

A. Ninth Amendment to the City Hall Facility Lease



# Attachment A

## Ninth Amendment To the City Hall Facility Lease

## **NINTH AMENDMENT TO LEASE**

THIS NINTH AMENDMENT TO LEASE (this “**Amendment**”) is made and entered into this 10th day of July 2019 (the “**Effective Date**”), by and between CFT NV Developments, LLC, a Nevada limited liability company (“**Landlord**”), and The City of Wildomar, a California municipal corporation (“**Tenant**”), with reference to the following facts:

### **RECITALS**

A. Landlord’s predecessor-in-interest, Naples Plaza, Ltd., L.P., a California limited partnership, and Tenant entered into that certain Office Building Lease dated July 1, 2008, as amended by that certain First Amendment to Lease dated May 7, 2009, as amended by that certain Second Amendment to Lease dated June 2012, as amended by that certain Third Amendment to Lease dated June 27, 2013, as amended by that certain Fourth Amendment to Lease dated September 3, 2013, as amended by that certain Fifth Amendment to Lease dated June 11, 2014, as amended by that Sixth Amendment to Lease dated December 10, 2014, as amended by that certain Seventh Amendment to Lease dated February 20, 2015, as amended by that certain Eighth Amendment to Lease dated May 3, 2017, collectively referred to as the “**Lease**”, with respect to the premises commonly known as Suites 102, 105-107, 201-203, 207, 209, 210-211, which consists of approximately 14,032 rentable square feet, located at Oak Creek Plaza II with an address of 23873 Clinton Keith Road, City of Wildomar, State of California (the “**Premises**”). Landlord is the current holder of interest in the Lease.

B. Landlord and Tenant now desire to amend the Lease to provide for the modification of certain terms, all more particularly set forth below, as of the Effective Date.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt whereof and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Scope of Amendment and Defined Terms. Except as expressly provided in this Amendment, the Lease shall remain in full force and effect. Except as expressly provided in this Amendment, the term “Lease” shall mean the Lease as previously amended as stated above and as further modified by this Amendment. Capitalized terms used in this Amendment and not otherwise defined herein shall have the respective meanings set forth in the Lease.

2. Premises. Section 1.4 of the Lease is hereby amended to provide Suite 103 to be considered as the Premises:

|               |               |
|---------------|---------------|
| Suite 102     | 1,279 sq. ft. |
| Suite 105-107 | 3,825 sq. ft. |
| Suite 201-203 | 3,825 sq. ft. |
| Suite 207     | 1,317 sq. ft. |
| Suite 209     | 1,204 sq. ft. |

|               |                       |
|---------------|-----------------------|
| Suite 210-211 | 2,582 sq. ft.         |
| Suite 103     | 1,474 sq. ft.         |
| <b>Total</b>  | <b>15,506 sq. ft.</b> |

3. Rent Commencement Date. Section 1.8 of the Lease is hereby amended by adding the following:

“For Suite 103, Tenant shall commence paying Minimum Rent and NNN, as set forth above on July 15, 2019, or when the Landlord delivers Suite 103 to Tenant and performs work in Section 2.2 to satisfaction of Tenant”

4. Minimum Rent. Section 1.9 of the Lease is hereby amended to the following:

| <b>Lease Year</b>            | <b>Minimum Rent<br/>per year</b> | <b>Minimum Rent<br/>per month</b> | <b>PSF Minimum<br/>Rent per month</b> |
|------------------------------|----------------------------------|-----------------------------------|---------------------------------------|
| Jan. 1, 2019 – Dec. 31, 2019 | \$258,640.08                     | \$21,553.34                       | \$1.39                                |
| Jan. 1, 2020 – Dec. 31, 2020 | \$264,222.24                     | \$22,018.52                       | \$1.42                                |
| Jan. 1, 2021 – Dec. 31, 2021 | \$271,665.12                     | \$22,638.76                       | \$1.46                                |

5. Option to Extend. Section 1.7 of the Lease is hereby amended by adding the following:

“The current Lease term shall expire on December 31, 2021. Provided that Tenant is not in default under the Lease, Tenant shall have one (1) three (3) year option to extend the term following the expiration of the current Lease term.”

6. Tenant’s Share of Operating Expenses. Section 1.17 of the Lease is hereby amended by adding the following:

“Notwithstanding anything contrary in the Lease, Tenant’s Share of the Operating Expenses, which is estimated as of the Effective Date of this Ninth Amendment to be \$ \$0.55 per square foot, shall be based on the total square footage of the Premises as established by this Amendment as set forth in Paragraph 2 herein, and subject to adjustments as set forth in Section 6.3.1. of the Lease.”

7. Condition of Premises. Section 2.2 of the Lease is hereby amended by adding the following:

“Landlord shall, at Landlord’s sole cost, patch holes in walls, paint walls to match, professionally clean the carpet and replace any broken or water stained ceiling tiles prior to delivery to Tenant. Landlord shall deliver physical possession of Suite 103 to Tenant on July 15, 2019.”

8. Authority. This Amendment shall be binding upon and inure to the benefit of the parties, their respective heirs, legal representatives, successors and assigns. Each party hereto warrants that the person signing below on such party’s behalf is authorized to do so and to bind such party

to the terms of this Amendment and that no other signatories are required to make this Amendment effective and binding on such party.

9. On-going Duties Under the Lease. The parties acknowledge that the Lease remains in full force and effect and reserve their respective rights and affirm their respective obligations therein and as may be modified by this Amendment. Tenant specifically acknowledges that the Minimum Rent and other ongoing monetary and non-monetary obligations provided in the Lease and this Amendment are in addition to, and Tenant remains obligated to pay, all other Additional Rent amounts due under the Lease, including without limitation for common area maintenance expenses, insurance and taxes. The parties further acknowledge that this Amendment amends the Lease but it does not waive or compromise any future claims or causes of action which may accrue under the Lease or otherwise.

10. Counterparts. This Amendment may be executed in counterparts, and such counterparts together shall constitute but one original of this Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

11. Nonsufficient Funds. In the event Tenant pays any amount required hereunder which is dishonored for any reason, including, but not limited to, nonsufficient funds ("NSF"), overdraft or a closed account, Tenant shall also be liable to Landlord for an administrative processing fee equal to the lessor of Fifty Dollars (\$50.00) or the maximum fee if limited by State law per dishonored transaction plus any additional charges incurred by Landlord resulting from such dishonored transaction. Further, payments shall not be deemed received by Landlord until the full payment is honored and paid to Landlord. No payment by Tenant nor receipt by Landlord of an amount less than the Rent required shall be deemed to be anything other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue all other remedies provided in this Lease.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in their name(s) as of the day and year first above written.

**LANDLORD:**

CFT NV DEVELOPMENTS, LLC,  
a Nevada limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: Manager

**TENANT:**

THE CITY OF WILDOMAR,  
a California municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #1.9**

**CONSENT CALENDAR**

**Meeting Date: July 10, 2019**

---

**TO:** Mayor and City Council Members

**FROM:** Dan York, Assistant City Manager

**PREPARED BY:** Craig Bradshaw, Deputy City Engineer

**SUBJECT:** Establish Speed Zones on Grand Avenue and on Clinton Keith Road.

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council take the following actions:

1. Establish radar-enforceable Speed Limits on two (2) arterial roadways in the City of Wildomar; Grand Avenue between Corydon Street and Clinton Keith Road, and on Clinton Keith Road between Grand Avenue and Carrington Street. The Engineering and Traffic Survey for these roadways include (7) seven certified speed zone segments (See Attachment B); and,
2. Adopt the attached ordinance (See Attachment No. A) entitled:

ORDINANCE NO. 2019-\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 10.16 OF TITLE 10  
TO THE WILDOMAR MUNICIPAL CODE ESTABLISHING SPEED  
LIMITS ON CERTAIN STREETS; and,

3. Direct the City Engineer to post speed limit signs based on the adopted Ordinance.

**BACKGROUND:**

The California Vehicle Code (CVC), together with the California Manual on Uniform Traffic Control Devices (CA MUTCD) provide direction to local and state agencies on establishing posted speed limits for a variety of roadways in the State. Generally, unless a *prima facie* speed limit has been identified in the CVC, agencies are required to conduct an Engineering and Traffic survey to justify the posted speed limit. For example, the CVC provides for a *prima facie* speed limit of 25 mph on local streets, and when approaching or passing school zones (up to 500 feet from the school grounds, without the need for an Engineering and Traffic Survey.

Speed limits are primarily established to protect the traveling public from reckless behavior of dangerous drivers and also provides law enforcement with a clear method to identify and enforce speed violators of the basic speed law; California Vehicle Code 22350.

**DISCUSSION:**

The following speed limits are recommended:

| No. | Location           | Between                                  |    |
|-----|--------------------|--|----|
| 1   | Grand Avenue       | Corydon Street to Sheila Lane            | 50 |
| 2   | Grand Avenue       | Sheila Lane to Central Avenue            | 50 |
| 3   | Grand Avenue       | Central Avenue to Mc Vicar Street        | 40 |
| 4   | Grand Avenue       | Mc Vicar Street to Clinton Keith road    | 45 |
| 5   | Clinton Keith Road | Grand Avenue to Palomar Street           | 50 |
| 6   | Clinton Keith Road | Palomar Street to Inland Valley Drive    | 35 |
| 7   | Clinton Keith Road | Inland Valley Drive to Carrington Street | 45 |

The Engineering and Traffic Survey Report (See Attachment B) contains additional information for the establishment of the speed limits. The full report with the appendices; including the detailed radar speed surveys, average daily traffic (ADT), collision records, segment maps and applicable sections of the California Vehicle Code and the CA MUTCD is available in the City Engineer's office. The full report will be provided to the Riverside County Sherrieff's for enforcement purposes.

**FISCAL IMPACT:**

There is minimal fiscal impact for the installation and maintenance of speed limit signs. Fines and forfeiture revenue may slightly increase.

Submitted By:  
Daniel A. York  
Assistant City Manager  
Public Works Director/City Engineer

Approved By:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Attachment A – Ordinance No. 2019-XX

Exhibit 1 – WMC 10.16 Redline

Attachment B – Engineering and Traffic Survey Report

## **ORDINANCE NO. 2019-XX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING IN ITS ENTIRETY CHAPTER 10.16 OF TITLE 10 TO THE WILDOMAR MUNICIPAL CODE ESTABLISHING SPEED LIMITS ON CERTAIN STREETS

**WHEREAS**, California Vehicle Code Section 22357 and 22358 provides that local entities may declare prima facie speed limits greater than 25 miles per hour on City streets on the basis of an engineering and traffic survey; and

**WHEREAS**, California Vehicle Code Section 40802 provides for the enforcement of posted speed limit by the use of radar or other electronic devices which measures the speed of moving vehicles; and

**WHEREAS**, California Vehicle Code Section 627(b) defines an engineering and traffic survey to include consideration of all of the following:

- 1) Prevailing speeds as determined by traffic engineering measurements;
  - 2) Accident Records;
  - 3) Highway, traffic, and roadside conditions not readily apparent to the driver,
- and

**WHEREAS**, the City of Wildomar has completed a new engineering and traffic survey pursuant to California Vehicle Code Section 22357 and 22358

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WILDOMAR, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 10.16 of Title 10 to the Wildomar Municipal Code is amended to read as shown on Exhibit 1:

**SECTION 2.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

**SECTION 3.** The City Clerk shall certify to the adoption of this ordinance and shall cause the same to be published in accordance with law.



PASSED, APPROVED AND ORDAINED this 12<sup>th</sup> day of July, 2019.

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Marsha Swanson  
Mayor

APPROVED AS TO FORM:

ATTEST:

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Thomas Jex  
City Attorney

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Acting City Clerk  
Janet Morales

## EXHIBIT 1

### Chapter 10.16 SPEED LIMITS

#### 10.16.010 Findings.

On the basis of engineering and traffic surveys, the City Council determines that the prima facie limit applicable under the California [Vehicle Code](#) is more than reasonable or safe upon the portions of the City streets hereinafter described, as to which the prima facie speed limit is herein fixed at a lower rate. On the basis of engineering and traffic surveys, such Council determines that a speed greater than the prima facie limit of 25 miles per hour applicable under the California [Vehicle Code](#) would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon the portions of the City streets hereinafter described, as to which the prima facie speed limit is herein fixed at a higher rate. The Council finds that the prima facie speed limits hereinafter set forth are most appropriate to facilitate the orderly movement of traffic and are reasonable and safe, as to the respective portions of City streets described, and the Council determines and declares that the prima facie speed limits on such portions of City streets are respectively as hereinafter set forth. (Ord. 18 § 2, 2008, RCC § [10.16.010](#))

#### 10.16.020 Applicability.

The prima facie speed limits established by this chapter shall be effective when appropriate signs giving notice thereof are erected on such streets, and it shall be the duty of the ~~Director of Transportation~~[City Engineer](#) to erect and maintain such signs. This chapter is adopted pursuant to, and subject to the limitations and exceptions of, Section 21 and Sections 22357 to 22359, inclusive, of the California [Vehicle Code](#). (Ord. 18 § 2, 2008, RCC § [10.16.020](#))

#### 10.16.030 Reduced speed zones for detour routes.

Whenever a portion of a City street is being used or is about to be used as a detour route under a reconstruction project of a highway and the ~~Director of Transportation~~[City Engineer](#) determines that the existing speed limit upon such street is more than reasonable and safe because of increased vehicular traffic and a reduced speed zone is warranted and necessary, he or she may temporarily fix such appropriate lower rate as provided in Section 22358 of the California [Vehicle Code](#) which will facilitate the orderly movement of traffic and will be reasonable and safe upon that portion of the street for the period the street is used as a detour route. Thereupon the prima facie speed limit so fixed shall be effective during the period appropriate signs are erected and maintained along that portion of the street by the Director of Transportation. (Ord. 18 § 2, 2008, RCC § [10.16.030](#))

#### 10.16.040 Twenty-five miles per hour.

Reserved. (Ord. 18 § 2, 2008, RCC § [10.16.040](#))

#### 10.16.050 Thirty miles per hour.

Reserved. (Ord. 18 § 2, 2008, RCC § [10.16.050](#))

#### 10.16.060 Thirty-five miles per hour.

The prima facie speed limit is 35 miles per hour:

1. On the southerly half of Malaga Road between the centerline of Mission Trail and the centerline of Casino Drive, a total distance of 0.29 mile.
2. On Canyon Drive between the centerline of Mission Trail and the centerline of Orange Street, for a total distance of approximately 1.0 mile.
3. On Catt Road between Hidden Springs Road and 400 feet east of Green Parrot Way, for a total distance of approximately 0.3 mile.
4. On Palomar Street between the centerline of Corydon Street and the centerline of Mission Trail, a total distance of approximately 0.8 mile. (Ord. 36 § 2, 2009; Ord. 18 § 2, 2008, RCC § [10.16.060](#))
5. On Clinton Keith Road between the centerline of Palomar Street and Inland Valley Drive, for a distance of approximately 1.1 miles.

#### **10.16.070 Forty miles per hour.**

The prima facie speed limit is 40 miles per hour:

1. On Central Street between Grand Avenue and Palomar Road, a total distance of approximately 0.5 mile.
2. On Gruwell Street between the centerline of Grand Avenue and a point 750 feet north of the centerline of Palomar Street, a total distance of approximately 0.52 mile.
3. On Orange Street between a point 750 feet north of Palomar Street and the centerline of Bundy Canyon Road, a total distance of approximately 1.48 miles.
4. On Corydon Street between the centerline of Grand Avenue to the centerline of Union Street (City of Lake Elsinore city limit), and on the south side of Corydon Street between the centerline of Union Street (City of Lake Elsinore city limit) to the centerline of Mission Trail, a total distance of approximately 1.5 miles.
5. On Hidden Springs Road between the centerline of Clinton Keith Road and the centerline of Catt Road, for a total distance of approximately 0.4 mile.
6. On Iodine Springs Road between Clinton Keith Road and La Estrella Street, a total distance of approximately 0.5 mile.
7. On La Estrella Street between Porras Road to one mile east of Porras Road, a total distance of 1.0 mile.
8. On Porras Road between La Estrella and Baxter Road, a total distance of approximately 0.5 mile. (Ord. 18 § 2, 2008, RCC § [10.16.070](#))
9. On Grand Avenue between the centerline of Central Avenue to the centerline of McVicar Street, a total distance of approximately 0.8 miles.

#### **10.16.080 Forty-five miles per hour.**

The prima facie speed limit is 45 miles per hour:

1. On Central Street between Palomar Street and Baxter Road, a total distance of approximately 0.7 mile.

2. On Baxter Road between Central Street and a point 700 feet east of Monte Vista Drive, a total distance of approximately 0.6 mile.
3. On Clinton Keith Road between the centerline of Inland Valley Road and the centerline of Carrington Street, for a total distance of approximately 1.0 miles. ~~a point 650 feet west of the centerline of Grand Avenue (city limits of Murrieta) and a point approximately 9,500 feet east of I-15 (city limits of Murrieta), a total distance of approximately 2.9 miles.~~
4. On Grand Avenue from the centerline of ~~Central~~ McVicar Street to the centerline of Clinton Keith Road, for a total distance of approximately ~~0.946~~ miles.
5. On Bundy Canyon Road between Mission Trail and 1,000 feet east of Oak Canyon Drive, a total distance of approximately 1.7 miles.
6. On Bundy Canyon Road between Oak Canyon Drive and the City limits. (Ord. 36 § 2, 2009; Ord. 18 § 2, 2008, RCC § [10.16.080](#))

#### **10.16.090 Fifty miles per hour.**

The prima facie speed limit is 50 miles per hour:

1. On Palomar Street between the centerline of Mission Trail and the city limit boundary of the City of Murrieta, a total distance of approximately 3.8 miles.
2. On Grand Avenue between the centerline of Central Street and the centerline of Corydon Street, a total distance of approximately 2.0 miles.
3. On the easterly half of Mission Trail between Malaga Road and Corydon Street, for a total distance of approximately 1.3 miles, and on the full-width of Mission Trail between Corydon Street and Palomar Street, for a total distance of approximately 1.2 miles. (Ord. 18 § 2, 2008, RCC § [10.16.090](#))
4. On Clinton Keith Road between the centerline of Grand Avenue and the centerline of Palomar Street, a total distance of approximately 0.5 miles.

# **ATTACHMENT B**



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## **Engineering and Traffic Survey Report**

### **Appendices**

**Appendix 'A': Segment Speed Zone Certification Sheet  
Segment Packages**

**Appendix 'B': Radar Speed Surveys**

**Appendix 'C': Average Daily Traffic (ADT)**

**Appendix 'D': Collision Records**

**Appendix 'E': Applicable Sections / California Vehicle  
Codes /CA MUTCD**

**Appendix 'F': Segment / Zone Strip Map**



## **I. CURRENT METHODOLOGY & STATE LAW**

Speed limits are primarily established to protect the traveling public from reckless behavior of dangerous drivers and also provides law enforcement with a clear method to identify speed violators of the basic speed law; CVC 22350 – *"No person shall drive a vehicle on a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of the highway, and in no event at a speed which endangers the safety of persons or property"*

Speed Zones (other than statutory speed limits) shall only be established on the basis of an Engineering and Traffic Survey (E &TS) that has been performed in accordance with traffic engineering practices; CA Manual on Uniform Traffic Control Devices (CA MUTCD); Section 2B.13.01

The setting of speed limits can be controversial and requires a rational and defensible determination to maintain public confidence. Speed limits are normally set near the 85<sup>th</sup>-percentile speed that statistically represents one standard deviation above the average speed and establishes the upper limit of what is considered reasonable and prudent. Speed limits cannot be set arbitrarily low, as this would create violators of the majority of drivers and would not command the respect of the public.

The City of Wildomar selected two (2) streets for which establishing enforceable speed limits will be beneficial for the safe and efficient movement of traffic.

## **II. ELEMENTS OF THE ENGINEERING AND TRAFFIC SURVEY (E&TS)**

The E&TS for the City of Wildomar was prepared as outlined in the CA MUTCD 2014 (REV 4) and as required by CVC 627. Included in CVC 627 are the following elements:

### **A. Spot Speed Survey / Measurement of Prevailing Speed**

Fundamentally, establishing speed limits recognize that the majority of drivers behave in a safe and reasonable manner, therefore, these driving characteristics should be considered legal. Speed limits conform to the consensus (85<sup>th</sup> percentile) of those who drive the highways.

Spot Speed Surveys were conducted to record the prevailing speed as determined by traffic measurements.

### **B. Conditions Not Readily Apparent to Driver & Collision History**

Another factor used in the E&TS to establish speed limits are identifying conditions which may not be readily apparent to the driver. Examples of these are:

- Collision History
- Roadway Conditions
- Traffic Characteristics
- Land Use
- Residential Density
- Pedestrian and Bicyclist Safety

These factors were recorded by an on-site review of each segment and are analyzed in a final determination of setting speed limits. Typically, physical changes in roadway conditions or adjacent development characteristics may affect and change speed limits.



### III. CA MUTCD

The CA MUTCD dated 2014 (Revision 4) provides the methodology (as detailed below) to be used for completing the E&TS; it includes an evaluation of current vehicle speeds, collision history review and analysis and identification of conditions not readily apparent to the driver.

#### **A. Prevailing Speeds as Determined by Traffic Engineering Measurements (free-flowing vehicles)**

Speed sampling is obtained by a certified radar operator, using a calibrated radar unit from an unmarked vehicle. The minimum sample used is 100 vehicles; in no case less 50. The speed samples are taken for each segment representing a statistically significant sample of current traffic conditions. This data is then evaluated to identify the distribution of speeds. A key element in the evaluation is the determination of the 85<sup>th</sup> percentile speed; this is the speed at or below which 85 percent of the traffic travels. Speed limit is established at the nearest 5-mile per hour (mph) increment of the 85<sup>th</sup> percentile speed, except as shown in the two options below; CA MUTCD Section 2b.13.12a:

##### Option #1

The posted speed may be reduced by 5 mph from the nearest 5 mph increment of the 85<sup>th</sup> percentile speed; Reference California Vehicle Code (CVC) 627 and 22358.5.

##### Option #2

For cases in which the nearest 5 mph increment of the 85<sup>th</sup> percentile speed would require a rounding up; then the speed limit may be rounded down to the nearest 5 mph increment below the 85<sup>th</sup> percentile speed, if no further reduction is used; Reference CVC Section 21400 (b).

#### **B. Collision History Records**

Reported collisions are reviewed in each segment to determine if there is a higher than average rate of collisions; the calculated collision rate is compared to the expected collision rate which is the statewide average rate for a similar road type. These average collision rates developed by the State of California are considered reasonable for use in the City of Wildomar.

#### **C. Highway, Traffic, and Roadside Conditions not Readily Apparent to the Driver**

Each street segment is field inspected to identify roadway conditions that may not be readily apparent to drivers. A determination is made whether any conditions are significant and thereby justify the recommendation of the speed limit 5 mph or more below the 85<sup>th</sup> percentile speed.

Generally, the most decisive evidence of conditions not readily apparent to the driver surfaces in collision histories.

*\* Note that the CA MUTCD recommends exercising care when establishing speeds of 5 mph or more below the 85<sup>th</sup> percentile speed. Generally, by doing so, studies have shown there is an increase in collision rates & also may make violators of a disproportionate number of the reasonable majority of drivers.*





#### **IV. CITY OF WILDOMAR ROADWAY SPECIFIC SURVEY ELEMENTS & SPEED ZONING LOCATIONS**

Grand Avenue and Clinton Keith Road were selected by the City of Wildomar to identify speed zone segments and establish speed limits.

Seven (7) zones were established based on land use characteristics and existing traffic control devices:

##### **Grand Avenue**

1. Corydon Street to Sheila Lane
2. Sheila Lane to Central Avenue
3. Central Avenue to McVicar Street
4. McVicar Street to Clinton Keith Road

##### **Clinton Keith Road**

5. Grand Avenue to Palomar Street (transitional zone)
6. Palomar Street to Inland Valley Drive
  - a. Data collected east and west of I-15 for zone consistency
7. Inland Valley Drive to Carrington Street (City Limit)

Specific radar speed surveys of these segments were conducted with the following considerations:

- Free Flow Traffic away from intersections and driveways
- Minimum visibility restrictions
- Minimum stop sign and signal influence
- Minimum curves or roadway conditions which may influence normal driving
- Obtained during non-peak hours & on weekdays
- Weather fair (and dry); no unusual conditions prevailing

All data collection of radar speed survey measurements was recorded in both directions for each segment. The radar equipment was operated from an un-marked vehicle to avoid effect on driver behavior.

Pertinent data collection of existing conditions was obtained in **October 2018** to include; collection of prevailing speeds of vehicles, average daily traffic volumes, traffic collision history, on site visibility restrictions and roadway conditions.

##### **A. Spot Speed Surveys**

Consistent with above and Attached for each segment in Appendix B.

##### **B. Collision Data**

Attached for each segment in Appendix D.

Collision records were obtained from the City of Wildomar staff who utilized CROSSROADS electronic database. For this study, 5 of the 7 segments utilized the latest 3 year (2015-2017) reported history and 2 of 7 utilized the latest 1 year (2017) history. The collision rates



are expressed in accidents per million vehicle miles (A/MVM). Calculation of these rates included obtaining current 24-hour, average daily traffic volumes (ADT) for each roadway. This information was then entered into the following formula to determine collision rate:

$$R = \frac{A * 1,000,000}{T * 365 \frac{\text{days}}{\text{year}} * L * V}$$

R= Collision Rate (accidents/million vehicle miles)

A= Number of Midblock (non-intersection related) collisions over time period

T = Time Period Covered (in years)

L = Length of Segment (miles)

V= Traffic Volume (ADT -- Average Daily Traffic)

The segment collision rate was then compared to the average statewide collision rate. The average statewide collision rates were obtained from the 2015 Collision Data on California State Highways published by Caltrans.

### **C. On Site Field Data Collection**

The onsite review of each roadway segment was conducted in **October 2018** and included a survey of the following factors:

- Road characteristics; shoulder condition, grade, alignment and sight distance
- Number of lanes and other channelization/stripping patterns
- Location of stop signs and traffic signals
- Land use and proximity to schools
- Roadside development and environment
- Parking practices/Restrictions
- Pedestrian / Bicycle Use
- Uniformity with adjacent jurisdictional speed zones and;
- Any other unusual condition not readily apparent to the driver

## **V. Survey Results and Recommendations**

Engineering and Traffic Certification Sheets for each speed zone segment are presented in Appendix A. The resulting evaluations are a compilation of the available data and include a recommendation to post individual speed limits which have been determined consistent with the CA MUTCD guidelines and CVC Laws.

The adoption of California Vehicle Code Section 22358.5 has made it clear that physical conditions such as width, curvature, grade and surface conditions, or any other condition readily apparent to the driver, in the absence of other factors, would not be the basis for special downward speed zoning. In these cases, the Basic Speed Law, CVC 22350, is sufficient to regulate such conditions.

The recommended speeds are also consistent with driver behavior and within the 10 mile per hour pace speed recorded in the prevailing speed data sheets; with allowable reduction exceptions for segments which collision history demonstrates a higher than expected rate; a condition not readily



apparent to the driver. All speeds which are recommended to be set 5 mph or more below the 85<sup>th</sup> percentile speed are justified as segments with special conditions and included in this report.

**Table A** is a summary of the compiled resulting recommendations to establish prima facie speed limits. These limits are intended to establish a maximum safe speed under normal conditions; however, it can be concluded that violations to prima facie speed limits are essentially violations of the Basic Speed Law.

**Table B** is a summary listing the specific speed limit signing which, at a minimum, is required consistent with CA MUTCD guidance in posting speed zones.

Please note that all existing speed limit signing should be removed and salvaged for both roadways.

#### ***A. Segments with Special Conditions / Verification & Justification***

##### **Segment #3 Grand Avenue – Central Avenue to Mc Vicar Street**

This segment is currently posted 40 mph and has one lane in each direction with multiple driveways plus bike lanes. The ADT is 9312 vehicles per day. The adjacent land use is residential with David Brown Middle School within this segment with sidewalks which lack connectivity. The critical speed is 45 mph and would normally justify a 45-mph posted speed limit. However due to the absence of sidewalks, high pedestrian and equestrian activity with multiple unmarked crosswalks that may not be apparent to unfamiliar drivers, a lower speed limit is prudent. Therefore, it is recommended that the speed limit be posted at 40 mph.

Reduced Speed Ahead signs are justified for installation to alert motorists of the reduced speed between segment #2 and #3 and provide continuity and speed compliance along Grand Avenue.

##### **Segment #4 Grand Avenue – Mc Vicar Street to Clinton Keith Road**

This segment is currently posted 45 mph and has one lane in each direction with multiple driveways plus bike lanes. The ADT is 9312 vehicles per day. The adjacent land use is residential. The critical speed is 52 mph and would normally justify a 50-mph posted speed limit. However due to pedestrian and equestrian activity with multiple unmarked crosswalks that may not be apparent to unfamiliar drivers, a lower speed limit is prudent. Therefore, it is recommended that the speed limit be posted at 45 mph.

##### **Segment #6 Clinton Keith Road – Palomar Street to Inland Valley Drive**

This segment is currently posted 35 mph and has two lanes in each direction plus bike lanes and a non-connected raised median along portions of the segment. The segment is bisected by the I-15 On/Off ramps. The ADT is 27,481 vehicles per day west of Interstate 15 and 27090 east of the Interstate Route. The adjacent land use is commercial with numerous driveways. The critical speed is 41 mph and would normally justify a 40-mph posted speed limit. Due to multiple driveways, sidewalks and bicycle use it is prudent to post a lower speed limit. Therefore, it is recommended that the speed limit be posted at 35 mph.

##### **Segment # 7 Clinton Keith Road -- Inland Valley Drive to Carrington Street (City Limits)**

This segment is currently posted 45 mph and has two lanes in each direction. The ADT is 27,090 vehicles per day. The adjacent land use is residential with a hospital. The critical speed is 52 mph and would normally justify a 50-mph posted speed limit. There is sparse lighting for this segment within vertical curves. Due to lack of lighting, lack of sidewalks and emergency services use, it is prudent to post a lower speed limit for pedestrian safety. The City also has a current/active project to extend bicycle lanes to the City limits. Therefore, it



is recommended that the speed limit be posted at 45 mph to provide consistency between jurisdictions and to also minimize speed zone changes in excess of 10 mph on the approach to heavy commercial use in segment 6. The pace for this segment is 44-53 mph.'

Clinton Keith Road, east of Carrington Street (City Limits) is posted 45 mph.

Reduced Speed Ahead signs are justified for installation to alert motorists of the reduced speed between this Segment #7 and Segment #6.

***B. Enforcement and Certification Period***

Engineering and Traffic Surveys are required by the State of California to establish enforceable speed limits other than prima facie limits set forth in the California Vehicle Code (CVC) on local streets; and to enforce these limits using radar or other speed measuring devices. CVC Sections 40801 and 40802 require E&TS that verify the prima facie speed limit before enforcement by these devices are legal. The CVC law 40802 also specifies that these surveys be conducted every 5 years; extending to 7 years provided the City's enforcing entity officers have completed a 24-hour radar operator course.

It is further required that these surveys be updated every 5 or 7 years to remain consistent with current conditions per the CVC. Additionally, the CVC specifies that the methodology used to establish these speed limits is conducted and based upon the CA MUTCD.



# CITY OF WILDOMAR - CITY WIDE SPEED ZONES

TABLE A  
RECOMMENDATIONS TO POST SPEED -- SEGMENT SUMMARY

| Segment # | Street Name        | From                | To                  | Current Posted Speed * | Critical Speed (85th) | Recommended Speed Limit | Applicable CA MUTCD Criteria | Conditions Not Readily Apparent Justification | Remarks                                     |
|-----------|--------------------|---------------------|---------------------|------------------------|-----------------------|-------------------------|------------------------------|---|---|
| 1         | Grand Avenue       | Corydon Street      | Shiela Lane         | 50                     | 54                    | 50                      | Option #2                    | N/A   | N/A   |
| 2         | Grand Avenue       | Shiela Lane         | Central Avenue      | 50                     | 51                    | 50                      | Nearest to 85th Percentile   | N/A   | N/A   |
| 3         | Grand Avenue       | Central Avenue      | Mc Vicar Street     | 40                     | 45                    | 40                      | Option #1                    | Yes + Middle School                           | 25 MPH Posted - "When Children are Present" |
| 4         | Grand Avenue       | Mc Vicar Street     | Clinton Keith Road  | 45                     | 52                    | 45                      | Option #1                    | Yes   |   |
| 5         | Clinton Keith Road | Grand Avenue        | Palomar Street      | 45                     | 53                    | 50                      | Option #2                    | N/A   |   |
| 6         | Clinton Keith Road | Palomar Street      | Inland Valley Drive | 35                     | 41                    | 35                      | Option #1                    | Yes   |   |
| 7         | Clinton Keith Road | Inland Valley Drive | Carrington Street   | 45                     | 52                    | 45                      | Option #1                    | Yes   |   |

\* No Prior E & TS support



# CITY OF WILDOMAR - CITY WIDE SPEED ZONES

TABLE B  
SPEED LIMIT SIGN POSITION -- SEGMENT SUMMARY

| Segment # | Street Name        | From                | To                  | SIGN                                     |                               | SIGN                                     |                               | Remarks               |
|-----------|--------------------|---------------------|---------------------|--|-------------------------------|--|-------------------------------|-----------------------|
|           |                    |                     |                     | TYPE/FACING<br>DIRECTION OF<br>TRAVEL ** | DISTANCE FROM<br>INTERSECTION | TYPE/FACING<br>DIRECTION OF<br>TRAVEL ** | DISTANCE FROM<br>INTERSECTION |                       |
| 1         | Grand Avenue       | Corydon Street      | Sheila Lane         | R2-1(50) FEBT                            | 100' E/O Corydon              | R2-1(50) FWBT                            | 100' W/O Sheila               | Posted 45 in Murietta |
| 2         | Grand Avenue       | Sheila Lane         | Central Avenue      | R2-1(50) FEBT                            | 100' E/O Sheila               | R2-1(50) FWBT                            | 100' W/O Central              |                       |
|           |                    |                     |                     | W3-5(40) FEBT                            | 300' W/O Central              |  |                               |                       |
| 3         | Grand Avenue       | Central Avenue      | Mc Vicar Street     | R2-1(40) FEBT                            | 100' E/O Central              | R2-1(40) FWBT                            | 100' W/O McVicar              |                       |
| 4         | Grand Avenue       | Mc Vicar Street     | Clinton Keith Road  | R2-1(45) FEBT                            | 100' E/O McVicar              | R2-1(45) FWBT                            | 100' W/O Clinton Keith        |                       |
| 5         | Clinton Keith Road | Grand Avenue        | Palomar Street      | R2-1(50) FSBT                            | 100' S/O Palomar              | R2-1(50) FNBT                            | 100' N/O Grand                |                       |
|           |                    |                     |                     | W3-5(35) FNBT                            | 300' S/O Palomar              |  |                               |                       |
| 6         | Clinton Keith Road | Palomar Street      | Inland Valley Drive | R2-1(35) FNBT                            | 100' N/O Palomar              | R2-1(35) FNBT                            | 100' N/O Hidden Springs       |                       |
|           |                    |                     |                     | R2-1(35) FSBT                            | 100' S/O Ayra                 | R2-1(35) FSBT                            | 100' S/O Inland Valley        |                       |
|           |                    |                     |                     | W3-F(35) FSWBT                           | 300' E/O Inland Valley        |  |                               |                       |
| 7         | Clinton Keith Road | Inland Valley Drive | Carrington Street   | R2-1(45) FEBT                            | 100' E/O Inland Valley        | R2-1(45) FWBT                            | 200' W/O Carrington           | Posted 45 in Murietta |

\*\* FEBT Facing Eastbound Traffic; FWBT Facing Westbound Traffic; FNBT Facing Northbound Traffic; FSBT Facing Southbound Traffic;  
FSWBT Facing South/West Bound Traffic

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #1.10**

**CONSENT CALENDAR**

**Meeting Date: July 10, 2019**

---

**TO:** Mayor and City Council Members

**FROM:** Dan York, Assistant City Manager

**SUBJECT:** Adoption of Caltrans' Local Assistance Procedures Manual Chapter 10

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2019 - \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING AN ADOPTION OF CALTRANS' LOCAL  
ASSISTANCE PROCEDURES MANUAL CHAPTER 10

**BACKGROUND:**

In 2011 the Office of Inspector General (OIG) reviewed the FHWA's oversight of Federal-Aid and Recovery Act projects administered by local agencies in California. The OIG determined that FHWA and the California Department of Transportation (Caltrans) were not managing risks properly and many projects were found to have procedural deficiencies in complying with federal regulations related to hiring Architectural and Engineering (A&E) consultants. As a result, Caltrans has revised its procedures to identify critical elements of the consultant procurement process to increase compliance with Title 23 CFR 172 and Government Code 4525- 4529.5.

As part of this revision Local Agencies must adopt and follow the procedures of Chapter 10 (Consultant Selection) of Caltrans' Local Assistance Procedures Manual (LAPM) to receive state or federal funding. Following the process laid out in Chapter 10 will assist local agencies in preserving funding eligibility.

**FISCAL IMPACTS:**

There are no fiscal impacts from adopting these procurement requirements.

Prepared by:  
Daniel A. York  
Assistant City Manager

Submitted & Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Resolution  
Caltrans' Local Assistance Procedures, Chapter 10

**RESOLUTION NO. 2019 - \_\_\_\_\_**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,**  
**CALIFORNIA, AUTHORIZING THE ADOPTION OF CALTRANS' LOCAL**  
**ASSISTANCE PROCEDURES MANUAL CHAPTER 10**

**WHEREAS**, the City Council of the City of Wildomar, California through the Department of Public Works is responsible for the execution of State and Federal funded project(s); and

**WHEREAS**, the provision of 23 CFR 172.5(b), subrecipients shall develop and sustain organizational capacity and provide the resources necessary for the procurement, management, and administration of engineering and design related consultant services, reimbursed in whole or in part with Federal-Aid Highway Program funding as specified in 23 U.S.C. 106(g)(4)(A); and

**WHEREAS**, 23 CFR 172.5(b)(1) requires subrecipients to adopt written policies and procedures prescribed by the awarding State Transportation Agency for the procurement, management, and administration of engineering and design related consultant services in accordance with applicable Federal and State laws and regulations; and

**WHEREAS**, the State of California Department of Transportation (Caltrans) has developed the Local Assistance Procedures Manual (LAPM), Chapter 10, Consultant Selection which sets forth policies and procedures for procurements and managements of contracts for engineering and design related consultant services contracts on federal and state funded transportation projects to ensure compliance with applicable Federal and State laws and regulations; and

**WHEREAS**, LAPM Chapter 10, Consultant Selection, describes the consultant selection and procurement process local agencies must follow to maintain eligibility for federal and state reimbursement; and

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Wildomar, California that the above recitals are true and correct.

**BE IT FURTHER RESOLVED** that City Council adopts Caltrans LAPM Ch.10, Consultant Selection, and any updates thereto, in the procurement of A&E services for state and federal funded projects.

**PASSED, APPROVED AND ADOPTED** this 10th day of July, 2019.

\_\_\_\_\_  
Marsha Swanson  
Mayor



APPROVED AS TO FORM:

ATTEST:

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Thomas D. Jex  
City Attorney

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Janet Morales  
Acting City Clerk

Chapter 10 **Consultant Selection****Contents**

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## Exhibits

Exhibits applicable to this chapter can be found at:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

[\*Exhibit 10-A: A&E Consultant Financial Document Review Request\*](#)

[\*Exhibit 10-B: Suggested Consultant Evaluation Sheet\*](#)

[\*Exhibit 10-C: A&E Consultant Contract Reviewers Checklist\*](#)

[\*Exhibit 10-G: Individual A&E Task Order DBE Utilization \(needs linked\)\*](#)

[\*Exhibit 10-H: Sample Cost Proposal \(Example#1 thru #4\)\*](#)

[\*Exhibit 10-I: Notice to Proposers DBE Information\*](#)

[\*Exhibit 10-K: Consultant Annual Certification of Indirect Costs and Financial Management System\*](#)

[\*Exhibit 10-01: Consultant Proposal DBE Commitment\*](#)

[\*Exhibit 10-02: Consultant Contracts DBE Commitment\*](#)

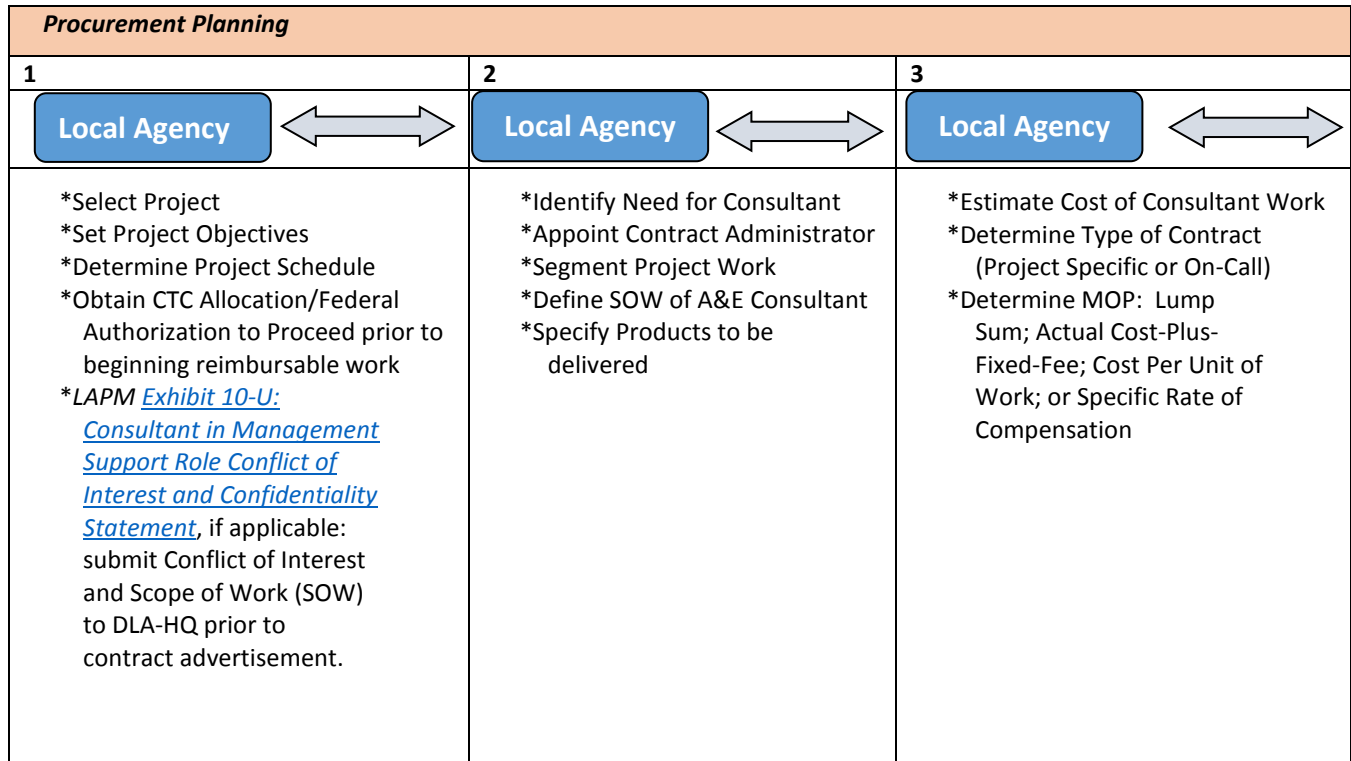
[\*Exhibit 10-Q: Disclosure of Lobbying Activities\*](#)

[\*Exhibit 10-R: A&E Sample Contract Language\*](#)

[\*Exhibit 10-S: Consultant Performance Evaluation\*](#)


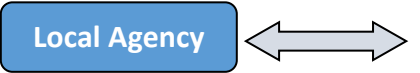

[\*Exhibit 10-T: Conflict of Interest & Confidentiality Statement\*](#)

[\*Exhibit 10-U: Consultant in Management Support Role Conflict of interest and Confidentiality Statement\*](#)

**SECTION 10.1: FEDERALLY FUNDED A&E CONTRACTS**

**A&E = Architectural and Engineering**  
**IOAI = Caltrans Independent Office of Audits and Investigations**  
**CT = Caltrans**  
**DBE = Disadvantaged Business Enterprise**  
**DLA = Division of Local Assistance**  
**DLAE = District Local Assistance Engineer**  
**DLA-HQ = Division of Local Assistance-Headquarters**  
**LAPG = Local Assistance Program Guidelines**  
**LAPM = Local Assistance Procedures Manual**  
**MOP = Method of Payment**  
**RFP = Request for Proposal**  
**RFQ = Request for Qualifications**  
**SOQ = Statement of Qualifications**  
**SOW = Statement/Scope of Work**

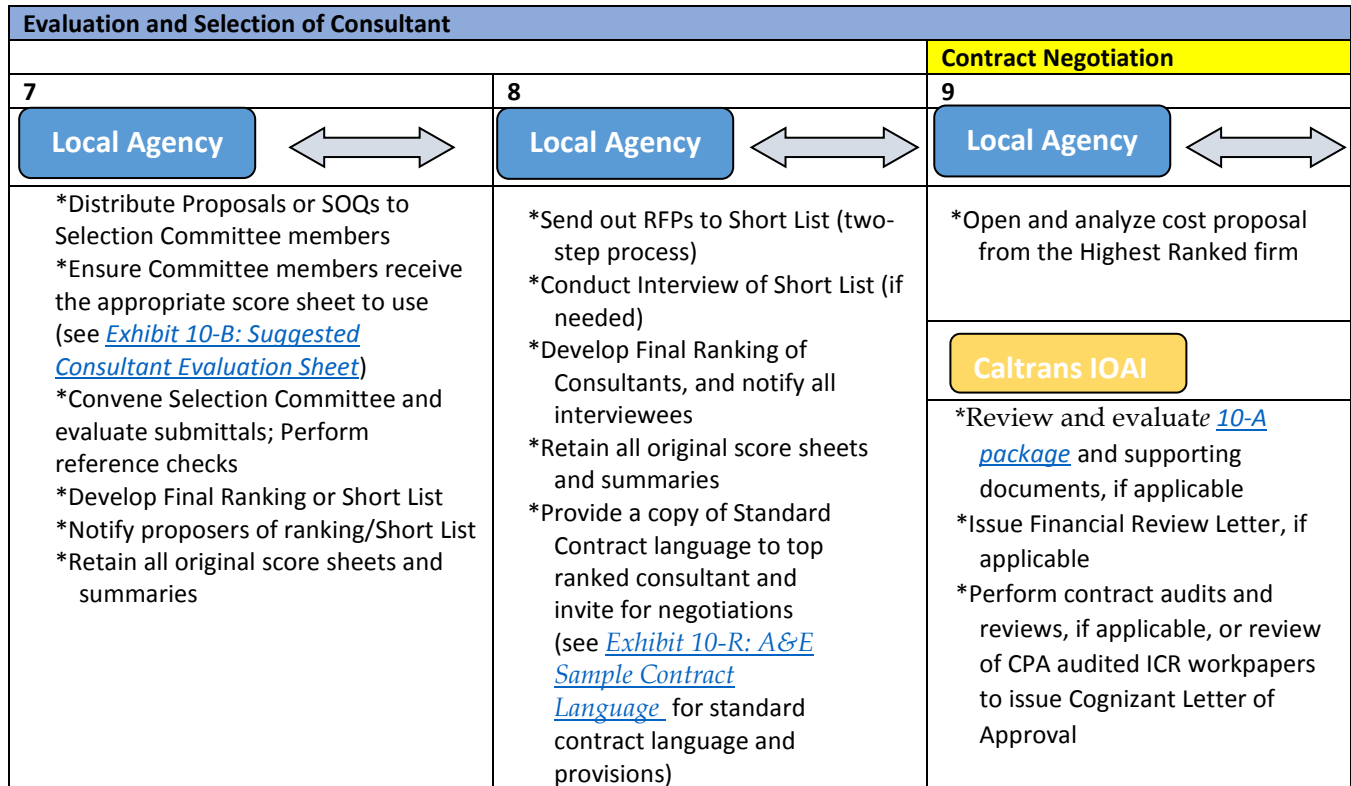
**Figure 10-1: A&E Contract Procurement Process Workflow Diagram**

| Solicitation Documents and Advertisement   |  |  |
|--|--|--|
| 4  | 5  | 6  |
|   |    |   |
| <ul style="list-style-type: none"> <li>*Determine Solicitation Document; RFP or RFQ</li> <li>*Appoint Consultant Selection Committee</li> <li>*Collect signed Conflict of Interest forms and Confidentiality Statements (see <a href="#">Exhibit 10-T: Conflict of Interest &amp; Confidentiality Statement</a>) from all members involved in process</li> <li>*Determine Procurement Schedule</li> <li>*Develop Technical Criteria with level of importance (weights) for Evaluation of Proposals or the SOQ</li> </ul> | <ul style="list-style-type: none"> <li>*Prepare RFP or RFQ documents</li> <li>*Include SOW, evaluation process/criteria, DBE goals, MOP and cost proposal format (see <a href="#">Exhibit 10-H: Sample Cost Proposal</a>) minimum requirement of Proposal or SOQ, Notice to Proposers DBE Information (see <a href="#">Exhibit 10-I: Notice to Proposers DBE Information</a>), submittal deadline</li> <li>*Advertise RFP or RFQ on public forum (newspaper, technical publications, Web Hosting Site, other local websites)</li> <li>*Issue RFP or RFQ (direct mailing, web posting)</li> </ul> | <ul style="list-style-type: none"> <li>*Prepare to respond to RFP/RFQ questions</li> <li>*Conduct Proposers Conference, if applicable</li> <li>*Receive Proposals or SOQs</li> </ul> |

**A&E = Architectural and Engineering**  
**IOAI = Caltrans Independent Office of Audits and Investigations**  
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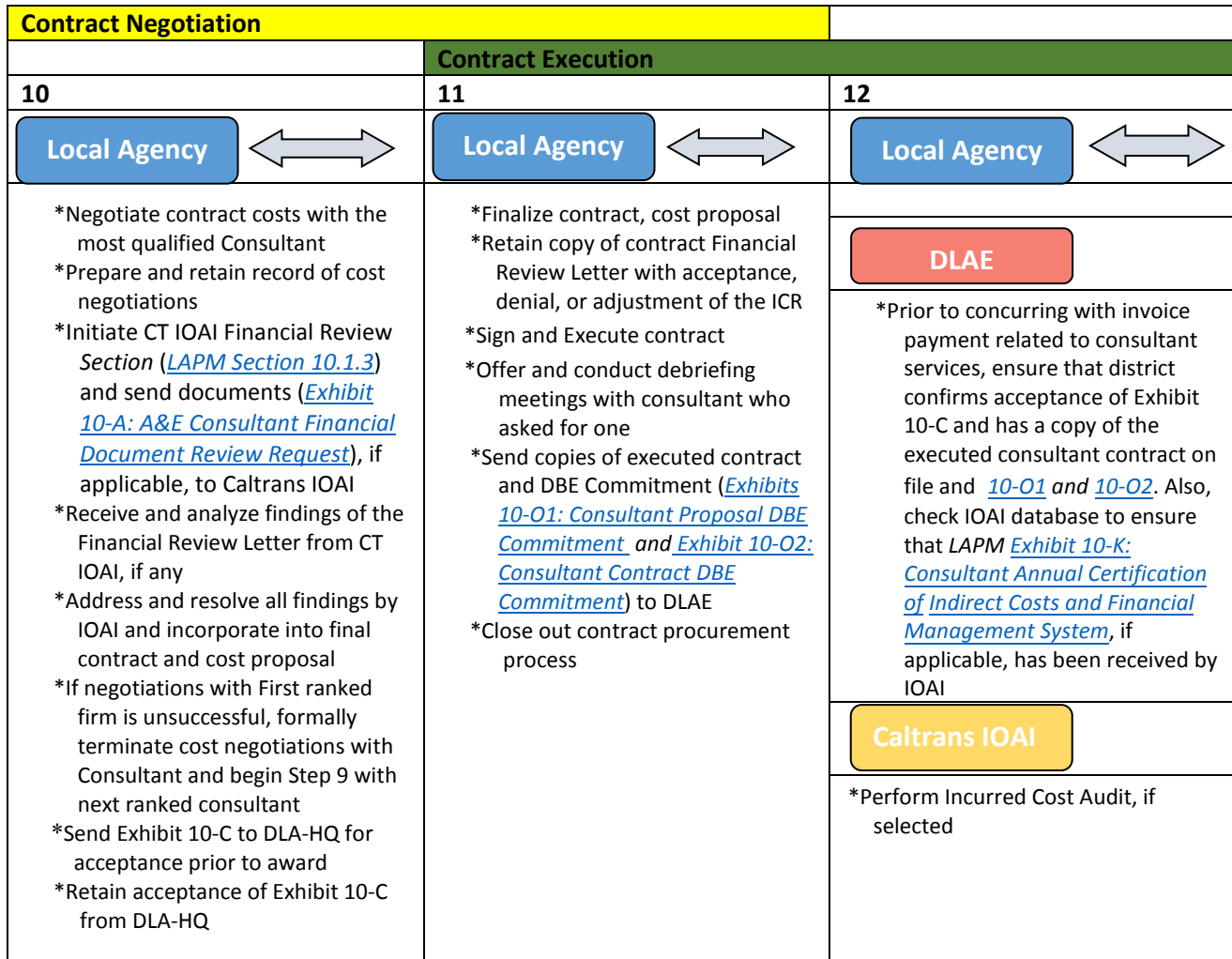
**Figure 10-1: A&E Contract Procurement Process Workflow Diagram- continued**





**A&E = Architectural and Engineering**  
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Figure 10-1: A&amp;E Contract Procurement Process Workflow Diagram- continued



**A&E = Architectural and Engineering**  
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**SOQ = Statement of Qualifications**  
**SOW = Statement/Scope of Work**

Figure 10-1: A&amp;E Contract Procurement Process Workflow Diagram- continued

## 10.1.1 GENERAL

### Introduction

A local agency may engage consultants to perform architectural, engineering, and related services to develop a federal-aid funded project. Local agencies requesting federal funds to reimburse A&E Consultants must follow the selection and contracting procedures detailed in this chapter.

### Definition of an Architectural and Engineering Consultant

23 Code of Federal Regulations §172 and CA State Law further defines A&E services and includes those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or program management are termed Architectural and Engineering (A&E) Consultants.

### Architectural and Engineering Consultants

The Brooks Act (40 USC, Section 1104) requires local agencies to award federally funded engineering and design related contracts based on fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 Code of Federal Regulations (CFR), Part 172), at a fair and reasonable price (48 CFR 31.201-3).

Cost proposals submitted to the local agency must be sealed and shall not be included as a criterion for rating such consultants. After ranking, cost negotiations may begin with the most qualified consultant and only their cost proposal will be opened. Should negotiations fail or result in a price that the local agency does not consider fair and reasonable, negotiations must be formally terminated and the local agency must then undertake negotiations with the second most qualified consultant.

If the negotiations with the second most qualified firm are not successful, negotiations must be formally terminated and the local agency must then undertake negotiations with the third most qualified consultant, and so on, until the price is determined to be fair and reasonable by the local agency.

In selecting an A&E consultant, a detailed technical proposal or qualifications proposal, and a proposed contract will be required.

Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages (Federal Payment of Predetermined Minimum Wage applies only to federal-aid construction contracts). Prevailing wages will apply if the services to be performed will involve land surveying (such as flag persons, survey party chief, rodman or chainman), materials sampling and testing (such as drilling rig operators, pile driving, crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations websites below:

Consultants will need to provide their Prevailing Wage Policy if their participation on the project includes prevailing wage work. The policy will include information on the accounting

treatment of delta base and delta fringe, and verify the accounting treatment is consistent every year.

- [DIR FAQ](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html) website:  
[http://www.dir.ca.gov/OPRL/FAQ\\_PrevailingWage.html](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html)
- [DIR Wage Determination](http://www.dir.ca.gov/oprl/DPreWageDetermination.htm) website:  
<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>
- [Caltrans Prevailing Wage Interpretive Guidance](http://www.dot.ca.gov/hq/audits/documents/prevailing-wage-interpretive-guidance.pdf):  
<http://www.dot.ca.gov/hq/audits/documents/prevailing-wage-interpretive-guidance.pdf>

### Non-A&E Consultants

Consultants other than A&E consultants may be selected using cost, cost and qualifications (best value) or other critical selection criteria. The procedures outlined in this chapter can be modified for selecting non-A&E consultants by adding a cost item to the contract proposal.

For more details on non-A&E consultants, see Section 10.3 *Non-A&E Contracts* of this chapter.

### Selecting the Project

The local agency is responsible for selecting and initiating a federal-aid financed transportation project. The decision to begin project development is influenced by the project needs, its acceptability, the timing of studies, financing, and construction. The local agency must identify the project's objectives including the general level of improvement or service, operating standards, maximum cost and the target date for project completion before commencing any consultant selection process.

### Subcontracted Services

The consultant is responsible for performing the work required under the contract in a manner acceptable to the local agency. The consultant's organization and all associated consultants and subconsultants must be identified in the proposal. If the consultant wishes to use a subconsultant not specified in the proposal, prior written approval must be obtained from the local agency. The subcontract must contain all required provisions of the prime contract. All subawards must include adequate oversight, management, and administration of engineering and design related consultant services and be administered in accordance with State laws and procedures specified in 23 U.S.C. 106(g)(4) 2 CFR 200.331.

### Organizational and Consultant Conflicts of Interest

In the procurement of contracts for engineering services by private consulting firms using federal-aid highway funds, local agencies must take all the steps necessary to prevent fraud, waste, and abuse. The local agency must develop and maintain a written code of conduct governing the performance of its employees (including the contract administrator) engaged in the award and administration of federal-aid highway funded contracts, including the prevention of conflicts of interest in accordance with 23 CFR 172.7(b)(4)

A conflict of interest occurs when a public official's private interests and his or her public duties and responsibilities diverge or are not consistent. Conflicts of interest may be direct or indirect (e.g., as result of a personal or business relationship). The appearance of a conflict of interest should be avoided as an apparent conflict may undermine public trust if not sufficiently mitigated.

**Federal Regulation Governing Conflict of Interest (23 CFR 172.7(b)(4)) Requires that:**

- Local agency shall maintain a written code of standards of conduct for employees engaged in the award and administration of engineering and design service contracts;
- No contracting agency employee who participates in the procurement, management, or administration of federal funded contracts or subcontracts shall have, directly or indirectly, any financial or other personal interest in connection with such contract or subcontract;
- No person or entity performing services for a contracting agency in connection with a federal funded project shall have, directly or indirectly, any financial or other personal interest, other than employment or retention by the contracting agency, in any contract or subcontract in connection with such project;
- No person or entity performing services for a contracting agency in connection with a federal-aid highway funded project shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the project;
- No contracting agency employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to subagreements;
- Local agency shall disclose in writing any potential conflict of interest to FHWA

**Consultants Performing Work on Multiple Phases of Federal-aid Projects**

Local agencies sometimes wish to hire the same consultant firm to perform construction engineering and/or inspection services on the same project on which the firm also performed design services. This can cause project delivery efficiencies, as the design firm is well-suited to verify that the project is being constructed in accordance with the design and can resolve issues related to the design on behalf of the contracting agency. However, this may also pose a potential conflict of interest if the firm has a vested financial interest in failing to disclose deficiencies in its design work product and seeks to insulate itself from pecuniary liability in subsequent phases of the project, such as minimizing or ignoring design errors and omissions, rather than serving the best interests of the contracting agency and the public. Procuring a different firm from the design firm to provide the construction engineering and/or inspection services provides another level of review and reduces the risk of, or potential for, a conflict of interest.

Although federal regulations do not expressly prohibit the same firm from providing services on subsequent phases, the local agencies are responsible for ensuring the public interest is maintained throughout the life of a project and that a conflict of interest, real or apparent, does not occur or is sufficiently mitigated by appropriate public agency controls. Prior to allowing a consulting firm to provide services on subsequent phases of the same project, the contracting agency must establish appropriate compensating controls in policies, procedures, practices, and other safeguards to ensure a conflict of interest does not occur in the procurement, management, and administration of consultant services.

When design and construction phase services are procured under a single solicitation, the selection of the consulting firm must be based on the overall qualifications to provide both design and construction phase services, which require different skill sets, experience, and resources. Procuring these services under different solicitations may result in selection of a more qualified firm to perform services in each phase, as the most qualified firm to perform design phase services may not be the most qualified firm to provide construction phase services. Similarly, the qualifications and capacity of a firm may change over time. As such, it may not be appropriate to contract with a consulting firm to provide construction phase services at the outset of a design phase, knowing that these services may not be needed for an extended period until the preconstruction phase of the project is complete and construction funding authorized. The contract with a consulting firm providing design phase services on a project may not be amended to include construction phase services unless the desired construction phase services were included within the original advertised scope of services and evaluation criteria of the solicitation from which a qualifications based selection was conducted. All consultants acting in a management support role must complete [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) (see [Section 10.1.9: Miscellaneous Considerations](#) in this chapter) and retain it in the local agency files.

### **Miscellaneous Considerations Authorization to Proceed**

The Federal Highway Administration (FHWA) must give the local agency an Authorization to Proceed (E-76) with the work prior to performing of any work for which federal reimbursement is to be requested, (see the [LAPM Chapter 3: Project Authorization](#)). For state funded projects see [Section 10.2: State-Only Funded A&E Contracts](#) and the [Local Assistance Program Guidelines \(LAPG\), Chapter 23: Local Agency State Transportation Improvement Program Projects](#), for guidance on when work may proceed.

Copies of the Authorization to Proceed and the consultant contract must be retained in the local agency project files for future audit.

## **10.1.2 IDENTIFYING & DEFINING A NEED FOR CONSULTANTS**

The need for a consultant is identified by comparing the project's schedule and objectives with the local agency's capabilities, its staff availability of the required expertise, and its funding resources. If the local agency does not have sufficient staff capabilities, it may solicit assistance from another agency, or use a qualified private consultant to perform the required work.

If the local agency determines that there is a need to solicit assistance from another local agency, or to use a consultant, the District Local Assistance Engineer (DLAE) should be notified if federal-aid funds are to be requested for the project segment to be contracted out.

### **Appointing the Contract Administrator**

The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant's work. The Contract Administrator must be a qualified local agency employee or have staff that is qualified to ensure the consultant's work is complete, accurate, and consistent with the terms and conditions of the consultant contract. On federal-aid contracts, the Contract Administrator or staff members must be a full-time employee and familiar with the work to be contracted out and the standards to be used. The Contract Administrator must also abide by the laws, regulations and policies required as part of accepting federal or state funding for their project. Non-compliance with the laws, regulations, and policies may result in loss of project funding.

The Contract Administrator's duties are listed in 23 CFR 172.9(d)(1) and include:

- Contract negotiation, contract payment, and evaluation of compliance performance, and quality of services provided by the consultant;
- Being familiar with the contract requirements, scope of services to be performed, and products to be produced by the consultant;
- Being familiar with the qualifications and responsibilities of the consultant's staff and evaluating any requested changes in key personnel;
- Scheduling and attending progress and project review meetings, commensurate with the magnitude, complexity, and type of work, to ensure the work is progressing in accordance with established scope of work and schedule milestones;
- Documenting contract monitoring activities and maintaining supporting contract records as specified in 2 CFR 200.333;
- Provides direction to ensure the proposed work is advertised properly;
- Prepares and distributes the Request for Qualifications (RFQ), description of work, and Request for Proposals (RFP), if used;
- Prepares the draft contract;
- Arranges for preparation before an independent estimate of the value of the work to be contracted out;
- Ensures that the selection procedures are followed;
- Analyzes the selected/best-qualified consultant's cost proposal;
- Ensures contract audit and review procedure is followed;

- Ensures that fee/profit negotiation is conducted and keeps records;
- Serves as the local agency's primary contact person for the successful consultant;
- Monitors the consultant's progress and provides direction;
- Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;
- Identifies other local agency staff for the consultant to contact, if needed;
- Closes out the contract at completion, by processing the final invoice; completing a mandatory consultant evaluation, and final DBE utilization reports ([\*Exhibit 17-F: Final Report Utilization of Disadvantaged Business Enterprises \(DBE\) and First-Tier Subcontractors\*](#)).

### Segmenting Consultant Work

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity of the work. Combining preliminary engineering tasks with the preparation of the required environmental analysis is normally desirable. Preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. Initial project studies include only as much traffic and engineering analysis of alternatives, as is needed to produce a sound EA or EIS (see [LAPM Chapter 6 Environmental Procedures](#) and [Standard Environmental Reference \(SER\) Chapters 31: Environmental Assessment \(EA\) and Finding of No Significant Impact \(FONSI\)](#) and [Chapter 32: Environmental Impact Statement \(EIS\)](#)). Final design shall not begin until NEPA environmental approval has been received if federal reimbursement is desired.

Refer to Figure 10-2: Segmenting Consultant Work below, which illustrates several satisfactory ways to segment consultant activities.



|                                      | Well-structured<br>Projects<br>With Simple<br>Right of Way<br>Requirements | Well-structured<br>Projects<br>With Complex<br>Right of Way<br>Requirements | More<br>Difficult<br>Projects | Very<br>Complex<br>Projects |
|--------------------------------------|--|---|-------------------------------|-----------------------------|
| Preliminary Engineering              |  |   |                               |                             |
| Environmental Analysis               |  |   |                               |                             |
| Plans, Specifications<br>& Estimates |  |   |                               |                             |
| Right of Way Activities              |  |   |                               |                             |
| Utility Relocation                   |  |   |                               |                             |
| Construction Engineering             |  |   |                               |                             |

Figure 10-2: Segmenting Consultant Work

### Specify Products to be Delivered

The Contract Administrator identifies the products and services to be delivered as a result of consultant contract work, and minimum qualification of consultant professionals and staff. These vary depending upon the type of projects and the phase of project development being addressed.

### Scope of Consultant Work

The scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement; determine personnel and time requirements; and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the deliverables, standards for design and other work, quality control measures, acceptance criteria and deadlines.

### Non-Discrimination Clause

The Non-Discrimination Clause ([Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XVI Statement of Compliance) must be included in each consultant contract. The consultant must include the non-discrimination and compliance provisions of the Non-Discrimination Clause in all subcontracts to perform work under the contract.

### Disadvantaged Business Enterprise (DBE) Participation

When administering federal-aid projects, federal regulations (49 CFR, Part 26) require a local agency to comply with the DBE program, and take necessary steps to ensure that DBE firms have the opportunity to participate in the projects. Refer to *Chapter 9: Civil Rights and Disadvantaged Business Enterprises* for DBE requirements for A&E Consultant Contracts.

**Estimated Cost of Consultant Work**

An independent estimate for cost or price analysis is needed for all consultant contracts (23 CFR 172.7(a)(1)(v)(B)) to ensure that consultant services are obtained at a fair and reasonable price. The estimate is prepared in advance of requesting a cost proposal from the top-ranked consultant, so the local agency's negotiating team has a cost comparison of the project to evaluate the reasonableness of the consultant's cost proposal. The estimate, which is specifically for the use of the local agency's negotiating team, is to be kept confidential and maintained for records.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant is required to deliver, and a time schedule of when they must be delivered.

It should be stressed that all work to be derived from the consultant services, such as preliminary design, environmental or final design, must be clearly identified in the solicitation of consultant services (RFQ or RFP) and included in the cost estimate. The addition of work to the original scope by amendment should be avoided whenever possible. Contract modifications are required for any amendments to the terms of the existing contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed.

Some of the costs estimating techniques are:

**Analogous Estimating:**

Analogous cost estimating is using the actual cost of a previous, similar contract as the basis for estimating the cost of the current contract. Analogous cost estimating is frequently used to estimate costs when there is a limited amount of detailed information about the project. Analogous cost estimating is generally less accurate and it is most reliable when previous projects are similar in fact, and not just in appearance, and it uses expert judgment.

**Parametric Estimating:**

Parametric estimating is a technique that uses statistical relationship between historical data and other variables to calculate a cost estimate for an activity resource. This technique can produce a higher level of accuracy depending upon the sophistication, as well as underlying resource quantity and the cost data. A cost example would involve multiplying the planned quantity of work by the historical cost per unit to obtain the estimated cost of the contract.

**Bottom-up Estimating:**

This technique involves estimating the cost for individual work in the contract with the lowest level of detail. This detailed cost is then summarized or rolled up to determine a total cost of contract. Cost detail should include estimated hours per task, labor hourly cost for professional and non-professional classifications, subconsultant costs, other project direct costs, and profit. Labor costs should be broken down to direct labor and indirect cost rates, if possible.

If more than one project or phase of work is to be developed within the consultant contract, separate cost estimates are required for each project or phase of work. Separate cost estimates are required for each milestone and portion of the work expected to be subcontracted.

For on-call (as-needed) contracts, the cost estimate/analysis should include at minimum, a historical analysis of annual needs for consultant work, professional labor cost and market analysis, and reasonable profit analysis.

### **Determine Type of Contract**

Types of contracts to be used are described as follows:

- Project-specific contract is between the local agency and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- Multi-phase contract is a project-specific contract where the defined scope of work is divided into phases which may be negotiated and executed individually as the project progresses.
- On-call contract is a contract that may be utilized for a number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period. On-call contracts are typically used when a specialized service of indefinite delivery or indefinite quantity is needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, and field surveying, etc. Many agencies use these contracts to address peaks in workload of in-house engineering staff and/or to perform a specialized service which the agency does not have. On-call contracts shall specify a reasonable maximum length of contract, not to exceed 5 years, and a maximum total contract dollar amount (23 CFR 172). The maximum dollar amount for all contracts awarded under the solicitation is stated in the solicitation. The maximum dollar amount is the aggregate of the on-call contracts anticipated to be awarded. If the solicitation lists that up to 5 contracts may be awarded, the aggregate amount of these 5 contracts is the maximum contract dollar amount. How many contracts are anticipated to be awarded must be stated in the solicitation. How task orders will be issued must be stated in the solicitation (two options exist: geographically designated areas or additional competitive solicitation to all consultants who provide the same type of service and awarded a contract under the same solicitation).
  - To maintain the intent of the Brooks Act (40 USC 1101-1104) in promoting open competition and selection based on demonstrated competence and qualifications, on-call consultant contracts established through the RFQ process must meet the following requirements:
    - Must define a general scope of work, complexity, and professional nature of services.
    - Specify a task order procedure the local agency uses to procure project specific work under the contract.
    - No task order is valid unless the on-call contract is still enforced. For example, if the on-call contract is expired, all task orders issued after the contract expiration date will become invalid.

- If multiple consultants are to be selected and multiple on-call contracts awarded through a single solicitation for specific services, the number of consultants that may be selected or contracts that may be awarded must be identified.
- Specify procurement procedures in the contracts the local agency will use to award/execute task orders among the consultants:
  - Either through an additional qualification-based selection process (see the Two-Step RFQ/RFQ process later in this chapter), OR
  - On regional basis whereby the region is divided into areas identified in the solicitation, and consultants are selected to provide on-call services for assigned areas only. The RFP may list multiple regions that allow consultants to crossover or be a “backup” to other consultants that for specifically documented reasons are not able to perform the work in their assigned region. Per 23 CFR 172.9 (a)(3)(B)(2). The “backup” option needs to be listed in the respective contracts.
- *An example of acceptable contract wording in multiple on-call contracts for the same type of service:*
  - *“Agency has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit “A”, including this Agreement (“CM Services Task Order Contracts”). The other CM Services Task Order Contracts are [identify other two contracts by agreement numbers and consultant firms]. The total amount payable by Agency for the CM Services Task Order Contracts shall not exceed a cumulative maximum total value of Seven Million, Five Hundred Thousand Dollars (\$7,500,000) (“NTE Sum”). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under the CM Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the CM Services Task Order Contracts, the Agency shall send written notification to Consultant and each of the other consultants entering into the CM Services Task Order Contracts. The notice shall identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Agency shall not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant shall not enter into a Task Order that exceeds the NTE Sum.”*

### Determining the Project Schedule

The local agency develops a schedule for performance of work and completion of the project. The schedule must include sufficient time to allow for:

- Selecting the consultant;
- Developing the consultant contract;
- Completing the A&E consultant contract audit process;
- Conducting meetings and project reviews.

## Determine Method of Payment

The method of payment of contract must be specified. Four methods are permitted depending on the scope of services to be performed reference 23 CFR 172.9(b):

- Actual Cost-Plus-Fixed Fee (see [Exhibit 10-H: Sample Cost Proposal](#), Example #1);
- Cost Per Unit of Work (see [Exhibit 10-H](#), Example #3);
- Specific Rates of Compensation (see [Exhibit 10-H](#), Example #2);
- Lump Sum (see [Exhibit 10-H](#), Example #1).

The method of payment to the consultant shall be set forth in the original solicitation, contract, and in any contract modification thereto. A single contract may contain different payment methods as appropriate for compensation of different elements of work.

The cost plus a percentage of cost and percentage of construction cost methods of payment shall not be used. Both of these methods are explicitly prohibited by Federal Regulations.

### Actual Cost-Plus-Fixed Fee

The consultant is reimbursed for actual costs incurred and receives an additional predetermined amount as a fixed fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. The fixed fee dollar amount must be clearly stated in the contract.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. The fixed fee limit applies to the total direct and indirect costs. Fixed fees in excess of 15 percent of the total direct labor and indirect costs of the contract may be justified only when exceptional circumstances exist. The contract shall specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-H: Sample Cost Proposal Example #1](#) and [Exhibit 10-R: A&E Sample Contract Language](#), Article V, *Option 1* in this chapter). The contract cost proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved before they incur work on the contract or the costs can be questioned or disallowed.

### Cost Per Unit of Work

The consultant is paid based on specific item of work performed. The item of work must be similar, repetitious and measurable, such as geotechnical investigation and material testing. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance, but the extent or quantity of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item. Any item of work not identified in the contract cost proposal is not eligible for reimbursement. New items of work (those within the original scope of work only) must be amended into the contract before work is performed. The contract shall also specify a reasonable maximum length of

contract period and a maximum total contract dollar amount (see [Exhibit 10-H](#), Example #3 and [Exhibit 10-R](#), Article V Option 2).

### **Specified Rates of Compensation**

The consultant is paid at an agreed and supported specific fixed hourly, daily, weekly or monthly rate, for each class of employee engaged directly in the work. Such rates of pay include the consultant's estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate.

This method of payment should only be used when it is not possible at the time of procurement to estimate the extent or the duration of the work, or to estimate costs with any reasonable degree of accuracy. This method should not be used for project specific contracts and is recommended for on-call contracts for specialized or support type services, such as construction engineering and inspection, where the consultant is not in direct control of the number of hours worked, and it also requires management and monitoring of the consultant's level of effort and the classification of employees used to perform the contracted work. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see [Exhibit 10-H](#), Example #2 and [Exhibit 10-R](#), Article V Option 3.).

### **Lump Sum or Firm Fixed Price**

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see [Exhibit 10-H: Sample Cost Proposal, Example #1](#) and [Exhibit 10-R: A&E Sample Contract Language](#), Article V, Option 4). Normally, a lump sum contract will be paid in full at end of the contract when completed. However, a lump sum contract can be negotiated with progress payment if feasible. The progress payment shall be based on percent of work complete or completion of clearly defined milestones. The contract cost proposal shall document the agreed upon progress payment and include the necessary milestones costs, or the percent work complete schedule.

Changes to Exhibit 10-H requiring resubmittal to Independent Office of Audits and Investigations for review:

- Consultant name change
- New participating subconsultant
- Change in ICR rate

### **10.1.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS**

This section outlines the audit and review process for A&E contracts that at any time use state or federal funds. All proposed A&E contracts and supporting documents are

subject to audit or review by Caltrans' Independent Office of Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

### **Applicable Standards**

State and federal requirements listed below, and specific contract requirements, serve as the standards for audits and reviews performed.

Local agencies, consultants, and subconsultants are responsible for complying with state, federal, and specific contract requirements. Local agencies are responsible for determining the eligibility of costs to be reimbursed to consultants.

Applicable standards include, but are not limited to:

- Caltrans Local Assistance Procedures Manual (LAPM);
- State and Federal agreements between local agencies and Caltrans, (i.e. Master Agreements);
- Project Program Supplemental Agreements;
- 23 United States Code (U.S.C.), Section 112 – Letting of Contracts;
- 40 U.S.C., Chapter 11: the Brooks Act;
- 23 CFR, Chapter 1, Part 172 - Procurement, Management, and Administration of Engineering and Design Related Services;
- 23 CFR, Chapter 1- Federal Highway Administration, Department of Transportation;
- 48 CFR, Federal Acquisition Regulation (FAR), Chapter 1, Part 31- Contract Cost Principles and Procedures;
- 48 CFR, Chapter 99 – Cost Accounting Standards (CAS), Subpart 9900;
- 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- United States Government Accountability Office, Government Auditing Standards
  - Generally Accepted Government Auditing Standards (GAGAS);
- California Government Code sections 4525-4529; and
- Proposed contract terms and conditions.

See section [10.10 "References"](#) of this Chapter for links to above referenced standards.

### **Audit Guidance Available**

The American Association of State Highway and Transportation Officials, Uniform Audit & Accounting Guide ([AASHTO Audit Guide](#)), which is referred to frequently in this section, is a valuable tool to guide local agencies, consultants and Certified Public Accountants (CPA) through the requirements for establishing, and audits of FAR compliant Indirect Cost Rates

(ICR). The [AASHTO Audit Guide](#) is used extensively as an industry guide in the audit and review process.

Local agencies may seek accounting assistance from internal audit staff and an independent CPA for compliance. The consultant may seek professional guidance in selecting its independent CPA. See also the [AASHTO Audit Guide](#), Ch 2.5 C. *Selection of CPA Firm as Overhead Auditor* for guidance in the selection process. Training is also offered by FHWA's National Highway Institute (see <http://www.nhi.fhwa.dot.gov/default.aspx>). Courses offered include:

- Using the AASHTO Audit Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Audit Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA- NHI-231029)
- Using the AASHTO Audit Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

If consultants desire training on how to build an ICR and basic timekeeping, there are Indirect Cost Rate and Timekeeping webinars created by the Washington State Department of Transportation. The link to the webinars is available at <http://www.dot.ca.gov/audits/> (click on Architectural & Engineering Contracts/General A&E Contract Resources/Other State DOT Training Module). For training and additional information provided by Caltrans Local Assistance, visit Caltrans Local Assistance Blog at <http://www.localassistanceblog.com/>. For FHWA's Q&A for ICRs and audits, and A&E related services, visit FHWA at <http://www.fhwa.dot.gov/programadmin/172qa.cfm>.

### **Allowable Costs**

23 USC 112 (b)(2)(B) states that any A&E contract or subcontract awarded, whether funded in whole or in part with Federal-aid highway funds in furtherance of highway construction projects, shall be performed and audited in compliance with the Federal cost principles.

Local agencies are required to perform a cost analysis to ensure all costs are allowable and in compliance with federal and state requirements and retain documentation of negotiation activities and resources. Hourly rate(s) for each key personnel and/or classification of employee(s) proposed in cost proposals must be reasonable for the work performed and actual, allowable, and allocable in accordance with the Federal cost principles. Costs shall be allowable only if the cost is incurred and cost estimates included in negotiated prices are allowable in accordance with the federal and state regulations and procedures, and contract provisions. Examples of Cost Analysis Worksheets are provided at Exhibit 10-H1 through 4.

Local agencies are required to apply Caltrans accepted consultant or subconsultant's ICRs, to contracts. An ICR is valid for the one-year applicable accounting period accepted or audited by Caltrans. Consultants shall update, on an annual basis, ICRs in accordance with the consultant's annual accounting period and in compliance with the Federal cost principles. For further guidance, refer to 23 CFR Part 172.11(b)(1). If the consultant is subject to Cost Accounting Standards (CAS), the consultant must use the applicable ICR for the contract.



A consultant's accepted ICR for its one-year applicable accounting period shall be applied to contracts; however, once an ICR is established for a contract, it may be extended beyond the one-year applicable period, through the duration of the specific contract, provided all concerned parties agree. Agreement to the extension of the one-year applicable period shall not be a condition or qualification to be considered for the work or contract award. The contract must clearly specify the ICR period if it is beyond the one-year applicable period.

Consultants shall account for costs appropriately and maintain records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, and are allowable, reasonable, and allocable to the contract, and comply with Federal cost principles.

IOAI and representatives of the Federal Government have the right to conduct an audit of all contract costs. If the costs are subsequently determined to be unallowable, these costs are subject to repayment. For further guidance, refer to 23 CFR Part 172 and 48 CFR Part 31.

Generally, whenever local agencies, consultants and/or contractors are unable to provide requested documentation, it shall be viewed that the services were either not performed or the costs not properly recorded. Retention of all documents is required as it reduces the possibility of audit findings and **disallowed costs**. For more references, refer to Applicable Standards in this chapter.

## **Approval or Acceptance of Indirect Cost Rates**

### **Cognizant Letters of Approval**

A cognizant approved ICR has been audited by a Cognizant agency (a State transportation agency of the State where the consultant's accounting and financial records are located or a State transportation agency to which cognizance for the particular indirect cost rate(s) of a consulting firm has been delegated or transferred to in writing by the State transportation agency where the consultant's accounting and financial records are located) in accordance with generally accepted government auditing standards to test compliance with the requirements of the Federal cost principles (per 48 CFR part 31) and the cognizant agency has either 1) issued an audit report of the consultant's indirect cost rate or 2) conducted a review of an audit report and related workpapers prepared by a certified public accountant and issued a letter of concurrence with the audited indirect cost rate(s). The cognizant agency approves the ICR and a cognizant approval letter is issued.

### **Caltrans Acceptance of Indirect Cost Rate**

When the ICRs have not been established by a cognizant agency, Caltrans shall perform an audit or review of a consultant's and subconsultant's ICR(s) to provide reasonable assurance of compliance with Federal cost principles.

An audit or review of the ICR may consist of one or more of the following:

- Perform a review to determine if the ICR was prepared in accordance with 23 CFR 172, and 48 CFR, Chapter 1, Part 31;
- Perform an audit to determine if the ICR was prepared in accordance with 23 CFR 172, and 48 CFR, Chapter 1, Part 31; and issue an audit report;
- Review and accept an ICR audit report and related workpapers prepared by a CPA or another State Transportation Agency;

The outcome of an audit or review is for Caltrans to approve or accept the ICR so that it can be relied upon for future contracts with the consultant for a given one-year accounting period and for reliance by other contracting agencies using the same consultant. Local agencies shall ensure that only approved or accepted ICRs of consultants for the applicable one-year accounting period be applied to contracts, if rates are not under dispute. Local agencies may check IOAI's website for consultant's approved or accepted ICRs. All approved or accepted ICRs are issued an Acceptance Identification (ID) number by IOAI that is posted to IOAI's website at <http://www.dot.ca.gov/hq/audits/>. This ID number should be referenced on all future contracts that use the same fiscal year ICR. ICR can be fixed for the life of the contract in prior written document or annually updated. Once it has been updated, it must be annually updated and the most current fiscal year of ICR must be used.

ICRs that have not been accepted by Caltrans will not be eligible for indirect cost payment. An ICR approved by a cognizant agency may be used across states for the one-year applicable accounting period, but an ICR accepted by Caltrans may **only** be applied to A&E contracts with Caltrans or local agency contracts using pass-through Caltrans funding. Local agencies include Cities, Counties, Metropolitan Planning Organization, Special Districts, and Regional Transportation Planning Agencies.

### Financial Review Performed Prior to Contract Execution

All consultants, including prime and subconsultants, on a proposed contract with a dollar value greater than \$150K are subject to an ICR financial review by IOAI. The financial documents required are detailed in Exhibit 10-A, *A&E Consultant Financial Document Review Request Letter and Exhibit 10-A Checklist*. IOAI will review the ICR financial documents to either accept or adjust the indirect cost rate **prior to contract execution** using a risk-based approach as dictated by factors that include but are not limited to:

- History of satisfactory performance and professional reputation of consultant;
- Prior FAR compliant history and audit frequency;
- Experience of consultant with FAHP contracts;
- General responsiveness and responsibility;
- The approximate contract volume and dollar amount of all A&E contracts awarded to the consultant by Caltrans or a local agency in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;
- The relevant professional experience of any CPA performing audits of the consultants indirect cost rate;
- Assessment of consultant's internal control. Responses to internal control questionnaire, see AASHTO Audit Guide, Appendix B;
- For ICRs that have been adjusted by IOAI, the consultant must provide a revised cost proposal that reflects the adjusted ICR.

## Local Agencies' Responsibilities

Local Agencies are responsible for obtaining all required ICR supporting documentation from A&E prime consultants and sub-consultants as outlined in Exhibit 10-A (*A&E Consultant Financial Document Review Request*) and the Exhibit 10-A-Checklist. Local Agencies are responsible for forwarding these documents to IOAI for review. Local agencies are also required to ensure that IOAI has copies of the Exhibit 10-K "*Consultant Certification of Contract Costs and Financial Management System*" and Exhibit 10-H "*Cost Proposal*" for all consultants, both prime and sub-consultants. The ICR included in Exhibit 10-H must match the ICR included in the Exhibit 10-K and the consultant's ICR schedule. The proposed ICR, however, can be lower than ICR in Exhibit 10-K and the consultant's ICR schedule if the consultant elects to propose a lower ICR. For contracts spanning more than one year, local agencies are responsible for ensuring the Exhibit 10-K and cost proposals are updated annually unless all concerned parties agree to fix the ICR for the term of contract, and this is clearly specified in the contract. ICR updates are not required to IOAI if the ICR is fixed for the life of the contract. ICR's are only reviewed for consultants that are being awarded a contract, not consultants on a bench or shortlist.

The Exhibit 10-H "*Cost Proposal*" includes contract costs: direct salary or wage rates, fixed fees, other direct costs, indirect costs, total costs, and certification for the costs. Local agencies must perform and retain documentation of activities and resources used to support that a cost analysis has been performed to establish that costs and elements were determined to be fair and reasonable in accordance with Federal cost principles.

All contract supporting documentation must be retained by the local agency in project files for the required retention period. Unsupported costs may be disallowed and required to be returned to Caltrans. Having proper documentation policy and procedures, trained staff and organized project files are essential for demonstrating that costs claimed and reimbursed have been incurred, are eligible, reasonable, allowable, and allocable to the contract and comply with Federal cost principles.

Contracts below \$150,000 are not subject to the Caltrans Financial Document Review but local agencies are required to establish that all costs are in compliance with the Federal cost principles, 48 CFR, Chapter 1, Part 31, and other applicable requirements are met. All documents listed above and cost analysis documents are required to be retained in the project files to demonstrate compliance.

Instructions are provided in the Exhibit 10-A on the requirements for submitting a complete Financial Review packet. Financial packets can be e-mailed to:  
[conformance.review@dot.ca.gov](mailto:conformance.review@dot.ca.gov).

Alternatively, if you do not have Internet access, you can mail Financial Review packets to:

Department of Transportation  
Independent Office of  
Independent Office of Audits and  
Investigations, MS 2 Attention:  
External Audit Manager

P.O. Box 942874 Sacramento, CA 94274-0001

**Consultants' Responsibilities (Both prime consultants and subconsultants)**

A&E prime consultants and subconsultants in contract with local agencies using state or federal-aid highway funds should refer to Exhibit 10-A and the 10-A Checklist for the ICR financial documents required to be submitted to their local agency. Consultants must complete the "Annual Certification of Indirect Costs and Financial Management System" (Exhibit 10-K) that attests that the ICR rate proposed is in compliance with FAR (48 CFR, Chapter 1, Part 31) and that the consultant's financial management system is adequate to accumulate and segregate, reasonable, allowable, and allocable direct and indirect project costs. For all future contracts within a same fiscal year, the consultant needs to only provide a copy of the Exhibit 10-K to the Local Agency. The Exhibit 10-A and 10-K should be submitted to the local agency who will forward a copy to IOAI along with all other related and required financial documents. For guidance see Training Module for Financial Document Requirements for A&E Contracts with Local Agencies on IOAI's website <http://dot.ca.gov/audits/> (click on Architectural & Engineering Contracts/A&E Contracts with Local Agencies/Training Modules).

Consultants must follow all the federal, state, and contract requirements outlined above in the Section above, "*Applicable Standards*". Each contracting consultant must ensure its ICR is not combined with any parent company's or subsidiary's ICR.

ICR schedules for both prime consultants and sub-consultants should be prepared using the accrual basis of accounting and be presented in compliance with the Federal cost principles. Figure 10-3 at the end of this chapter provides an example of a Standard Indirect Cost Rate Schedule that consultants can use when preparing their own.

For public works Prevailing Wage contracts, all workers must be paid the prevailing wage rate determined by the Director of the Department of Industrial Relations according to the type of work and location of the project. <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>. Prime and sub-consultants must include prevailing wage rate information in the cost proposal (*see Exhibit 10-H4 for example*) and provide a Prevailing Wage Rate Policy on company letterhead, signed and dated. The policy must document the accounting treatment for prevailing wage deltas and including the following information:

- Description of types of work that require payment of prevailing wage rates.
- Explanation of how the firm pays prevailing wage deltas (e.g. pay directly to employee as single amount to cover delta base and delta fringe, pay delta base to employee and pay delta fringe amount to a third-party plan, etc.)
- Accounting method used for prevailing wage delta base costs.
- Accounting method used for prevailing wage delta fringe costs.

For guidance see Caltrans' Prevailing Wage Interpretive Guidance and webinar on IOAI's website [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

When determined necessary, IOAI may request additional information, such as a labor distribution summary and Executive Compensation Analysis (ECA). A consultant's labor distribution summary report is a labor expense report that detail all hours worked (paid and unpaid) for a fiscal year, wages earned, and benefits accrued by all the consultant's employees.

The labor summary report should include employee names, salaries, hourly rates, total hours worked segregated by direct hours, indirect hours, paid time off hours, and uncompensated hours and amounts.

An ECA is an evaluation by the consultant to determine the allowability and reasonableness of executive compensation in compliance with Federal cost principles and the AASHTO Audit Guide that can be based on either the National Compensation Matrix or independent compensation surveys.

### **Independent Office of Audits and Investigations' Responsibilities**

After IOAI receives a consultant's complete financial document packet (per Exhibit 10-A and Exhibit 10-A Checklist) from the local agency, IOAI will review the proposed ICR and supporting documents and notify local agencies in writing whether the proposed ICRs are accepted or adjusted.

Contracts will be executed after IOAI either accepts or adjusts the ICR and a revised final cost proposal (if applicable) is received. Correction of the final cost proposal, however, does NOT need to be cleared through Caltrans IOAI before executing the contract. An email notification from IOAI serves as documentation to support an accepted ICR.

### **Audits and Reviews to be Performed**

After contract execution, a consultant's ICR may be subject to further detailed review or audit by IOAI based on certain risk factors. Costs that are determined to be unallowable as a result of the review or audit will be subject to repayment.

### **Indirect Cost Rate Audits**

During an ICR audit, IOAI or an independent CPA will examine the consultant's proposed ICR for a one-year accounting period to ensure that unallowable costs have been removed from the indirect costs, that allowable costs have been correctly measured and properly charged and allocated, and that the ICR has been developed in accordance with the Federal cost principles (as specified in 23 U.S.C. Section 112(b)(2)(B), 23 CFR Part 172.11, 48 CFR Part 31 and other FAR and State requirements). As a result of the audit, the local agency will work with the consultant to adjust the ICR based on audit recommendations.

For guidance regarding the existing policies and procedures set forth in the federal regulations, and acceptable ICR schedules, refer to the AASHTO Audit Guide, Chapter 5, and Figure 10-3 Standard Indirect Cost Rate Schedule in this Chapter. There is also a review program at Appendix A which serves as a guide for CPAs and IOAI when performing ICR audits and can also be used as a resource for consultants when preparing for an ICR audit.

### **CPA Workpaper Reviews**

During a workpaper review of a CPA audit of an ICR, IOAI will review the CPA's audit workpapers to determine whether to issue a Cognizant Letter of Approval for the ICR. The CPA Workpaper Review determines whether: (a) the CPA's audit of the ICR was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), (b) the CPA

adequately considered the auditee's compliance with the Federal cost principles and related federal and state laws and regulations.

Chapter 11 of the AASHTO Audit Guide provides information to the CPA on the required audit disclosures.

**IMPORTANT NOTE FOR CPAs:** Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing is required. GAGAS provides that auditors may find it appropriate to use lower materiality levels as compared with the materiality levels used in non-GAGAS audits because of the public accountability of government entities and entities receiving government funding, various legal and regulatory requirements, and the visibility and sensitivity of government programs. The AASHTO Audit Guide should be used as a tool for performing audits and attestations of A&E firms.

### **Contract Audits**

During a Contract Audit, auditors will review a consultant's financial management system and contract cost proposal to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Costs are reasonable, allowable, allocable and supported adequately;
- The contract contains all required fiscal provisions;
- Proper state and federal procurement requirements were followed.

### **Incurred Cost Audits**

During an Incurred Cost Audit, auditors will review incurred contract costs to determine if:

- Cost data are maintained in an accounting system that adequately gathers, records, classifies, summarizes, and reports accurate and timely financial data for direct and indirect project costs by account;
- Costs are adequately supported, reasonable, allowable, and allocable;
- Costs incurred are in compliance with state and federal laws and regulations;
- Costs incurred are in compliance with the Master Agreement and Supplemental Agreement;
- Costs incurred are in compliance with the fiscal provisions stipulated in the contract; and
- The terms required by the Master Agreement and federal laws and regulations are in the contract.

### **Audit Findings and Review Deficiencies**

If a consultant's ICR is audited or reviewed, local agencies are responsible for ensuring all executed and future contracts reflect the audited and adjusted fiscal year ICR(s). Local agencies should request reimbursement from the consultant for overpayment on rates that were adjusted down.

The local agencies may be subject to sanctions outlined in [LAPM Chapter 20: Deficiencies and Sanctions](#) if the state or federal government determines that any reimbursements to the

consultant are the result of lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

### Example of a FAR Compliant Indirect Cost Rate Schedule - Sample Consulting Company

Statement of Direct Labor, Fringe Benefits, and General Overhead for the Year Ended December 31, 20xx

| Description                                  | General Ledger Balance | Unallowable    | FAR Reference | Total Proposed | Home Office  | Field Office |
|--|------------------------|----------------|---------------|----------------|--------------|--------------|
| Direct Labor                                 | \$123,456,789          | (\$934,568)    | (1)(15)       | \$122,522,221  | \$85,765,555 | \$36,756,666 |
| <b>Fringe Benefits</b>                       |                        |                |               |                |              |              |
| Vacation/Paid Leaves                         | \$17,283,950           |                |               | \$17,283,950   | \$12,098,765 | \$5,185,185  |
| Payroll Taxes                                | \$1,530,864            | (\$30,617)     | (15)          | \$1,500,247    | \$1,050,173  | \$450,074    |
| Medical Insurance                            | \$10,864,197           |                |               | \$10,864,197   | \$7,604,938  | \$3,259,259  |
| 401K Match                                   | \$4,938,272            |                |               | \$4,938,272    | \$3,456,790  | \$1,481,481  |
| Incentives and Bonus                         | \$15,308,642           | (\$3,123,456)  | (2)           | \$12,185,186   | \$8,529,630  | \$3,655,556  |
| Other Employee Benefits                      | \$2,515,280            | (\$553,433)    | (3)           | \$1,961,847    | \$1,373,293  | \$588,554    |
| <b>Total Fringe Benefits</b>                 | \$52,441,206           | (\$3,707,506)  |               | \$48,733,700   | \$34,113,590 | \$14,620,110 |
| <b>General &amp; Administrative Overhead</b> |                        |                |               |                |              |              |
| Indirect Overhead Labor                      | \$72,696,030           | (\$4,452,541)  | (1)(2)(4)(15) | \$68,243,489   | \$65,790,948 | \$2,452,541  |
| Purchased Labor/Subconsultants               | \$22,433,019           | (\$22,433,019) | (5)           | \$ -           | \$ -         | \$ -         |
| <b>Office Rent</b>                           | \$12,345,679           | (\$987,654)    | (6)           | \$11,358,025   | \$11,038,025 | \$320,000    |
| Supplies & Utilities                         | \$5,753,086            |                |               | \$5,753,086    | \$4,027,160  | \$1,725,926  |
| Postage and Shipping                         | \$1,770,000            | \$321,456      | (5)           | \$2,091,456    | \$1,464,019  | \$627,437    |
| Equipment and Maintenance                    | \$3,812,346            |                |               | \$3,812,346    | \$2,512,789  | \$1,299,557  |
| Depreciation Expense                         | \$6,202,469            | (\$1,345,678)  | (7)           | \$4,856,791    | \$3,205,482  | \$1,651,309  |
| Interest                                     | \$123,456              | (\$123,456)    | (8)           | \$ -           | \$ -         | \$ -         |
| Dues and Subscription                        | \$123,456              | (\$12,345)     | (9)           | \$111,111      | \$77,778     | \$33,333     |
| Advertising & Marketing                      | \$427,406              | (\$45,678)     | (10)          | \$381,728      | \$267,210    | \$114,518    |
| Vehicles                                     | \$5,896,123            | (\$147,403)    | (5)(11)(14)   | \$5,748,720    | \$4,024,104  | \$1,724,616  |
| Bad debts                                    | \$12,345               | (\$12,345)     | (12)          | \$ -           | \$ -         | \$ -         |
| <b>Legal and Accounting Services</b>         | \$3,713,580            | (\$222,815)    | (13)          | \$3,490,765    | \$3,490,765  | \$ -         |
| Fines and Penalties                          | \$80,000               | (\$80,000)     | (16)          | \$ -           | \$ -         | \$ -         |
| <b>Total General &amp; Admin. Overhead</b>   | \$135,388,995          | (\$29,541,478) |               | \$105,847,517  | \$95,898,280 | \$9,949,237  |



**Consultant Selection**

|                      |  |  |  |               |               |              |
|----------------------|--|--|--|---------------|---------------|--------------|
| Total Indirect Costs |  |  |  | \$154,581,216 | \$130,011,870 | \$24,569,347 |
| Indirect Cost Rates  |  |  |  | 126.17%       | 151.59%       | 66.84%       |

**Figure 10.3: Standard Indirect Cost Rate Schedule****FAR References:**

- (1) FAR 31.202: Uncompensated overtime.
- (2) FAR 31.205-6: Profit distribution and excess of the reasonable compensation.
- (3) FAR 31.205-46, 31.205-14 & 31.205-51: Meals not for valid business purposes and associated with lobbying and lacking adequate support
- (4) FAR 31.201-2: Administrative staff costs billed to projects/clients.
- (5) FAR 31.201-2: Subconsultant labor and other direct costs billed to and paid by contracts/clients.
- (6) FAR 31.205-36 and 31.205-17: Capital lease costs, rent paid in excess of reasonable costs, and idle facilities and capacity costs.
- (7) FAR 31.201-2 & 31.205-6: Costs relates to personal use by employees and luxury vehicles.
- (8) FAR 31.205-20: Interest and other financial costs not allowable.
- (9) FAR 31.201-2: Non-business related dues and subscriptions.
- (10) FAR 31.205-1: Costs for advertisement and public relations costs and trade show expense including labor.
- (11) FAR 31.205-46(d) and 31.205-6(m)(2): Personal use of vehicle and lack of mileage logs and business purpose.
- (12) FAR 31-205-3: Bad debts and collection costs.
- (13) FAR 31.205-27 and 31.205-47: Reorganization and capital raising related costs and costs incurred in connection with violation of a law or regulation by the consultant.
- (14) FAR 31.205-46: Unreasonable costs and costs not supported by documents and lack of business purpose.
- (15) FAR 31.201-6(a) & CAS 405-40: Labor costs associated with unallowable costs.
- (16) FAR 31.205-15: Fines and penalties resulting from violations of laws and regulations.

This section outlines the audit and review process for A&E contracts that at any time use federal and/or state funds. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach.

**10.1.4 CONSULTANT SELECTION METHODS**

Figure 10-4: Consultant Selection Flowchart shows the three methods normally used in selecting a consultant. They are:

- One-Step RFP;
- One-Step RFQ;
- Two-Step RFQ/RFP.



**Consultant Selection**

The method used depends upon the scope of work, the services required, the project's complexity, and the time available for selection of the consultant.

Beginning with [Section 10.1.5: Consultant Selection Using the One-Step RFP Method](#), each of the selection methods is explained in detail. Regardless of the method used, the local agency shall retain all consultant selection documentation in their project files as required by 23 CFR Part 172.

**One-Step RFP**

The One-Step RFP method may be used for Project-specific contracts when the scope of work is well defined or for Multi-phased contracts where the defined scope of work is divided into phases. Other considerations include when the consultant's services are highly specialized and there are few qualified consultants.

**One-Step RFQ**

The One-Step RFQ method is used when the requested services are specialized, or the scope of work is defined broadly and may include multiple projects. Typical services are preliminary engineering, surveying, environmental studies, preparation of Plans Specifications and Estimate (PS&E) and environmental documents, or construction management. This method or the two-step selection process is used for procurement of on-call contract(s). Note that specifications and requirements in the RFQ must cover all aspects of the final need. A RFP specific to the project, task, or service must be included in the solicitation for evaluation of a consultant's specific technical approach and qualifications.

**Two-Step (RFQ Followed by RFP)**

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple on-call contracts, or on-call list, through a single solicitation. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications. For more information, refer to description of on-call contract in [Section 10.1.2: Identifying & Defining a Need for Consultants](#). This method requires substantially more work and time than the other two methods described above.

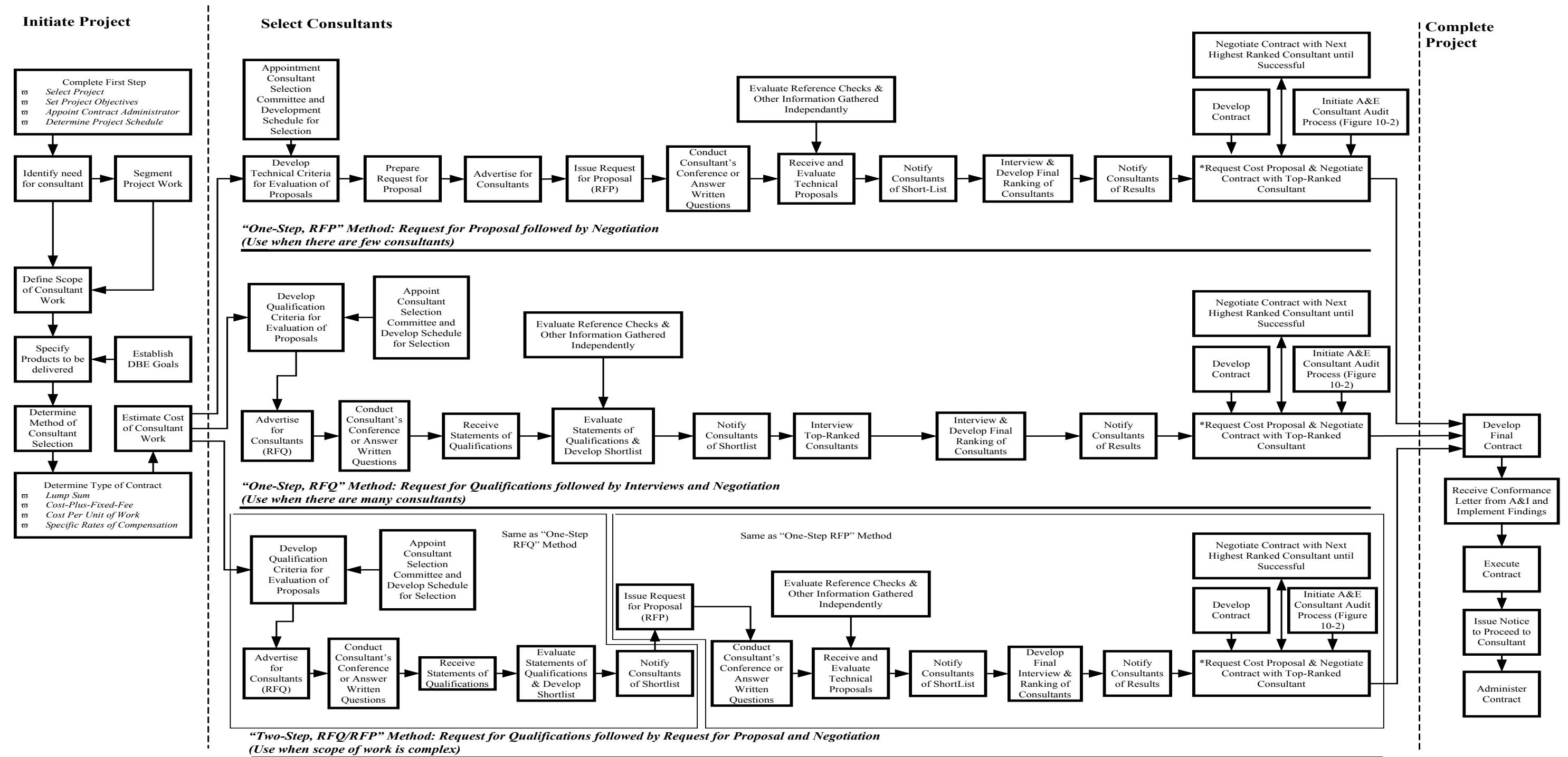


Figure 10-4: Consultant Selection Flowchart

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### 10.1.5 CONSULTANT SELECTION USING THE ONE-STEP RFP METHOD

Of the three methods discussed, this one is most easily modified for non-A&E consulting contracts. This procurement procedure usually involves a single step process with issuance of a request for proposal (RFP) to all interested consultants. For non-A&E consulting contracts, a cost proposal shall be part of the RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been final ranked based upon their submitted technical proposal.

#### **Appoint Consultant Selection Committee**

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the agency and subject to availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

#### **Develop Technical Criteria for Evaluation of Proposals**

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant proposals. In-State or local preference shall not be used as factor in the evaluation, ranking, and selection phase. All non-technical evaluation criteria, including DBE participation, shall not exceed 10 percent (23 CFR 172.7(a)(1)(iii)(D)). All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

## Develop Schedule for Consultant Selection

Before the contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm key dates with all selection committee members before completing the schedule.

## Prepare RFP

The information required in an RFP solicitation includes the following:

- Description of project;
- Clear, accurate, detailed Scope of work, technical requirements, and qualifications;
- Services to be performed;
- Deliverables to be provided;
- Procurement schedule;
- Applicable standards, specifications, and policies;
- Schedule of work (including estimated start and end dates of the contract);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate concealed format. Cost proposals are requested from the highest ranked firm. If these negotiations are formally terminated, the cost proposal is then requested from the next highest ranked firm. See [Exhibit 10-H: Sample Cost Proposal \(Example 3\)](#) for sample cost proposal formats;
- Contract audit and review process requirements (see [Section 10.3: A&E Consultant Audit and Review Process](#));
- Proposal format and required contents;
- Method, criteria and weighting for selection;
- Requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;
- Specify contract type;
- Special provisions or contracts requirements;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#);
- Protest procedures and dispute resolution process per 2 CFR Part 200.318(k), 2 CFR 172.5(c)(18).

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. A minimum of fourteen (14) calendar days is required between the time the RFP is published and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);
- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team – complete for prime consultant and all key subconsultants;
- Key personnel names and classifications – key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant's project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- Consultant DBE Commitment document, see [Exhibit 10-01: Consultant Proposal DBE Commitment](#);
- References.

### Financial Management and Accounting System Requirements

The local agency must ensure that consultant contract solicitation and advertising documents (RFPs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 2 CFR Part 200, and 48 CFR Part 31. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

### Advertise for Consultants

The solicitation process for consultant services shall be by public advertisement, or by any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of contract. The minimum length of advertisement is 14 calendar days.

Advertisement of the RFP in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting government contract solicitations such as BidSync, Planetbids, or posting the RFP on the local agency's or other widely used websites are all acceptable methods of solicitation.

To document website postings, the local agency should retain copies of screen shots displaying the posted begin/end dates.

**Issue/Publish RFP**

The local agency shall publish the RFP on line and also issue the RFP to all consultants responding to newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded RFP on line as well as those receiving an RFP through other means, to ensure that any inquiry responses, addendums, or amendments to the RFP are given to all consultants that received the RFP.

**Conduct Proposer's Conference or Answer Written Questions**

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The local agency must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

**Receive and Evaluate Technical Proposals**

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended. The members of the consultant selection committee must evaluate each proposal according to the technical criteria listed in the RFP. Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. The justification should state that the solicitation did not contain conditions or requirements that arbitrarily limited competition per 23 CFR 172(a)(1)(iv) (D) and competition is determined to be inadequate and it is not feasible or practical to re-compete under a new solicitation per 23 CFR 172(a)(3)(iii)(C). If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

## Develop Final Ranking and Notify Consultants of Results

The selection committee discusses and documents the strengths and weaknesses of each proposal; interviews the three or more highest ranked consultants (short listed); and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

## Negotiate Contract with Top-Ranked Consultant

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [Exhibit 10-K: Consultant Certification of Contract Costs and financial Management System](#) of Costs and Financial Management System and [Exhibit 10-A: A&E Consultant Financial Document Review Request and Checklist](#), whichever is applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) should be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their technical proposal.

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceeds to the next most qualified consultant. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the local agency. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFP and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of in accordance with the local agency's written policies and procedures.

The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. Items necessary for the independent cost estimate include, hours/detailed work, direct labor costs, indirect labor



costs, other direct costs, and profit/fee. Agencies must retain documentation of how the cost estimate was developed. It can be revised, if needed, for use in negotiations with the next most qualified consultant. A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) in this chapter). Local agency Contract Administrator ensures that all required documentations are provided to Caltrans IOAI within 10 days of written request, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Document Review until all required documentation is completed correctly and submitted. Negotiations should be finalized after addressing all deficiencies noted in the Caltrans IOAI Financial Review Letter if applicable. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees. Fee is required to be negotiated as a separate element;
- Hours, level of effort by task and/or classification.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. The local agency and the consultant will agree on the final cost proposal and incorporate into final contract. Retain all documentation related to negotiations.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#)), and adjustment or denial of ICR as identified in the Financial Review Letter has been included in the final cost proposal, if applicable.

Prior to contract award, the local agency must submit a completed [Exhibit 10-C](#) signed by the Contract Administrator for all new or amended federal funded A&E consultant contracts to [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov) for Caltrans review and acceptance. If there are any changes to the contract after Caltrans acceptance of [Exhibit 10-C](#), the local agency must notify Caltrans and provide a copy of an updated [Exhibit 10-C](#) and all contract amendments to [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov). Execution of an A&E consultant contract without Caltrans acceptance may result in ineligibility for reimbursement. Submission of [Exhibit 10-C](#) to Caltrans HQ for acceptance is not required for non-A&E consultant contracts.

### 10.1.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD

The RFQ method is used when the services being procured are specialized, or the scope of work is defined broadly and may include multiple projects.

### Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a shortlist of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the scope of work to be contracted out and with the local agency standards that will be used in the contract.

Participation by a Caltrans district representative is at the option of the local agency and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in [Exhibit 10-T: Panel Member Conflict of Interest & Confidentiality Statement](#).

### Develop Technical Criteria for Evaluation of Qualifications

The Contract Administrator is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant qualifications. The criteria and relative weights must be included in the RFQ, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for federal or state reimbursement. [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#) is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

### Develop Schedule for Consultant Selection

Before a contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm target dates with all selection committee members before completing the schedule.

### Prepare RFQ

As a minimum, the RFQ generally includes the following:

- General description of the services or project(s);
- Scope of work;
- Schedule of work (including contract begin and end dates);

- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See [Exhibit 10-H: Sample Cost Proposal](#) for sample cost proposal formats;
- Contract audit and review process requirements (see [Section 10.1.3: A&E Consultant Audit and Review Process](#));
- Statement of Qualification (SOQ) format and required content to be submitted;
- Method and criteria and weights for selection;
- A DBE contract goal is specified in the solicitation (see [Exhibit 10-I: Notice to Proposers DBE Information](#)), if a federal-aid contract;
- Consultants acting in a management support role requirements [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#); Protest procedures and dispute resolution process per 2 CFR Part 200.318(k).

The RFQ specifies the content of the SOQ, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFQ is published and time that SOQs must be submitted. More time may be required for complex contracts or scope of work.

Items typically required in a statement of qualification include:

- Qualifications of key personnel (including consultant project manager) proposed for the contract. Key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Related projects that key personnel have worked on;
- Qualifications/experience of the firm;
- Organizational chart;
- Forecast or Schedule of work;
- Consultant DBE Commitment document, see [Exhibit 10-O1: Consultant Proposal DBE Commitment](#);
- References.

### Financial Management and Accounting System Requirements

The local agency must ensure that Consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 2 CFR Part 200, and 48 CFR Part 31. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

**Advertise for Consultants**

The solicitation process for consultant services shall be by public advertisement or any other public forum or method that assures qualified in-State and out-of-State consultant are given a fair opportunity to be considered for award of contract. The RFQ must contain sufficient project work information, so that interested consultants can submit an appropriate SOQ.

Advertisements for RFQ may take one of two approaches. The most common is an advertisement or publication of the RFQ in a major newspaper of general circulation, technical publication of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting contract solicitations such as Bid Sync, PlanetBids, or posting the RFQ on other widely used websites. To document website postings, the local agency should retain copies of screen shots displaying the posted begin/end dates.

In the second approach, the local agency advertises the availability of the RFQ in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, or through a web hosting or clearing houses known for posting contract solicitations such as BidSync or PlanetBids, and requests that interested consultants send a letter of interest to the local agency for the RFQ. The RFQs shall then be sent to those firms who indicated interest in the RFQ. In some cases, it may be desirable to advertise nationwide for a particular project or service. This approach provides a registry for firms who received the RFQ and therefore facilitates the broadcast of any revisions or addenda to the RFQ, if necessary.

**Issue/Publish RFQ**

The local agency shall publish the RFQ online and also issue the RFQ to all consultants responding to newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded the RFQ on line as well as those receiving an RFQ through other means, to ensure that any inquiry responses, addendums, or amendments to the RFQ are given to all consultants that received the RFQ.

**Receive/Evaluate Statements of Qualifications and Develop Shortlist**

The first step in the evaluation process is to determine that each SOQ contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented and signed by the DLAE. In either case, the re-advertisement of the RFP should be considered as an option.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant's references. This check applies to major subconsultants also. The committee establishes a shortlist of consultants who are considered to be best qualified to perform the contract work. The shortlist includes enough qualified consultants to ensure that at least three consultants are interviewed.

### **Notify Consultants of Shortlist**

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants (short list) that will be requested to attend interviews. Most consultants will request information as to why they were not placed on the shortlist. Therefore, the selection committee should keep notes why a particular consultant was not selected for the shortlist. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

### **Interview Top-Ranked Consultants**

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed scope of work, and/or description of required services, and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the shortlist and interviews, the local agency may answer any questions concerning the scope of work to be contracted out, if not done earlier during the solicitation. In addition, the local agency may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the local agency in writing. It is required that all consultants on the shortlist receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks and other information may be discussed with the consultant at the interview.

Interviews are to be structured and conducted in a formal manner. Each consultant shall be allowed the opportunity to make a presentation if desired; however, a time limit should be specified. Interview questions are prepared in advance.

Two types of questions may be asked:

- Questions that are to be asked of all competing consultants, and
- Questions relating to each specific consultant, based upon the reference checks, and the strengths and weaknesses identified during evaluation of the SOQ

The agency can request competing consultants to bring additional information or examples of their work to the interviews; if the additional information facilitates the interview or evaluation process. Additional information requested should be kept at a minimum, that is, only

information required to select the most qualified consultant for the contract. The selection committee or local agency shall not gather additional information concerning the consultants after the interviews are completed.

### **Develop Final Ranking and Notify Consultants of Results**

All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not selected as the most qualified. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective. Consultants should not be compared with each other or provided with information about other consultants during the debriefing.

Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing. The next two sections provide guidance when the RFQ is solicited for specialized services and additional information is required prior to cost negotiations with consultant. For on-call contracts, skip the next two sections and begin Negotiation phase.

### **Conduct Scoping Meeting**

The Contract Administrator meets with the first-ranked consultant's project manager to review the project, and to ensure that the consultant has a complete understanding of the work that is required. The consultant is shown as much material as is available regarding the project. Any technical questions regarding the project are answered for the consultant.

### **Request Cost Proposal**

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

### **Negotiate Contract with Top-Ranked Consultant**

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as [\*Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System\*](#) and [\*Exhibit 10-A: A&E Consultant Financial Document Review Request and Checklist\*](#), whichever

applicable (see [Section 10.1.3: A&E Consultant Audit and Review Process](#)) will be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short-listed consultants only, at time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultant with their statements of qualification.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and compares it with the local agency's confidential detailed independent cost estimate and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated.

Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant.

At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

Cost proposals in electronic form shall be submitted separately from the RFQ and contained in a secure database that is inaccessible to the members involved in the A&E consultant contract procurement process. Only the cost proposal of the most qualified consultant will be requested to be sent to the members. Cost proposals of unsuccessful consultants are confidential and shall not be opened by the local agency or any private entity that the local agency uses to store the cost proposals. Any concealed cost proposals of the unsuccessful consultants must be returned unopened or properly disposed of by permanently deleting the cost proposals in accordance with local agency's written policies and procedures.

A contract audit and review may be required (see [Section 10.1.3: A&E Consultant Audit and Review Process](#) earlier in this chapter). Local agency Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Financial Review, if applicable. Caltrans IOAI will not proceed with a Financial Review until all required documentation is completed correctly and submitted. Negotiations may be completed after receipt of the Caltrans IOAI Financial Review Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Staffing plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;



- Cost items, payments and fee. Fee is required to be negotiated as a separate element.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency. For on-call contracts, typically a price agreement is reached based on specific rate of compensation for the term of the contract. The subsequent task orders (or mini agreements for individual project work) is negotiated based on actual cost plus fee, or lump sum, which is derived from the wage rates agreed upon earlier for the on-call contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#)), and receive Caltrans IOAI's Financial Review acceptance letter, if applicable.

Prior to contract award, the local agency must submit a completed [Exhibit 10-C](#) signed by the Contract Administrator for all new or amended federal funded A&E consultant contracts to [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov) for Caltrans review and acceptance. If there are any changes to the contract after Caltrans acceptance of [Exhibit 10-C](#), the local agency must notify Caltrans and provide a copy of an updated [Exhibit 10-C](#) and all contract amendments to [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov). Execution of an A&E consultant contract without Caltrans acceptance may result in ineligibility for reimbursement. Submission of [Exhibit 10-C](#) is not required for non-A&E consultant contracts.

### 10.1.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD

#### Combined RFQ and RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals. This procurement procedure involves a multiphase process with issuance of a request for qualifications (RFQ) whereby responding consultants are evaluated and ranked based on qualifications and an RFP is then provided to three or more of the most highly qualified consultants.

A different process may also be used that includes assessing minimum qualifications of consultants to perform services under general work categories or areas of expertise through a prequalification process whereby annual statements of qualifications and performance data are encouraged. These consultants are not ranked, and an RFP must be submitted to the entire list for evaluation and consideration. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

The initial steps in this method (up to the development and notification of the shortlist) are similar to the steps followed when using the One-Step RFQ method. At this point, the consultants from the shortlist are issued an additional RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps is indicated in Figure 10-4: Consultant Selection Flowchart. Because it is a combination of the One-



Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is not clearly known, very complex or unusual.

The Two-Step RFQ/RFP is also well suited for procuring multiple on-call contracts through a single solicitation. The outcome of the first step RFQ will be multiple contracts, or on-call list of consultants. For multiple on-call contracts, project work will be procured thru subsequent competition or mini-RFPs amongst the on-call consultants. The mini-RFP or the task order will be negotiated with first ranked firm from each competition. Task order (mini-RFP) cost will be based on wage rates established in the master on-call contract, and the time and deliverable requirements in the task order.

Local agencies may also use this method to develop and maintain a pre-qualified file/list of consultant firms by specific work categories or areas of expertise or to create a bench list of evaluated and ranked consultants. The pre-qualified data file or interest list can be updated annually or every two years. This list contains minimum qualifications and has not gone through the evaluation process. The pre-qualification list must be maintained by the agency.

The mini-RFP contains evaluation criteria that matches the strengths of the qualified firms to the specifics of the known tasks, thereby selecting the most qualified firm for each task. The evaluation can include: availability of personnel, staff capabilities, DBE (10% or less of overall score), completion time, experience of consultant, specialized expertise, and past performance. The overall DBE goal was established at the master on-call contract.

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use when the scope of work is very complex or unusual.

### **Categorize work**

Descriptions of the categories of work, deliverables and the minimum qualification standards for each category must be clearly identified.

The local agency may prequalify consulting firms in the following (or more) categories:

- Roadway Design
- Bridge Design
- Bridge Inspection
- Traffic Engineering
- Environmental Services
- Roadway Construction Inspection and Administration
- Landscape Architecture
- Land Surveying
- Intelligent Transportation System (ITS)
- Federal-aid Highway Project Development Support Services

**Establish Minimum Qualifications**

In an effort to ensure quality performance and results, a consultant should be required to meet certain minimum qualifications to be eligible for consideration in the pre-qualification process.

General criteria guidelines should be established for consultant selection for a pre-qualified list. The criteria may be established by an individual or a panel of subject matter experts for the specific task of developing the criteria. Some agencies also establish appropriate weights for each criterion. It may be necessary to modify the criteria to fit specific cases. When a RFQ is published, it should state the criteria that will be used in the selection process.

Criteria for evaluating statements of qualifications, may include but are not limited to:

- Special expertise and experience of the firm's key employees
- Proposed staffing (include number of licensed and specialized staff) for the project and previous experience of those identified
- Experience of the firm and their personnel on previous projects similar to the one under consideration
- Consultant DBE Commitment document (see Exhibit 10-O1)
- Professional references by the firm with the local agency
- Understanding of the project by the firm as demonstrated by their approach to organizing and management of the work
- Current workload of the firm and their ability to meet the proposed project schedule
- Quality of previous performance by the firm with the local agency
- Use of sub-consultants to accomplish work on the project
- Equipment the firm has available and proposes to use as compatibility with Computer-Aided Drafting and Design (CADD) and other equipment proposed to be used in accomplishing the work
- Familiarity with federal, state, and local codes, requirements, standards, and procedure
- Examples of minimum qualifications for work categories above are provided here based on Caltrans best practices.

**Issue RFQ**

The need for services of a consulting firm may be advertised in appropriate national, state, and local publications and web sites. Notices can also be sent to firms known to be qualified to do specific work, to professional societies, and to recognized Disadvantaged Business Enterprises (DBE) organizations. The advertisements and notices seek statements of interest and qualifications from consultants who are interested in the project. The DBE goal is established at the master on-call contract and included in the solicitation document.

The SOQ should list consulting firm details, names of principals, office locations, personnel by discipline, project experience and examples, current workload, types of service the firms are qualified to perform, and previous performance. Also, resumes of key persons, specialists, and other associates that may be assigned to the project or projects should be included. This

information should be the basis for evaluating and placing a consulting firm on a general pre-qualification list.

Federal regulations require that any procedures related to pre-qualifying consultant cannot restrict competition.

Pre-qualification of consultants may be allowed as a condition for submitting a technical proposal for a contract only if the period between the date of the issuance of the RFP and the deadline for submitting a technical proposal affords sufficient time to enable a consultant to obtain pre-qualification status.

Another practice is to qualify consultants on a project-by-project basis. This is accomplished for some agencies by advertising or publishing notices in national, state, and local publications for needed services for specific, individual projects. These notices include a precise project location, a defined preliminary scope of services to be performed, a specific schedule within which the work is to be completed, and a list of products and deliverables to be provided by the consultant. Specific project advertisements usually are published when the proposed project is large and complex, in-house resources are not available, special expertise is required, or the objectivity of an outside authority is desired.

Appropriate Federal-aid requirements should be complied with on Federal-aid projects.

### **Set-Up Evaluation Process**

The first step in the evaluation process is to determine that each SOQ contains all forms, qualifications and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Documentation of when each SOQ was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

If all required information is not provided, a SOQ may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed.

Local agency must establish a process by which SOQs are evaluated and consultants who are deemed meeting the minimum qualifications are accepted and placed on a pre-qualified list. Whether the Local agency has a “committee” of experts evaluating the SOQs or individuals responsible for the evaluation, the process must be well defined, open and transparent. The pre-qualification process must also allow for consultants to be re-evaluated in cases of denials. The local agency must specify how long the pre-qualified list last, not to exceed two years. Federal regulation recommends refreshing the SOQs on an annual basis.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in Exhibit 10-T.

**Evaluate Qualifications and Add Firm to List**

All SOQs received should first be reviewed for completeness. Each response must contain all required forms and any other information requested in the advertisement. The response may be considered incomplete and rejected without further evaluation if all required information is not provided or if the submittal is late.

The qualifications of all responding firms are then reviewed according to established evaluation criteria or factors. The agency then establishes a short list of at least three consultants that are determined to be the most highly qualified to perform the required work. Firms not selected should be notified in writing.

**Maintain List**

Pre-qualification of a consultant expires in two years. Pre-qualified consultants must renew their pre-qualification status every two years. Firms can apply to be on the list at any time. After a period of two years, firms should re-apply (repeat the process of submitting SOQs) to be on the list. In addition to the required two-year renewal process, the consultant should also be required to update the firm's organizational structure within one year when there is a corporate/affiliate change, ownership control, type of work expertise, capacity, or any other major change.

If the consultant does not meet the minimum requirements and their SOQ is rejected, the committee must respond to the consultant explaining the reason for their rejection. The consultant is allowed to reapply to be on the list again provided the reasons for rejection are corrected.

The list of qualified firms can be maintained online through the agency's website. Firms can also apply to be on the list through the agency website for ease of operation.

**Issue RFP to Pre-Qualified Consultants on List**

An RFP is sent to the short-listed firms. The RFP should indicate the content of the technical proposal, technical review procedures, anticipated schedule of activities, scope of work, project description, where the technical proposals are to be delivered, the number of copies required, and the due date.

Some agencies receive the technical proposal orally as part of an interview conducted for this purpose. In these cases, written documentation may not be required.

Items typically required in a technical proposal include:

- Work plan
- Organization plan
- Schedule for meeting time frame
- Available computer equipment and programs
- Staffing plan and resumes including sub-consultants
- Pre-award audit/financial package information (if deemed appropriate)
- Examples of similar work previously completed
- Sub-consultants, DBE, their proposed participation, and other related information

**Conduct Proposer's Conference or Answer Written Questions**

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer's conference, or by doing both. The local agency must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer's conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer's conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

**Receive and Evaluate Technical Proposals**

The Contract Administrator must verify that each technical proposal contains all forms and other information required by the RFP. If all required information is not provided, a technical proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each technical proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The members of the consultant selection committee must evaluate each technical proposal according to the technical criteria listed in the RFP. A minimum of three technical proposals must be received and evaluated.

If only two technical proposals are received, a justification must be documented to proceed with the procurement. If only one technical proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (LAPM Exhibit 12-F) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

**Develop Final Ranking and Notify Consultants of Results**

The selection committee discusses and documents the strengths and weaknesses of each technical proposal, interviews the three or more highest ranked consultants (shortlisted), and develops a final ranking of the highest ranked consultants. All consultants that submitted technical proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract

Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

### **Request Cost Proposal and Negotiate Contract with Top-Ranked Consultant**

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the shortlist.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant's cost proposal must follow the same format as the prime consultant's cost proposal.

Cost proposal (for both prime and all subconsultants) and contract audit and review documents, such as Exhibit 10-K and Exhibit 10-A, whichever applicable (see *Section 10.1.3: A&E Consultant Audit and Review Process*), will be submitted in a separate sealed envelope.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and enters into negotiations. The goal of negotiation is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant's cost proposal must remain sealed until negotiations commence with that particular consultant. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

A contract audit and review may be required (see *Section 10.1.3: A&E Consultant Audit and Review Process*). The local agency Contract Administrator is responsible for the submittal of all required documentations to Caltrans IOAI in a timely fashion, including all documents for a Conformance Review, if applicable. Negotiations may be completed after receipt of the Caltrans IOAI Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan
- Schedule and deadlines (for deliverables and final duration of contract)
- Products to be delivered
- Classification, wage rates, and experience level of personnel to be assigned

- Other Direct Cost items, and profit or fee

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency.

The local agency and the consultant will agree on the final cost proposal and incorporate into final contract.

Before executing the consultant contract, the local agency must review contract to ensure that all federal and state requirements have been met (see *Exhibit 10-C*), and all deficiencies identified in the Conformance Letter have been addressed and resolved, if applicable. The completed checklist is to be signed by the Contract Administrator and the original retained in the project file, one copy is to be sent to the DLAE (for review of completeness) and filing within 30 days after awarding the contract.

## 10.1.8 COMPLETING THE PROJECT

### Develop the Final Contract

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the local agency and consultant have agreed to a fair and reasonable price, and (3) a letter, if applicable, is released by Caltrans IOAI that accepts, denies or makes an adjustment to the proposed ICR. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiation were included. This revised cost proposal then becomes the final cost proposal, is attached to and made a part of the consultant contract. Sample contract language and format have been included as [Exhibit 10-R: A&E Boilerplate Agreement Language](#).

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

### Review and Approval of Contracts

Proposed contracts for consultant services (including subcontracted work) must be reviewed by the local agency to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal *Exhibit 10-O2: Consultant Contract DBE Commitment* is included for all contracts regardless of goal.;
- [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) (for Prime and Subs), and [Exhibit 10-A: A&E Consultant Financial Document Review Request](#) and Checklist and all supporting documents, if applicable (contracts above \$150,000), have been submitted to Caltrans IOAI;

- If applicable, adjustment or denial of the ICR identified in the Financial Review Letter have been included in the final cost proposal;
- [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#) must be used to ensure that required documentation has been provided;
- A cost proposal (see [Exhibit 10-H: Sample Cost Proposal](#)), must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant's organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;
- Is fully aware of all applicable federal and state laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.
- Has an adequate financial management system as required by the applicable federal regulations.
- Is not disbarred or suspended from state or federally funded contracts. Per 23 CFR 172.7(b)(3) "A contracting agency shall verify suspension and debarment actions and eligibility status of consultants and subconsultants prior to entering into an agreement or contract in accordance with 2 CFR part 1200 and 2 CFR part 180.

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary; to meet that level of acceptability as defined in the contract. The contract shall provide for local agency reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract shall provide that the consultant and subconsultants shall maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and local agency authorized representatives; and copies thereof shall be furnished, if requested.

Following final settlement of the contract accounts with the State or FHWA, such records and documents may be archived at the option of the local agency and shall be retained for a three-year period after processing of the final voucher by FHWA.

### **Execute Contract and Issue Notice to Proceed to Consultant**

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for any work or costs incurred before the Authorization to Proceed is issued, or for



consultant costs incurred prior to the execution of the consultant contract. All executed contracts shall have a begin and end date. Local agency consultant selection and contract execution costs may be reimbursable.

For on-call contracts, a fully executed copy of the contract with original signatures will be sent to the consultant. Each subsequent task order (for individual project) will be accompanied with a copy of the signed task order and a Notice to Proceed, once it is negotiated and approved. Task order expiration dates may not exceed the Master On-call agreement end date.

### **Administer the Contract**

Project work begins as specified in the contract after the notice to proceed is issued to the consultant. Thereafter, the local agency manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget and terms of the contract.

Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements;
- Receiving, reviewing and assessing reports, plans, and other required products/deliverables;
- Receiving and reviewing state prevailing wages. (See Department of Industrial Relations websites below.
  - [DIR FAQ](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html) website:  
[http://www.dir.ca.gov/OPRL/FAQ\\_PrevailingWage.html](http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html)
  - [DIR Wage Determination](http://www.dir.ca.gov/oprl/DPreWageDetermination.htm) website:  
<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>
- Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;
- If new consultant personnel are added or substituted, labor rates must be verified prior to approving invoices.
- Record keeping and reporting;
- Controlling costs;
- Identifying changes to the scope of work and preparation of amendments (must ensure that any changes to the scope is within the constraints of the original RFP/RFQ;
- Completing the consultant performance evaluations (see [Exhibit 10-S: Consultant Performance Evaluation](#)).

### **Substitution of Consultant Personnel and Subconsultants**

After contract execution the consultant should not substitute key personnel (project manager and others listed by name in the cost proposal) or subconsultants without prior written

approval from the local agency. Refer to LAPM Chapter 9: *Civil Rights & Disadvantaged Business Enterprise* and Title 49 CFR 26 for DBE substitution requirements. To do so can result in the costs being ineligible for federal or state reimbursement. The consultant must request and justify the need for the substitution and obtain approval from the local agency prior to use of a different subconsultant on the contract.

The proposed substituted person must be as qualified as the original, and at the same or lower cost. For engineering types of consultant contracts, the consultant's project manager must be a registered engineer in the State of California.

### **Invoicing (or Progress Payments)**

The frequency and format of the invoices/progress payments are to be determined by the contract. Program Supplement Agreements (see [LAPM Chapter 3: Project Authorization](#)) need to have been prepared prior to any payments being requested. Payments to the consultant are to be in arrears. In other words, the consultant must have actually incurred and paid the costs before invoicing the local agency.

For federal reimbursement of consultant costs on a project, the local agency must submit the following to the DLAE, for each consultant or consulting firm used on the project (failure to do so will result in the consultant's invoices for reimbursement being returned to the agency unprocessed):

- Copy of Executed Consultant contract;
- [Exhibit 10-O1: Consultant Proposal DBE Commitment](#)
- [Exhibit 10-O2: Consultant Contract DBE Information](#)

DLAE must confirm that the local agency has submitted copies of [Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#) (for Prime and Subconsultants) to Caltrans IOAI and received acceptance of [Exhibit 10-C: Consultant Contract Reviewers Checklist](#) from Caltrans.

The local agency is to follow the procedures given in [LAPM Chapter 5: Invoicing](#), to obtain reimbursement of federal or state funds.

### **Contract Amendments**

Contract amendments are required to modify the terms of the original contract for changes such as extra time, added work, or increased costs. Only work within the original advertised scope of services shall be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for federal or state reimbursement (see [Q&As](#) at: [http://www.fhwa.dot.gov/programadmin/172qa\\_01.cfm](http://www.fhwa.dot.gov/programadmin/172qa_01.cfm)).

There is no prescribed format for contract amendments. They may take the form of letter-type agreements meeting the legal requirements of the local agency, clearly outlining the changes and containing a mutually agreed upon method of compensation. Such agreements must conform to the requirements of this manual with regard to payment.

A consultant contract may be amended at any time prior to the expiration date of the original contract. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract. Failure to amend a contract prior to the ending date will make the subsequent costs ineligible for federal and state reimbursement.

For on-call consultant contracts, the amendment is restricted to the work (task order) that has already been started by the consultant and can not include any new work. Task orders are not considered an amendment and therefore not appropriate to extend the terms of the contract.

All contract amendments shall be negotiated following the same procedures as the negotiation of the original contract and must be in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment. For any additional engineering and design related services outside of the scope of work established in the original solicitation, a contracting agency shall either procure the series under a new solicitation, perform the work itself using agency staff, or use a different, existing contract under which the services would be within the scope of work. Overruns in the costs of the work shall not automatically warrant an increase in the fixed fee portion of a cost plus fixed fee reimbursed contract. Permitted changes to the scope of work or duration may warrant consideration for adjustment of the fixed fee portion of cost plus fixed fee or lump sum reimbursed contracts. If an emergency exists of such magnitude that a delay cannot be tolerated, the local agency and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of local agency funding. [Section 10.1.3: A&E Consultant Audit and Review Process](#) of this chapter shall apply to the entire contract and must be completed prior to execution of the contract amendment. All amendments shall incorporate any current requirements of the federal regulations including the federal fiscal provisions and submit [Exhibit 10-C: Consultant Contract Reviewers Checklist to aeoversight@dot.ca.gov for review](#) completing Section D for amendments.

## Performance Evaluation

Pursuant to 23 CFR §172.9(d)(2) agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant's performance after the consultant's final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant's project manager. See [Exhibit 10-S: Consultant Performance Evaluation](#) for a suggested format for use by the local agency.

## Project Records

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with Federal laws and regulations (e.g., 23 USC 112; 40 USC 1101-1104, 23 CFR 172, 48 CFR 31, and 2 CFR Part

200). These records shall be maintained for a minimum of three (3) years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (2 CFR Part 200.333).

For audit purposes, project records and documentation shall be kept for three (3) years after payment of the final federal or state voucher. Among the records to be retained are as follows (not an all-inclusive list):

- Copies of RFPs and RFQs, changes, addendums, etc. and bidder's list;
- Documentation of DBE participation (including [Exhibit 10-O1: Consultant Proposal DBE Commitment](#) and [Exhibit 10-O2: Consultant Contract DBE Commitment](#));
- Solicitation and advertisement records;
- Identification of selection committee members;
- Record of receiving proposals, statement of qualifications;
- Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation (see [Exhibit 10-B: Suggested Consultant Evaluation Sheet](#));
- Independent cost estimate (prepared in advance of requesting a cost proposal from the top-ranked consultant);
- Record of negotiations (to include a separate negotiation of profit in accordance with federal guidelines);
- Financial Review Letter and Cognizant Agency Letter, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant Indirect Rate Letter, if any;
- Consultant Certification of Costs and Financial Management ([Exhibit 10-K: Consultant Certification of Contract Costs and Financial Management System](#)) for contracts over \$150,000 or more;
- A&E Consultant Audit Request Letter and Checklist ([Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist](#)) for contracts over \$150,000 and all supporting documentation.
- Executed consultant contracts, cost proposals and amendments (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#) and [Exhibit 10-H: Sample Cost Proposal](#));
- Contract oversight and progress meeting documents;
- Progress and final payments, and supporting documentation;
- Performance evaluation (see [Exhibit 10-S: Consultant Performance Evaluation](#));
- Consultant contract checklists (see [Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#));

- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms ([Exhibit 10-T: Conflict of Interest & Confidentiality Statement](#), all personnel involved in the procurement of the agreement should complete Exhibit 10-T [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) and [Exhibit 10-Q: Disclosure of Lobbying Activities](#), as appropriate). Exhibit 10-Q is included in the solicitation and shall be completed if the consultant needs to disclose any lobbying activities.

### Retention Clauses

At the option of the local agency, a retention clause may be included in the consultant contract. A retention clause in the consultant contract is recommended (see [Exhibit 10-R: A&E Boilerplate Agreement Language](#), Article XXXI).

### Review of Local Agency Actions

Federal-aid or state reimbursement is contingent on meeting the federal or state requirements and can be withdrawn, if these procedures are not followed and documented. The local agency files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits. As specified in the Review and Approval of Contracts above, the Contract Administrator must review the proposed consultant contract before execution.

[Exhibit 10-C: A&E Consultant Contract Reviewers Checklist](#) is to be completed and signed. A copy shall be emailed to Caltrans at [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov) prior to contract award for acceptance. This acceptance of [Exhibit 10-C](#) must be retained in the local agency project files.

## 10.1.9 MISCELLANEOUS CONSIDERATIONS

### Agreements with Other Governmental Agencies

Intergovernmental or inter-entity agreements are encouraged if appropriate. If another governmental agency is requested to do work or provide services to an agency, an interagency agreement is needed. See 2 CFR 200 and CA Government Codes 10340 and 11256.

### Small Purchase Contracts

Contracts that are less than \$250,000 are considered small contracts in accordance with federal regulations. However, within the State of California, there is not a recognized small purchase procedure. For federal contracts that are less than \$250,000 and are not anticipated to exceed this amount, the agency shall use the *State-Only Funded A&E Contracts: Section 10.2*. If the contract is anticipated to exceed \$250,000, use one of the accepted procurement procedures listed in the previous sections. Small contracts using the simplified acquisition procedure shall not exceed \$250,000 or the additional costs are considered not reimbursable. The entire contract could also be considered ineligible by FHWA depending on circumstances. The scope of work, project phases, and contract requirements shall not be broken down into smaller components to

permit the use of small purchase procedure. DBE requirements apply for all federally funded projects.

### **Noncompetitive Negotiated Contracts (Sole-Source)**

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under sealed bids or competitive proposals (23 CFR 172.7(a)(3)).

FHWA considers these types of contracts as Sole Source contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services (23 CFR 172.7(a)(3); also see [Exhibit 12-F: Cost-Effectiveness/Public Interest Finding](#)).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;
- Competition is determined to be inadequate after solicitation of a number of sources.

The local agency shall:

- Follow its defined process for noncompetitive negotiation;
- Develop an adequate scope of work, evaluation factors, and cost estimate before solicitation;
- Conduct negotiations to ensure a fair and reasonable cost.

The local agency must carefully document details of the special conditions, obtain Caltrans approval on a Public Interest Finding and retain all documents in the project files for future Caltrans' or FHWA's review.

A Public Interest Finding (see [Exhibit 12-F: Cost-Effectiveness/Public Interest Finding](#)) is not required for a local agency to be reimbursed for contract administration activities associated with non-infrastructure type projects such as many Safe Routes to School or Transportation Alternatives Program projects.).

### **Personal Services Contracts**

A personal services contract is characterized by the employer-employee relationship created between the local agency and the contract personnel who essentially perform similar duties as the employees. Such services must be under the direction and control of a full-time employee of the local agency in responsible charge. Compensation for construction engineering services should be based on actual costs incurred, plus a fixed fee, or in the case of individual compensation on an agreed-upon hourly or daily rate. Lump sum payments should not be used for construction engineering services.

For personal service contracts, the following information must be documented by the local agency and retained in the project files:

- Explanation of the services needed, and why they cannot be provided by the local agency;
- Name and qualification of the consultant, who provided the services;
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards;
- Any other records needed to show compliance with federal-aid program regulations.

### **Retaining a Consultant as an Agency Engineer or in Management Support Role**

A local agency may retain qualified consultants in a management support role on its staff in professional capacities for federal-aid projects such as:

- A City Engineer (or equivalent) who manages the engineering unit for the city, providing oversight of a project, series of projects, managing or directing work of other consultants or contractors on behalf of the City.
- A County Engineer (or equivalent) who manages the engineering unit for the county such as duties described above.
- A Project Manager (or equivalent) who manages and oversees a project, series of projects or the work of other consultants and contractors on behalf of the public agency
- A Program Manager (or equivalent) who manages and oversees an element of a highway program, function, or service on behalf of the public agency

However, typically a consultant in a management support role is not:

- A consultant engineer performing project-specific design, and/or construction contract administration and construction engineering for the public agency
- A consultant providing support to administrative duties such as federal authorization process, labor compliance activities, and other management and administrative tasks.

The use of a consultant in a management support role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the management. Consultants used in management support roles must be selected using the same procedures as those for other consultants specified in this chapter. Consultants in a Management Support Role funded by local or state funds must have approval from FHWA to be considered qualified to manage federal projects or consultants providing services on federal projects.

Eligibility for federal or state reimbursement for a consultant in a management support role requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed;
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer;



- For a federal-aid project, completion of [\*Exhibit 10-T: Conflict of Interest & Confidentiality Statement\*](#) by all members (both consultants and employees) prior to participating in the Architect & Engineering (A&E) Selection Panel pertaining to the specific selection process and the firms being considered;
- Selection of consultants for A&E management positions shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five (5) years;
- For a federal-aid project, a local agency consultant in a management support role shall not:
  - Participate in, or exercise authority over the A&E selection process, if that consultant's firm is one of the proposing firms, or subconsultant to a proposing firm;
  - Participate in, or exercise authority over management of work performed by the consultant's firm, or to a consultant's firm of which the local agency consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
  - Apply for or receive reimbursement of federal-aid funds for the local agency's federal-aid project if either of the foregoing has occurred. However, reimbursement for the construction contract portion of the project will still be allowed provided all other federal-aid requirements have been met.
  - Where benefiting more than a single federal-aid project, allocability of consultant contract costs for services related to a management support role shall be distributed consistent with the cost principles applicable to the contracting agency in 23 CFR 172.7(b)(5).

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for federal reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants in a management support role are procured with federal-aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 2 CFR 200.318 maintain a contract administration system and maintain a written code of standards. No employee, officer or agent of the subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.
- Subparagraph of 23 CFR §172.7(b) requires that the local agency shall receive approval from FHWA. In addition, any federal-aid projects designated as Projects of Division Interest may also need approval from FHWA.



- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

For federally funded projects, local agencies that solicit to hire A&E consultant(s) in a management support role must obtain FHWA approval prior to contract execution.

In order for a contract for a consultant in a management support role to be federally eligible, the following are required prior to contract execution:

- The local agency shall submit a request for approval via email, the Scope of Work (SOW) and Conflict of Interest (COI) Policy to the Division of Local Assistance-Headquarters (DLA-HQ) at [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov), prior to solicitation.
- Once the local agency receives FHWA's written response, the local agency may need to revise the documents reflecting FHWA's opinions and can proceed with the RFQ.
- After consultant selection, the local agency shall submit the completed [Exhibit 10-U: Consultant in Management Support Role Conflict of Interest and Confidentiality Statement](#) to the DLA-HQ at [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov). Local agency will receive FHWA's approved [Exhibit 10-U](#) via email.

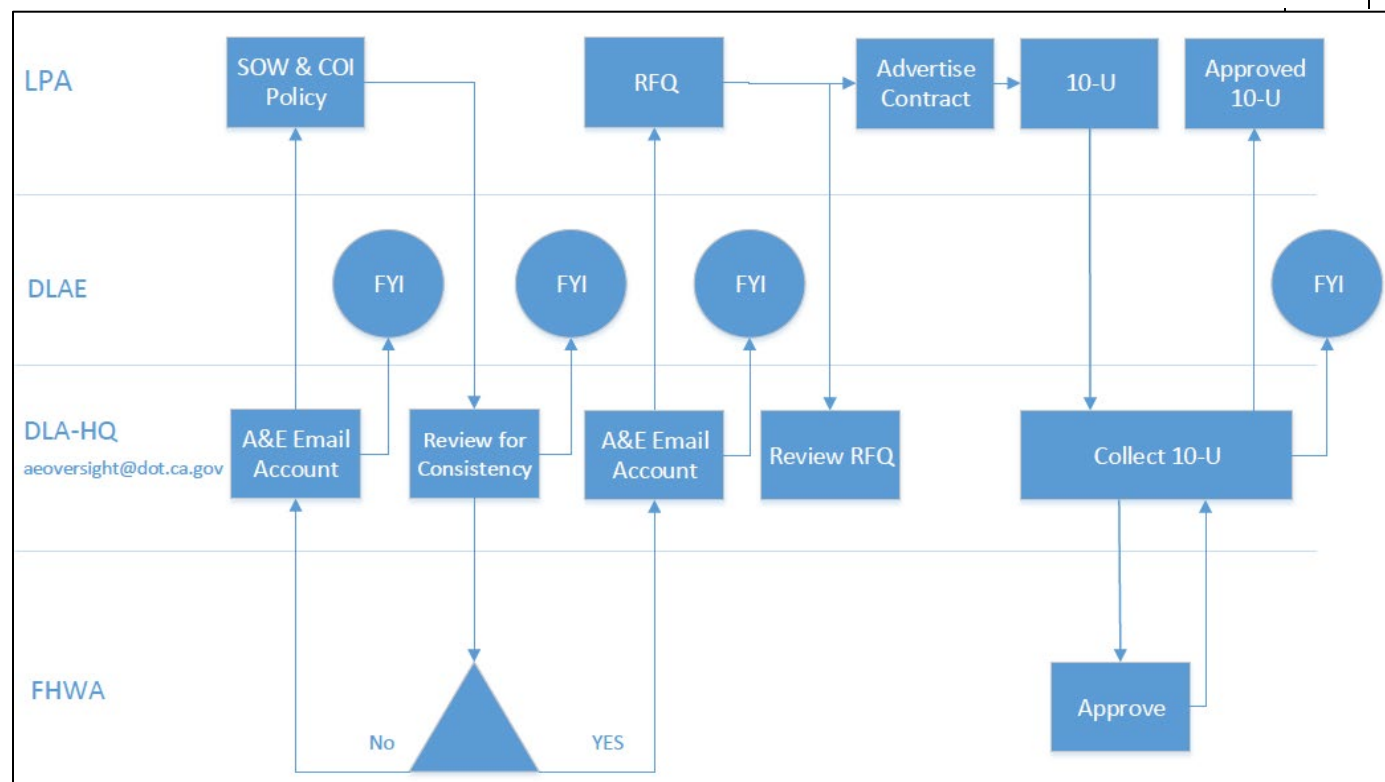


Figure 10-5: Consultant in a Management Support Role Flowchart

## Construction Engineering Services

Under federal-aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All construction engineering activities performed by a consultant must be under the overall supervision of a full-time employee of the agency who is in responsible charge. These activities may include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's contract defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the local agency, a formal consultant contract must be executed which follows this chapter's requirements. The contract shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the local agency.

### 10.1.10 PROGRAM MANAGEMENT

According to 23 CFR §172.5, local agencies are required to adopt written policies and procedures prescribed by Caltrans. The local agency shall adopt Caltrans Local Assistance Chapter 10: *Consultant Selection*. Local agencies are responsible for providing all resources necessary for the procurement, management, and administration of A&E consultant contracts including subcontracts. Ensuring consultant costs billed are allowable in accordance with the Federal cost principles and consistent with the contract terms as well as the acceptability and progress of the consultant's work;

- Monitoring the consultant's work and compliance with the terms, conditions, and specifications of the contract;
- Preparing a consultant's performance evaluation when services are completed and using such performance data in future evaluation and ranking of consultant to provide similar services;
- Closing-out a contract;
- Retaining supporting programmatic and contract records, as specified in 2 CFR 200.333 and the requirements of this part;
- Determining the extent to which the consultant, which is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors and omissions in the work furnished under its contract;
- Assessing administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and providing for such sanctions and penalties as may be appropriate; and

- Resolving disputes in the procurement, management, and administration of engineering and design related consultant services.

An example resolution is located at:

<http://www.dot.ca.gov/hq/LocalPrograms/AE/2018/P&P-Adoption-Resolution.doc>












### 10.1.11 REFERENCES

- [\*23 CFR, Part 172\*](#)  
Administration of Engineering and Design Related Service Contracts  
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.2.3>
- [\*40 USC, Section 1104\*](#)  
Brooks Act <http://www.fhwa.dot.gov/programadmin/121205.cfm>
- [\*41 CFR\*](#)  
Public Contracts and Property Management  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title41/41tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title41/41tab_02.tpl)
- [\*41 USC\*](#)  
Public Contracts  
<http://law.onecle.com/uscode/41/index.html>
- [\*23 USC\*](#)  
Letting of Contracts  
<http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- [\*48 CFR, Chapter 1, Part 15.404\*](#)  
<https://www.acquisition.gov/far/html/FARTOCP15.html>
- [\*48 CFR, Chapter 1, Part 31\*](#)  
<https://www.acquisition.gov/far/html/FARTOCP15.html>
- [\*Title 48, Part 16 – Types of Contracts\*](#)  
<http://www.elaws.us/subscriber/signin?returnurl=http://federal.elaws.us/cfr/title/4/10/2013/title48/chapter1/part16&IsHistory=1&AspxAutoDetectCookieSupport=1>
- [\*48 CFR 27, Subpart 27.3 – Patent Rights under Government Contracts\*](#)  
<https://www.law.cornell.edu/cfr/text/48/part-27/subpart-27.3>
- [\*48 CFR 31.201-3\*](#)  
<https://www.gpo.gov/fdsys/pkg/CFR-2011-title48-vol1/pdf/CFR-2011-title48-vol1-sec31-201-6.pdf>
- [\*48 CFR, Chapter 99 – Cost Accounting Standards, Subpart 9900\*](#)  
<https://www.gpo.gov/fdsys/granule/CFR-2002-title48-vol7/CFR-2002-title48-vol7-chap99>

- [2 CFR Part 200](http://www.ecfr.gov/cgi-bin/text-idx?SID=eb0db4a32ce93fdc5815e6fe58791d9d&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)  
[http://www.ecfr.gov/cgi-bin/text-idx?SID=eb0db4a32ce93fdc5815e6fe58791d9d&mc=true&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=eb0db4a32ce93fdc5815e6fe58791d9d&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- [49 CFR, Part 26](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)  
Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs  
[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)
- [American Association of State Highway and Transportation Officials \(AASHTO\) Uniform Audit and Accounting Guide](http://audit.transportation.org/Pages/default.aspx)  
<http://audit.transportation.org/Pages/default.aspx>
- [Caltrans Division of Procurement and Contracts Website](http://www.dot.ca.gov/dpac/index.html)  
<http://www.dot.ca.gov/dpac/index.html>
- [California Labor Code, Section 1775](http://law.onecle.com/california/labor/1775.html)  
<http://law.onecle.com/california/labor/1775.html>
- [Government Auditing Standards \(GAS\) issued by the United States Government Accountability Office](http://www.gao.gov/yellowbook/overview)  
<http://www.gao.gov/yellowbook/overview>
- [Government Code Sections 4525 through 4529.5](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=04001-05000&file=4525-4529.5)  
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=04001-05000&file=4525-4529.5>
- [OMB Circular A-110](https://www.whitehouse.gov/omb/circulars_a110)  
Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations  
[https://www.whitehouse.gov/omb/circulars\\_a110](https://www.whitehouse.gov/omb/circulars_a110)
- [Standard Environmental Reference \(SER\)](http://www.dot.ca.gov/ser/)  
<http://www.dot.ca.gov/ser/>

**FHWA: this is the new State-Only funded section that will be used for state-only funded projects.**

## 10.2: STATE-ONLY FUNDED A&E CONTRACTS

| A&E<br>State-Only   | <i>Division of Local Assistance Minimum Requirements for State-only funded A&amp;E Contracts</i> |
|---|--|
|    | A. Written Procedures  |
|    | B. Conflict of Interest  |
|    | C. Records   |
|    | D. Full & Open Competition   |
|    | E. Selection Basis   |
|    | F. Publication   |
|    | G. Solicitation  |
|   | H. Cost Analysis   |
|  | I. Negotiations  |
|  | J. Audit and Review Process  |
|  | K. Exhibit 10-C.2: State-Only Funded A&E Consultant Contracts                                    |

### 10.2.1 GENERAL

Local Agencies are required to follow all applicable local and state regulations including those listed in LAPM Chapter 10 in accordance with their State Master Agreement. Although the requirements listed in this section are minimum requirements, the local agency shall use good engineering judgment and best practices to document their processes and procedures when procuring A&E contracts utilizing qualifications based selections.

All consultants must comply with 48 Code of Federal Regulations (CFR) Part 31: *Contract Cost Principles and Procedures*. Also, consultants and Local Agencies must comply with 2 CFR Part 200: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, excluding sections §200.318-200.326 *Procurement Standards* (reference Federal Highway Administration December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance, Attachment A).

Agency state-only funded (SOF) agreements must contain the required federal fiscal provisions from 2 CFR 200 in all Division of Local Assistance funded agreements. Exhibit 10-R: *A&E Boilerplate Agreement Language* contains 2 CFR 200 requirements and may also be used in SOF agreements. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

All proposed A&E contracts and supporting documents (including state-only funded) are subject to audit or review by Caltrans' Independent Office of Audits and Investigations (IOAI), other state audit organizations, or the federal government and required to follow LAPM Section 10.1.3 *A&E Consultant Audit and Review Process*.

For consultant contracts, procured with local or state funds, to provide services for federal-aid projects, or to oversee or manage other consultants providing these services, the Consultant in Management Support Role process must be completed to be eligible for reimbursement. Refer to Chapter 10.1.9 Miscellaneous Considerations: *Retaining a Consultant as an Agency Engineer or in a Management Support Role* <http://www.dot.ca.gov/hq/LocalPrograms/lam/LAPM/ch10.pdf>.

DBE contract goals are not required for state-only funded contracts.

This guidance is for contracts utilizing state funds only. If any federal funds are added or reimbursed, the federal process must be followed.

Non-A&E consultant contracts reference LAPM Section 10.3: *Non-A&E Contracts*.

**Reference:** *California Government Code Title 1, Division 5, Chapter 10, Contracts with Private Architects, Engineering, Land Surveying, and Construction Project Management Firms §4525-4529.5.*

### 10.2.2 DEFINITION OF A&E

Architectural, landscape architectural, engineering, environmental, and land surveying services includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

Construction project management means those services provided by a licensed architect, registered engineer, or licensed general contractor. Any individual or firm proposing to provide construction project management services shall provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

Environmental services mean those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

**Reference:** *California Government Code §4527*

### **10.2.3 MINIMUM AUDIT REQUIREMENTS**

#### **A. Written Procedures**

Local agencies shall follow the minimum requirements listed below in addition to any local laws and regulations.

**Reference:** *California Government Code §4526*

#### **B. Conflict of Interest**

The local agency must develop and maintain a written code of conduct governing the performance of its employees engaged in the award and administration of state funded contracts, including the prevention of conflicts of interest.

##### **References:**

*California Government Code §4526*

*California Government Code §1090*

*California Government Code §4529.12*

#### **C. Records**

Local agencies shall keep adequate records of all contracts including the procurement, project management, accounting and financial administration.

##### **References:**

*California Government Code §4529.14*

*California Government Code §4006*

#### **D. Full & Open competition**

All A&E contracts shall be procured through a qualifications based selection utilizing open and fair competition. Evaluate at least three consultants using published evaluation criteria and rank these firms in order of preference.

##### **References:**

*California Government Code §4526*

*California Government Code §4527*

**E. Selection Basis**

Selection of a firm shall be based on qualifications and the order of ranked preference.

**References:**

*California Government Code §4526*

*California Government Code §4527*

**F. Publication**

Solicitations for A&E contracts shall be in a manner that is open and competitive.

**Reference:** *California Government Code §4527*

**G. Solicitation**

The solicitations shall include published evaluation criteria to rank in order of preference. Clearly define expectations in the solicitation in order to evaluate firms.

**Reference:** *California Government Code §4527*

**H. Cost Analysis**

An independent cost comparison to the consultant's cost proposal shall be done in order to ensure the contract is negotiated at a fair and reasonable price.

**Reference:** *California Government Code §4528*

**I. Negotiations**

Negotiations must be documented to verify a fair and reasonable contract has been executed using public funds.

**Reference:** *California Government Code §4528*

**J. Audit and Review Process**

A&E contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits. All agencies shall follow the Audit and Review Process as stated in LAPM Section 10.3: *A&E Consultant Audit and Review Process*.

<http://www.dot.ca.gov/hq/LocalPrograms/lam/LAPM/ch10.pdf>

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10a.pdf>

**Reference:** *California Government Code §4529.14*

**K. Exhibit 10-C.2: State-Only Funded A&E Contracts**

Exhibit 10-C.2: *State-Only Funded A&E Consultant Contract Reviewers Checklist* must be sent to [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov) for review prior to contract award.



### **CA Government Code References**

**California GOV §1090**

*(a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they*

*are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.*

*(b) An individual shall not aid or abet a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating subdivision (a).*

*(c) As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.*

**California GOV §4006**

*Plans, specifications, work authorizations describing work to be performed, and all other information referred to in this chapter are open to inspection and examination as a public record.*

**California GOV §4525**

*For purposes of this chapter, the following terms have the following meaning:*

*(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.*

*(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.*

*(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.*

*(d) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.*

*(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.*

*(f) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.*

**California GOV §4526**

*Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public*

*agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.*

*In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.*

**California GOV §4527**

*In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.*

*(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.*

*(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a). In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract under this section.*

**California GOV §4528**

*(a) When the selection is by a state agency head the following procedures shall apply:*

*(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.*

*(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The state agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the state agency head shall terminate negotiations. The state agency head shall then undertake negotiations with the third most qualified firm.*

*(3) Should the state agency head be unable to negotiate a satisfactory contract with any of the selected firms, the state agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.*

*(b) When the selection is by a local agency head, the local agency head may undertake the procedures described in subdivision (a).*

**California GOV §4529**

*This chapter shall not apply where the state or local agency head determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest.*

**California GOV §4529.12**

*All architectural and engineering services shall be procured pursuant to a fair, competitive selection process which prohibits governmental agency employees from participating in the selection process when they have a financial or business relationship with any private entity seeking the contract, and the procedure shall require compliance with all laws regarding political contributions, conflicts of interest or unlawful activities.*

**California GOV §4529.14**

*Architectural and engineering services contracts procured by public agencies shall be subject to standard accounting practices and may require financial and performance audits as necessary to ensure contract services are delivered within the agreed schedule and budget.*

**California GOV §4529.20**

*This act seeks to comprehensively regulate the matters which are contained within its provisions. These are matters of statewide concern and when enacted are intended to apply to charter cities as well as all other governmental entities.*

**Federal Highway Administration Memorandum 2 CFR 200 Implementation Guidance**  
**12/4/2014**

**Attachment A: FHWA 2 CFR 200 Uniform Guidance – Questions and Answers**

*Question 21: “Will the FHWA/USDOT provide a waiver of the requirements in 2 CFR 200.317 for subrecipients to comply with State procurement requirements or other policies and procedures approved by the State (200.317)?”*

*Answer: Yes. The USDOT requested and received an OMB waiver of the requirements in 2 CFR 200.317 concerning procurement by subrecipients. This waiver provides an exception to the requirement for all subrecipients of a state to follow the procurement requirements in Sections 200.318 through 200.326. The waiver will allow States and subrecipients to continue to use state-approved procurement procedures as they did under part 18 prior to the adoption of the Uniform Guidance.*

**Figure 10.2 State-Only Funded Procurement Criteria**

To comply with CA Government Code (GC) 4525-4529.5, 48 Code of Federal Regulations (CFR) Part 31: Contract Cost Principles and Procedures, 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (excluding sections 200.318-200.326), Caltrans Local Assistance Procedures Manual (LAPM) and other applicable STATE and FEDERAL regulations.

| A&E Consultants                              |  |                                    |
|--|--|------------------------------------|
| Requirements for LGAs that use State funding |  | Use State requirements below       |
| A.   | Written Procedures   | GC 4526                            |
| B.   | Conflict of Interest                                       | GC 1090, GC 4527(b), GC 4529.12    |
| C.   | Records  | GC 4529.14, 4006                   |
| D.   | Full & Open Competition                                    | GC 4526, GC 4527, GC 4529.12       |
| E.   | Selection Basis  | GC 4526*, 4527                     |
| F.   | Publication  | GC 4527                            |
| G.   | Solicitation   | GC 4527                            |
| H.   | Cost Analysis  | GC 4528                            |
| I.   | Negotiations   | GC 4528                            |
| J.   | A&I Audit & Review Process                                 | GC 4529.14, LAPM Ch. 10, 2 CFR 200 |
| K.   | Exhibit 10-C.2: State-Only Funded A&E Consultant Contracts | LAPM Ch. 10.2                      |

\*Mini Brooks Act - State regulation requiring the initial selection of engineering and architecture firms be based upon qualifications and experience rather than by price. Price is then later negotiated.

## 10.3: NON-A&E CONTRACTS

### SCOPE

This section covers the procurement requirements for the services that are not included in Section 10.1 Federal and Section 10.2 State-Only. This guidance is for contracts utilizing federal-aid funds and state funds. Federal regulations refer to state and local regulations for non-A&E type contracts. Although local agencies are required to follow 2 CFR 200: *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* for all contracts, the Procurement Standards section §200.318-200.326 is exempt. The guidance in this section follows the established regulations in the California Public Contract Code. Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages.

Local agency shall designate one person within the local agency as a contract manager.

(PCC 10348.5)

### DETERMINING NON-A&E

After identifying that there is a need for consulting services, the local agency shall determine that the services needed are more of a technical nature and involve minimal professional judgement and that requiring a cost proposal would be in the public's best interest. These type of consultant services that are not directly related to a highway construction project or that are not included in the definition of engineering and design related services are considered non-A&E. The services must not be included in Section 10.2.2 Definition of A&E.

The determining factor is whether the services being procured are related to a specific construction project and whether the services require work to be performed, provided by, or under the direction of a registered engineer or architect.

### EXAMPLE OF DETERMINING NON-A&E

Material testing has been requested to ensure quality assurance on a construction project. The service includes only performing the material test and providing material test data. Although the service is related to a construction project, the overall service did not provide an evaluation or a discipline report. In this example, the local agency can determine that the service provided is more of a technical nature and is therefore a non-A&E service.

The following is a list of the more common non-A&E services:

- Right-of-Way Appraisal
- Right-of Way acquisition activities
- Conducting public outreach during environmental clearance or construction
- Active Transportation Program educational and outreach activities
- Intelligent Transportation System (ITS)
- Non-Infrastructure

## INTELLIGENT TRANSPORTATION SYSTEM (ITS) PROJECTS

Intelligent Transportation System (ITS) means electronic, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system. ITS projects are those that in whole or in part, funds the acquisition of technologies or systems of technologies that provide significant contributions to the provision of one or more ITS user services as defined in the National ITS Architecture.

The federal-aid procurement regulations identify three possible contract procurement procedures for ITS projects including engineering and design related services (A&E), construction, and non-engineering/non-architectural (non-A&E).

If ITS projects include physical installation of field devices and/or communications infrastructure, such as new traffic signals, new controller cabinets, changeable message signs, radio and computers, vehicle detectors, and conduits for cabling in the roadway, then that work and required equipment usually meets the definition of construction. The construction contract must be procured based on competitive bidding. If the ITS project involves software development, system integration, hiring engineers and specialists for ITS design and installation support, inspection, design documentation, training and deployment, it may be considered an engineering and design services contract and the contract must be procured as an A&E consultant contract. If the scope of work is unclear as to whether it is an A&E type of work, contact [aeoversight@dot.ca.gov](mailto:aeoversight@dot.ca.gov) for assistance.

However, if an ITS project does not meet either the definition of construction or engineering and design services, then the contract may be considered to be a non-A&E consultant contract.

Examples of non-A&E consultant contracts are:

- The procurement of hardware and software associated with incident management system;
- Software systems for arterial and freeway management systems;
- Operating the 511 traveler information service;
- Nonprofessional services for system support such as independent validation and verification, testing and specification development;

For more information regarding Intelligent Transportation Systems (ITS) Program procurement requirements, refer to LAPG, Chapter 13 LAPG Chapter 13: Intelligent Transportation Systems.

## NON-INFRASTRUCTURE PROJECTS

Non-infrastructure (NI) projects are those transportation-related projects that do not involve either engineering design, Right-of-Way acquisition (for additional guidance refer to LAPM Chapter 13), or the eventual physical construction of transportation facilities.

Procurement of non-A&E consultant contracts associated with non-infrastructure projects must follow Non-A&E procurement procedures described in this chapter. For more information on NI projects, refer to LAPM Chapter 3: Project Authorization.

**GOVERNING REGULATIONS AND CODES FOR NON-A&E**

When procuring non-A&E services with federal-aid funds, Local agencies must comply with 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, excluding sections §200.318-200.326 Procurement Standards (reference Federal Highway Administration December 4, 2014 Memorandum Action: 2 CFR 200 Implementation Guidance, Attachment A). Local agencies must follow the same policies and procedures that the State uses for procurement with its non-Federal funds. When procuring non-A&E services with federal-aid and state-only funds, the governing procurement code is Public Contract Code 10335-10381.

**PROCUREMENT OF NON-A&E CONSULTANT CONTRACTS**

All non-A&E procurements contracts must be conducted in a manner providing full and open competition consistent with federal and state standards. Local agency must meet the code of conduct governing the performance of its employees engaged in the award and administration of federal-aid and state-funded contracts, including the preventions of conflict of interest in PCC 10410.

The following are the fundamental rules when procuring a non-A&E consultant contract.

1. The request for proposal (RFP) shall not limit the competition directly or indirectly to any one consultant. The RFP must be publicized and all evaluation factors and their relative importance identified. (PCC 10339)
2. Splitting a single transaction into a series of transactions for the purpose of evading the procurement requirements is not allowed. (PCC 10329)
3. Local agency shall secure at least three competitive proposals for each contract. (PCC 10340)  
When receiving less than three proposals, refer to the Cost-Effective/Public Interest Finding in this section as an alternative to re-advertisement.
4. No proposals shall be considered which have not been received at the place, and prior to the closing time as stated in the RFP. (PCC 10344(a))
5. Local agency must have a written procedure for evaluating proposals. (PCC 10344)

**RFP BASIC REQUIREMENTS**

- A. There are two general types of consulting service contract solicitations:
- B. Request for Proposal using Cost only
- C. Request for Proposal using Cost and Qualifications

The local agency must include the following in the request for proposal:

- A. A clear, precise description of the work to be performed or services to be provided.
- B. Description of the format that proposals shall follow and the elements they shall contain
- C. The standards the agency will use in evaluating proposals. This includes qualifications and certifications if applicable.
- D. The date the proposals are due.

- E. The procurement schedule that the local agency will follow in reviewing and evaluating the proposals.

(PCC 10344)

## **ADDITIONAL REQUIREMENTS AND EVALUATION CRITERIA**

### Additional Requirements for Request for Proposal using Cost only

- A. Local agency must require consultants to submit their proposals and cost in a separate, sealed envelope.
- B. Local agency shall determine those that meet the format requirements and the standards specified in the request for proposal.
- C. The sealed envelopes containing the price and cost information for those proposals that meet the format requirements and standards shall then be publicly opened and read.
- D. Contract must be awarded to the lowest responsible consultant meeting the standards.

(PCC 10344(b))

### Additional Requirements for Request for Proposal using Cost and Qualifications

- A. Local agency must include in the proposal the description of the evaluation and scoring method. Substantial weight in relationship to all other criteria utilized shall be given to the cost amount proposed by the consultant.
- B. Local agency shall determine those that meet the format requirements specified in the RFP.
- C. Local agency evaluation committee must evaluate and score the proposals using the methods specified in the RFP. All evaluation and scoring sheets shall be available for public inspection after the committee scoring process. Evaluation committee should comply to the prevention of conflict of interest in PCC 10410.
- D. The non-A&E contract shall be awarded to the consultant whose proposal is given the highest score by the evaluation committee.

(PCC 10344(c))

When using RFP (Cost and Qualifications), the criteria used to evaluate the consultant's proposals must have a logical foundation within the scope of work or within other technical requirements contained in the RFP. Each criterion must have a weight or level of importance, and it is recommended that total possible score for the evaluation criteria be one hundred (100) points. The proposed cost should be at least thirty percent (30%) of total points in evaluation criteria.

An example RFP for non-A&E is provided on the Local Assistance website at <http://www.dot.ca.gov/hq/LocalPrograms/AE/2016/RFP-Example-Non-AE.docx> and may be modified.

Submission of *Exhibit 10-C Consultant Contract Reviewers Checklist* to Caltrans HQ for acceptance is not required for non-A&E consultant contracts.

## **CONSULTANT'S PROPOSAL**

The consultant's proposal should include the following information:



- *Consultant Project Manager* – qualifications, roles and responsibilities.
- *Methodology* - description of work and overall approach, specific techniques that will be used and specific administrative and operations expertise to be used.
- *Workplan and Work Schedule* - the technical proposal should include activities and tasks, and their delivery schedule.
- *Personnel* - List of personnel who will be working on the project, and their resumes.
- *Facilities and resources* (If applicable) - Explanation of where the services will be provided and what type of equipment is needed to perform services.
- *Sub-contracts* - Identify all sub-contracts that are to be used, description of each and the work by each sub-consultant/sub-contractor. No work shall be subcontracted unless listed in the technical proposal. Sub-consultant resumes should be provided.
- *References* - The technical proposal should provide at least three (3) clients for whom the proposer has performed work of similar nature to the request.

### **COST PROPOSAL WORKSHEET**

The RFP should provide a standard format for cost proposal that all proposers must include in their proposal. The cost proposal format can be broken down by specific tasks, showing hourly labor rates, level of effort and material, and/or by milestones and deliverables.

Local agency is not required to award a contract if it is determined that the contract price is not reasonable. (PCC 10340(c))

### **DBE CONSIDERATION**

DBE consideration is required on all federal-aid funded contracts including non-A&E.

### **ADMINISTRATIVE REQUIREMENTS**

Advertisement for RFPs may be through the local agency website, local publications, and national publications. Minimum solicitation time is 14 calendar days. The solicitation should inform potential qualified consultants that questions must be submitted in writing to the Agency Contract Manager/Administrator by a specified date and time. All pertinent technical information and answers to consultant's questions shall be provided to all potential consultants. Written responses to all questions will be collectively compiled and provided as an addendum.

A proposal may be considered nonresponsive and rejected without evaluation if all required information is not provided. Proposals without information regarding, or not meeting, the required DBE utilization goal or without a Good Faith Effort documentation, late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

No consultant who has been awarded a consulting service contract may be awarded a subsequent contract for the services or goods which are required as an end product of the consulting service contract, unless the subcontract is no more than 10 percent of the total monetary value of the consulting services contract. Excludes A&E contracts.

(PCC 10365.5)

Contracts may be modified or amended only if the contracts so provide. Amendments must be requested and executed prior to the termination date of the most recently approved original or amended contract. All records of contract activities shall be kept for three years after federal final voucher E-76 or state final voucher for State-Only funds. Costs are reimbursable after state allocation by the California Transportation Commission (CTC) and/or the issuance of the federal E-76. The per diem rate shall not exceed the state rate. Contract Managers are responsible for monitoring expenditures on all contracts and verifying categories of work that require prevailing wage. A person in Responsible Charge of contract management is required for all federally funded projects.

### **ORAL PRESENTATIONS OPTIONAL**

When oral presentations are required by the local agency, the evaluation criteria must include factors/sub-factors and weights used to score the proposers performance at the oral presentation. The evaluation committee will only be able to score each proposer based upon these criteria. The Contract Manager/Administrator should develop a set of questions related to the scope of work or the project to be asked during the evaluation committee question and answer (Q & A) section of the oral presentations. All proposers are asked the same questions for consistency.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

### **COST-EFFECTIVE/PUBLIC INTEREST FINDING**

A minimum of three proposal must be evaluated to establish effective competition. Any agency that has received less than three proposals on a contract shall document the names and addresses of the firms or individuals it solicited for proposals. Prepare an explanation as to why less than three proposals were received. When only two proposals are received, a justification must be documented to proceed with the procurement. When only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) (LAPM Exhibit 12-F: Cost-Effective/Public Interest Finding) must be documented. In either case, the re-advertisement of the RFP should be considered as an option. Retain document as supporting documentation in the contract file.

(PCC 10340(c))

### **PROTEST/APPEALS/REINSTATEMENT PROCEDURES**

Both state and federal regulations require well-defined protest/reinstatement procedures. It is essential that the procedures include a reasonable opportunity for the prospective consultant to present his/her case. The appeals procedures strengthen the process by which the contracting agency reaches its ultimate goal and helps defends its action against a claim of lack of due process. A termination clause and a provision for settlement of contract disputes are required. Protest procedures and dispute resolution processes should be in accordance with PCC 10345.

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #2.2**  
**PUBLIC HEARING**  
**Meeting Date: July 10, 2019**

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**TO:** Mayor and Council Members

**FROM:** Dan York, Assistant City Manager/City Engineer

**SUBJECT:** Consideration of Territory to be Annexed to Community Facilities District No. 2013-1 (Services), Calling an Election, Ordering the Levy and Collection of Special Taxes, and Declaring the Election Results for CFD 2013-1 (Services), Annexation No. 16

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council

1. Open the public hearing;
2. Take testimony;
3. Close the public hearing;
4. Adopt Resolution entitled:

RESOLUTION NO. 2019 - 40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, CALLING AN ELECTION TO SUBMIT  
TO THE QUALIFIED ELECTORS THE QUESTION OF LEVYING A  
SPECIAL TAX WITHIN THE AREA PROPOSED TO BE ANNEXED  
TO COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)  
(ANNEXATION NO. 16)

5. Hold the election;
6. Canvass the election; and
7. Adopt a Resolution entitled:

RESOLUTION NO. 2019 - 41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, DECLARING ELECTION RESULTS  
FOR COMMUNITY FACILITIES DISTRICT NO. 2013-1  
(SERVICES) (ANNEXATION NO. 16)

**BACKGROUND:**

On April 10, 2019, the City Council adopted Resolution No. 2019-19, declaring its intention to annex territory to Community Facilities District No. 2013-1 (Services) (the "CFD No. 2013-1" or "CFD") and commence the annexation proceedings for the territory to be annexed, also known as Annexation No. 16. A public hearing

was set for June 12, 2019 to conduct an election for the landowners and to declare the results of that election. On June 12, 2019 the agenda item was continued to July 10, 2019.

As required by the Resolution of Intention, an annexation map was recorded on April 17, 2019, at 10:34 a.m. in Book 83, Page 74, Document No. 2019-0129524 and the potential annexation area boundary map was recorded on February 18, 2014, at 1:17 p.m. in Book 76 Page 68, Document No. 2014-0062326 of Maps of Assessment and Community Facilities Districts with the Riverside County Recorder.

The Resolution of Intention was adopted by the City Council in response to a petition filed by the property owner, Tesoro Refining & Marketing Company LLC of two commercial parcels containing 5.95 acres within the City and has requested that the City assist them in annexing territory into CFD No. 2013-1 (Services) to cover the costs associated with the maintenance of public improvements. The improvements proposed to be maintained include items such as landscaping and lighting, street maintenance, water quality improvements, graffiti, street sweeping, and trails maintenance.

The area proposed within Annexation No. 16 will encompass two commercial parcels, with FY 2019-20 maximum annual tax of \$3,301.26 per acre, per year. The parcel map proposed to be annexed into CFD No. 2013-1 will be included in Tax Zone 18. This tax zone consists of two non-residential parcels and therefore will not be subject to the cost of providing police and fire protection services funded by Special Tax B. The tax rate is proposed to escalate each year at the greater of Consumer Price Index (CPI) or 2%. Tesoro Refining & Marketing Company LLC, has agreed to the annexation into the CFD and submitted a "Consent and Waiver" form on file in the City Clerk's Office, to initiate and conduct proceedings pursuant to the Mello-Roos Act in 1982, requesting the annexation of property to CFD No. 2013-1 (Services) and consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election.

#### **FISCAL IMPACT**

The projected levy for FY 2019-20 is \$19,642.48 for the first year of maintenance services.

Submitted by:  
Dan York  
Assistant City Manager/City Engineer

Approved by:  
Gary Nordquist  
City Manager

#### **ATTACHMENTS:**

Resolution Calling an Election  
Resolution Declaring Results

**RESOLUTION NO. 2019-40**  
**A RESOLUTION OF THE CITY COUNCIL OF THE**  
**CITY OF WILDOMAR, CALIFORNIA, CALLING AN**  
**ELECTION TO SUBMIT TO THE QUALIFIED**  
**ELECTORS THE QUESTION OF LEVYING A**  
**SPECIAL TAX WITHIN THE AREA PROPOSED TO**  
**BE ANNEXED TO COMMUNITY FACILITIES**  
**DISTRICT NO. 2013-1 (SERVICES) (ANNEXATION**  
**NO. 16)**

**WHEREAS**, on February 12, 2014, the City Council (the "City Council") of the City of Wildomar (the "City") approved Resolution No. 2014-07 declaring the City's intention to establish Community Facilities District No. 2013-1 (Services) of the City of Wildomar, County of Riverside, State of California (the "CFD No. 2013-1") for the purpose of levying special taxes on parcels of taxable property therein for the purpose of providing certain services which are necessary to meet increased demands placed upon the City as a result of the development of said real property; and

**WHEREAS**, the City Council set a public hearing for March 12, 2014, after which the Council adopted Resolution No. 2014-09 forming the CFD No. 2013-1 and calling a special election at which the questions of levying a special tax and establishing an appropriations limit with respect to the CFD No. 2013-1 were submitted to the qualified electors within the CFD No. 2013-1; and

**WHEREAS**, on March 12, 2014, the City Council adopted Resolution No. 2014-16 declaring the results of the special election and finding that more than two-thirds (2/3) of all votes cast at the special election were cast in favor of the proposition presented, and such proposition passed; and

**WHEREAS**, the City Council is authorized by Article 3.5 (commencing with Section 53339) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code as amended (the "Act"), to annex territory into an existing community facilities district by complying with the procedures set forth in said Article 3.5; and

**WHEREAS**, the City Council on April 10, 2019, duly adopted Resolution No. 2019-19 (the "Resolution of Intention") declaring its intention to annex certain territory to CFD No. 2013-1 (Services) and to levy a special tax within that territory to pay for certain services and setting a time and place for the public hearing on the proposed annexation for June 12, 2019; and

**WHEREAS**, the territory proposed to be annexed is identified in the map entitled "Annexation Map No. 16 Community Facilities District No. 2013-1 (Services)" a copy of which was recorded, on April 17, 2019, in Book 83 of Maps of Assessment and Community Facilities Districts at Page 74, in the office of the Riverside County Recorder; and

**WHEREAS**, pursuant to the Act and the Resolution of Intention, a notice of public hearing was convened by the City Council on June 12, 2019, not earlier than the hour of 6:30 p.m. at the City Hall located at 23873 Clinton Keith Road, Wildomar, California 92595, relative to the proposed annexation of said territory to CFD No. 2013-1; and

**WHEREAS**, the City Council on June 12, 2019, continued the public hearing on the proposed annexation for July 10, 2019; and

**WHEREAS**, written protests have not been filed by fifty percent (50%) or more of the registered voters residing within the CFD No 2013-1, or by fifty percent (50%) or more of the registered voters residing within the territory to be annexed, or by the owners of one-half (1/2) or more of the area within the CFD No. 2013-1, or by the owners of one-half (1/2) or more of the territory to be annexed; and

**WHEREAS**, the City Council has determined that there are fewer than twelve registered voters residing in the territory proposed to be annexed to the CFD No. 2013-1 and that the qualified electors in such territory are the landowners; and

**WHEREAS**, on the basis of all of the foregoing, the City Council has determined at this time to call an election to authorize the annexation of territory to the CFD No. 2013-1 and the levying of a special tax as described in Exhibit A hereto; and

**WHEREAS**, the City Council has received a written instrument from each landowner in the territory proposed to be annexed to the CFD No. 2013-1 consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election; and

**WHEREAS**, the City Clerk has concurred in the election date set forth herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR, ACTING EX OFFICIO AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT 2013-1 (SERVICES) OF THE CITY OF WILDOMAR, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1**    Recitals. The foregoing recitals are true and correct.

**Section 2.**    Conformation of Finding in Resolution of Intention. The City Council reconfirms all of its findings and determinations as set forth in the Resolution of Intention.

**Section 3.**    Findings Regarding Protests. The City Council finds and determines that written protests to the proposed annexation of territory to the CFD No. 2013-1 and the levy of the special tax within such territory are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all such protests are hereby overruled.

**Section 4. Findings Regarding Prior Proceedings.** The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the annexation of territory to CFD No. 2013-1 are valid and in conformity with the requirements of the Act.

**Section 5. Levy of Special Tax.** As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of territory proposed to be annexed to CFD No. 2013-1, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in CFD No. 2013-1, will be levied annually in CFD No. 2013-1. The rate and method of apportionment, and manner of collection of the special tax are specified in Exhibit A hereto.

**Section 6. Apportionment of Tax.** The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

**Section 7. Tax Roll Preparation.** The office of the Public Works Director, 23873 Clinton Keith Road., City of Wildomar, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Public Works Director may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

**Section 8. Accountability Measures.** Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Public Works Director annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in CFD No. 2013-1.

**Section 9. Special Election; Voting Procedures.** The City Council hereby submits the questions of levying the special tax within the territory proposed to be annexed to the qualified electors, in accordance with and subject to the Act. The special election shall be held on July 10, 2019, and shall be conducted as follows:

(a) **Qualified Electors.** The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of CFD No. 2013-1. Because fewer than twelve registered voters resided within the territory proposed to be annexed to CFD No. 2013-1 on April 11, 2019 (a date within the 90 days preceding the close of the public hearing on the territory proposed to be annexed to CFD No. 2013-1), the qualified electors shall be the landowners within territory proposed to be annexed, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the territory proposed to be annexed to CFD No. 2013-1.

(b) Consolidation of Elections; Combination of Propositions on Ballot.

The election on the question of levying the special tax and establishing an appropriations limit for CFD No. 2013-1 shall be consolidated, and the two proportions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5.

(c) Mail Ballot Election. Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner within the territory proposed to be annexed to CFD No. 2013-1. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit B.

(d) Return of Ballots. The City Clerk shall accept the ballots of the landowners up to 6:00 p.m. on July 10, 2019. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) Canvass of Election. The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (on June 12, 2019, or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) Declaration of Results. The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

**Section 10.** Filing of Resolution and Map with City Clerk. The City Council hereby directs the City Clerk to file a copy of this resolution and the annexation map of the boundaries of CFD No. 2013-1 in his/her office.

**PASSED, APPROVED AND ADOPTED** this 10th day of July, 2019:

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Marsha Swanson  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

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Thomas D. Jex  
City Attorney

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Janet Morales  
Acting City Clerk



**RESOLUTION NO. 2019-41**  
**A RESOLUTION OF THE CITY COUNCIL OF THE**  
**CITY OF WILDOMAR, CALIFORNIA, DECLARING**  
**ELECTION RESULTS FOR COMMUNITY**  
**FACILITIES DISTRICT NO. 2013-1 (SERVICES)**  
**ANNEXATION NO. 16**

**WHEREAS**, the City Council (the "City Council") of the City of Wildomar (the "City") has heretofore conducted proceedings for the area proposed to be annexed to Community Facilities District No. 2013-1 (Services) (the "CFD No. 2013-1") of the City of Wildomar, including conducting a public hearing pursuant to Section 53339.5 of the Government Code; and

**WHEREAS**, at the conclusion of said public hearing, the City Council adopted a resolution calling a special election for July 10, 2019, and submitting to the qualified electors of the territory to be annexed to the CFD No. 2013-1 the question of levying special taxes on parcels of taxable property therein for the purpose of providing certain services which are necessary to meet increased demands placed upon the City as a result of the development of said real property as provided in the form of special election ballot; and

**WHEREAS**, a Certificate of Election Results, attached thereto as Exhibit A, dated July 10, 2019, executed by the City Clerk (or, in the absence of the City Clerk, the Acting City Clerk – in either case, the "Clerk"), has been filed with this Council, certifying that a completed ballot has been returned to the Clerk for each landowner-voter(s) eligible to cast a ballot in said special election, with all votes cast as "Yes" votes in favor of the ballot measure, and further certifying on said basis that the special mailed-ballot election was closed; and

**WHEREAS**, this Council has received, reviewed and hereby accepts the Clerk's Certificate of Election Results and wishes by this resolution to declare the results of the special mailed-ballot election;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR:**

**Section 1.** Recitals. This Council finds and determines that the foregoing recitals are true and correct.

**Section 2.** Ballot Measure. This Council hereby finds, determines and declares that the ballot measure submitted to the qualified electors of the territory to be annexed to CFD No. 2013-1 has been passed and approved by those qualified electors in accordance with Sections 53328 and 53329 of the Government Code.

**Section 3.** Annexation. This Council hereby finds, determines and declares that pursuant to Section 53339.8 of the Government Code, the City Council is authorized to determine that the territory to be annexed has been added to and

become a part of the CFD No. 2013-1 with full legal effect, and the City Council is also authorized, pursuant to said Section 53339.8, to annually levy special taxes within the territory to be annexed to pay the costs of the services to be provided by the CFD No. 2013-1 as specified in Resolution No. 2019-19 adopted by the City Council on April 10, 2019. The boundaries of the territory annexed are shown on the map entitled, "Annexation Map No. 16 Community Facilities District No. 2013-1 (Services)" a copy of which was recorded, on April 17, 2019, in Book 83 of Maps of Assessment and Community Facilities Districts at Page 74, in the office of the Riverside County Recorder.

**Section 4.** Notice of Special Tax Lien. Pursuant to Section 53339.8 of the Government Code and Section 3117.5 of the Streets and Highways Code, the City Clerk shall cause to be filed with the County Recorder of the County of Riverside an amendment of the notice of special tax lien and a map of the amended boundaries of the CFD No. 2013-1 including the annexed territory.

**Section 5.** Effect. This resolution shall take effect from and after its adoption.

**PASSED, APPROVED AND ADOPTED** this 10<sup>th</sup> day of July, 2019:

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Marsha Swanson  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

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Thomas D. Jex  
City Attorney

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Janet Morales  
Acting City Clerk

**RATES AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)  
OF THE CITY OF WILDOMAR**

A Special Tax (the "Special Tax") shall be levied on and collected from each Assessor's Parcel (defined below) in Community Facilities District No. 2013-1 (Services) (the "CFD No. 2013-1" or "CFD"; defined below), in each Fiscal Year, (defined below), commencing in the Fiscal Year beginning July 1, 2014, in an amount determined by the City Council of the City of Wildomar, acting ex officio as the legislative body of CFD No. 2013-1, by applying the rates and method of apportionment set forth below. All of the real property in CFD No. 2013-1, unless exempted by law or by the provisions herein, shall be taxed to the extent and in the manner provided herein.

**A. DEFINITIONS**

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on any Assessor's Parcel Map, or if the land area is not shown on the Assessor's Parcel Map, the land area as shown on the applicable Final Map, or if the area is not shown on the applicable Final Map, the land area shall be calculated by the Administrator.

**"Administrative Expenses"** means the actual or reasonably estimated costs directly related to the formation, annexation, and administration of CFD No. 2013-1 including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs to the City, CFD No. 2013-1, or any designee thereof associated with fulfilling the CFD No. 2013-1 disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2013-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2013-1 for any other administrative purposes of CFD No. 2013-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Administrator"** means the City Manager of the City of Wildomar, or his or her designee.

**"Approved Property"** means all Assessor's Parcels of Taxable Property that are included in a Final Map that was recorded prior to the March 1 of preceding the Fiscal Year in which the Special Tax is being levied.

**"Assessor's Parcel"** means a lot or parcel of land that is identifiable by an Assessor's Parcel Number by the County Assessor of the County of Riverside.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

**“Assessor’s Parcel Number”** means that identification number assigned to a parcel by the County Assessor of the County.

**“Building Square Footage”** or **“BSF”** means the floor area square footage reflected on the original construction building permit issued for construction of a building of Non-Residential Property and any Building Square Footage subsequently added to a building of such Taxable Property after issuance of a building permit for expansion or renovation of such building.

**“CFD”** or **“CFD No. 2013-1”** means the City of Wildomar Community Facilities District No. 2013-1 (Services).

**“City”** has the meaning set forth in the preamble.

**“County”** means the County of Riverside.

**“Developed Property”** means all Assessor’s Parcels of Taxable Property for which a building permit for new construction has been issued on or prior to March 1 preceding the Fiscal Year in which the Special Tax is being levied.

**“Exempt Property”** means all Assessors’ Parcels designated as being exempt from the Special Tax as provided for in Section G.

**“Final Map”** means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code 1352 that creates individual lots for which building permits may be issued without further subdivision.

**“Fiscal Year”** means the period from and including July 1<sup>st</sup> of any year to and including the following June 30<sup>th</sup>.

**“Land Use Category”** means, any of the categories contained in Section B. hereof to which an Assessor’s Parcel is assigned consistent with the land use approvals that have been received or proposed for the Assessor’s Parcel as of March 1 preceding the Fiscal Year in which the Special Tax is being levied.

**“Maximum Special Tax”** means the Maximum Special Tax A and/or Maximum Special Tax B, as applicable.

**“Maximum Special Tax A”** means the Maximum Special Tax A, as determined in accordance with Section C., below, that can be levied in any Fiscal Year on any Assessor's Parcel within CFD No. 2013-1.

**“Maximum Special Tax B”** means the Maximum Special Tax B, as determined in accordance with Section C., below, that can be levied in any Fiscal Year on any Assessor's Parcel within CFD No. 2013-1.

**“Multi-Family Residential Property”** means any Assessor’s Parcel of residential property that consists of a building or buildings comprised of attached Residential Units available for rental, but not purchase, by the general public and under common management.

**“Non-Residential Property”** means, all Assessor's Parcels of Taxable Property for which a building permit(s) was issued for a non-residential use. The Administrator shall make the determination if an Assessor’s Parcel is Non-Residential Property.

**“Proportionately”** means for Taxable Property that is: (i) Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is the same for all Parcels of Developed Property, (ii) Approved Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is the same for all Parcels of Approved Property, and (iii) Undeveloped Property that the ratio of the actual Special Tax levy per acre to the Maximum Special Tax per acre is the same for all Parcels of Undeveloped Property.

**“Residential Unit”** or **“RU”** means a residential unit that is used or intended to be used as a domicile by one or more persons, as determined by the Administrator.

**“Residential Property”** means all Assessor’s Parcels of Taxable Property upon which completed Residential Units have been constructed or for which building permits have been or may be issued for purposes of constructing one or more Residential Units.

**“Service(s)”** means services permitted under the Mello-Roos Community Facilities Act of 1982 including, without limitation, those services authorized to be funded by CFD No. 2013-1 as set forth in the documents adopted by the City Council at the time the CFD was formed.

**“Single Family Residential Property”** means any residential property that consists of a building comprised of attached or detached residential units available for purchase or rent by the general public.

**“Special Tax(es)”** means the Special Tax A and/or Special Tax B to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property.

**“Special Tax A”** means the annual special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax A Requirement.

**“Special Tax B”** means the annual special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Developed Property to fund the Special Tax B Requirement.

**"Special Tax A Requirement"** means that amount to be collected in any Fiscal Year to pay for certain costs as required to meet the needs of CFD No. 2013-1 in both the current Fiscal Year and the next Fiscal Year. The costs to be covered shall be the direct costs for (i) maintenance services including but not limited to (i) maintenance and lighting of parks, parkways, streets, roads and open space, (ii) maintenance and operation of water quality improvements, (iii) public street sweeping, (iv) fund an operating reserve for the costs of Services as determined by the Administrator, and (v) Administrative Expenses. Under no circumstances shall the Special Tax A Requirement include funds for Bonds.

**"Special Tax B Requirement"** means that amount to be collected in any Fiscal Year to pay for certain costs as required to meet the needs of CFD No. 2013-1 in both the current Fiscal Year and the next Fiscal Year. The costs to be covered shall be the direct costs for (i) police protection services, (ii) fire protection and suppression services, (iii) fund an operating reserve for the costs of Services as determined by the Administrator, and (iv) Administrative Expenses. Under no circumstances shall the Special Tax B Requirement include funds for Bonds.

**"Taxable Property"** means all Assessor's Parcels within CFD No. 2013-1, which are not Exempt Property.

**"Tax Zone"** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Exhibit "C" identifies the Tax Zone in CFD No. 2013-1 at formation; additional Tax Zones may be created when property is annexed into the CFD.

**"Tax Zone 1"** means the geographic area the specific area identified on the CFD Boundary Map as Tax Zone 1.

**"Tax Zone 2"** means the geographic area the specific area identified on the CFD Boundary Map as Tax Zone 2.

**"Tract(s)"** means an area of land within a subdivision identified by a particular tract number on a Final Map approved for the subdivision.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property or Approved Property.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

For each Fiscal Year, all Assessor's Parcels of Taxable Property within CFD No. 2013-1 shall be classified as Developed Property, Approved Property, or Undeveloped Property, and shall be subject to the levy of Special Taxes as determined pursuant to Sections C and D below. Assessor's Parcels of Developed Property and Approved Property shall be classified as either Residential Property or Non-Residential Property.

## C. MAXIMUM SPECIAL TAX RATES

### 1. Special Tax A

For purposes of determining the applicable Maximum Special Tax A for Assessor's Parcels of Developed Property and Approved Property which are classified as Residential Property, all such Assessor's Parcels shall be assigned the number of Residential Unit(s) constructed or to be constructed thereon as specified in or shown on the building permit(s) issued or Final Map as determined by the Administrator. For Parcels of undeveloped property zoned for development of single family attached or multi-family units, the number of Residential Units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan, or by assigning the maximum allowable units permitted based on the underlying zoning for the Parcel. Once a single family attached or multi-family building or buildings have been built on an Assessor's Parcel, the Administrator shall determine the actual number of Residential Units contained within the building or buildings, and the Special Tax levied against the Parcel in the next Fiscal Year shall be calculated by multiplying the actual number of Residential Units by the Maximum Special Tax A per Residential Unit identified for the Tracts in Table 1 below.

#### a. Developed Property

##### (i) Maximum Special Tax A

The Maximum Special Tax A for each Assessor's Parcel of Taxable Property is shown in Table 1 is shall be specific to each Tract within the CFD. When additional property is annexed into CFD No. 2013-1, the rate and method adopted for the annexed property shall reflect the Maximum Special Tax for the Tract or Tracts annexed. The Maximum Special Tax A for Fiscal Year 2014-2015 for a Residential Unit within the Tracts are identified in Table 1 below:

**TABLE 1**  
**Maximum Special Tax A Rates**

| <b>Tax Zone</b> | <b>Tracts</b> | <b>Maximum Special Tax A</b>  |
|-----------------|---------------|-------------------------------|
| 1               | 32535         | \$346.00 per Residential Unit |
| 2               | 31479         | \$346.00 per Residential Unit |

##### (ii) Increase in the Maximum Special Tax A

On each July 1, commencing on July 1, 2015 the Maximum Special Tax A for Developed Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) since the beginning of the preceding Fiscal Year, or ii) by two percent (2.0%), whichever is greater.

(iii) Multiple Land Use Categories

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Category. The Maximum Special Tax A that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax A that can be levied for each Land Use Category located on that Assessor's Parcel. For an Assessor's Parcel that contains more than one land use, the Acreage of such Assessor's Parcel shall be allocated to each type of property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Assessor's Parcel. The Administrator's allocation to each type of property shall be final.

b. Approved Property

The Maximum Special Tax A for each Assessor's Parcel of Taxable Property is shown in Table 2 is shall be specific to each Tract within the CFD. When additional property is annexed into CFD No. 2013-1, the rate and method adopted for the annexed property shall reflect the Maximum Special Tax for the Tract or Tracts annexed. The Maximum Special Tax A for Fiscal Year 2014-2015 per Residential Unit within the Tracts is identified in Table 2 below:

**TABLE 2**  
**Maximum Special Tax A Rates**

| <b>Tax Zone</b> | <b>Tracts</b> | <b>Maximum Special Tax A</b>  |
|-----------------|---------------|-------------------------------|
| 1               | 32535         | \$346.00 per Residential Unit |
| 2               | 31479         | \$346.00 per Residential Unit |

On each July 1, commencing on July 1, 2015 the Maximum Special Tax A for Approved Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) since the beginning of the preceding Fiscal Year, or ii) by two percent (2.0%), whichever is greater.

c. Undeveloped Property

The Maximum Special Tax A for each Assessor's Parcel of Taxable Property is shown in Table 3 shall be specific to each Tract within the CFD. When additional property is annexed into CFD No. 2013-1, the rate and method adopted for the annexed property shall reflect the Maximum Special Tax A for the Tract or Tracts annexed. The Maximum Special Tax A for Fiscal Year 2014-2015 per acre within the Tracts are identified in Table 3 below:



**TABLE 3**  
**Maximum Special Tax A Rates**

| <b>Tax Zone</b> | <b>Tracts</b> | <b>Maximum Special Tax A</b> |
|-----------------|---------------|------------------------------|
| 1               | 32535         | \$1,762 per Acre             |
| 2               | 31479         | \$1,541 per Acre             |

On each July 1, commencing on July 1, 2015 the Maximum Special Tax A for Undeveloped Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) since the beginning of the preceding Fiscal Year, or ii) by two percent (2.0%), whichever is greater.

## **2. Special Tax B**

The Special Tax B is an annual Special Tax that shall be levied on Developed Property to fund the Special Tax Requirement B.

### **a. Developed Property**

#### **(i) Maximum Special Tax B**

The Maximum Special Tax B for Fiscal Year 2014-2015 for each Land Use Class is shown in Table 4. When additional property is annexed into CFD No. 2013-1, the rate and method adopted for the annexed property shall reflect the Maximum Special Tax B for the Tract or Tracts annexed.

**TABLE 4**  
**Maximum Special Tax B Rates**

| <b>Land Use Class</b> | <b>Description</b>        | <b>Unit</b> | <b>Maximum Special Tax B</b> |
|-----------------------|---------------------------|-------------|------------------------------|
| 1                     | Single Family Residential | RU          | \$244.00                     |
| 2                     | Multi-Family Residential  | RU          | \$173.00                     |

On each July 1, commencing on July 1, 2015 the Maximum Special Tax B for Developed Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) since the beginning of the preceding Fiscal Year, or ii) by five percent (5.0%), whichever is greater.

No Special Tax shall be levied on property which, at the time of adoption of the Resolution of Formation for CFD No. 2013-1, is an Exempt Property.

## **D. METHOD OF APPORTIONMENT OF ANNUAL SPECIAL TAX**

### **1. Special Tax A**

Commencing with Fiscal Year 2014-2015 and for each following Fiscal Year, the Council shall determine the Special Tax A Requirement and shall levy the Special Tax A on all Assessor's Parcels of Taxable Property until the aggregate amount of Special Tax A equals the Special Tax A Requirement. The Special Tax A shall be levied for each Fiscal Year as follows:

First: The Special Tax A shall be levied Proportionately on all Assessor's Parcels of Developed Property up to 100% of the applicable Maximum Special Tax A to satisfy the Special Tax A Requirement;

Second: If additional moneys are needed to satisfy the Special Tax A Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Parcel of Approved Property at up to 100% of the Maximum Special Tax A for Approved Property;

Third: If additional monies are needed to satisfy the Special Tax A Requirement after the first two steps has been completed, the Special Tax A shall be levied Proportionately on all Assessor's Parcels of Undeveloped Property up to 100% of the Maximum Special Tax A for Undeveloped Property.

### **2. Special Tax B**

Commencing with Fiscal Year 2014-2015 and for each following Fiscal Year, the Council shall determine the Special Tax B Requirement and shall levy the Special Tax B until the aggregate amount of Special Tax B equals the Special Tax B Requirement.

The Special Tax B shall be levied Proportionately on all Assessor's Parcels of Developed Property up to 100% of the applicable Maximum Special Tax B to satisfy the Special Tax B Requirement.

## **E. FUTURE ANNEXATIONS**

It is anticipated that additional properties will be annexed to CFD No. 2013-1 from time to time. As each annexation is proposed, an analysis will be prepared to determine the annual cost for providing Services. Based on this analysis, the property to be annexed, pursuant to California Government Code section 53339 et seq. will be assigned to the appropriate Maximum Special Tax rate for the Tract or Tracts when annexed.

## **F. TERM OF SPECIAL TAX**

For each Fiscal Year, the Special Taxes shall be levied as long as the Services are being provided.

## **G. EXEMPTIONS**

The City shall classify as Exempt Property within CFD No. 2013-1, any Assessor's Parcel in any of the following categories; (i) Assessor's Parcels which are owned by, irrevocably offered for dedication, encumbered by or restricted in use by any public entity; (ii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement; (iii) Assessor's Parcels which are privately owned but are encumbered by or restricted solely for public uses; or (iv) any Assessor's Parcel which is in use in the performance of a public function as determined by the Administrator.

## **H. APPEALS**

Any property owner claiming that the amount or application of the Special Taxes are not correct may file a written notice of appeal with the City not later than twelve months after having paid the first installment of the Special Tax(es) that is disputed. A representative(s) of CFD No. 2013-1 shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the representative's decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made, but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s).

## **I. MANNER OF COLLECTION**

The Special Tax(es) shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 2013-1 may collect the Special Tax at a different time or in a different manner if necessary to meet its financial obligations.

**EXHIBIT A**

**CITY OF WILDOMAR  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)**

**COST ESTIMATE**

**Maintenance Services** - The estimate breaks down the costs of providing one year's maintenance services for FY 2019-2020. These services are being funded by the levy of Special Tax A for Community Facilities District No. 2013-1.

**TAX ZONE 18 – Annexation 16  
PM 32257**

| <b>Item</b>  | <b>Description</b>                           | <b>Estimated Cost</b> |
|--------------|--|-----------------------|
| 1            | Landscaping                                  | \$4,778               |
| 2            | Lighting Expenses                            | \$6,511               |
| 3            | Street Sweeping & Pavement Management        | \$4,796               |
| 3            | Drainage Maintenance                         | \$285                 |
| 4            | Reserve Fund                                 | \$1,636               |
| 5            | Administration & Auditor-Controller Expenses | \$1,637               |
| <b>Total</b> |  | <b>\$19,643.00</b>    |

**Safety Services** – Tax Zone 18 consists of non-residential parcels and therefore will not be subject to the cost of providing police and fire protection services funded by Special Tax B.

## TAX ZONE SUMMARY

| <b>Annexation</b> | <b>Tax Zone</b> | <b>Tract</b>    | <b>Fiscal Year</b> | <b>Maximum Special Tax A</b> | <b>Maximum Special Tax B</b> | <b>Subdivider</b>                        |
|-------------------|-----------------|-----------------|--------------------|------------------------------|------------------------------|--|
| Original          | 1               | 32535           | 2014-15            | \$346.00 / RU                | \$244.00 / RU                | CV Communities LLC                       |
| Original          | 2               | 31479           | 2014-15            | \$346.00 / RU                | \$244.00 / RU                | Rancon Equity Partners III               |
| 1                 | 3               | 25122/<br>32078 | 2015-16            | \$346.00 / RU                | \$244.00 / RU                | Rancho Fortunado Inv, LLC                |
| 2                 | 4               | PM 16803        | 2015-16            | \$51.41 / Acre               | N/A                          | Morales Enterprises, LLC                 |
| 3                 | 5               | 36497           | 2015-16            | \$522.27 / RU                | \$244.00 / RU                | Lennar Homes of California, Inc.         |
| 4                 | 6               | PM 36492        | 2015-16            | \$766.14 / Acre              | N/A                          | Rancon Medical and Education Center, LLC |
| 5                 | 7               | 29476           | 2016-17            | \$688.60 / RU                | \$244.00 / RU                | Alta Colina, LLC                         |
| 6                 | 8               | 36519           | 2016-17            | \$777.35 / RU                | \$244.00 / RU                | Keusder, LLC / MSL Orange, Inc.          |
| 7                 | 9               | PP 10-0222      | 2016-17            | \$7,650.78 / RU              | N/A                          | Plaza de Bundy Canyon, LLC               |
| 8                 | 10              | 32206           | 2016-17            | \$633.51 / RU                | \$244.00 / RU                | Wildomar Land, LLC                       |
| 9                 | 11              | PM 36080        | 2018-19            | \$3,302.61 / Acre            | N/A                          | CK-HS Partners, LLC / SNDH Partners, LLC |
| 10                | 12              | PM 32833        | 2017-18            | \$1,418.22 / RU              | \$244.00 / RU                | Wildomar Housing Partners, LLC           |
| 11                | 13              | PM 36653        | 2017-18            | \$333.00 / RU                | \$282.46 / RU                | Benson Residential                       |
| 12                | 14              | LLA 2016-005    | 2018-19            | \$2,325.03 / Acre            | N/A                          | Sunbelt Rentals                          |
| 13                | 15              | CUP/PP 15-0013  | 2019-20            | \$3,330.26/Acre              | N/A                          | Clinton Keith Village                    |
| 14                | 16              | CUP 16-0095     | 2019-20            | \$1,513.72/Acre              | N/A                          | Big Easy RV Boat Storage                 |
| 15                | 17              | TR 32726        | 2019-20            | \$1,012.37 / RU              | \$311.41 / RU                | Hacienda Properties, LLC                 |
| 16                | 18              | PM 32257        | 2019-20            | \$3,301.26/Acre              | N/A                          | Tesoro Refining & Marketing Co LLC       |

## APPROVED PROPERTY

| <b>Annexation</b> | <b>Tax Zone</b> | <b>Tract</b> | <b>Fiscal Year</b> | <b>Maximum Special Tax A</b> | <b>Subdivider</b>                  |
|-------------------|-----------------|--------------|--------------------|------------------------------|------------------------------------|
| 16                | 18              | PM 32257     | 2019-20            | \$3,301.26 / Acre            | Tesoro Refining & Marketing Co LLC |

## UNDEVELOPED PROPERTY

| Annexation | Tax Zone | Tract    | Fiscal Year | Maximum Special Tax A | Subdivider                         |
|------------|----------|----------|-------------|-----------------------|------------------------------------|
| 16         | 18       | PM 32257 | 2019-20     | \$3,301.26 / Acre     | Tesoro Refining & Marketing Co LLC |

## ESCALATION OF MAXIMUM SPECIAL TAXES

**Maximum Special Tax A** - On each July 1, the Maximum Special Tax A for Developed Property, Approved Property and Undeveloped Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) for the calendar year ending in March of the prior Fiscal Year, or ii) by two percent (2.0%), whichever is greater.

**Maximum Special Tax B** - On each July 1, the Maximum Special Tax B for Developed Property shall increase by i) the percentage increase in the Consumer Price Index (All Items) for Los Angeles - Riverside - Orange County (1982-84 = 100) for the calendar year ending in March of the prior Fiscal Year, or ii) by five percent (5.0%), whichever is greater.

## **EXHIBIT B**

### **CITY OF WILDOMAR COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)**

#### **DESCRIPTION OF AUTHORIZED SERVICES**

The services which may be funded with proceeds of the special tax of CFD No. 2013-1, as provided by Section 53313 of the Act, will include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing landscaped areas (may include reserves for replacement) in public street right-of-ways, public landscaping, public open spaces and other similar landscaped areas officially dedicated for public use. In addition, the services which may include some or all costs attributable to police protection, and fire services. These services including the following:

(a) maintenance and lighting of parks, parkways, streets, roads and open space, which maintenance and lighting services may include, without limitation, furnishing of electrical power to street lights; repair and replacement of damaged or inoperative light bulbs, fixtures and standards; maintenance (including irrigation and replacement) of landscaping vegetation situated on or adjacent to parks, parkways, streets, roads and open space; maintenance and repair of irrigation facilities; maintenance of public signage; graffiti removal from and maintenance and repair of public structures situated on parks, parkways, streets, roads and open space; maintenance and repair of playground or recreation program equipment or facilities situated on any park; and

(b) maintenance and operation of water quality improvements which include storm drainage and flood protection facilities, including, without limitation, drainage inlets, catch basin inserts, infiltration basins, flood control channels, fossil fuel filters, and similar facilities. Maintenance services may include but is not limited to the repair, removal or replacement of all or part of any of the water quality improvements, fossil fuel filters within the public right-of-way including the removal of petroleum hydrocarbons and other pollutants from water runoff, or appurtenant facilities, clearing of inlets and outlets; erosion repairs; and cleanup to improvements, and other items necessary for the maintenance, servicing; or both of the water quality basin improvements within flood control channel improvements; and

(c) public street sweeping, on the segments of the arterials within the boundaries of CFD No. 2013-1; as well as local roads within residential subdivisions located within CFD No. 2013-1; and any portions adjacent to the properties within CFD No. 2013-1; and

(d) police protection services, including but not limited to criminal justice services, and fire protection and suppression services.

In addition to payment of the cost and expense of the forgoing services, proceeds of the special tax may be expended to pay "Administrative Expenses," as said term is defined in the Rate and Method of Apportionment.

The above services shall be limited to those provided within the boundaries of CFD No. 2013-1 or for the benefit of the properties within the boundaries of CFD No. 2013-1, as the boundary is expanded from time to time by anticipated annexations, and said services may be financed by proceeds of the special tax of CFD No. 2013-1 only to the extent that they are in addition to those provided in the territory of CFD No. 2013-1 before CFD No. 2013-1 was created.

**EXHIBIT C**

**CITY OF WILDOMAR**  
**COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)**  
**PROPOSED BOUNDARIES**



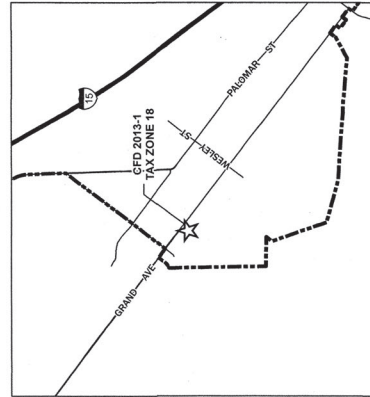
# **PROPOSED ANNEXATION MAP NO. 16** **COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)** **CITY OF WILDOMAR,** **COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

THIS MAP SHOWS THE BOUNDARIES OF AREAS TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES) OF THE CITY OF WILDOMAR, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

THE BOUNDARIES OF WHICH COMMUNITY FACILITIES DISTRICT ARE SHOWN AND DESCRIBED ON THE MAP THEREOF WHICH WAS PREVIOUSLY RECORDED ON FEBRUARY 18, 2014, IN BOOK 76 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITY DISTRICTS AT PAGES 65-67 AND AS INSTRUMENT NO. 2014-0062325 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

I HEREBY CERTIFY THAT THE WITHIN MAP OR AREAS TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES) OF THE CITY OF WILDOMAR, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR AT A REGULAR MEETING THEREOF, HELD ON 12th DAY OF April, 2019, BY RESOLUTION NO. 2019-19

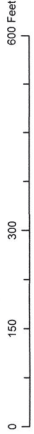
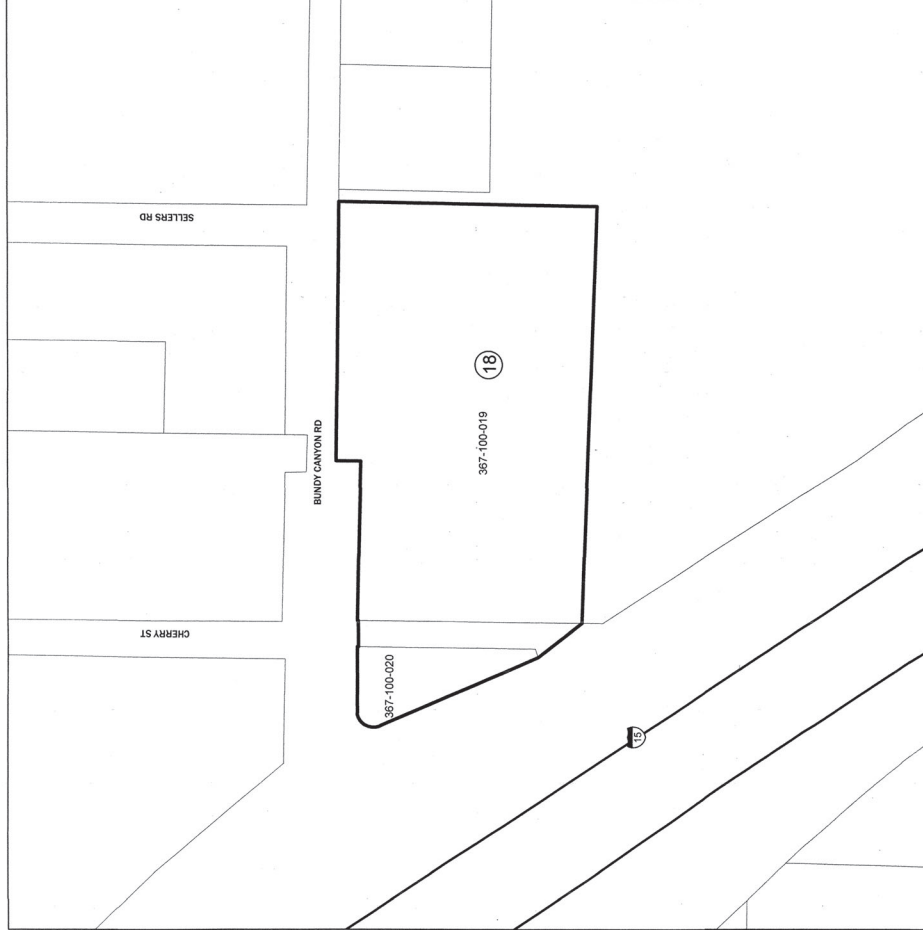
Devin A. Lee  
 CITY CLERK  
 CITY OF WILDOMAR



THIS ANNEXATION MAP CORRECTLY SHOWS THE LOT OR PARCEL OF LAND INCLUDED WITHIN THE BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. FOR DETAILS CONCERNING THE LINES AND DIMENSIONS OF LOTS OR PARCELS REFER TO THE COUNTY ASSESSOR MAPS FOR FISCAL YEAR 2018-19.



SPICER CONSULTING  
 & ASSOCIATES



## **Legend**

- ANNEXATION AREA BOUNDARY
- PARCEL LINE
- CITY BOUNDARY
- XXX-XXX-XXX ASSESSOR PARCEL NUMBER
- (18) TAX ZONE

FILED IN THE OFFICE OF THE CITY CLERK, CITY OF WILDOMAR, THIS 10th DAY OF April, 2019.

Jan Moran  
 CITY CLERK  
 CITY OF WILDOMAR

RECORDED THIS 14th DAY OF April, 2019 AT THE HOUR OF 10:34 O'CLOCK A M IN BOOK 83 PAGE 74 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEE: \$9- NO.: 2019-012524  
 PETER ALDANA, ASSESSOR, COUNTY CLERK, RECORDER  
 BY: [Signature] DEPUTY

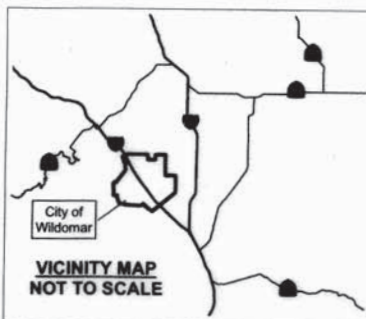
# **BOUNDARIES - POTENTIAL ANNEXATION AREA** **COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)** **CITY OF WILDOMAR**

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF THE POTENTIAL ANNEXATION AREA OF COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES), CITY OF WILDOMAR, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR AT A REGULAR MEETING THEREOF, HELD ON 18th DAY OF Feb., 2014, BY ITS RESOLUTION NO. 2014-07.

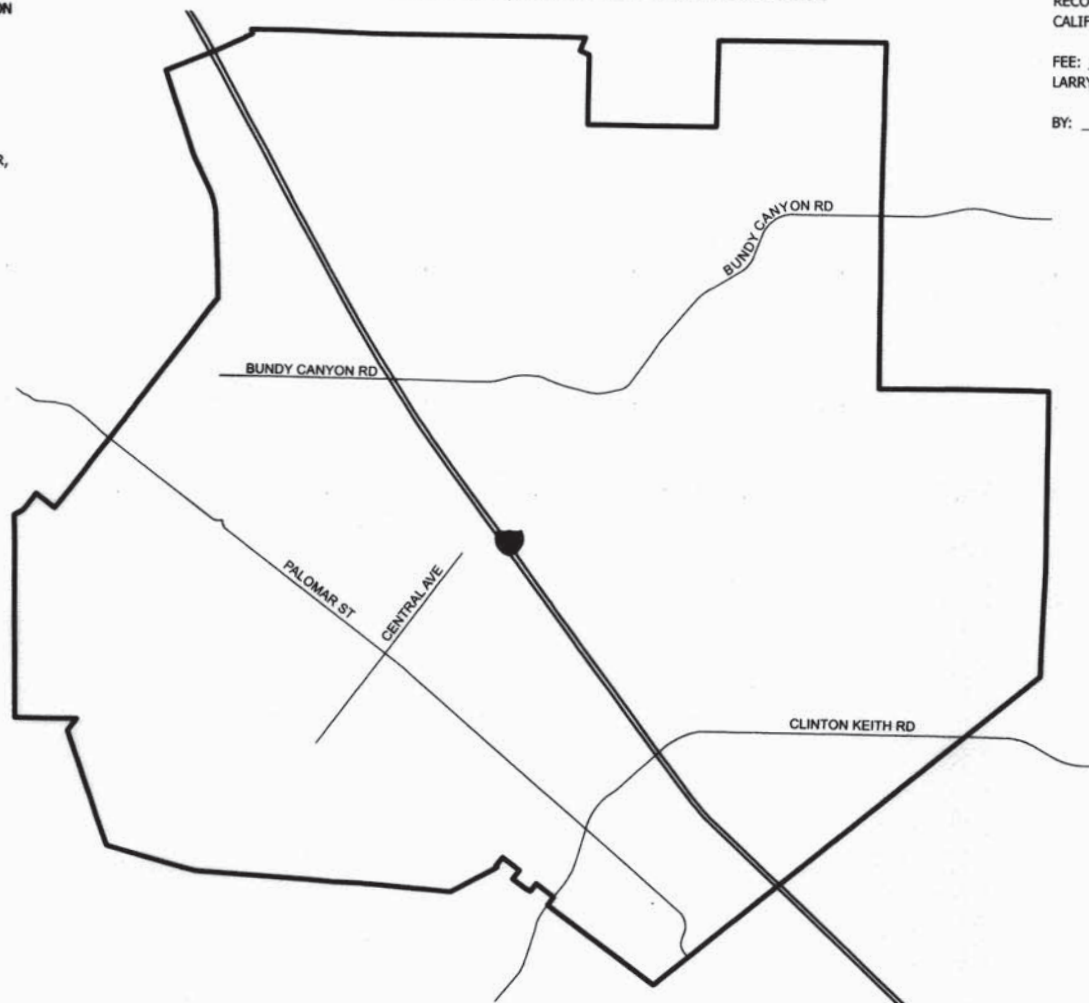
Shirley A. Lee  
 CITY CLERK  
 CITY OF WILDOMAR

FILED IN THE OFFICE OF THE CITY CLERK, CITY OF WILDOMAR, THIS 18th DAY OF Feb., 2014

Shirley A. Lee  
 CITY CLERK  
 CITY OF WILDOMAR



## **COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



RECORDED THIS 18th DAY OF FEBRUARY, 2014  
 AT THE HOUR OF 1:12 O'CLOCK P.M. IN BOOK 76  
 PAGE 68 OF MAPS OF ASSESSMENT AND COMMUNITY  
 FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY  
 RECORDER, IN THE COUNTY OF RIVERSIDE, STATE OF  
 CALIFORNIA.

FEE: \$10.00 NO.: 2014-0062326  
 LARRY W. WARD, ASSESSOR, COUNTY CLERK, RECORDER

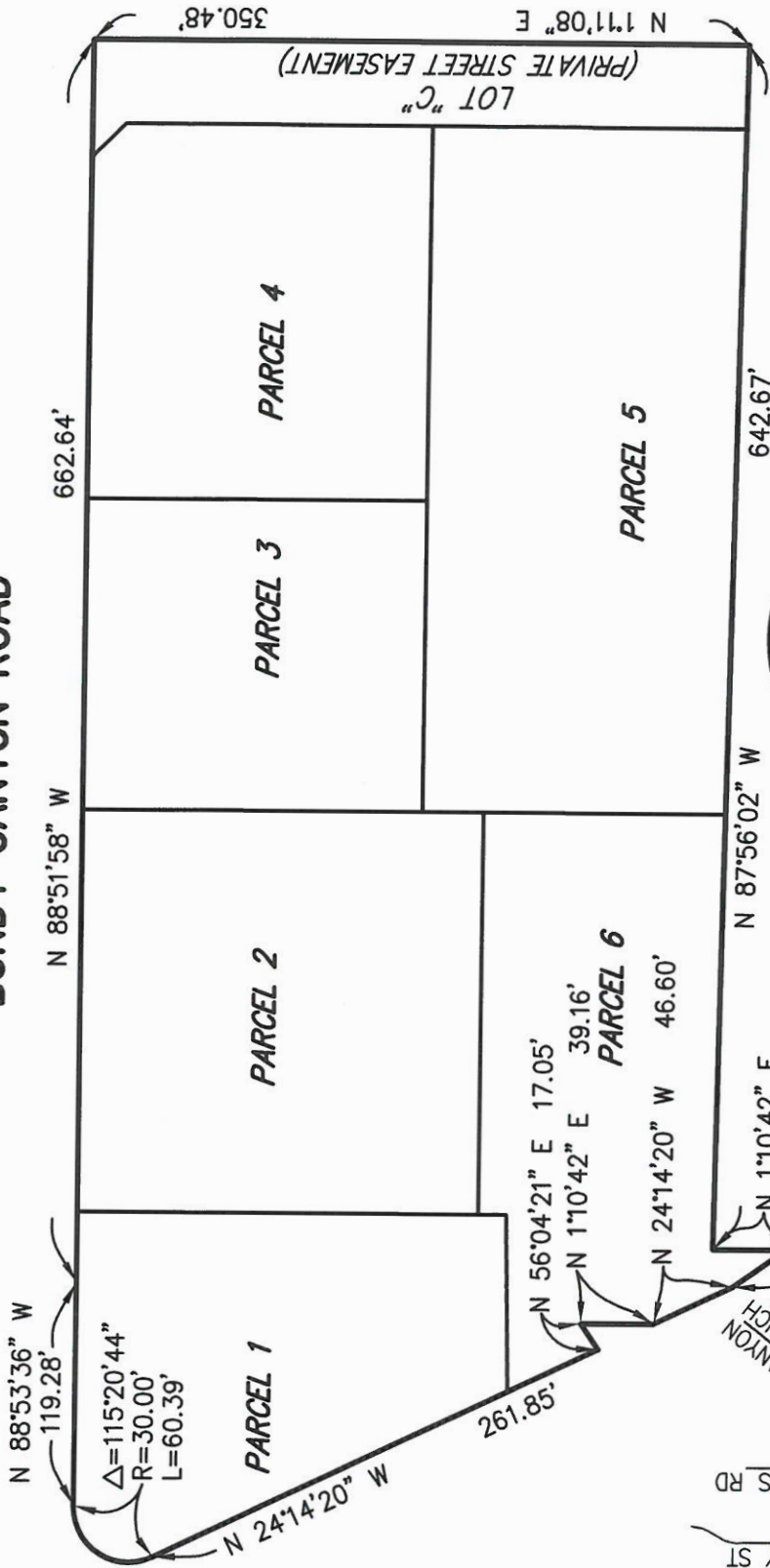
BY: W. W. Ward  
 DEPUTY

### **LEGEND**

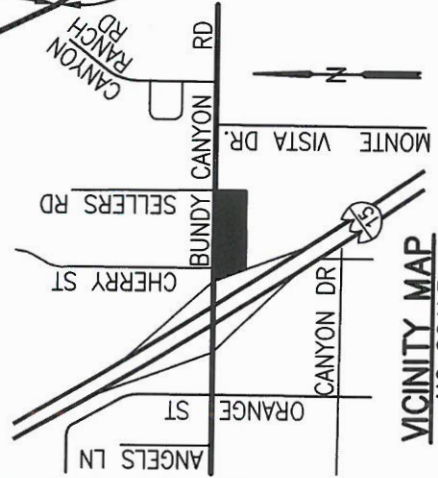
— ANNEXATION AREA BOUNDARY

EXHIBIT 'B'

BUNDY CANYON ROAD



1" = 100'



VICINITY MAP  
NO SCALE

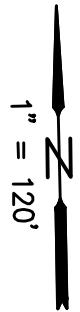


*Michael A. Medofer*  
MICHAEL A. MEDOFER  
L.S. 7385  
11/07/18

CFD ANNEXATION  
PARCEL MAP NO. 32257

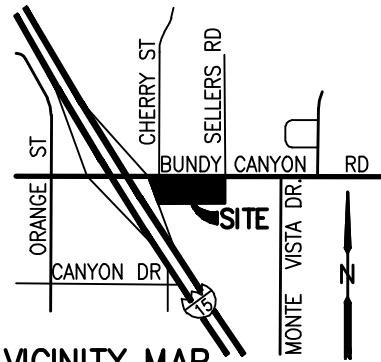


# EXHIBIT 'C'



0 120 240

PREPARED BY:  
MEDOFER ENGINEERING INC.  
28610 MIDSUMMER LANE  
MENIFEE, CA 92584  
909-816-5830



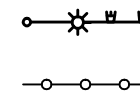
VICINITY MAP  
NO SCALE



LANDSCAPE AREA (PARKWAYS)  
9,738 SQ. FT.  
LANDSCAPE AREA (MEDIAN)  
4,138 SQ. FT.  
CONCRETE SIDEWALKS  
5,948 SQ. FT.  
CONCRETE DRIVEWAYS  
2,383 SQ. FT.  
STAMPED CONCRETE (MEDIAN)  
1,542 SQ. FT.  
ASPHALT PAVEMENT  
42,273 SQ. FT.



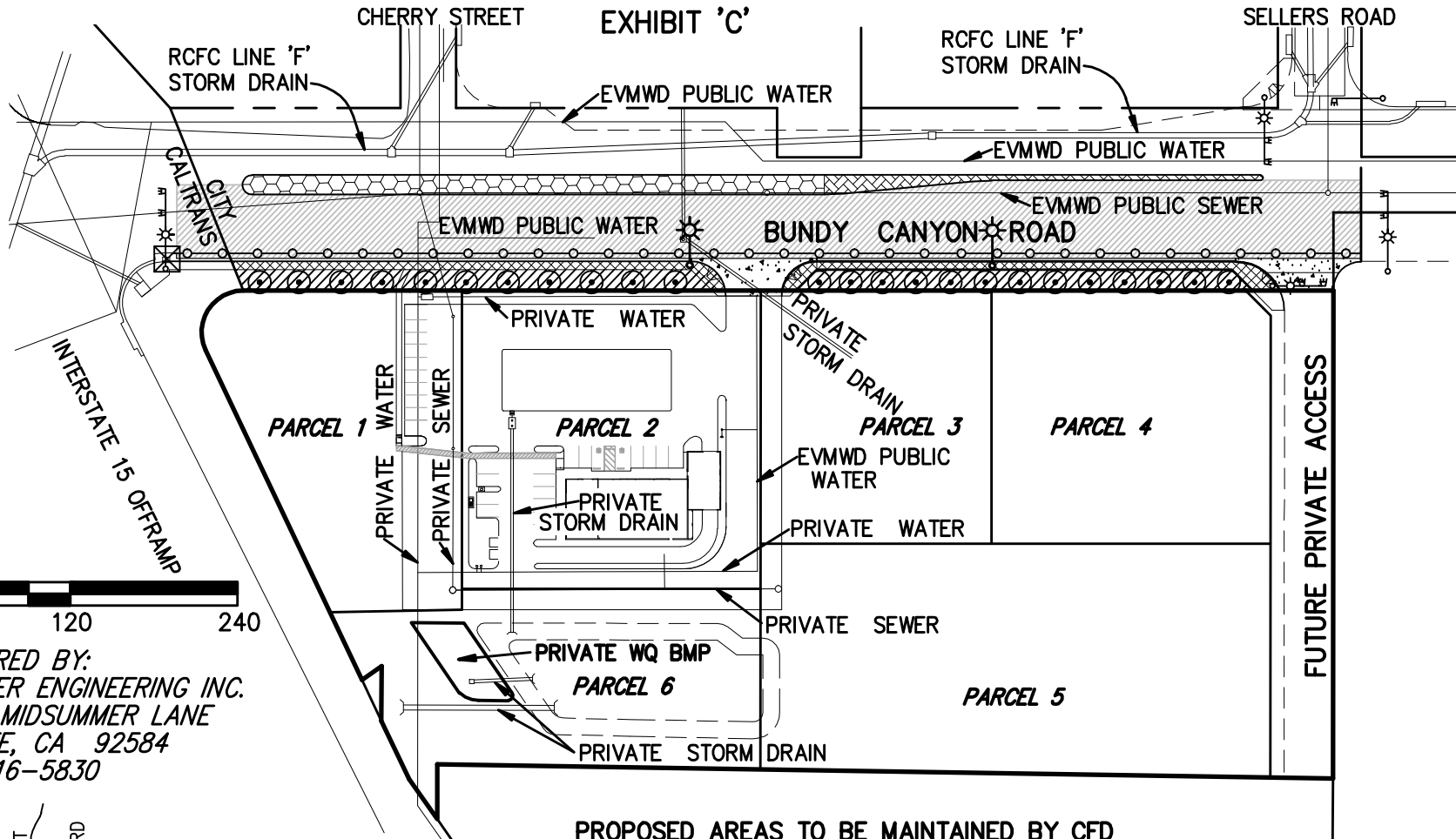
STREET TREES  
23 EACH  
CATCH BASIN &  
FOSSIL FILTER  
1 EACH  
22,500 LUMEN STREETLIGHTS  
2 EACH



TRAFFIC SIGNAL  
1 EACH  
STREET SWEEPING  
876 FT.

## PROPOSED AREAS TO BE MAINTAINED BY CFD

CFD ANNEXATION  
PARCEL MAP NO. 32257  
IMPROVEMENT MAINTENANCE AREAS



**REBECCA SPENCER**  
Registrar of Voters



**ART TINOCO**  
Assistant Registrar of Voters

**REGISTRAR OF VOTERS**  
**COUNTY OF RIVERSIDE**

**CERTIFICATE OF REGISTRAR OF VOTERS**

State of California     )  
                                      ) ss  
County of Riverside    )

I, **Rebecca Spencer**, Registrar of Voters of said County, hereby certify that:

(A) I have been furnished a map describing the proposed boundary of Community Facilities District No. 2013-1 (Services), Annexation 16, of the City of Wildomar, of the County of Riverside, State of California;

(B) On April 11, 2019, I conducted, or caused to be conducted, a review of the voter registration records of the County of Riverside for the purpose of determining the number of voters registered to vote within the proposed boundary of Community Facilities District No. 2013-1 (Services), Annexation 16, of the City of Wildomar, of the County of Riverside.

(C) There are 0 registered voters residing within the proposed boundary of Community Facilities District No. 2013-1 (Services), Annexation 16, of the City of Wildomar, of the County of Riverside.

IN WITNESS WHEREOF, I have executed this Certificate on this 11<sup>th</sup> day of April 2019.

**Rebecca Spencer**  
Registrar of Voters

By:   
**Art Tinoco**  
Assistant Registrar of Voters

**SPECIAL TAX ELECTION  
CITY OF WILDOMAR**

**ANNEXATION OF TERRITORY TO  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)  
ANNEXATION NO. 16**

(July 10, 2019)

This ballot is for the use of the authorized representative of the following owner of land within Annexation No. 16 of the Community Facilities District No. 2013-1 (Services) ("CFD No. 2013-1") of the City of Wildomar:

| <b><u>Name of Landowner</u></b>    | <b><u>Number of Acres Owned</u></b> | <b><u>Total Votes</u></b> |
|------------------------------------|-------------------------------------|---------------------------|
| Tesoro Refining & Marketing Co LLC | 6.85                                | 7                         |

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and resolutions of the City Council (the "Council") of the City of Wildomar (the "City"), the above-named landowner is entitled to cast the number of votes shown above under the heading "Total Votes," representing the total votes for the property owned by said landowner. The City has sent the enclosed ballot to you so that you may vote on whether or not to approve the special tax.

This special tax ballot is for the use of the property owner of the parcels identified below, which parcels are located within the territory proposed to be annexed to the CFD No. 2013-1, City of Wildomar, County of Riverside, State of California. Please advise the City Clerk, at (951) 677-7751 x 215 if the name set forth below is incorrect or if you are no longer one of the owners of these parcels. This special tax ballot may be used to express either support for or opposition to the proposed special tax. To be counted, this special tax ballot must be signed below by the owner or, if the owner is not an individual, by an authorized representative of the owner. The ballot must then be delivered to the City Clerk, either by mail or in person, as follows:

**Mail**

**Delivery:** If by mail, place ballot in the return envelope provided, and mail no later than July 3, 2019, a calendar week prior to the date set for the election. Mailing later than this deadline creates the risk that the special tax ballot may not be received in time to be counted.

**Personal**

**Delivery:** If in person, deliver to the City Clerk at any time up to 5:00 p.m. on July 10, 2019, at the Clerk's office at 23873 Clinton Keith Road, Suite 201 Wildomar, CA 92595.

However delivered, this ballot must be received by the Clerk prior to the close of the public meeting on July 10, 2019.

Very truly yours,

Janet Morales  
Acting City Clerk  
City of Wildomar



**TO CAST THIS BALLOT, PLEASE RETURN THIS ENTIRE PAGE.**

**OFFICIAL SPECIAL TAX BALLOT**

| <b>Name &amp; Address of Property Owner:</b>   | <b>Assessor's Parcel Number(s):</b> |
|--|-------------------------------------|
| Tesoro Refining & Marketing Company LLC<br>Attn: Legal Department, Real Estate or Matthew L. Yoder<br>19100 Ridgewood Parkway<br>San Antonio, TX 78259 | 367-100-019 and 367-100-020         |

ANNEXATION OF TERRITORY TO  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)  
ANNEXATION NO. 16

MARK AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT

| <b><u>SPECIAL TAX BALLOT MEASURE</u></b>   | <b>MARK "YES" OR "NO"<br/>WITH AN "X":</b> |
|--|--|
| Shall the City Council of the City of Wildomar be authorized to levy a special tax on an annual basis at the rates and apportioned as described in Exhibit C to the Resolution Declaring its Intention to Annex Territory to Community Facilities District No. 2013-1 (Services) adopted by the City Council on April 10, 2019 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Annexation Map No. 16 of Community Facilities District No. 2013-1 (Services) City of Wildomar" to finance certain services as set forth in Section 4 to the Resolution (including incidental expenses) and shall an appropriation limit be established for Community Facilities District No. 2013-1 (Services) in the amount of special taxes collected? | YES _____<br><br>NO _____                  |

Certification for Special Election Ballot

The undersigned is an authorized representative of the above-named landowner and is the person legally authorized and entitled to cast this ballot on behalf of the above-named landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_, 20\_\_\_\_\_.

Matthew L. Yoder  
Authorized Signatory

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

CITY OF WILDOMAR  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (SERVICES)  
ANNEXATION NO. 16

**CERTIFICATE OF ELECTION RESULTS**

I, the undersigned, being the Deputy City Clerk or the Acting City Clerk, as the case may be, hereby certify:

In connection with the special mailed-ballot election called by the City Council (the "City Council") of the City of Wildomar (the "City") on this same date in the proceedings of the City Council for the annexation of territory to the above-entitled community facilities district, I personally received (a) a signed and dated waiver and consent form and (b) a signed, dated and marked election ballot(s) on behalf of the owner(s) listed below, the entity named as the sole landowner of the land within the boundary of the above-entitled community facilities district in the Certificate Regarding Registered Voters and Landowners, dated April 11, 2019, and on file in the office of the City Clerk of the City in connection with the City Council actions on that date. Copies of the completed waiver and consent form and the completed ballot received by me and on file in my office are attached hereto.

Following such receipt, I have personally, and in the presence of all persons present, reviewed the ballot to confirm that it is properly marked and signed, and I hereby certify the result of that count to be that the ballot was cast in favor of the measure.

Based upon the foregoing, all votes that were cast having been cast "Yes", in favor of the ballot measure, the measure has therefore passed.

| Landowner                          | Qualified<br>Landowner Votes | Votes Cast | YES | NO |
|------------------------------------|------------------------------|------------|-----|----|
| Tesoro Refining & Marketing Co LLC | 7                            | 7          |     |    |

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_, 2019.

Janet Morales  
Acting City Clerk  
City of Wildomar

By: \_\_\_\_\_

(Attach completed copies of Waiver/Consent and Ballots)



**PETITION TO THE CITY COUNCIL OF THE CITY OF WILDOMAR REQUESTING  
ANNEXATION OF PROPERTY TO COMMUNITY FACILITIES DISTRICT NO. 2013-  
1 (SERVICES) WITHIN THE CITY OF WILDOMAR AND A WAIVER WITH  
RESPECTS TO CERTAIN PROCEDURAL MATTERS UNDER THE MELLO-ROOS  
COMMUNITY FACILITIES ACT OF 1982 AND CONSENTING TO THE LEVY OF  
SPECIAL TAXES THEREON TO PAY THE COSTS OF SERVICES TO BE PROVIDED  
BY THE COMMUNITY FACILITIES DISTRICT**

1. The undersigned requests that the City Council of the City of Wildomar, initiate and conduct proceedings pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act") (Government Code Section 53311 et seq.), for the annexation of the property described below to Community Facilities District No. 2013-1 (Services) and consents to the annual levy of special taxes on such property to pay the costs of services to be provided by Community Facilities District No. 2013-1 (Services).

2. The undersigned requests that the community facilities district provide any services that are permitted under the Act including, but not limited to, all necessary service, operations, administration and maintenance required to keep the landscape lighting, street lighting, flood control facilities, ground cover, shrubs, plants and trees, irrigation systems, graffiti removal, sidewalks and masonry walls, fencing entry monuments, tot lot equipment and associated appurtenant facilities within the district in a healthy, vigorous and satisfactory working condition.

3. The undersigned hereby certifies that as of the date indicated opposite its signature, it is the owner of all the property within the proposed boundaries of the community facilities district described in Exhibit A hereto and as shown on the map Exhibit B hereto.

4. The undersigned requests that a special election be held under the Act to authorize the special taxes for the proposed community facilities district. The undersigned waives any requirement for the mailing of the ballot for the special election and expressly agrees that said election may be conducted by mailed or hand-delivered ballot to be returned as quickly as possible to the designated election official, being the office of the City Clerk and the undersigned request that the results of said election be canvassed and reported to the City Council at the same meeting of the City Council as the public hearing on the annexation of the property to the community facilities district or at the next available meeting.

5. Pursuant to Sections 53326(a) and 53327(b) of the Act, the undersigned expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, and consents to not having such materials provided to the landowner in the ballot packet, and expressly waives any requirements as to the form of the ballot. The undersigned expressly waives all notice requirements relating to hearings and special elections (except for published notices required by the Act), and whether such requirements are found in the California Elections Code, the

California Government Code or other laws or procedures, including but not limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.

6. The undersigned hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the annexation of property to the community facilities district of the portion of the incorporated area of the City of Wildomar or the special election therein shall be invalidated or affected by any such irregularity, error mistake or departure.

2018. IN WITNESS WHEREOF, I hereunto set my hand this 30 day of April.



[NAME OF LANDOWNER]

Tesoro Refining & Marketing Company LLC

By: [Signature]

Name: Matthew L. Yoder

Title: Authorized Signatory

OWNER'S PROPERTY:

TRACT MAP OR PARCEL MAP NO.  
or PROJECT NO. PM32257

OWNER'S MAILING ADDRESS:

Tesoro Refining & Marketing Company LLC

19100 Ridgewood Parkway

San Antonio, TX 78259

Attn: Legal Dept., Real Estate

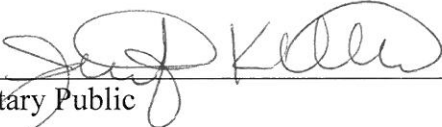
FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

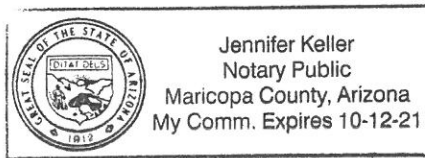
\_\_\_\_\_  
City Clerk of the City Council of the  
City of Wildomar

STATE OF ARIZONA       §

COUNTY OF Maricopa       §

The foregoing instrument was acknowledged before me this 30 day of April 2018, by Matt Yoder, Authorized Signatory of Tesoro Refining & Marketing Company LLC, a Delaware limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
Notary Public

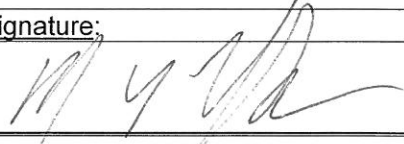


TESORO REFINING & MARKETING COMPANY LLC

CERTIFICATE OF SECRETARY

I, Dathan C. Voelter, do hereby certify that I am the Secretary of Tesoro Refining & Marketing Company LLC, a Delaware limited liability company ("**Company**"), and I hereby certify to the following matters:

1. Matthew L. Yoder is an Authorized Signatory of the Company, and in such capacity may execute on behalf of the Company, such documents as he may deem necessary and appropriate in connection with the requested annexation of the property commonly known as 22181 Bundy Canyon Road, Wildomar, CA (Assessor's Parcel Nos. 367-100-019 and 367-100-020) to Community Facilities District No. 2013-1 (Services) within the City of Wildomar, CA.
2. The signature set opposite Matthew L. Yoder's name below is his genuine signature.

| Name:            | Title:               | Signature:   |
|------------------|----------------------|--|
| Matthew L. Yoder | Authorized Signatory |  |

IN WITNESS, WHEREOF, I hereunto set my hand this 22<sup>nd</sup> of May 2018.

  
Dathan C. Voelter, Secretary of  
Tesoro Refining & Marketing Company LLC

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #2.3**

**PUBLIC HEARING**

**Meeting Date: July 10, 2019**

---

TO: Mayor and City Council Members

FROM: Gary Nordquist, City Manager  
Thomas D. Jex, City Attorney

SUBJECT: ORDINANCE NO. 168. An Interim Urgency Ordinance of the City Council of the City of Wildomar Continuing the Provisions of Ordinance No. 167 for a period of ten (10) months and fifteen (15) days Adopting a Moratorium on the Establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar and a finding that the Project is Exempt from CEQA Under CEQA Guidelines Section 15061(B)(3).

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt an Interim Urgency Ordinance entitled:

**ORDINANCE NO. 168**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR CONTINUING THE PROVISIONS OF ORDINANCE No. 167 FOR A PERIOD OF TEN (10) MONTHS AND FIFTEEN (15) DAYS ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES OR HOOKAH OR VAPOR LOUNGES WITHIN THE CITY OF WILDOMAR AND A FINDING THAT THE PROJECT IS EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTION 15061(B)(3)**

**BACKGROUND / DISCUSSION:**

On June 12, 2019, the City Council adopted Ordinance No. 167 establishing a 45-day moratorium pertaining to the establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar. A copy of the Staff Report for the meeting on June 12, 2019 (without Attachments) is Attachment 1 to this Staff Report for further background.

Since June 12, 2019, City staff has undertaken an initial investigation of these matters including consideration of what provisions should be included in a permanent ordinance regarding the establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar. With regard to these businesses, the City must evaluate the extent to which it wants to regulate distance requirements from each

other and certain sensitive uses such as schools, parks, day care centers, residential areas and churches. The City is also analyzing a wide range of additional regulatory options and appropriate zoning classifications in order to mitigate potential impacts on the community. The City is evaluating these uses in order to develop specific operational regulations as well as proper areas where these uses may be located so that they are away from sensitive uses.

Government Code Section 65858 provides that after a notice pursuant to Government Code Section 65090 and public hearing, the City Council may extend the interim urgency ordinance for 10 months and 15 days. The City has complied with these notice and public hearing requirements. Here, an extension of the temporary moratorium until June 9, 2020, will allow the City to protect public health, safety and welfare while the City Council evaluates its options for provisions to be included in a permanent ordinance.

The proposed urgency ordinance to extend the moratorium for 10 months and 15 days continues the temporary restrictions as set forth in Ordinance 167. The moratorium applies to the following land uses:

- Tobacco retailing businesses where at least 15% of the floor or display area is devoted to tobacco products or paraphernalia.
- Hookah and vapor lounges.

The moratorium does not apply to the establishment of retailers with less than 15% of their space devoted to tobacco. While a permanent City ordinance could address these uses, it is the opinion of City staff that at the moratorium stage, this would be overbroad as it could inadvertently impact new retail uses with minimal tobacco retailing.

*This interim urgency ordinance requires a four-fifths vote for adoption.* If approved by a four-fifths vote, the interim urgency ordinance will be effective for a period of 10 months and 15 days which will be through June 9, 2020. While the interim urgency ordinance is in effect, City staff will continue to undertake a comprehensive review of its policies and potential regulations regarding the establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar.

## **CEQA DISCUSSION:**

The proposed interim urgency ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this ordinance may have a significant adverse effect on the environment, the adoption of this ordinance is exempt from CEQA.

Submitted & Approved by:  
Gary Nordquist, City Manager  
Thomas D. Jex, City Attorney

**ATTACHMENTS**

- A. Agenda Report of June 12, 2019 (without attachments which are on file with the City Clerk's Office for review).
- B. Ordinance No. 168
- C. 10-Day Report on the City of Wildomar's Moratorium on Tobacco Retailing Businesses, Hookah and Vapor Lounges

## **ATTACHMENT A**



**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #3.1**

**GENERAL BUSINESS**

**Meeting Date: June 12, 2019**

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**TO:** Mayor and City Council Members

**FROM:** Gary Nordquist, City Manager

Thomas D. Jex, City Attorney

**SUBJECT:** Ordinance No. 167, An interim urgency ordinance adopting a 45-day moratorium on the establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar.

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt an Ordinance entitled:

**ORDINANCE NO. 167**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR ADOPTING A 45 DAY MORATORIUM ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES OR HOOKAH OR VAPOR LOUNGES WITHIN THE CITY OF WILDOMAR**

**SUMMARY:**

This report recommends that the City Council adopt as an urgency ordinance a 45-day moratorium on the establishment of new Tobacco Retailing Businesses, Hookah Lounges or Vapor Lounges. This recommendation is based upon applications received by the City's Planning and Building and Safety Departments and concerns expressed by residents regarding the City's lack of development, operation and location standards for such uses. Adoption of a moratorium would provide the City with time to study permanent zoning ordinance changes which could be considered to regulate these businesses. The 45-day moratorium could be extended for up to an additional ten months and 15 days by subsequent action of the City Council.

**BACKGROUND:**

Many public agencies have adopted legislation aimed at minimizing the availability of tobacco products to minors. Such legislation has been based on research showing that the proximity of tobacco outlets and advertising and marketing of such products leads to greater use by minors. Such legislation is intended to promote public health.

Currently, the City's Municipal Code contains regulations regarding the licensing of tobacco retailers. However, the City does not have any regulations concerning the location of tobacco retailers, smoke shops, hookah or vapor lounges within the City.

## **DISCUSSION:**

This section of the report explains the legal process for consideration and adoption of an urgency moratorium, the relevant facts in support of a moratorium, the scope of the proposed moratorium and future steps if the ordinance is adopted.

### **The Process for Adopting an Urgency Moratorium**

A normal zoning ordinance amendment requires at least one noticed hearing before the planning commission, a public hearing and second reading at the City Council and a 30-day waiting period before the ordinance becomes effective. However, Government Code Section 65858 provides an alternative process for adoption of an urgency moratorium. That process includes the following requirements:

- The ordinance does not need to be reviewed by the Planning Commission and there is no requirement to publish advance notice.
- The ordinance can be adopted in one reading and becomes effective immediately.
- The Council must find that there is a "current and immediate threat to the public health, safety or welfare" of the community and that approval of the land use being addressed would cause or add to that threat.
- The ordinance must be adopted by a 4/5's vote of the Council.
- The ordinance goes into effect immediately, but only remains effective for 45 days. The moratorium can be extended for up to an additional 10 months and 15 days after a noticed public hearing, also by a 4/5's vote.
- Ten days prior to expiration of the original 45-day moratorium or any extension, the Council must release a written report describing what steps have been taken to address the concerns that lead to imposition of the moratorium.

### **Relevant Facts**

Detailed facts regarding the linkage between tobacco retailers and youth smoking can be found in the findings attached as Exhibit A to the proposed urgency ordinance. In short, studies have shown that the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates. Moreover, some studies have shown that colorful packaging and flavored tobacco products are attractive to younger individuals and tend to promote the initiation of smoking by younger individuals.

Currently in Wildomar, a new tobacco retailer called Smoked Out Smoke Shop & Vape has submitted an application for building and tenant improvement permits. Staff has performed several plan checks on the application, however the application is not yet complete as staff has asked for additional information from the applicant. The proposed location of this new tobacco retailer is 21545 Palomar Street. This location is approximately 150 feet from Wildomar Elementary School property. During the City's

processing of this application, many residents expressed concern about the City's lack of development, operation and location standards for such uses.

Furthermore, the City does not have development, operation, or location standards for tobacco related uses, hookah or vapor lounges. The establishment of hookah or vapor lounges produces secondary smoke, far more concentrated than cigarette smoke, which can negatively affect workers, passers-by, neighbors, the elderly, sick and disabled and particularly minors. The City needs time to evaluate these uses to ensure compliance with State laws regarding smoking in both in-door and outdoor settings.

Many of these uses are located or could potentially be located near sensitive uses such as schools, churches, arcades, parks, residential areas or other places where minors are located. Therefore, the City needs to study these uses in order to develop specific operational regulations as well as proper areas where the uses may be located so that they are away from sensitive uses and to reevaluate appropriate zoning classifications.

The unregulated development of tobacco stores and hookah and vapor lounges within the City is an immediate threat to, and a specific adverse impact upon, the public health, safety and welfare. The immediate threat to and specific, adverse impacts upon, the public health, safety, and welfare that would result from allowing unregulated development of these uses in the City at the present time justifies adoption of an interim urgency moratorium ordinance.

This proposed ordinance seeks to enact an interim urgency moratorium on approval, issuance of permits, development, and construction of all tobacco stores and hookah and vapor lounges within the City of Wildomar. During the life of this ordinance, no permit or approval shall be issued for any conditional use permit, subdivision, site development permits, use permits, variances, grading permits, building permits, building plans, tenant improvement permit, certificate of occupancy, or any other type of land use, zoning, or building permit or approval, for any tobacco store, hookah or vapor lounge within the City of Wildomar. This prohibition will not apply to these uses that have already been legally established and have obtained all required permits. During this time, the City will study and analyze hookah and vapor lounges and tobacco stores in order to adopt reasonable regulations and appropriate development standards.

#### *Provisions of Proposed Moratorium*

The moratorium would apply to the following land uses:

- Tobacco retailing businesses where at least 15% of the floor or display area is devoted to tobacco products or paraphernalia.
- Hookah and vapor lounges.

The moratorium would not apply to establishment of retailers with less than 15% of their space devoted to tobacco. While a permanent City ordinance could address these uses, it is the opinion of City staff that at the moratorium stage, this would be overbroad as it could inadvertently impact new retail uses with minimal tobacco retailing who would not necessarily be aware of the moratorium.

### *Future Steps*

If the City Council adopts the urgency moratorium, it would remain in effect for 45 days. Within that time, City staff would begin work on a permanent ordinance to be presented to the City's Planning Commission. If a new, permanent ordinance could not be adopted within the 45 days, the City Council could consider an ordinance extending the moratorium.

Submitted by:  
Gary Nordquist  
City Manager

Thomas D. Jex  
City Attorney

### **ATTACHMENTS**

Ordinance No. 2019-167

## **ORDINANCE NO. 167**

### **AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR ADOPTING A 45 DAY MORATORIUM ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES OR HOOKAH OR VAPOR LOUNGES WITHIN THE CITY OF WILDOMAR**

The Wildomar City Council does ordain as follows:

#### **SECTION 1. FINDINGS.**

In enacting this ordinance, the City Council makes the following findings:

1. The City of Wildomar has previously adopted legislation aimed at discouraging the unlawful sale of tobacco products to minors (City Ordinance Ord. 18 § 2, 2008 [Chapter 5.64 of the Wildomar Municipal Code]).
2. The City finds the Findings in Exhibit A, attached hereto and incorporated herein, to be true and correct.
3. Many state laws have been adopted which acknowledge the public health impacts of tobacco and specifically its impact on minors. State law prohibits public school students from smoking or using tobacco products while on campus, while attending school sponsored activities, or while under the supervision or control of school district employees (Education code section 48901). State law also prohibits smoking in playgrounds and tot lots. It also prohibits smoking within 20 feet of the main entrances and exits of public buildings (Health and Safety Code section 104495).
4. The City does not currently regulate the location of tobacco retailers.
5. At least one new tobacco and tobacco paraphernalia retailer has recently applied for a building and tenant improvement permit to open a smoke and vape shop in a location approximately 150 feet from an elementary school.
6. The City requires time to study what legislative steps might be appropriate to regulate the location of new tobacco retailers in order to protect the public health.
7. Government Code Section 65858 allows cities to protect the public health, safety and welfare by adopting interim emergency moratoria in order to allow time to study whether certain land uses should be allowed, prohibited, or regulated under the city's zoning ordinance.
8. Based on the evidence presented in a public meeting, the Wildomar City Council finds that it is necessary to adopt an urgency interim moratorium prohibiting new tobacco retailers, hookah lounges or vapor lounges, as defined in this ordinance, in order to allow for time to study any necessary zoning amendments regulating this use on a permanent basis.

## **SECTION 2. IMPOSITION OF MORATORIUM**

1. In order to ensure the immediate protection of the public health, safety and welfare in accordance with Government Code Section 65858 and based on the findings set forth above in Section 1 of this Ordinance, in the related staff report and additional verbal and written information presented to the City Council, a moratorium is hereby placed on the establishment or operation of a new Tobacco Retailing Business, Hookah Lounge or Vaping Lounge, as defined below.
2. This moratorium shall become effective on the date of adoption of this Ordinance and shall remain in effect for 45 days, unless extended by the City Council as provided for in Government Code Section 65858.
3. For purposes of this Ordinance, the following definitions shall apply:
  - a. "Tobacco Retailing Business" shall mean any new retail business in which at least fifteen percent (15%) of the floor or display area is devoted to tobacco products, tobacco paraphernalia or both.
  - b. "Tobacco Product" shall mean any of the following:
    - i. Any product containing, made from, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff.
    - ii. Any electronic smoking or vape device.
    - iii. Any component, part or accessory of a tobacco product, whether or not it is sold separately.
  - c. "Tobacco paraphernalia" shall mean any item designed or marketed for the consumption, use or preparation of tobacco products.
  - d. "Hookah Lounge" shall mean any facility, building, structure, or location where customers smoke tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah or waterpipe).
  - e. "Vapor Lounge" shall mean any facility, building, structure, or location where customers use one or more electronic smoking devices to deliver an inhaled dose of nicotine or other substance within the establishment.
  - f. The "establishment" or "operation" of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge (as defined in this Ordinance) means and includes any of the following:
    - i. The opening or commencement of the operation of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge;

- ii. The conversion of an existing business, facility, use, establishment or location to a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge;
  - iii. The addition of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge to any other existing business, facility, use, establishment or location.
- 4. This moratorium shall apply to the issuance of any general plan amendment, zoning amendment, subdivision, conditional use permit, plot plan, certificate of occupancy, building permit or any other entitlement, including, but not limited to, tenant improvement permits, site development permits, temporary or special use permits, variances, business license / registration or grading permits issued by the City of Wildomar for the establishment of a Tobacco Retailing Business, Hookah Lounge or Vapor Lounge.
- 5. Ten days prior to the expiration of the moratorium or any extension, the City Council shall issue a written report describing the steps and/ or regulations for these land uses taken by the City.

### **SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA") because the prohibition of establishing new Tobacco Retailing Businesses, Hookah Lounges or Vapor Lounges within the City will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)(2)), it is not a project under CEQA (CEQA Guidelines 15060(c)(3)) and it can be seen with certainty that there is no possibility that the ordinance will have a significant impact on the environment (CEQA Guidelines Section 15061(b)(3)).

### **SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The City of Wildomar City Council hereby declares that they would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases was declared invalid.

### **SECTION 5. EFFECTIVE DATE**


This ordinance is an urgency ordinance adopted pursuant to Government Code Section 65858 and as such, shall become effective immediately if adopted by at least a four-fifths vote of the City Council and shall remain in effect for 45 days from the date of adoption unless extended by the City Council as provided for by state law.


### **SECTION 7. CITY CLERK ACTION**

The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Section 39633(c)

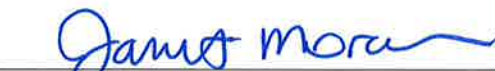
**PASSED, APPROVED AND ADOPTED** this 12th day of June, 2019.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Thomas D. Jex  
City Attorney

  
\_\_\_\_\_  
Marsha Swanson, Mayor

ATTEST:

  
\_\_\_\_\_  
Janet Morales, Acting City Clerk





## **Exhibit A**

### **FINDINGS IN SUPPORT OF ORDINANCE NO. 167**

1. Children are particularly influenced by cues suggesting that smoking is acceptable.<sup>1</sup>
2. The density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates.<sup>2</sup>
3. Flavored tobacco products can promote youth initiation and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and increasing the acceptability of a toxic product.<sup>3</sup>
4. Overall, studies suggest that youth who may have otherwise never smoked cigarettes are now getting hooked on nicotine due to e-cigarettes, and that adolescents who use e-cigarettes are more likely to progress from experimenting with cigarettes to becoming established smokers.<sup>4</sup>
5. The U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students tripled between 2013 and 2014.<sup>5</sup> Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum.<sup>6</sup>

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<sup>1</sup> DiFranza JR, Wellman RJ, Sargent JD, et al. 2006. "Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality." *Pediatrics* 6: e1237-e1248 (available at <https://www.ncbi.nlm.nih.gov/pubmed/16740823>).

<sup>2</sup> Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventive Medicine* 47: 210-214 (available at <https://www.ncbi.nlm.nih.gov/pubmed/18544462>).

<sup>3</sup> G.F. Wayne and G.N. Connolly, "How Cigarette Design Can Affect Youth Initiation into Smoking: Camel Cigarettes 1983-93," *Tobacco Control* 11, no. 1 Suppl. (2002): 132-139 (available at [https://tobaccocontrol.bmj.com/content/tobaccocontrol/11/suppl\\_1/i32.full.pdf](https://tobaccocontrol.bmj.com/content/tobaccocontrol/11/suppl_1/i32.full.pdf)).

<sup>4</sup> California Department of Public Health. *Electronic Cigarettes: A Summary of the Public Health Risks and Recommendations for Health Care Professionals Health Advisory*. January 28, 2015 (available at <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/HEALTHADVISORY01282015FINAL.pdf>).

<sup>5</sup> Arrazola R, Singh T, Corey C, et al. Tobacco Use Among Middle and High School Students — United States, 2011-2014. *MMWR*. 4/17/2015; Vol. 64 (#14): pp 381-385 (available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6414a3.htm>).

<sup>6</sup> Cameron JM, Howell DN, White JR, et al. 2013. "Variable and Potentially Fatal Amounts of Nicotine in E-Cigarette Nicotine Solutions." *Tobacco Control* (available at [http://tobacco.cleartheair.org.hk/wp-content/uploads/2015/08/77\\_full.pdf](http://tobacco.cleartheair.org.hk/wp-content/uploads/2015/08/77_full.pdf)); U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549 (available at <https://www.ncbi.nlm.nih.gov/pubmed/22876391>).

6. The California Attorney General has stated that electronic cigarette companies have targeted minors with fruit-flavored products.<sup>7</sup>

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<sup>7</sup> Press Release, State of California Department of Justice, Office of the Attorney General, Brown Announces Electronic Cigarette Maker's Agreement to Stop Deceptive Marketing and Sales to Minors (Aug. 3, 2010) (available at <https://oag.ca.gov/news/press-releases/brown-announces-electronic-cigarette-makers-agreement-stop-deceptive-marketing>)

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE)  
CITY OF WILDOMAR )


I, Janet Morales, Acting City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Ordinance No.167 was introduced and adopted at a regular meeting of the City Council of the City of Wildomar, California, on June 12, 2019 by the City Council of the City of Wildomar, California, by the following vote:

AYES: Benoit, Moore, Morabito, Mayor Pro Tem Nigg, Mayor Swanson

NOES: None

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
Janet Morales  
Acting City Clerk  
City of Wildomar



## **ATTACHMENT B**

## **ORDINANCE 168**

### **AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR CONTINUING THE PROVISIONS OF ORDINANCE No. 167 FOR A PERIOD OF TEN (10) MONTHS AND FIFTEEN (15) DAYS ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES OR HOOKAH OR VAPOR LOUNGES WITHIN THE CITY OF WILDOMAR AND A FINDING THAT THE PROJECT IS EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTION 15061(B)(3)**

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

#### **SECTION 1. Findings**

A. At a public meeting on June 12, 2019, and after hearing and considering public testimony, the City Council of the City of Wildomar adopted Ordinance 167, an interim urgency ordinance adopting a 45-day moratorium on the establishment of Tobacco Retailing Businesses or Hookah or Vapor Lounges within the City of Wildomar.

B. Government code section 65858 authorizes the City Council to continue the effect of Ordinance 167 for a period of ten (10) months and fifteen (15) days.

C. At a duly noticed public hearing on July 10, 2019, the City Council considered and heard public testimony to continue the effect of Ordinance 167 for a period of ten (10) months and fifteen (15) days.

D. The adoption of a comprehensive ordinance that addresses tobacco retailing businesses and hookah and vapor lounges will take time and careful consideration and will require input from various community stakeholders and the general public. Until that process is complete, an interim urgency ordinance under Government Code section 65858(a) is necessary to protect the public health, safety, and welfare.

E. In order to protect the public health, safety, and welfare, the City Council desires to amend the Municipal Code to address, in express terms, tobacco retailing businesses and hookah and vapor lounges. The City Council hereby determines that the Municipal Code is in need of further review and possible revision to protect the public against potential negative health, safety, and welfare impacts and to address tobacco retailing businesses and hookah and vapor lounges.

F. Due to the lack of development, operation and location standards for tobacco retailing businesses and hookah and vapor lounges, the City desires to study new zoning regulations in order to provide clear, consistent and uniform guidance to businesses and individuals regarding the citing and operational characteristics, while also addressing significant community concerns.

G. Government Code Section 65858 authorizes the adoption of an urgency ordinance to protect the public health, safety, and welfare, and to prohibit land uses that may conflict with land use regulations that a city's legislative bodies are considering, studying, or intending to study within a reasonable time.

H. Since June 10, 2019, City staff has undertaken an initial investigation of these matters including consideration of what provisions should be included in a permanent ordinance regarding tobacco retailing businesses and hookah and vapor lounges.

I. Government Code section 65858 provides that after a notice pursuant to Government Code section 65090 and public hearing, the City Council may extend the interim urgency ordinance for 10 months and 15 days. The City has complied with the notice and public hearing requirements of Government Code sections 65858(a) and 65090. Government Code section 65858(d) requires that prior to adoption of the ordinance extending the moratorium, a report is required to be submitted to the City Council describing the measures taken to alleviate the condition which led to the adoption of the ordinance. That report has been made available to the public at the City Clerk's Office. In addition, the agenda report accompanying this ordinance provides the information required under Government Code section 65858(d).

J. Failure to adopt this ordinance extending the moratorium would impair the orderly and effective implementation of contemplated amendments to the Municipal Code.

## **SECTION 2. Extension of Moratorium**

1. The recitals, text, moratorium and findings made in Ordinance 167 are hereby reaffirmed, readopted and incorporated by reference as though they were fully restated herein.

2. In order to ensure the immediate protection of the public health, safety and welfare in accordance with Government Code Section 65858 and based on the findings set forth herein and in Ordinance 167, in the related staff reports and additional verbal and written information presented to the City Council, a moratorium is hereby placed on the establishment or operation of a new Tobacco Retailing Business, Hookah Lounge or Vaping Lounge, as defined below.

3. For purposes of this Ordinance, the following definitions shall apply:

- a. "Tobacco Retailing Business" shall mean any new retail business in which at least fifteen percent (15%) of the floor or display area is devoted to tobacco products, tobacco paraphernalia or both.
- b. "Tobacco Product" shall mean any of the following:
  - i. Any product containing, made from, or derived from tobacco or nicotine that is intended for human consumption, whether smoked,

heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff.

- ii. Any electronic smoking or vape device.
  - iii. Any component, part or accessory of a tobacco product, whether or not it is sold separately.
- c. "Tobacco paraphernalia" shall mean any item designed or marketed for the consumption, use or preparation of tobacco products.
- d. "Hookah Lounge" shall mean any facility, building, structure, or location where customers smoke tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah or waterpipe).
- e. "Vapor Lounge" shall mean any facility, building, structure, or location where customers use one or more electronic smoking devices to deliver an inhaled dose of nicotine or other substance within the establishment.
- f. The "establishment" or "operation" of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge (as defined in this Ordinance) means and includes any of the following:
- i. The opening or commencement of the operation of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge;
  - ii. The conversion of an existing business, facility, use, establishment or location to a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge;
  - iii. The addition of a Tobacco Retailing Business, Hookah Lounge or Vaping Lounge to any other existing business, facility, use, establishment or location.
4. This moratorium shall apply to the issuance of any general plan amendment, zoning amendment, subdivision, conditional use permit, plot plan, certificate of occupancy, building permit or any other entitlement, including, but not limited to, tenant improvement permits, site development permits, temporary or special use permits, variances, business license / registration or grading permits issued by the City of Wildomar for the establishment of a Tobacco Retailing Business, Hookah Lounge or Vapor Lounge.
5. Ten days prior to the expiration of the moratorium or any extension, the City Council shall issue a written report describing the steps and/ or regulations for these land uses taken by the City.

6. Ordinance 167 is hereby extended and shall remain in effect for a period of ten (10) months and fifteen (15) days.

### **SECTION 3. California Environmental Quality Act**

The City Council exercises its independent judgment and finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this ordinance may have a significant adverse effect on the environment, the adoption of this ordinance is exempt from CEQA.

### **SECTION 4. Effective Date and Duration**

Ordinance 167 is scheduled to expire on July 26, 2019. Therefore, this Ordinance 168 shall become effective on July 25, 2019 (Effective Date) and shall remain in full force and effect for ten (10) months and fifteen (15) days from the Effective Date. This Ordinance 168 shall expire on June 9, 2020, unless extended by the City Council after notice and public hearing as provided under Government Code section 65858(a) and adoption of findings required by Government Code section 65858(c).

### **SECTION 5. Study**

City Staff is directed to continue to study and analyze issues related to the establishment or operation of tobacco retailing businesses, hookah and vapor lounges within the City, including but not limited to, reviewing the potential impacts of such facilities or activities on public health, safety and welfare of the community, the desirability of such facilities or activities in various zones, and the extent of regulatory controls, if any, to impose on such facilities or activities.

### **SECTION 6. Report**

City Staff is directed to provide a written report to the City Council at least ten days prior to the expiration of this ordinance, describing the study conducted of the conditions that led to the adoption of this ordinance, in accordance with state law.



## **SECTION 7. Severability**

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

## **SECTION 8. Publication**

The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

**PASSED, APPROVED AND ADOPTED** this 10<sup>th</sup> day of July, 2019

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Marsha Swanson  
Mayor

APPROVED AS TO FORM:

ATTEST

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Thomas D. Jex  
City Attorney

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Janet Morales  
Acting City Clerk

## **ATTACHMENT C**

# **10-DAY REPORT ON THE CITY OF WILDOMAR'S MORATORIUM ON TOBACCO RETAILING BUSINESSES, HOOKAH AND VAPOR LOUNGES**

## **BACKGROUND**

On June 12, 2019, pursuant to Government Code section 65858, the City Council of the City of Wildomar enacted Ordinance No. 167 as an urgency measure imposing a 45-day moratorium on Tobacco Retailing Businesses, Hookah and Vapor Lounges. The Ordinance prohibits hookah and vapor lounges and all tobacco retailing businesses where at least 15% of the floor or display area is devoted to tobacco products or paraphernalia.

Government Code section 65858 allows an initial 45-day moratorium to be extended for up to 10 months and 15 days after a noticed public hearing is held. A second extension for up to an additional 12 months is also allowed. As required by Government Code section 65858(d), the City must produce a report 10 days prior to extending a moratorium that describes the measures taken since the adoption of the urgency ordinance.

## **MEASURES TAKEN TO ALLEVIATE THE CONDITIONS THAT LED TO THE ADOPTION OF THE URGENCY ORDINANCE**

1. The City is currently studying its options for regulating tobacco retailing businesses and hookah and vapor lounges. With regard to these businesses, the City must evaluate the extent to which it wants to regulate distance requirements from each other and certain sensitive uses such as schools, parks, day care centers, residential areas and churches. The City is also analyzing a wide range of additional regulatory options and appropriate zoning classifications in order to mitigate potential impacts on the community. The City is evaluating these uses in order to develop specific operational regulations as well as proper areas where these uses may be located so that they are away from sensitive uses.
2. The City is analyzing the potential negative impacts that could stem from the unregulated development of tobacco retailing businesses and hookah and vapor lounges, including the linkage between tobacco retailers and youth smoking. This analysis includes an evaluation of issues that other cities have faced or are facing with regard to these uses and how the City could avoid or minimize negative secondary effects.
3. On June 26, 2019, the City Council held a special meeting and, as part of the City's budget adoption process, considered the appropriation of specific funding to analyze the issues described above and to prepare a permanent ordinance regulating tobacco retailing businesses and hookah and vapor lounges. The City Council gave direction to staff and appropriated funding for this effort.

4. As the City continues to study its options, the potential development of a comprehensive ordinance regulating tobacco retailing businesses and hookah and vapor lounges will take time and careful consideration and will require input from various community stakeholders and the general public. There has been insufficient time since the adoption of Ordinance 167 to complete this process. The City, therefore, needs additional time, as allowed under Government Code section 65858, to fully address the conditions that led to the adoption of Ordinance 167.

**CITY OF WILDOMAR – CITY COUNCIL**

**Agenda Item #3.1**

**GENERAL BUSINESS**

**Meeting Date: July 10, 2019**

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**TO:** Mayor and City Council Members

**FROM:** Dan York, Assistant City Manager

**SUBJECT:** Resolution to Form a CSCDA Community Facilities District and a Memorandum of Understanding with Sunbelt Communities, LLC Pertaining to Bundy Canyon Road Right of Way

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR  
(1) AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (THE "AUTHORITY") TO FORM A COMMUNITY FACILITIES DISTRICT WITHIN THE TERRITORIAL LIMITS OF THE CITY OF WILDOMAR TO FINANCE CERTAIN PUBLIC IMPROVEMENTS AND DEVELOPMENT IMPACT FEES; (2) EMBODYING A JOINT COMMUNITY FACILITIES AGREEMENT SETTING FORTH THE TERMS AND CONDITIONS OF THE COMMUNITY FACILITIES DISTRICT FINANCING; (3) APPROVING AN ACQUISITION AGREEMENT AMONG THE AUTHORITY, THE CITY AND THE DEVELOPER; AND (4) AUTHORIZING STAFF TO COOPERATE WITH THE AUTHORITY AND ITS CONSULTANTS IN CONNECTION THEREWITH

2. Authorize the City Manager to execute the Memorandum of Understanding.

**BACKGROUND:**

On May 22, 2013, the City Council approved Tentative Tract Map No. 36388 (TTM) for the Oak Creek Development project. The TTM approval established certain Conditions of Approval (COA) including the dedication of Right of Way, Design and Improvement of a public project [referred to as Bundy Canyon Road widening]; and, the payment of Fees. And on May 13, 2015, the City Council received and filed a minor change to the TTM. The minor change resulted from two settlement agreements between Sunbelt Communities (Applicant) and Citizens for Quality Development and Bridges/Burkett. Also, the COA's were amended and an extension of time to record the final tract was granted.

On June 13, 2012, the City Council adopted Resolution 2012-26 executing an Agreement with the California Statewide Communities Development Authority (CSCDA). The CSCDA is a program sponsored by the League of California Cities (League) for the purposes of issuing bonds to finance public projects.

**DISCUSSION:**

The Resolution authorizes the CSCDA to form a Community Facilities District (CFD) for the Oak Creek Development project (Development). The Resolution approves an Acquisition Agreement that sets terms and conditions for the Development to complete and the City to acquire the improvements. And the Acquisition Agreement establishes a process to disburse funds for Development Fees.

The Memorandum of Understanding between the Developer and the City clarifies the compensation of Right of Way and the disbursement of fees for City Development Impact Fees and WRCOG TUMF Fees.

**FISCAL IMPACTS:**

The Resolution and Agreement do not impact the General Fund. The Community Facilities District funds the developer's obligations of the TTM COA's and the CSCDA bears the costs associated with formation and administration of the CFD. Staff time to prepare Disbursement agreements will be funded by Developer deposits.

Submitted by:  
Dan York  
Assistant City Manager  
Public Works Director/City Engineer

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Resolution

- A. Community Facilities District Boundaries
- B. Authorized Facilities and Fees
- C. Form of Acquisition Agreement
  - Exhibit A – Description of Improvements
  - Exhibit B-1 – Disbursement Request Form (Acquisition)
  - Exhibit B-2 – Disbursement Request Form (Fees)
  - Exhibit C – Bidding Requirements

Reference: Resolution 2012-26 CSCDA JPA Agreement

Memorandum of Understanding

- Exhibit A – Depiction of ROW Areas

**RESOLUTION NO. 2019 - \_\_\_\_\_**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR**  
**(1) AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES**  
**DEVELOPMENT AUTHORITY (THE "AUTHORITY") TO FORM A COMMUNITY**  
**FACILITIES DISTRICT WITHIN THE TERRITORIAL LIMITS OF THE CITY OF**  
**WILDOMAR TO FINANCE CERTAIN PUBLIC IMPROVEMENTS AND**  
**DEVELOPMENT IMPACT FEES; (2) EMBODYING A JOINT COMMUNITY**  
**FACILITIES AGREEMENT SETTING FORTH THE TERMS AND CONDITIONS OF**  
**THE COMMUNITY FACILITIES DISTRICT FINANCING; (3) APPROVING AN**  
**ACQUISITION AGREEMENT AMONG THE AUTHORITY, THE CITY AND THE**  
**DEVELOPER; AND (4) AUTHORIZING STAFF TO COOPERATE WITH THE**  
**AUTHORITY AND ITS CONSULTANTS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Wildomar (the "City") is a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "State"); and

**WHEREAS**, the California Statewide Communities Development Authority (the "Authority") is a California joint-exercise of powers authority lawfully formed and operating within the State pursuant to an agreement (the "Joint Powers Agreement") entered into as of June 1, 1988 under the authority of Title 1, Division 7, Chapter 5 (commencing with Section 6500) of the California Government Code; and

**WHEREAS**, the City is a party to the Joint Powers Agreement and by virtue thereof a member (a "Program Participant") of the Authority; and

**WHEREAS**, the Joint Powers Agreement was entered into to establish the Authority as an agency authorized to issue bonds to finance projects within the territorial limits of its Program Participants; and

**WHEREAS**, the Joint Powers Agreement authorizes the Authority to undertake financing programs under any applicable provisions of State law to promote economic development, the stimulation of economic activity, and the increase of the tax base within the jurisdictional boundaries of its Program Participants; and

**WHEREAS**, the "Mello-Roos Community Facilities Act of 1982," being Chapter 2.5, Part 1, Division 2, Title 5 (beginning with Section 53311) of the Government Code of the State (the "Act") is an applicable provision of State law available to, among other things, finance public improvements necessary to meet increased demands placed upon local agencies as a result of development; and

**WHEREAS**, there is a development project known as "Oak Creek Canyon" in the City owned by Sunbelt Communities, LLC, a California limited liability company (respectively, the "Development Project" and the "Developer") and the Developer has requested the City to consider formation of a community facilities district for the Development Project under the Act; and

**WHEREAS**, the City does not desire to allocate City resources and City staff time to the formation and administration of a community facilities district and to the issuance of bonds; and

**WHEREAS**, the Development Project will promote economic development, the stimulation of economic activity, and the increase of the tax base within the City; and

**WHEREAS**, both the Authority and the City are “local agencies” under the Act; and

**WHEREAS**, the Act permits two or more local agencies to enter into a joint community facilities agreement to exercise any power authorized by the Act; and

**WHEREAS**, the City desires to enter into such an agreement with the Authority to authorize the Authority to form a community facilities district within the territorial limits of the City to finance certain public improvements and fees required of the Development Project; and

**WHEREAS**, a form of Acquisition Agreement (the “Acquisition Agreement”) among the Authority, the City and the Developer is attached hereto as Exhibit “C” and is on file with the City Clerk; and

**WHEREAS**, nothing herein constitutes the City’s approval of any applications, Development Project entitlements and/or permits, and such, to the extent required in the future, are subject to and contingent upon City Council approval following, to the extent applicable, environmental review in compliance with the California Environmental Quality Act; and

**WHEREAS**, nothing herein affects, without limitation, requirements for and/or compliance with any and all applicable and/or necessary improvement standards, land use requirements or subdivision requirements relating to the Development Project or any portion thereof, which obligations are and shall remain independent and subsisting; and

**WHEREAS**, the City Council is fully advised in this matter;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Wildomar that it does hereby find, determine, declare and resolve as follows:

**Section 1.** The City hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to municipal affairs of the City and the statements, findings and determinations of the City set forth in the recitals above and in the preambles of the documents approved herein are true and correct.

**Section 2.** This resolution shall constitute full “local approval,” under Section 9 of the Joint Powers Agreement, and under the Authority’s Local Goals and Policies (see below), for the Authority to undertake and conduct proceedings in accordance herewith and under the Act to form a community facilities district (the



“Community Facilities District”) with boundaries substantially as shown on Exhibit A attached hereto, to authorize a special tax (the “Special Tax”) and to issue bonds, in one or more series on a taxable or tax exempt basis, secured by the Special Taxes.

**Section 3.** The Joint Powers Agreement, together with the terms and provisions of this resolution, shall together constitute a joint community facilities agreement between the City and the Authority under the Act. As, without this resolution, the Authority has no power to conduct proceedings under the Act to form the Community Facilities District, adoption by the Commission of the Authority of the Resolution of Intention to form the Community Facilities District under the Act shall constitute acceptance of the terms hereof by the Authority.

**Section 4.** This resolution and the agreement it embodies are determined to be beneficial to the residents/customers of the City and are in the best interests of the residents of the City, and of the future residents of the area within the Community Facilities District.

**Section 5.** The City acknowledges that the Authority has adopted Local Goals and Policies as required by Section 53312.7 of the Act. The City approves the use of those Local Goals and Policies in connection with the Community Facilities District.

**Section 6.** Pursuant to the Act and this resolution, the Authority may conduct proceedings under the Act to form the Community Facilities District and to have it authorize the financing of the facilities and fees set forth on Exhibit B, attached hereto. All of the facilities, whether to be financed directly or through fees, are facilities that have an expected useful life of five years or longer and are facilities that the City or other local public agencies, as the case may be, are authorized by law to construct, own or operate, or to which they may contribute revenue. The facilities are referred to herein as the “Improvements,” and the Improvements to be owned by the City are referred to as the “City Improvements.” The fees are referred to as the “Fees,” and the Fees paid or to be paid to the City are referred to as the “City Fees.”

**Section 7.** For Fees paid or to be paid to another local agency (any such local agency referred to herein as an “Other Local Agency”), the Authority will obtain the written consent of that Other Local Agency before issuing bonds to fund such Fees, as required by the Act. For the Improvements to be owned by an Other Local Agency, the Authority will separately identify each in its proceedings, and will enter into joint community facilities agreements with each Other Local Agency prior to issuing bonds to finance Improvements, as required by the Act. Each joint community facilities agreement with an Other Local Agency will contain a provision that the Other Local Agency will provide indemnification to the City to the same extent that the City provides indemnification to the Other Local Agency under the terms of this resolution.

**Section 8.** The City Council certifies to the Commission of the Authority that all of the City Improvements, including the improvements to be constructed or acquired with the proceeds of City Fees, are necessary to meet increased demands placed upon the City as a result of development occurring or expected to occur within the

Community Facilities District. Joint community facilities agreements with each Other Local Agency shall each contain a certification with respect to the Improvements to be owned by, and Fees paid or to be paid to, the Other Local Agency equivalent to that made by the City in this paragraph.

**Section 9.** Prior to issuance of bonds, the Authority will apply any Special Tax collections to fund City Improvements and City Fees as provided by direction of the City, subject to payment of the Authority's reasonable administrative costs incurred in the administration of the Community Facilities District. Following the issuance of bonds the Authority will apply the Special Tax collections initially as required by the documents under which any bonds are issued; and thereafter, to the extent not provided in the bond documents, for the Authority's reasonable administrative costs incurred in the administration of the Community Facilities District. The Authority will remit any Special Tax revenues remaining after the final retirement of all bonds to the City and to each Other Local Agency in the proportions specified in the Authority's proceedings. The City will apply any such Special Tax revenues it receives for authorized City Improvements or City Fees and its own administrative costs only as permitted by the Act. The joint community facilities agreements with each Other Local Agency must require such Other Local Agency to apply the Special Tax revenues they receive for their authorized Improvements and Fees under the Community Facilities District and for their own related administrative costs only as permitted by the Act.

**Section 10.** The Authority will administer the Community Facilities District, including employing and paying all consultants, annually levying the Special Tax, and all aspects of paying and administering the bonds, and complying with all State and Federal requirements appertaining to the proceedings, including the requirements of the United States Internal Revenue Code. The City will cooperate fully with the Authority in respect of the requirements of the Internal Revenue Code and to the extent information is required of the City to enable the Authority to perform its disclosure and continuing disclosure obligations with respect to the bonds, although the City will not participate in nor be considered to be a participant in the proceedings respecting the Community Facilities District (other than as a party to the agreement embodied by this resolution) nor will the City be or be considered to be an issuer of the bonds. The Authority shall obtain a provision equivalent to this paragraph in the joint community facilities agreement with each Other Local Agency.

**Section 11.** Upon the first levy of Special Taxes within the Community Facilities District or the issuance of bonds, the Authority shall establish and maintain a special fund (which may be established with a bond trustee under an indenture or a trust agreement for the bonds) to be known as the "City of Wildomar Oak Creek Canyon Project Community Facilities District, Acquisition and Construction Fund." Special Taxes collected prior to the issuance of bonds shall be deposited in a separate account of the Acquisition and Construction Fund. If the Authority issues bonds and bond proceeds become available to finance the Improvements, the Authority shall deposit the portion of bond proceeds which is intended to be utilized to finance the Improvements and Fees in a separate account of the Acquisition and Construction Fund. The Acquisition and Construction Fund will be available both for City Improvements and City Fees and for

the Improvements and Fees pertaining to each Other Local Agency. Amounts in the Acquisition and Construction Fund shall be disbursed in accordance with the provisions of the indenture or other similar document governing the bonds, the Acquisition Agreement and/or the relevant joint community facilities agreement or acquisition agreement for any Other Local Agency.

**Section 12.** As respects the Authority and the Other Local Agencies, the City agrees to fully administer, and to take full governmental responsibility for, the construction or acquisition of the City Improvements and for the administration and expenditure of the City Fees including but not limited to environmental review, approval of plans and specifications, bid requirements, performance and payment bond requirements, insurance requirements, contract and construction administration, staking, inspection, acquisition of necessary property interests in real or personal property, the holding back and administration of retention payments, punch list administration, and the Authority and the Other Local Agencies shall have no responsibility in that regard. The City reserves the right, as respects the Developer, to require the Developer to contract with the City to assume any portion or all of this responsibility, solely with respect to City Improvements or improvements to be financed or acquired with the City Fees which, in each case, (a) are part of the Development Project, and (b) arise out of design, engineering, construction and installation of such improvements by Developer or by parties whose services were contracted for by Developer. The Authority shall obtain a provision equivalent to this paragraph in the joint community facilities agreement with each Other Local Agency.

**Section 13.** The City agrees to indemnify and to hold the Authority, its other members, and its other members' officers, agents and employees, and the Other Local Agencies and their officers, agents and employees (collectively, the "Indemnified Parties") harmless from any and all claims, suits and damages (including costs and reasonable attorneys' fees) arising out of the design, engineering, construction and installation of the City Improvements and the improvements to be financed or acquired with the City Fees ("Claims"). The City reserves the right, as respects the Developer, to require the Developer to assume by contract with the City any portion or all of this responsibility solely with respect to Claims which involve City Improvements or improvements to be financed or acquired with the City Fees which, in each case, (a) are part of the Project, and (b) arise out of design, engineering, construction and installation of such improvements by Developer or by parties whose services were contracted for by Developer. The Authority shall obtain a provision equivalent to this paragraph in each joint community facilities agreement with each Other Local Agency naming the City and its officers, agents and employees as Indemnified Parties with respect to such Other Local Agency's Improvements and the improvements to be constructed or acquired with the Other Local Agency's Fees.

**Section 14.** As respects the Authority and each Other Local Agency, the City agrees – once the City Improvements are constructed according to the approved plans and specifications, and the City and the Developer have put in place their agreed

arrangements for the funding of maintenance of the City Improvements – to accept ownership of the City Improvements, to take maintenance responsibility for the City Improvements, and to indemnify and hold harmless the Authority to the extent provided in the preceding paragraph from any and all claims, etc., arising out of the use and maintenance of the City Improvements. The City reserves the right, as respects to the Developer, to require the Developer by contract with the City to assume any portion or all of this responsibility in the event Developer retains ownership or maintenance responsibility for such City Improvements. The Authority shall obtain a provision equivalent to this paragraph in the joint community facilities agreement with each Other Local Agency identifying the City and its officers, agents and employees as Indemnified Parties

**Section 15.** The City acknowledges the requirement of the Act that if the City Improvements are not completed prior to the adoption, by the Commission of the Authority, of the Resolution of Formation of the Community Facilities District, the City Improvements must be constructed as if they had been constructed under the direction and supervision, or under the authority of, the City. The City acknowledges that this means all City Improvements must be constructed under contracts that require the payment of prevailing wages as required by Section 1720 and following of the Labor Code of the State of California. The Authority makes no representation that this requirement is the only applicable legal requirement in this regard. The City reserves the right, as respects the Developer, to assign appropriate responsibility for compliance with this paragraph to the Developer.

**Section 16.** The form of the Acquisition Agreement attached hereto as Exhibit C is hereby approved, and each of the City Manager, Assistant City Manager, or such person as the City Manager or Assistant City Manager shall designate (each, an “Authorized Officer”) is authorized to execute, and deliver to the Developer, the Acquisition Agreement on behalf of the City in substantially that form, with such changes as shall be approved by the Authorized Officer after consultation with the City Attorney and the Authority’s bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

**Section 17.** For City Improvements to be financed on an acquisition basis (that is, constructed by or on behalf of the Developer), after completion of the City Improvements and appropriate arrangements for the maintenance of the City Improvements, or any discrete portion thereof as provided in Section 53313.51 of the Act and in the Acquisition Agreement, to the satisfaction of the City, and in conjunction with the City’s acceptance thereof, acquisition of the City Improvements shall be undertaken as provided in the Acquisition Agreement. For City Improvements to be financed on a construction basis (that is, constructed by the City or under contract with the City), the City may request disbursement from the special tax collections for reimbursement of the City or direct payment of costs in accordance with applicable law.

**Section 18.** The City hereby consents to the formation of the Community Facilities District in accordance with this resolution and consents to the assumption of jurisdiction by the Authority for the proceedings respecting the Community Facilities

District with the understanding that the Authority will hereafter take each and every step required for or suitable for consummation of the proceedings, the levy, collection and enforcement of the Special Tax, and the issuance, sale, delivery and administration of the bonds, all at no cost to the City and without binding or obligating the City's general fund or taxing authority.

**Section 19.** The terms of the Agreement embodied by this resolution may be amended by a writing duly authorized, executed and delivered by the City and the Authority, except that no amendment may be made after the issuance of the bonds by the Authority that would be detrimental to the interests of the bondholders without complying with all of the bondholder consent provisions for the amendment of the bond resolutions, bond indentures or like instruments governing the issuance, delivery and administration of all outstanding bonds.

**Section 20.** Except to the extent of the indemnifications extended to the Other Local Agencies in the Agreement embodied by this resolution, and the City's agreement to take responsibility for and ownership of the City Improvements, no person or entity, including the Developer, shall be deemed to be a third party beneficiary of this resolution, and nothing in this resolution (either express or implied) is intended to confer upon any person or entity other than the Authority and the City (and their respective successors and assigns) any rights, remedies, obligations or liabilities under or by reason of this resolution.

**Section 21.** The City shall be identified as a third-party beneficiary of all joint community facilities agreements between the Authority and the Other Local Agencies to the extent of the indemnification provisions and the provisions whereby the Other Local Agency agrees to take responsibility for and ownership of their Improvements.

**Section 22.** This resolution shall remain in force until all bonds have been retired and the authority to levy the Special Tax conferred by the Community Facilities District proceedings has ended or is otherwise terminated.

**Section 23.** The City Council hereby authorizes and directs each Authorized Officer and other appropriate City staff to cooperate with the Authority and its consultants and to do all things necessary and appropriate to carry out the intent of this resolution and the Community Facilities District financing, and to execute any and all certificates and documents in connection with the bond issuance as shall be approved by an Authorized Officer after consultation with the City Attorney and the Authority's bond counsel.

**Section 24.** The City Council hereby approves delivery of a certified copy of this resolution to the Authority's Bond Counsel, Orrick, Herrington & Sutcliffe LLP.

**PASSED, APPROVED, AND ADOPTED** this 10<sup>th</sup> day of July, 2019

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Marsha Swanson  
Mayor

APPROVED AS TO FORM:

ATTEST:

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Thomas D. Jex  
City Attorney

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Janet Morales  
Acting City Clerk

**EXHIBIT A**

**COMMUNITY FACILITIES DISTRICT BOUNDARIES**

[ATTACHED]

OAK CREEK CANYON  
Proposed Community Facilities District Boundaries



APN List:

|                |                |                 |                 |
|----------------|----------------|-----------------|-----------------|
| 1: 362-070-029 | 5: 362-070-006 | 9: 362-070-013  | 13: 362-080-009 |
| 2: 362-070-010 | 6: 362-070-028 | 10: 362-070-003 | 14: 362-080-008 |
| 3: 362-090-009 | 7: 362-070-026 | 11: 362-070-021 | 15: 362-080-021 |
| 4: 363-090-015 | 8: 362-070-030 | 12: 362-080-007 |                 |



## **EXHIBIT B**

### **AUTHORIZED FACILITIES AND FEES**

#### **Public Capital Facilities**

##### **1. Preliminary and Incidental Expense and Appurtenant Work and Improvements**

Generally, for each of the categories of public capital improvements that are described in Paragraph 2 and 3 below to be acquired, constructed and installed on public property (including dedicated rights-of-way and public easements), the authorized improvements shall be deemed to include, without limitation, the cost and expense of mobilization, clearing, grubbing, grading, protective fencing and erosion control, excavation, dewatering, lime treatment, drainage ditches, rock outfalls, curb, gutter and sidewalks, base and finish paving, striping, traffic signage, traffic signals, streetlights, landscaping, irrigation, sound walls, retaining walls, barricades, traffic control, and other related appurtenant work and facilities, together with the cost and expense of engineering design, plan review, project management, construction-related surety bonds or like security instruments, construction staking and management, inspection, and any like fees and costs incidental to such acquisition, construction and installation.

##### **2. Public Capital Improvements of the City of Wildomar**

- a. Bundy Canyon Road Street Improvements (including costs incidental to realignment of such road) and other related improvements
- b. Traffic Signals
- c. Storm Water Drainage, Retention and Detention Facilities
- d. Dry Utilities, including relocation of Dry Utilities due to realignment of Bundy Canyon Road
- e. Relocation/replacement of existing Farm Mutual Water Company Lift Station due to realignment of Bundy Canyon Road

##### **3. Public Capital Improvements of the Elsinore Valley Municipal Water District**

- a. Sewer Lift Station and appurtenant facilities
- b. Backbone Sewer Pipelines and appurtenant facilities

##### **4. City of Wildomar Development Impact Fees**

- a. Roads
- b. Traffic Signals

- c. Park Land
- d. Park Improvements
- e. Police Facilities
- f. Fire Facilities
- g. Community Center Facilities
- h. City Hall Facilities
- i. Corporation Yard Facilities
- j. Trails
- k. Drainage
- l. Any other Capital Improvement, Development Impact, Mitigation, Capacity or Connection Fees and Charges, including fair-share payments towards traffic signals or other public improvements

5. Elsinore Valley Municipal Water District Connection and Capacity Fees

- a. Sewer Treatment Fee
- b. Sewer Collection System Fee
- c. Recycled Water Fee
- d. Any other applicable water or sewer capacity or connection fee/charge

**EXHIBIT C**  
**FORM OF ACQUISITION AGREEMENT**

**ACQUISITION AGREEMENT**

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BY AND AMONG

CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY,

CITY OF WILDOMAR

AND

SUNBELT COMMUNITIES, LLC

\_\_\_\_\_ Dated as of \_\_\_\_\_, 2019

## ACQUISITION AGREEMENT

### Recitals

A. The parties to this Acquisition Agreement (the "Agreement") are the California Statewide Communities Development Authority (the "Authority"), City of Wildomar (the "City"), and Sunbelt Communities, LLC, a California limited liability company (the "Developer").

B. The effective date of this Agreement is \_\_\_\_\_, 2019.

C. The Developer has applied for the financing of certain public capital improvements (each, an "Acquisition Improvement" and collectively, the "Acquisition Improvements"), and certain governmentally-imposed development fees and financial contributions (collectively, the "Fees") through the Authority. The Fees will themselves finance public capital improvements. The Acquisition Improvements are to be owned and operated by the City, and the financing is to be accomplished through a Community Facilities District which will be established and administered by the Authority under and pursuant to the Mello-Roos Community Facilities Act of 1982 – California Government Code Sections 53311 and following (the "Act"). On \_\_\_\_\_, 2019, the City adopted Resolution No. \_\_\_\_\_ authorizing the Authority to form a community facilities district (the "Community Facilities District") within the territorial limits of the City to finance the Acquisition Improvements and Fees. On [\_\_\_\_\_] 2019, the Authority formed the Community Facilities District and, on the same date, a landowner election was conducted in which all of the votes were cast unanimously in favor of conferring the Community Facilities District authority on the Authority Commission.

D. The Authority intends to levy special taxes of the Community Facilities District (the "Special Taxes") and issue bonds secured by the Special Taxes, in one or more series, to fund, among other things, all or a portion of the Fees and the Acquisition Improvements. The portion of the proceeds of such Special Taxes (including prepayments) and bonds allocable to the cost of the Fees and Acquisition Improvements, together with interest earned thereon, is referred to herein as the "Available Amount".

E. The Community Facilities District will provide financing for the Fees and the acquisition by the City of the Acquisition Improvements and the payment of the Acquisition Price (as defined herein) of the Acquisition Improvements from the Available Amount. Attached hereto as Exhibit A is a description of the Fees and the Acquisition Improvements, which includes authorized discrete and usable portions, if any, of the Acquisition Improvements, pursuant to Section 53313.51 of the Act, to be acquired from the Developer.

F. The parties anticipate that, upon completion of the Acquisition Improvements and subject to the terms and conditions of this Agreement, the City will acquire the completed Acquisition Improvements. All or any of the Fees may be paid by the Developer and reimbursed from the Available Amount or paid directly from the Available Amount.

G. Any and all monetary obligations of the City arising out of this Agreement are the special and limited obligations of the City payable only from the Available Amount, and no other funds whatsoever of the City shall be obligated therefor under any circumstances.

H. Attached to this Agreement are Exhibit A (Description of the Acquisition Improvements and the Eligible Portions thereof and Fees), Exhibit B-1 (Disbursement Request Form for Acquisition Improvements), Exhibit B-2 (Disbursement Request Form for Fees) and Exhibit C (Bidding, Contracting and Construction Requirements for Acquisition Improvements), all of which are incorporated into this Agreement for all purposes.

## AGREEMENT

### ARTICLE I DEFINITIONS; COMMUNITY FACILITIES DISTRICT FORMATION AND FINANCING PLAN

Section 1.01. Definitions. As used herein, the following capitalized terms shall have the meanings ascribed to them below:

“Acceptable Title” means free and clear of all monetary liens, encumbrances, assessments, whether any such item is recorded or unrecorded, and taxes, except (i) those items which are reasonably determined by the City Engineer not to interfere with the intended use and therefore are not required to be cleared from the title, and (ii) the lien of the Community Facilities District or any other community facilities district or assessment district provided that the property owned by the City is exempt from such taxation or assessment.

“Acquisition and Construction Fund” means the “City of Wildomar Oak Creek Canyon Community Facilities District, Acquisition and Construction Fund” established by the Authority pursuant to the Resolution and Section 1.03 hereof for the purpose of paying the Acquisition Price of the Acquisition Improvements and funding Fees.

“Acquisition Improvement” means a public capital improvement described in Exhibit A hereto.

“Acquisition Price” means the total amount eligible to be paid to the Developer upon acquisition of an Acquisition Improvement as provided in Section 2.03, not to exceed the Actual Cost of the Acquisition Improvement.

“Actual Cost” means the total cost of an Acquisition Improvement, as documented by the Developer to the satisfaction of the City and as certified by the City Engineer in an Actual Cost Certificate including, without limitation, (a) the Developer’s cost of constructing such Acquisition Improvement including grading, labor, material and equipment costs, (b) the Developer’s cost of designing and engineering the Acquisition Improvement, preparing the plans and specifications and bid documents for such Acquisition Improvement, and the costs of inspection, materials testing and construction staking for such Acquisition Improvement, (c) the Developer’s cost of any performance, payment and maintenance bonds and insurance, including title insurance, required hereby for such Acquisition Improvement, (d) the Developer’s cost of any real property or interest therein that is either necessary for the construction of such Acquisition Improvement (e.g., temporary construction easements, haul roads, etc.), or is required to be conveyed with such

Acquisition Improvement in order to convey Acceptable Title thereto to the City or its designee, (e) the Developer’s cost of environmental evaluation or mitigation required for such Acquisition Improvement, (f) the amount of any fees actually paid by the Developer to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals and reviews for such Acquisition Improvement, (g) the Developer’s cost for construction and project management, administration and

supervision services for such Acquisition Improvement to be calculated at five percent (5%) of items (a) through (f) of this sentence, (h) the Developer's cost for professional services related to such Acquisition Improvement, including engineering, accounting, legal, financial, appraisal and similar professional services, and (i) the costs of construction financing incurred by the Developer with respect to such Acquisition Improvement.

"Actual Cost Certificate" means a certificate prepared by the Developer detailing the Actual Cost of an Acquisition Improvement, or an Eligible Portion thereof, to be acquired hereunder, as may be revised by the City Engineer pursuant to Section 2.03.

"Agreement" means this Acquisition Agreement, dated as of [                      ], 2019.

"Authority" means the California Statewide Communities Development Authority.

"Authority Trust Agreement" means a Trust Agreement entered into by the Authority and an Authority Trustee in connection with the issuance of bonds.

"Authority Trustee" means the financial institution identified as trustee in an Authority Trust Agreement.

"Available Amount" shall have the meaning assigned to the term in Recital D.

"Bonds" means bonds or other indebtedness issued by the Authority that is to be repaid with Special Taxes.

"Code" means the Government Code of the State of California.

"Community Facilities District" shall have the meaning assigned to the term in Recital C.

"Developer" means Sunbelt Communities, LLC, a California limited liability company, and its successors and assigns.

"Disbursement Request Form" means (i) a requisition for payment of funds from the Acquisition and Construction Fund for an Acquisition Improvement, or an Eligible Portion thereof in substantially the form contained in Exhibit B-1 hereto and (ii) a requisition for payment of funds from the Acquisition and Construction Fund for Fees in substantially the form contained in Exhibit B-2 hereto.

"Eligible Portion" shall have the meaning ascribed to it in Section 2.03 below.

"Installment Payment" means an amount equal to ninety percent (90%) of the Actual Cost of an Eligible Portion.

"City" means the City of Wildomar, California.

"City Engineer" means the Engineer of the City or his/her designee who will be responsible for administering the acquisition of the Acquisition Improvements hereunder.



“Project” means the development of the property in the Community Facilities District, including the design and construction of the Acquisition Improvements and the other public and private improvements to be constructed by the Developer within the Community Facilities District.

“Resolution” means City of Wildomar Resolution No. \_\_\_\_\_, adopted \_\_\_\_\_, 2019, authorizing the execution and delivery of this Agreement.

“Special Taxes” means annual special taxes, and prepayments thereof, authorized by the Community Facilities District to be levied by the Commission of the Authority.

“Title Documents” means, for each Acquisition Improvement acquired hereunder, a grant deed or similar instrument necessary to transfer title to any real property or interests therein (including easements), or an irrevocable offer of dedication of such real property with interests therein necessary to the operation, maintenance, rehabilitation and improvement by the City of the Acquisition Improvement (including, if necessary, easements for ingress and egress) and a bill of sale or similar instrument evidencing transfer of title to the Acquisition Improvement (other than said real property interests) to the City, where applicable.

Section 1.02. Establishment of Community Facilities District. Developer has requested the City to permit the Authority to provide for financing of the Acquisition Improvements and Fees through the establishment and authorization of the Community Facilities District and the City agreed by its adoption of the Resolution. The Community Facilities District was established by the Authority on [ \_\_\_\_\_ ], 2019 and through the successful landowner election held that same day with respect to the Community Facilities District, the Commission of the Authority is authorized to levy the Special Taxes and to issue the Bonds to finance the Acquisition Improvements and Fees. Developer and the City agree to reasonably cooperate with one another and with the Authority in the completion of the financing through the issuance of the Bonds in one or more series.

Section 1.03. Deposit and Use of Available Amount.

(a) Prior to the issuance of Bonds, Special Taxes collected by the Authority (including from prepayments of Special Taxes) shall be deposited in the Acquisition and Construction Fund established by the Resolution, and may be disbursed to pay the Acquisition Price of Acquisition Improvements in accordance with Article II of this Agreement and to finance Fees in accordance with Article III of this Agreement. All funds in the Acquisition and Construction Fund shall be considered a portion of the Available Amount, and upon the issuance of the Bonds the Acquisition and Construction Fund shall be transferred to the Authority Trustee to be held in accordance with the Authority Trust Agreement.

(b) Upon the issuance of Bonds, the Authority will cause the Authority Trustee to establish and maintain the Acquisition and Construction Fund for the purpose of holding all funds for the Acquisition Improvements and Fees. All earnings on amounts in the Acquisition and Construction Fund shall remain in the Acquisition and Construction Fund for use as provided herein and pursuant to the Authority Trust Agreement. Money in the Acquisition and Construction Fund shall be available to respond to delivery of a Disbursement Request Form and to be paid to the Developer or its designee to pay

Acquisition Price of the Acquisition Improvements, as specified in Article II hereof, or to be paid to the Developer or City for Fees, as specified in Article III hereof. Upon completion of all of the Acquisition Improvements and the payment of all costs thereof, and upon funding of all Fees, any remaining funds in the Acquisition and Construction Fund (less any amount determined by the City as necessary to reserve for claims against the account) (i) shall be applied to pay the costs of any additional Acquisition Improvements eligible for acquisition with respect to the Project, or applicable Fees, as approved by the Authority and, to the extent not so used, (ii) shall be applied by the Authority to call Bonds or to reduce Special Taxes as the Authority shall determine.

Section 1.04. No City Liability; City Discretion; No Effect on Other Agreements. In no event shall any actual or alleged act by the City or any actual or alleged omission or failure to act by the City with respect to the Authority subject the City to monetary liability therefor. Further, nothing in this Agreement shall be construed as affecting the Developer's or the City's duty to perform their respective obligations under any other agreements, public improvement standards, land use regulations or subdivision requirements related to the Project, which obligations are and shall remain independent of the Developer's and the City's rights and obligations under this Agreement.

## ARTICLE II DESIGN, CONSTRUCTION AND ACQUISITION OF ACQUISITION IMPROVEMENTS

Section 2.01. Letting and Administering Design Contracts. The Developer has awarded and administered, or will award and administer, engineering design contracts for the Acquisition Improvements to be acquired from Developer. All eligible expenditures of the Developer for design engineering and related costs in connection with the Acquisition Improvements (whether as an advance to the City or directly to the design consultant) shall be reimbursed at the time of acquisition of the Acquisition Improvements. The Developer shall be entitled to reimbursement for any design costs of the Acquisition Improvements only out of the Acquisition Price as provided in Section 2.03 and shall not be entitled to any payment for design costs independent of the acquisition of Acquisition Improvements.

Section 2.02. Letting and Administration of Construction Contracts; Indemnification. State law requires that all Acquisition Improvements not completed prior to the formation of the Community Facilities District shall be constructed as if they were constructed under the direction and supervision, or under the authority, of the City. In order to assure compliance with those provisions, except for any contracts entered into prior to the effective date hereof, Developer agrees to comply with the requirements set forth in Exhibit C hereto with respect to the bidding and contracting for the construction of the Acquisition Improvements. The Developer agrees that all the contracts for Acquisition Improvements for which an Actual Cost Certificate is submitted to the City shall call for payment of prevailing wages as required by the Labor Code of the State of California. The Developer's indemnification obligation set forth in Section 4.01 of this Agreement shall also apply to any alleged failure to comply with the requirements of this Section, and/or applicable State laws regarding public contracting and prevailing wages.

Section 2.03. Sale of Acquisition Improvements. The Developer agrees to sell to the City and the City hereby agrees to purchase from the Developer each Acquisition Improvement to be constructed by Developer (including any rights-of-way or other easements necessary for the Acquisition Improvements, to the extent not already publicly owned), when the Acquisition Improvement is completed to the satisfaction of the City for an amount not to exceed the lesser of (i) the Available Amount from time to time or (ii) the Actual Cost of the Acquisition Improvement. Exhibit A, attached hereto and incorporated herein, contains a list of the Acquisition Improvements. Portions of an Acquisition Improvement eligible for Installment Payments prior to completion of the entire Acquisition Improvement are described as eligible, discrete and usable portions in Exhibit A (each, an "Eligible Portion"). At the time of completion of each Acquisition Improvement, or Eligible Portion thereof, the Developer shall deliver to the City Engineer a written request for acquisition, accompanied by an Actual Cost Certificate, and by executed Title Documents for the transfer of the Acquisition Improvement where necessary. In the event that the City Engineer finds that the supporting paperwork submitted by the Developer fails to demonstrate the required relationship between the subject Actual Cost and eligible work, the City Engineer shall advise the Developer that the determination of the Actual Cost (or the ineligible portion thereof) has been disallowed and shall request further documentation from the Developer. If the further documentation is still not adequate, the City Engineer may revise the Actual Cost Certificate to delete any disallowed items and the determination shall be final and conclusive.

Certain soft costs for the Acquisition Improvements, such as civil engineering, may have been incurred pursuant to single contracts that include work relating also to the private portions of the Project. In those instances, the total costs under such contracts will be allocated to each Acquisition Improvement as reasonably approved by the City Engineer. Where a specific contract has been awarded for design or engineering work relating solely to an Acquisition Improvement, one hundred percent (100%) of the costs under the contract will be allocated to that Acquisition Improvement. Amounts allocated to an Acquisition Improvement will be further allocated among the Eligible Portions of that Acquisition Improvement, if any, in the same proportion as the amount to be reimbursed for hard costs for each Eligible Portion bears to the amount to be reimbursed for hard costs for the entire Acquisition Improvement. Costs will be allocated to each Acquisition Improvement as approved by the City Engineer. The costs of certain environmental mitigation required to mitigate impacts of the public and private portions of the Project will be allocated to each Acquisition Improvement as approved by the City Engineer.

Section 2.04. Conditions Precedent to Payment of Acquisition Price. Payment to the Developer or its designee of the Acquisition Price for an Acquisition Improvement from the Acquisition and Construction Fund shall in every case be conditioned first upon the determination of the City Engineer, pursuant to Section 2.03, that the Acquisition Improvement satisfies all City regulations and ordinances and is otherwise complete and ready for acceptance by the City, and shall be further conditioned upon satisfaction of the following additional conditions precedent:

(a) The Developer shall have provided the City with lien releases or other similar documentation satisfactory to the City Engineer as evidence that none of the property (including any rights-of-way or other easements necessary for the operation and maintenance of the Acquisition Improvement, to the extent not already publicly owned) comprising the Acquisition Improvement, and the property which is subject to the special taxes of the Community Facilities District, is not subject to any prospective mechanics lien claim respecting the Acquisition Improvements.

(b) The Developer shall be current in the payment of all due and payable general property taxes, and all special taxes of the Community Facilities District, on property owned by the Developer or under option to the Developer within the Community Facilities District.

(c) The Developer shall certify that it is not in default with respect to any loan secured by any interest in the Project.

(d) The Developer shall have provided the City with Title Documents needed to provide the City with title to the site, right-of-way, or easement upon which the subject Acquisition Improvement is situated. All such Title Documents shall be in a form acceptable to the City and shall convey Acceptable Title. The Developer shall provide a policy of title insurance as of the date of transfer in a form acceptable to the City Engineer and the City Attorney insuring the City as to the interests acquired in connection with the acquisition of any interest for which such a policy of title insurance is not required by another agreement between the City and the Developer. Each title insurance policy required hereunder shall be in the amount equal to the Acquisition Price. The amount paid to the Developer or its designee upon satisfaction of the foregoing conditions precedent shall be the Acquisition Price less all Installment Payments paid previously with respect to the Acquisition Improvement.

Section 2.05. Payment for Eligible Portions. The Developer may submit an Actual Cost Certificate to the City Engineer with respect to any Eligible Portion. Payment to the Developer or its designee from the Acquisition and Construction Fund of an Installment Payment with respect to such Eligible Portion shall in every case be conditioned first upon the determination of the City Engineer, pursuant to Section 2.03, that the Eligible Portion has been completed in accordance with the applicable plans and specifications and that the Eligible Portion satisfies all City regulations and ordinances, and shall be further conditioned upon satisfaction of the following additional conditions precedent:

(a) The Developer shall have provided the City with lien releases or other similar documentation satisfactory to the City Engineer as evidence that the property (including any rights-of-way or other easements necessary for the operation and maintenance of the Eligible Portion, to the extent not already owned by the City) comprising the Eligible Portion is not subject to any prospective mechanics lien claim respecting the Eligible Portion.

(b) The Developer shall be current in the payment of all due and payable general property taxes, and all special taxes of the Community Facilities District, on property owned by the Developer or under option to the Developer within the Community Facilities District.

(c) The Developer shall have provided the City with Title Documents needed to provide the City with title to the site, right-of-way, or easement upon which the subject Eligible Portion is situated. All such Title Documents shall be in a form acceptable to the City Engineer and shall be sufficient, upon completion of the Acquisition Improvement of which the Eligible Portion is a part, to convey Acceptable Title.

(d) Payment and performance bonds, from a bonding company with an A.M. Best rating of at least "A-" or its equivalent, applying to plans and specifications for the Acquisition Improvement approved by the City, shall be in place to secure completion of the Acquisition Improvement of which the Eligible Portion is a part.

Section 2.06. Disbursement Request Form. Upon a determination by the City Engineer to pay the Acquisition Price of an Acquisition Improvement pursuant to Section 2.04 or to pay an Installment Payment for an Eligible Portion pursuant to Section 2.05, the City Engineer shall cause a Disbursement Request Form substantially in the form attached hereto as Exhibit B-1 to be submitted to the Authority and Authority Trustee, and the Authority or Authority Trustee shall make payment directly to the Developer or its designee of the amount requested from the Acquisition and Construction Fund. The City and the Developer acknowledge and agree that the Authority or Authority Trustee shall make payment strictly in accordance with the Disbursement Request Form and shall not be required to determine whether or not the Acquisition Improvement or Eligible Portion has been completed or what the Actual Costs may be with respect to the Acquisition Improvement or Eligible Portion. The Authority or Authority Trustee shall be entitled to rely on the executed Disbursement Request Form on its face without any further duty of investigation.

In the event that the Actual Cost of an Acquisition Improvement or the Installment Payment for an Eligible Portion is in excess of the Available Amount, the Authority or Authority Trustee shall withdraw all funds remaining in the Acquisition and Construction Fund and shall transfer those amounts to the Developer or its designee. The unpaid portion of the Actual Cost shall be paid from funds that may subsequently be deposited in the Acquisition and Construction Fund from a subsequent issuance of Bonds, from prepayments of Special Taxes to be used for financing Acquisition Improvements, or from Special Tax revenues, if any of those occurs.

Section 2.07. Limitation on Obligations. In no event shall the City be required to pay the Developer or its designee more than the amounts held in the Acquisition and Construction Fund. Further, any and all monetary obligations of the City arising out of this Agreement are the special and limited obligations of the City payable only from the Available Amount held in the Acquisition and Construction Fund, and no other funds whatsoever of the City shall be obligated therefor under any circumstances.

### ARTICLE III FEES

Section 3.01. Funding of Fees. The Developer may submit a written request to the City Engineer for the reimbursement of Fees paid previously with respect to the Project or for a disbursement to the City of funds from the Acquisition and

Construction Fund in satisfaction of Fees with respect to the Project. With each such written request, the Developer shall also submit to the City Engineer a Disbursement Request Form in the form attached hereto as Exhibit B-2, completed and executed by the Developer. Within five (5) business days of receipt of each such written request, the City Engineer shall execute the Disbursement Request Form on behalf of the City and submit it to the Authority and Authority Trustee for payment. The Authority or Authority Trustee shall make payment directly to the Developer or its designee, or the City in the amount requested from the Acquisition and Construction Fund. The City and Developer agree that the Authority or Authority Trustee shall make payment strictly in accordance with the Disbursement Request Form and shall not be required to determine any of the items specified in the Disbursement Request Form. The Authority or Authority Trustee shall be entitled to rely on the executed Disbursement Request Form on its face without any further duty of investigation. The City shall provide a credit against the applicable Fees for property located within the CFD to Developer or its designee(s) equal to the amount of the money disbursed to the City pursuant to the Disbursement Request Form and such Fees shall be deemed satisfied with respect to the number of lots/dwelling units/acres to which such Fees apply.

Some of the Acquisition Improvements to be constructed by Developer may be one of the public improvements that is eligible to be financed with one of the Fees. Developer shall be entitled to full credit against the applicable Fees for the Developer's construction of Acquisition Improvements whether or not such Acquisition Improvements are funded from the Available Amount. If Developer receives a credit against a Fee as the result of Developer's construction of any other public improvement, Developer shall only be entitled to fund pursuant to the terms of this Agreement, Developer's remaining obligation for such Fee, net of such credit amount.

#### ARTICLE IV MISCELLANEOUS

Section 4.01. Indemnification and Hold Harmless. The Developer hereby assumes the defense of, and indemnifies and saves harmless the City, the Authority, Other Local Agencies, and their respective officers, directors, employees and agents, including the Authority Trustee, from and against any and all actions, damages, claims, losses or expenses of every type and description (including costs and reasonable attorneys' fees) to which they may be subjected or put, by reason of or resulting from or alleged to have resulted from the acts or omissions of the Developer or its agents and employees in the performance of this Agreement or arising out of the design, engineering, or construction by or on behalf of Developer of the Acquisition Improvements at the Project or of improvements at the Project to be financed or acquired in part with Fees, or arising out of any alleged misstatements of fact or alleged omission of a material fact made by the Developer or its officers, directors, employees, or agents to the Authority's underwriter, financial advisor, appraiser, district engineer or bond counsel, or regarding the Developer, its proposed developments, its property ownership, and its contractual arrangements contained in the official statement relating to the Authority financing (provided that the Developer shall have been furnished a copy of the official statement and shall not have objected thereto); and provided, further, that nothing in this Section 4.01 shall limit in any manner the City's rights against any of the Developer's architects, engineers, contractors or other consultants. Except as set forth in this Section 4.01, no provision of this Agreement shall in any way limit the extent of the responsibility of the Developer for payment of damages resulting from the operations of

the Developer, its agents and employees. Nothing in this Section 4.01 shall be understood or construed to mean that the Developer agrees to indemnify the City or the Authority or Other Local Agencies, or any of their respective officers, directors, employees or agents, for any wrongful acts or omissions to act of the Authority or its officers, employees, agents or any consultants or contractors, including the Authority Trustee, or for any wrongful acts, willful misconduct, active negligence or omissions to act of the City or Other Local Agencies, or their officers, employees, agents or any consultants or contractors, including the Authority Trustee. It is expressly intended that the indemnity provided to the City pursuant to this Section 4.01 shall include indemnity from and against all claims and liability arising under or pursuant to the limited indemnities provided by the City to others pursuant to Section 12 or Section 13 of Resolution No. \_\_\_\_ of the City of Wildomar as to which the City is permitted to require Developer to assume responsibility by contract.

Additionally, the Developer shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul the Resolution or this Agreement. City shall promptly notify the Developer of any Action brought and request that Developer defend the City. It is expressly agreed that Developer shall select separate legal counsel for providing the Developer's defense, and the City shall have the right to approve separate legal counsel providing the City's defense. The Developer shall reimburse City for any attorneys' fees, costs and expenses directly and necessarily incurred by the City in the course of the defense. Developer agrees that City will forward monthly invoices to Developer for attorneys' fees, costs and expenses it has incurred related to its defense of any Action and Developer agrees to make timely payment within thirty (30) days of receipt of the invoice. Within fourteen (14) days of an Action being filed, Developer agrees to post adequate security or a cash deposit with the City in an amount to cover the City's estimated attorney's fees, costs and expenses incurred by the City in the course of the defense in order to ensure timely payment of the City's invoices. The amount of the security or cash deposit shall be determined by the City. City shall cooperate with Developer in the defense of any Challenge Action.

Section 4.02. Audit. The City shall have the right, during normal business hours and upon the giving of two days' written notice to the Developer, to review all books and records of the Developer pertaining to costs and expenses incurred by the Developer (for which the Developer seeks reimbursement pursuant to this Agreement) in constructing the Acquisition Improvements.

Section 4.03. Cooperation. The City and the Developer agree to cooperate with respect to the completion of the financing of the Acquisition Improvements by the Authority through the levy of the Community Facilities District Special Taxes and issuance of Bonds. The City and the Developer agree to meet in good faith to resolve any differences on future matters which are not specifically covered by this Agreement.

Section 4.04. Termination and Dissolution. Prior to the issuance of Bonds, Developer may elect to terminate this Agreement and request that the Special Taxes be cancelled by providing written notice to the Community Facilities District. Within thirty (30) days of such written notice, the Community Facilities District shall request the Authority to record a notice of cancellation of the Special Taxes with respect to each parcel. Developer shall be responsible for all reasonable Community Facilities District and Authority costs incurred relating to the cancellation of the Special Taxes and recordation of such notice. Such termination of this Agreement and cancellation of Special Taxes shall have no effect on Developer's obligations to pay City Fees when due or construct Acquisition Improvements.

Section 4.05. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval or acceptance of either party hereto or any of their respective employees, officers or agents shall be deemed to require that the consent, approval or acceptance not be unreasonably withheld or delayed, unless the provision expressly incorporates a different standard. The foregoing provision shall not apply to provisions in the Agreement which provide for decisions to be in the sole discretion of the party making the decision.

Section 4.06. Third Party Beneficiaries. The Authority, Other Local Agencies, and their officers, employees, agents or any consultants or contractors are expressly deemed third party beneficiaries of this Agreement with respect to the provisions of Section 4.01. It is expressly agreed that, except for the Authority with respect to the provisions of Section 4.01, there are no third party beneficiaries of this Agreement, including without limitation any owners of bonds, any of the City's or the Developer's contractors for the Acquisition Improvements and any of the City's, the Authority's or the Developer's agents and employees.

Section 4.07. Conflict with Other Agreements. Nothing contained herein shall be construed as releasing the Developer or the City from any condition of development or requirement imposed by any other agreement between the City and the Developer, and, in the event of a conflicting provision, the other agreement shall prevail unless the conflicting provision is specifically waived or modified in writing by the City and the Developer.

Section 4.08. Notices. All invoices for payment, reports, other communication and notices relating to this Agreement shall be mailed to:



If to the City:

City of Wildomar  
23873 Clinton Keith Rd., Suite 201  
Wildomar, California 92595  
Attention: City Manager

If to the Authority:

California Statewide Communities Development  
Authority  
1700 North Broadway, Suite 405  
Walnut Creek, CA 94596  
Attention: Executive Director

If to the Developer:

Sunbelt Communities, LLC  
27127 Calle Arroyo, Suite 1909  
San Juan Capistrano, CA 92675  
Attention: Bill Lo

Either party may change its address by giving notice in writing to the other party.

Section 4.09. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 4.10. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

Section 4.11. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement.

Section 4.12. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

Section 4.13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 4.14. Successors and Assigns. This Agreement is binding upon the heirs, assigns and successors-in-interest of the parties hereto. The Developer may not assign its rights or obligations hereunder, except to successors-in-interest to the property within the District, without the prior written consent of the City.

Section 4.15. Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement or the application thereof, other than for the payment to the Developer of any (i) moneys owing to the Developer hereunder, or (ii) moneys paid by the Developer pursuant to the provisions hereof which are misappropriated or improperly obtained, withheld or applied by the City.

Section 4.16. Non-Liability of Authority. The Authority shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Acquisition Agreement, except only to the extent amounts are received for the payment thereof from the Special Tax.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in damages to Other Local Agencies, the Developer, or to any assignee or transferee of the Developer other than for the payments to the Developer specified in the preceding paragraph. Subject to the foregoing, the Developer covenants not to sue for or claim any damages for any alleged breach of, or dispute which arises out of, this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

CITY OF WILDOMAR

By: \_\_\_\_\_  
Gary Nordquist  
City Manager

ATTEST:

\_\_\_\_\_  
Janet Morales  
Acting City Clerk

SUNBELT COMMUNITIES, LLC,  
a California limited liability  
company

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

CALIFORNIA STATEWIDE COMMUNITIES  
DEVELOPMENT AUTHORITY

By: \_\_\_\_\_  
[Authorized Officer]

## EXHIBIT A TO THE ACQUISITION AGREEMENT

### DESCRIPTION OF ACQUISITION IMPROVEMENTS, ELIGIBLE PORTIONS AND FEES

#### ACQUISITION IMPROVEMENTS<sup>1</sup>

|  |
|--|
| Bundy Canyon Road - grading, paving, curb, gutter, sidewalk, parkway, striping, street lights, street signs, traffic control, and related improvements including costs incidental to re-alignment of such road |
| Dry Utilities – relocation of existing dry utilities in connection with re-alignment of Bundy Canyon Road  |
| Lift Station – relocation/replacement of existing Farm Mutual Water Company lift station in connection with re-alignment of Bundy Canyon Road  |
| Traffic Signal - Bundy Canyon Road/Farm Rd.  |
| Traffic Signal - Bundy Canyon Road/Harvest Way West  |
| Traffic Signal - Bundy Canyon Road/Harvest Way East  |
| Traffic Signal - Bundy Canyon Road/Sunset  |
| Traffic Signal - Bundy Canyon Road/Sellers   |
| Traffic Signal – Bundy Canyon Road/Monte Vista   |
| Storm Water Drainage System Improvements   |

<sup>1</sup> The description of the Acquisition Improvements and Eligible Portions are general in nature. The final nature and location of the Acquisition Improvements will be determined upon preparation of final plans and specifications and these descriptions may be modified and additional Acquisition Improvements may be added through a written supplement to this Agreement executed by the Developer and City Engineer.

## CITY OF WILDOMAR DEVELOPMENT IMPACT FEES

- a. Roads
- b. Traffic Signals
- c. Park Land
- d. Park Improvements
- e. Police Facilities
- f. Fire Facilities
- g. Community Center Facilities
- h. City Hall Facilities
- i. Corporation Yard Facilities
- j. Trails
- k. Drainage
- l. Any other Capital Improvement, Development Impact, Mitigation, Capacity or Connection Fees and Charges, including fair-share payments towards traffic signals or other public improvements

### ELIGIBLE PORTIONS

For each Acquisition Improvement, Eligible Portions shall include each of the following:

- (1) The real property or interest therein that is necessary for the construction of the Acquisition Improvement and/or is required in order to convey Acceptable Title.
- (2) Design, engineering and other soft costs incurred with respect to the Acquisition Improvement prior to the award of the construction contract.
- (3) Installation of discrete horizontal or vertical segments of the Acquisition Improvement such as, depending on the type of Acquisition Improvement, grading and trenching; installation of water, sewer or storm drain lines, culverts, lift and pump stations, basins, storage tanks, treatment facilities, initial road paving, sidewalks, parkways, medians, final asphalt cap, traffic signals, street lighting, landscaping, etc.

## **EXHIBIT B-1 TO THE ACQUISITION AGREEMENT**

### **DISBURSEMENT REQUEST FORM (Acquisition Improvement or Eligible Portion)**

To: [Authority Trustee]  
Attention:  
Fax:  
Phone:

Re: CSCDA Community Facilities District No.

The undersigned, a duly authorized officer of the CITY OF WILDOMAR hereby requests a withdrawal from the City of Wildomar Oak Creek Canyon Project Community Facilities District Acquisition and Construction Fund, as follows:

|                                  |   |
|----------------------------------|---|
| Request Date:                    | [Insert Date of Request]  |
| Name of Developer:               |   |
| Withdrawal Amount:               | [Insert Acquisition Price/Installment Payment]  |
| Acquisition Improvements:        | [Insert Description of Acquisition Improvement(s)/Eligible Portion(s) from Exhibit A]                             |
| Payment Instructions:<br>Address | [Insert Wire Instructions or Payment<br>for Developer or Developer's<br>designee as provided by the<br>Developer] |

The undersigned hereby certifies as follows:

The Withdrawal is being made in accordance with a permitted use of the monies pursuant to the Acquisition Agreement and the Withdrawal is not being made for the purpose of reinvestment.

None of the items for which payment is requested have been reimbursed previously from the Acquisition and Construction Fund.

If the Withdrawal Amount is greater than the funds held in the Acquisition and Construction Fund, the Authority Trustee is authorized to pay the amount of such funds and to pay remaining amount(s) as funds are subsequently deposited in the Acquisition and Construction Fund, should that occur.

The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Improvements"). The City will own, and for the entire useful life of such Improvements reasonably expects to own, all of such Improvements. To the extent any of such Improvements are sold to an entity that is not a state or local government agency, the City will seek the advice and approval of bond counsel to the Authority prior to any such sale. The City will not allow any of such Improvements to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public). All of such Improvements will be used in the performance of essential governmental functions of the City or another state or local government agency. The average expected useful life of such Improvements is at least 20 years. The representations and covenants contained in this paragraph are intended to support the conclusion that the interest paid on the bonds issued to finance the Improvements is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code").

CITY OF WILDOMAR

By: \_\_\_\_\_

Title: \_\_\_\_\_



## EXHIBIT B-2 TO THE ACQUISITION AGREEMENT

### DISBURSEMENT REQUEST FORM (Fees)

To: [Authority Trustee]  
Attention:  
Fax:  
Phone:

Re: CSCDA Community Facilities District No.

The undersigned, a duly authorized officer of the CITY OF WILDOMAR hereby requests a withdrawal from the City of Wildomar Oak Creek Canyon Project Community Facilities District Acquisition and Construction Fund, as follows:

Request Date: [Insert Date of Request]  
Name of Developer:  
Withdrawal Amount: \$ \_\_\_\_\_  
Fees: [Insert Breakdown of Withdrawal Amount by Fees]  
Payment Instructions: [For reimbursement of Fees insert Wire Instructions or Payment Address for Developer or Developer's designee as provided by the Developer. For funding of Fees insert Wire Instructions for City ]

The undersigned hereby certifies as follows:

The withdrawal is being made in accordance with a permitted use of the monies pursuant to the Acquisition Agreement and the Withdrawal is not being made for the purpose of reinvestment.

None of the items for which payment is requested have been reimbursed previously from the Acquisition and Construction Fund.

If the Withdrawal Amount is greater than the funds held in the Acquisition and Construction Fund, the Authority Trustee is authorized to pay the amount of such funds and to pay remaining amount(s) as funds are subsequently deposited in the Acquisition and Construction Fund, should that occur.

[For prepaid fees to be reimbursed to developer at closing][The fees referenced above have been spent by the City for a permitted use of the listed fees for public capital improvements as of the date hereof.][For fees funded by bond proceeds][The amounts to be disbursed hereunder (i) are reimbursing the City for amounts spent by the City for public capital improvements within the timing period described in the City's tax certification with respect to the bonds that financed the public capital improvements, (ii) will be used by the City to make a payment to a person unrelated to the City for costs of the public capital improvement no later than three days after the disbursement, or (iii) are being disbursed directly to a third party at the direction of the City to pay the cost of the public capital improvements.

The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Improvements"). The City will own, and for the entire useful life of such Improvements reasonably expects to own, all of such Improvements. To the extent any of such Improvements are sold to an entity that is not a state or local government agency, the City will seek the advice and approval of bond counsel to the Authority prior to any such sale. The City will not allow any of such Improvements to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public). All of such Improvements will be used in the performance of essential governmental functions of the City or another state or local government agency. The average expected useful life of such Improvements is at least 20 years. The representations and covenants contained in this paragraph are intended to support the conclusion that the interest paid on the bonds issued to finance the Improvements is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code").

CITY OF WILDOMAR

By: \_\_\_\_\_

Title:

CITY OF WILDOMAR

By: \_\_\_\_\_

Title:

## **EXHIBIT C TO THE ACQUISITION AGREEMENT**

### **BIDDING, CONTRACTING AND CONSTRUCTION REQUIREMENTS FOR ACQUISITION IMPROVEMENTS**

With respect to construction contracts awarded after approval of the Agreement, bids for construction shall be solicited from at least three (3) qualified contractors, provided at least three (3) qualified contractors are reasonably available. The Developer may also directly solicit bids. The bid package may consist of preliminary plans and specifications.

The bidding response time shall be not less than ten (10) working days.

An authorized representative of the City shall be provided a copy of the tabulation of bid results upon request.

Contract(s) for the construction of the public Acquisition Improvements shall be awarded to the qualified contractor(s) submitting the lowest responsible bid(s), as determined by the Developer.

The contractor to whom a contract is awarded shall be required to pay not less than the prevailing rates of wages pursuant to Labor Code Sections 1770, 1773 and 1773.1 for the contracted work. A current copy of applicable wage rates shall be on file in the Office of the City Clerk, as required by Labor Code Section 1773.2.

The Developer shall provide the City with certified payrolls.

## **RESOLUTION NO. 2012 - 26**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AUTHORIZING AND DIRECTING EXECUTION OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY**

**WHEREAS**, Plot Plan No. 08-0165 was approved by the City Council on January 28, 2009; and

**WHEREAS**, on January 12, 2011, the City Council approved the request for a two-year time extension for Plot Plan No. 08-0165 at a regular meeting held on the January 12, 2011.; and

**WHEREAS**, the City of Wildomar, California (the "City"), has expressed an interest in participating in the economic development financing programs (the "Programs") in conjunction with the parties to that certain Amended and Restated Joint Exercise of Powers Agreement Relating to the California Statewide Communities Development Authority, dated as of June 1, 1988 (the "Agreement"); and

**WHEREAS**, there is now before this City Council the form of the Agreement; and

**WHEREAS**, the City proposes to participate in the Programs and desires that certain projects to be located within the City be financed pursuant to the Programs and it is in the public interest and for the public benefit that the City do so; and

**WHEREAS**, the Agreement has been filed with the City Clerk, and the members of the City Council of the City, with the assistance of its staff, have reviewed said document.

**NOW THEREFORE**, the City Council of the City of Wildomar, California, does hereby resolve, determine, find and order as follows:

**SECTION 1.** The Agreement is hereby approved and the Mayor of the City is hereby authorized and directed to execute said document, with such changes, insertions and omissions as may be approved by said City Council, and the City Clerk is hereby authorized and directed to affix the City's seal to said document and to attest thereto.


**SECTION 2.** The Mayor of the City, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

**SECTION 3.** The City Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to:

Kathleen Jacobe  
Orrick, Herrington & Sutcliffe LLP  
400 Capital Mall, Suite 3000  
Sacramento, California 95814


**SECTION 4.** This resolution shall take effect immediately upon its passage.


**PASSED, APPROVED, AND ADOPTED** this 13th day of June, 2012.

  
\_\_\_\_\_  
Ben J. Benoit  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

  
\_\_\_\_\_  
Thomas D. Jex  
City Attorney

  
\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )  
CITY OF WILDOMAR )

I, Debbie A. Lee, CMC, City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Resolution No. 2012 - 26 was duly adopted at a regular meeting held on June 13, 2012, by the City Council of the City of Wildomar, California, by the following vote:

AYES: Mayor Benoit, Mayor Pro Tem Walker, Council Members Cashman, Moore, Swanson

NOES: None

ABSTAIN: None

ABSENT: None



---

Debbie A. Lee, CMC  
City Clerk  
City of Wildomar

**AMENDED AND RESTATED  
JOINT EXERCISE OF POWERS AGREEMENT  
RELATING TO THE CALIFORNIA STATEWIDE COMMUNITIES  
DEVELOPMENT AUTHORITY**

THIS AGREEMENT, dated as of June 1, 1988, by and among the parties executing this Agreement (all such parties, except those which have withdrawn in accordance with Section 13 hereof, being herein referred to as the "Program Participants"):

**WITNESSETH**

**WHEREAS**, pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California (the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

**WHEREAS**, each of the Program Participants is a "public agency" as that term is defined in Section 6500 of the Government Code of the State of California, and

**WHEREAS**, each of the Program Participants is empowered to promote economic development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, and the increase of the tax base, within its boundaries; and

**WHEREAS**, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue industrial development bonds pursuant to the California Industrial Development Financing Act (Title 10 (commencing with Section 91500 of the Government Code of the State of California)) (the "Act") and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of law to promote economic development through the issuance of bonds, notes, or other evidences of indebtedness, or certificates of participation in leases or other agreements (all such instruments being herein collectively referred to as "Bonds"); and

**WHEREAS**, in order to promote economic development within the State of California, the County Supervisors Association of California ("CSAC"), together with the California Manufacturers Association, has established the Bonds for Industry program (the "Program").

**WHEREAS**, in furtherance of the Program, certain California counties (collectively, the "Initial Participants") have entered into that certain Joint Exercise of Powers Agreement dated as of November 18, 1987 (the "Initial Agreement"), pursuant to which the California Counties Industrial Development Authority has been established as a separate entity under the Joint Exercise of Powers Act for the purposes and with the powers specified in the Initial Agreement; and

**WHEREAS**, the League of California Cities ("LCC") has determined to join as a sponsor of the Program and to actively participate in the administration of the Authority; and

**WHEREAS**, the Initial Participants have determined to specifically authorize the Authority to issue Bonds pursuant to Article 2 of the Joint Exercise of Powers Act ("Article 2") and Article 4 of the Joint Exercise of Powers Act ("Article 4"), as well as may be authorized by the Act or other applicable law; and

**WHEREAS**, the Initial Participants desire to rename the California Counties Industrial Development Authority to better reflect the additional sponsorship of the Program; and

**WHEREAS**, each of the Initial Participants has determined that it is in the public interest of the citizens within its boundaries, and to the benefit of such Initial Participant and the area and persons served by such Initial Participant, to amend and restate in its entirety the Initial Agreement in order to implement the provisions set forth above; and

**WHEREAS**, it is the desire of the Program Participants to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake projects within their respective jurisdictions that may be financed with Bonds issued pursuant to the Act, Article 2, Article 4, or other applicable provisions of law; and

**WHEREAS**, the projects undertaken will result in significant public benefits, including those public benefits set forth in Section 91502.1 of the Act, an increased level of economic activity, or an increased tax base, and will therefore serve and be of benefit to the inhabitants of the jurisdictions of the Program Participants;

**NOW, THEREFORE**, the Program Participants, for and in consideration of the mutual promises and agreements herein contained, do agree to restate and amend the Initial Agreement in its entirety to provide as follows:



**Section 1.        Purpose.**

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act, relating to the joint exercise of powers common to public agencies, in this case being the Program Participants. The Program Participants each possess the powers referred to in the recitals hereof. The purpose of this Agreement is to establish an agency for, and with the purpose of, issuing Bonds to finance projects within the territorial limits of the Program Participants pursuant to the Act, Article 2, Article 4, or other applicable provisions of law; provided, however that nothing in this Agreement shall be construed as a limitation on the rights of the Program Participants to pursue economic development outside of this Agreement, including the rights to issue Bonds through industrial development authorities under the Act, or as otherwise permitted by law.

Within the various jurisdictions of the Program Participants such purpose will be accomplished and said powers exercised in the manner hereinafter set forth.

**Section 2.        Term.**

This Agreement shall become effective as of the date hereof and shall continue in full force and effect for a period of forty (40) years from the date hereof, or until such time as it is terminated in writing by all the Program Participants; provided, however, that this Agreement shall not terminate or be terminated until the date on which all Bonds or other indebtedness issued or caused to be issued by the Authority shall have been retired, or full provision shall have been made for their retirement, including interest until their retirement date.

**Section 3.        Authority.**

**A.        CREATION AND POWERS OF AUTHORITY.**

(1) Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "California Statewide Communities Development Authority" (the "Authority"), and said Authority shall be a public entity separate and apart from the Program Participants. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to this Agreement.

**B.        COMMISSION.**

The Authority shall be administered by a Commission (the "Commission") which shall consist of seven members, each

serving in his or her individual capacity as a member of the Commission. The Commission shall be the administering agency of this Agreement, and, as such, shall be vested with the powers set forth herein, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein.

Four members of the Commission shall be appointed by the governing body of CSAC and three members of the Commission shall be appointed by the governing body of LCC. Initial members of the Commission shall serve a term ending June 1, 1991. Successors to such members shall be selected in the manner in which the respective initial member was selected and shall serve a term of three years. Any appointment to fill an unexpired term, however, shall be for such unexpired term. The term of office specified above shall be applicable unless the term of office of the respective member is terminated as hereinafter provided, and provided that the term of any member shall not expire until a successor thereto has been appointed as provided herein.

Each of CSAC and LCC may appoint an alternate member of the Commission for each member of the Commission which it appoints. Such alternate member may act as a member of the Commission in place of and during the absence or disability of such regularly appointed member. All references in this Agreement to any member of the Commission shall be deemed to refer to and include the applicable alternate member when so acting in place of a regularly appointed member.

Each member or alternate member of the Commission may be removed and replaced at any time by the governing body by which such member was appointed. Any individual, including any member of the governing body or staff of CSAC or LCC, shall be eligible to serve as a member or alternate member of the Commission.

Members and alternate members of the Commission shall not receive any compensation for serving as such but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member or alternate member, if the Commission shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

#### C. OFFICERS; DUTIES; OFFICIAL BONDS.

The Commission shall elect a Chair, a Vice-Chair, and a Secretary of the Authority from among its members to serve for such term as shall be determined by the Commission. The Commission shall appoint one or more of its officers or

employees to serve as treasurer, auditor, and controller of the Authority (the "Treasurer") pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve for such term as shall be determined by the Commission.

Subject to the applicable provisions of any resolution, indenture or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent, the Treasurer is designated as the depository of the Authority to have custody of all money of the Authority, from whatever source derived.

The Treasurer of the Authority shall have the powers, duties and responsibilities specified in Section 6505.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Commission but in no event less than \$1,000. If and to the extent permitted by law, any such officer may satisfy this requirement by filing an official bond in at least said amount obtained in connection with another public office.

The Commission shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Commission shall have the power, by resolution, to the extent permitted by the Joint Exercise of Powers Act or any other applicable law, to delegate any of its functions to one or more of the members of the Commission or officers or agents of the Authority and to cause any of said members, officers or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Commission or the Authority.

#### D. MEETINGS OF THE COMMISSION.

##### (1) Regular Meetings.

The Commission shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Commission and a copy of such resolution shall be filed with each party hereto.

(2) Special Meetings.

Special meetings of the Commission may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California.

(3) Ralph M. Brown Act.

All meetings of the Commission, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California).

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Commission and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Commission.

(5) Quorum.

A majority of the members of the Commission which includes at least one member appointed by the governing body of each of CSAC and LCC shall constitute a quorum for the transaction of business. No action may be taken by the Commission except upon the affirmative vote of a majority of the members of the Commission which includes at least one member appointed by the governing body of each of CSAC and LCC, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Commission such rules and regulations for the conduct of its meetings and affairs as may be required.

**Section 4. Powers.**

The Authority shall have any and all powers relating to economic development authorized by law to each of the parties hereto and separately to the public entity herein created, including, without limitation, the promotion of opportunities for the creation and retention of employment, the stimulation of economic activity, and the increase of the tax base, within the jurisdictions of such parties. Such powers shall include the common powers specified in this

Agreement and may be exercised in the manner and according to the method provided in this Agreement. All such powers common to the parties are specified as powers of the Authority. The Authority is hereby authorized to do all acts necessary for the exercise of such powers, including, but not limited to, any or all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and any governmental entity; to sue and be sued in its own name; and generally to do any and all things necessary or convenient to the promotion of economic development, including without limitation the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, and the increase of the tax base, all as herein contemplated. Without limiting the generality of the foregoing, the Authority may issue or cause to be issued bonded and other indebtedness, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, including Article 2 and Article 4, the Act or any other applicable provision of law.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California county could exercise such powers and perform such duties until a California general law city shall become a Program Participant, at which time it shall be subject to the restrictions upon the manner in which a California general law city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

#### **Section 5.      Fiscal Year.**

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by the Authority, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 1988.

**Section 6.           Disposition of Assets.**

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2 hereof, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Program Participants and shall thereafter remain the sole property of the Program Participants; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Program Participants.

**Section 7.           Bonds.**

The Authority shall issue Bonds for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement. Said Bonds may, at the discretion of Authority, be issued in series.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The fees and expenses of such counsel, consultants, advisors, and the expenses of CSAC, LCC, and the Commission shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

**Section 9.           Local Approval.**

A copy of the application for financing of a project shall be filed by the Authority with the Program Participant in whose jurisdiction the project is to be located. The Authority shall not issue Bonds with respect to any project unless the governing body of the Program Participant in whose jurisdiction the project is to be located, or its duly authorized designee, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Action to approve or disapprove a project shall be taken within 45 days of the filing with the Program Participant. Certification of approval or disapproval shall be made by the clerk of the governing body of the Program Participant, or by such other officer as may be designated by the applicable Program Participant, to the Authority.

**Section 8.           Bonds Only Limited and Special Obligations of Authority.**

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Program Participant, CSAC, or LCC or pledge of the faith and credit of the Program Participants, CSAC, LCC, or the

Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds or the respective project costs except from revenues and other funds pledged therefor. Neither the Program Participants, CSAC, LCC, nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Program Participants nor the faith and credit of CSAC, LCC, or the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds nor shall the Program Participants, CSAC, LCC, or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any member of the Commission, or any officer, agent or employee of the Authority in his individual capacity and neither the Commission of the Authority nor any officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

#### **Section 10. Accounts and Reports.**

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Program Participant.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Agency by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each Program Participant and also with the county auditor of each county in which a Program Participant is located. Such report shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Commission may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

The Treasurer of the Authority, within 120 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to each of the Program Participants to the extent such activities are not covered by the reports of the trustees for the Bonds. The trustee appointed under each Indenture shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of said Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out this Agreement.

#### **Section 11.     Funds.**

Subject to the applicable provisions of each Indenture, which may provide for a trustee to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Section 10 hereof, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions or purposes of this Agreement.

#### **Section 12.     Notices.**

Notices and other communications hereunder to the Program Participants shall be sufficient if delivered to the clerk of the governing body of each Program Participant.

#### **Section 13.     Withdrawal and Addition of Parties.**

A Program Participant may withdraw from this Agreement upon written notice to the Commission; provided, however, that no such withdrawal shall result in the dissolution of the Authority so long as any Bonds remain outstanding under an Indenture. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Commission which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.



Qualifying public agencies may be added as parties to this Agreement and become Program Participants upon: (i) the filing by such public agency of an executed counterpart of this Agreement, together with a certified copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (ii) adoption of a resolution of the Commission approving the addition of such public agency as a Program Participant. Upon satisfaction of such conditions, the Commission shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

**Section 14. Indemnification.**

To the full extent permitted by law, the Commission may authorize indemnification by the Authority of any person who is or was a member or alternate member of the Commission, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member or alternate member of the Commission, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

**Section 15. Contributions and Advances.**

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Authority by the parties hereto for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Authority and the party making such advance at the time of such advance.

**Section 16. Immunities.**

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of Program Participants when performing their

respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged as members of the Commission or otherwise as an officer, agent or other representative of the Authority or while engaged in the performance of any of their functions or duties extraterritorially under the provisions of this Agreement.

**Section 17.     Amendments.**

Except as provided in Section 13 above, this Agreement shall not be amended, modified, or altered except by a written instrument duly executed by each of the Program Participants.

**Section 18.     Effectiveness.**

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Program Participants at 9:00 a.m., California time, on the date that the Commission shall have received from each of the Initial Participants an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Initial Participant approving this Agreement and the execution and delivery hereof.

**Section 19.     Partial Invalidity.**

If anyone or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**Section 20.     Successors.**

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no party may assign any right or obligation hereunder without the consent of the other parties.

**Section 21.     Miscellaneous.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement is made in the State of California, under the Constitution and laws of such state and is to be so construed.

This Agreement is the complete and exclusive statement of the agreement among the parties hereto, which supercedes and merges all prior proposals, understandings, and other agreements, including, without limitation, the Initial Agreement, whether oral, written, or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

Program Participant:

  
\_\_\_\_\_

By \_\_\_\_\_

Name: Ben Benoit

Title: Mayor

[SEAL]

ATTEST:

By   
\_\_\_\_\_

Name: Debbie A. Lee

Title: City Clerk

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("Agreement") is entered into on this 10<sup>th</sup> day of July, 2019, by and between SUNBELT COMMUNITIES, LLC, a California limited liability company ("Owner" or "Developer"), and CITY OF WILDOMAR ("City"), with reference to the following Recitals.

### **RECITALS**

**WHEREAS**, the City is finalizing its efforts to realign and/or widen portions of Bundy Canyon Road ("BCR") between Interstate 15 and Sunset Avenue and is acquiring the necessary right of way for the BCR roadway improvements; and

**WHEREAS**, the City has obtained approval of Western Riverside Council of Governments ("WRCOG") for the acquisition of right of way for a 4-lane BCR roadway improvements as a public works project to be funded in FY 2020-2021 as a regional Transportation Uniform Mitigation Fees ("TUMF") project; and

**WHEREAS**, the City has adopted a Development Improvement Fee (DIF) for the acquisition of right of way for two travel lanes in addition to the 4-lane BCR roadway improvements as a public works project; and

**WHEREAS**, the proposed realignment was anticipated and a Right of Way dedication for a 152' Right of Way was included in the Conditions of Approval for Tentative Tract Map #36388 (TTM #36388, the "Project") relative to the land owned by Sunbelt Communities, LLC ("Owner") between Farm Road and Sunset Avenue; and

**WHEREAS**, the City, Owner and the California Statewide Communities Development Authority ("CSCDA") are negotiating a joint community facilities agreement ("JCFA") for purposes of forming a community facilities district ("CFD") to finance certain public capital improvements and fees; and

**WHEREAS**, Owner and the City desire to finalize an agreement for (i) dedication by Owner to the City of the necessary right of way through Owner's property, including permanent public roadway and utility easements, slope and drainage easements, and temporary construction easements (collectively, the "BCR ROW") for the realignment and widening of BCR, (ii) quitclaim by the City to Owner of all City rights in and to the portions of BCR abandoned following re-alignment, and (iii) addressing certain other matters.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **BCR Right of Way.**

a. Dedication of Right of Way. Owner agrees to dedicate to the City permanent public roadway and utility easements, permanent slope and drainage easements, and temporary construction easements on and over such portions of Owner's land as necessary to satisfy the Conditions of Approval for the Project and enable the proposed realignment and widening of BCR. Attached hereto an Exhibit A is a depiction of the approximate area of Owner's land anticipated to be dedicated for permanent roadway and utility easements, including designation of the areas eligible for TUMF and DIF Fee Credits.

b. Compensation. The City agrees to compensate Owner for BCR right of way ("Permanent Easement Compensation"), in the manner provided herein, the sum of:

(i) The area of two (2) lanes of right of way and parkway are eligible for credit up to the maximum eligible amount in accordance with TUMF;

(ii) The area of two (2) lanes of right of way (including slope and drainage easement areas) are eligible for credit up to the maximum eligible amount in accordance with DIF.

(iii) The area of the existing right of way of BCR to be vacated will be offset against and deducted from the sum of the areas of (i) and/or (ii) above; and

(iv) in the event that the area of right of way being offered for dedication for the realigned BCR exceeds the sum of the areas of (i) through (iii) above, the balance will be compensated at the Appraised Valuation in cost per square foot, as determined by the City's right of way consultant and set forth in an undated BCR DIF Credit letter from the City to Developer. No compensation shall be payable for temporary construction easement areas.

c. Development Impact Fee (DIF) Credit. The Parties agree to negotiate a DIF Credit Agreement to cover payment of the Permanent Easement Compensation as a credit against development impact fees payable by Owner ("DIF Credits") in connection with future development of the Project. Subject to identification of the precise location and areas of the permanent easements, appropriate easement agreements shall be executed and delivered.

d. Quitclaim of Existing BCR Right of Way. As further consideration for the dedication by Owner of the BCR ROW pursuant to Paragraph 1.a. above, the City agrees (i) to release and vacate all easement rights held by the City on and over Owner's land where portions of BCR are being realigned and abandoned (the "Vacated ROW"), (ii) once utilities within the Vacated ROW have been relocated to the realigned BCR ROW, to use commercially reasonable efforts, at no cost to the City, to obtain the release and relinquishment of all easement or similar rights held by others, including all utility companies and suppliers, and the removal and/or abandonment of all utility or other improvements, if any, located within the Vacated ROW, (iii) upon request of Developer, and at no cost to the City, the Parties will discuss utilizing eminent domain

procedures, if any, to secure the ability of Developer to utilize the Vacated ROW for development of lots as provided for under TTM #36388, and (iv) to the extent not already effected pursuant to TTM #36388, to quitclaim to Owner, free and clear of any and all encumbrances, all of the City's rights in and to the Vacated ROW.

e. TUMF Credit Agreement. To the extent Owner designs and constructs portions of BCR, the City agrees to cooperate with Owner in entering into a TUMF credit agreement between the City and Owner, utilizing WRCOG's standard form, to enable Owner to receive a maximum credit against its TUMF obligation for all TUMF eligible costs, including planning, design and construction as well as the BCR ROW portion under Paragraph 1.b.(i) above, which ROW credit shall be based on the valuation assumption per lane mile used in the TUMF nexus study (and consistent with WRCOG's standard practice allowing the ROW credit to the Developer based on such value when the right of way is owned by the Developer).

e. Prioritization. It is acknowledged that the City prefers the first priority for funding from the proceeds of special taxes and bonds pursuant to such community facilities CFDs to be reimbursement for eligible City public improvements rather than City Development Impact Fees ("DIF Fees"); provided, however, that the City agrees that payment of DIF Fees shall be eligible for CFD funding so long as the City has a reasonable expectation of expending bond proceeds on the corresponding public improvements within three years of the receipt of such funds. Developer shall consult with the City at the time of issuance of each series of CFD bonds. Should DIF Fees be included in the bond issuance then the DIF Fees due for the entire residential development shall be paid to the City in full within thirty (30) calendar days of bond issuance. The amount due will be credited against DIF Fees paid prior to bond issuance. The developer shall provide evidence of DIF Fees paid; and, the City will confirm DIF Fees previously paid..

## **2. Indemnification.**

- a. Developer shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside,

void, or annul this Agreement. City shall promptly notify the Developer of any Action brought and request that Developer defend the City. It is expressly agreed that Developer shall select separate legal counsel for providing the Developer's defense and the City shall have the right to approve separate legal counsel providing the City's defense. The Developer shall reimburse City for any attorneys' fees, costs and expenses directly and necessarily incurred by the City in the course of the defense. Developer agrees that City will forward monthly invoices to Developer for attorneys' fees, costs and expenses it has incurred related to its defense of any Action and Developer agrees to make timely payment within thirty (30) days of receipt of the invoice. Within fourteen (14) days of an Action being filed, Developer agrees to post adequate security or a cash deposit with the City in an amount to cover the City's estimated attorneys' fees, costs and expenses incurred by the City in the course of the defense in order to ensure timely payment of the City's invoices. The amount of the security or cash deposit shall be determined by the City.

City shall cooperate with Developer in the defense of any Action.

**3. Further Cooperation.** The parties shall cooperate with each other and confer as necessary to achieve all tasks necessary to complete the BCR roadway improvements, both within Owner's land and portions to be built offsite by the City. Any approvals requested with respect to this Agreement or the Project shall not be unreasonably withheld, conditioned or delayed. The parties will execute such other documents and agreements as reasonably necessary in order to facilitate completion of the Project.

#### **4. Miscellaneous Provisions.**

a. This Agreement constitutes the full and complete agreement among the parties with respect to the subject matter hereof. All prior agreements and understandings with respect to the subject matter of this Agreement are merged herein. This Agreement may be executed in counterparts, provided that each party receives an Agreement originally executed by the other party.

b. Each party represents to the other that the party has taken all necessary actions and has the full authority to enter into this Agreement without further action by such party.

c. If any provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each such provision shall be valid and enforceable to the fullest extent permitted by law.

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

Owner:

**SUNBELT COMMUNITIES, LLC, a**  
California limited liability company

By: \_\_\_\_\_  
William W. Lo  
Its: Manager

City:

**CITY OF WILDOMAR** \_\_\_\_\_

By: \_\_\_\_\_  
Gary Nordquist

Its: City Manager



**EXHIBIT A**

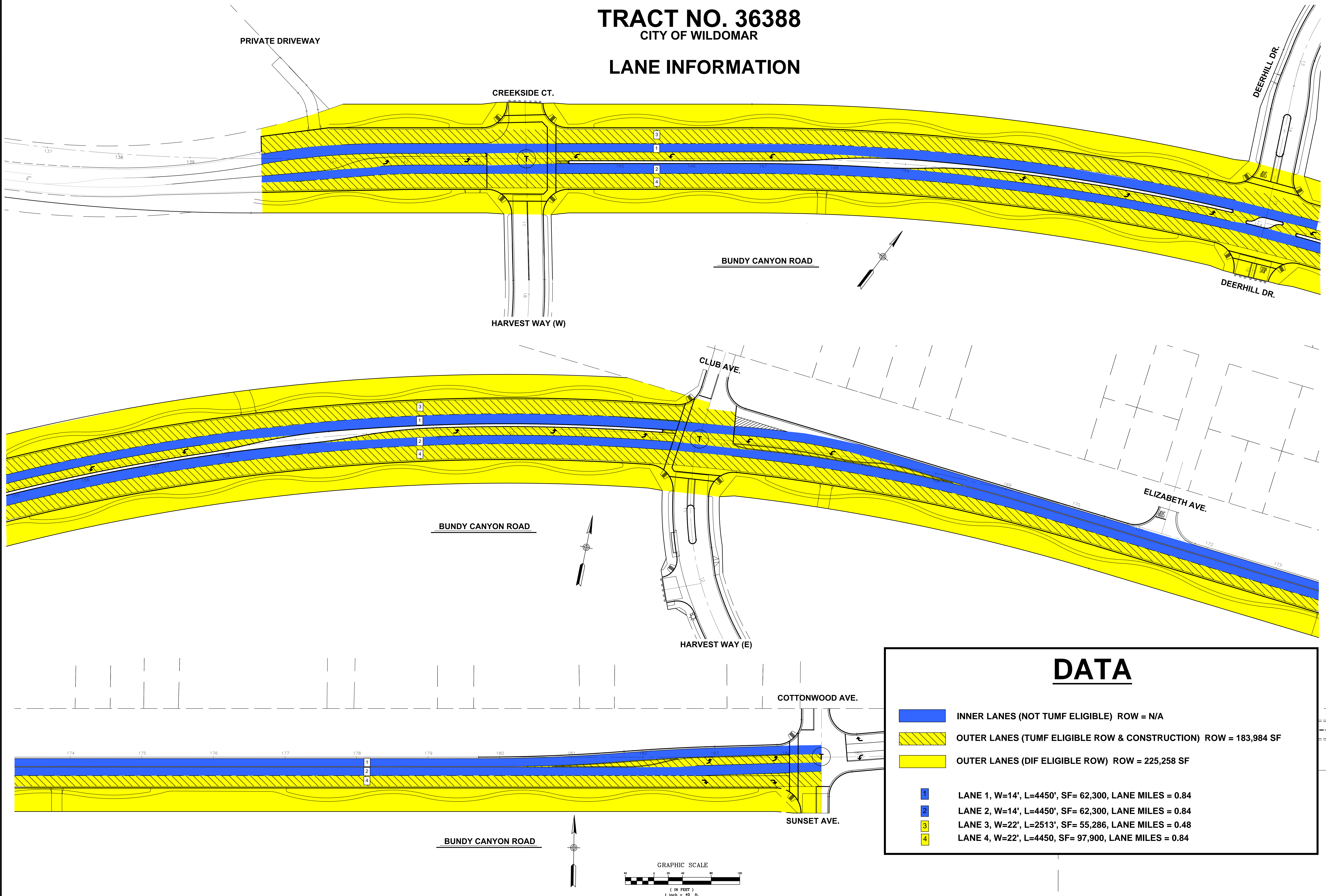
**DEPICTION OF ROW AREAS**

**[See Attached.]**








# TUMF/DIF EXHIBIT

TRACT NO. 36388  
CITY OF WILDOMAR

## LANE INFORMATION



## DATA

|   |   |
|---|---|
|  | INNER LANES (NOT TUMF ELIGIBLE) ROW = N/A                       |
|  | OUTER LANES (TUMF ELIGIBLE ROW & CONSTRUCTION) ROW = 183,984 SF |
|  | OUTER LANES (DIF ELIGIBLE ROW) ROW = 225,258 SF                 |
|  | LANE 1, W=14', L=4450', SF= 62,300, LANE MILES = 0.84           |
|  | LANE 2, W=14', L=4450', SF= 62,300, LANE MILES = 0.84           |
|  | LANE 3, W=22', L=2513', SF= 55,286, LANE MILES = 0.48           |
|  | LANE 4, W=22', L=4450, SF= 97,900, LANE MILES = 0.84            |

**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #3.2**  
**GENERAL BUSINESS**  
**Meeting Date: July 10, 2019**

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**TO:** Mayor and City Council Members

**FROM:** Dan York, Assistant City Manager

**PREPARED:** Jason Farag, Associate Engineer

**SUBJECT:** Amendment of Municipal Code Chapter 13.12 (Stormwater Drainage System Protection) – Set Public Hearing

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AMENDING CHAPTER 13.12 (STORMWATER DRAINAGE  
SYSTEM PROTECTION) OF THE WILDOMAR MUNICIPAL CODE.

**BACKGROUND:**

The City of Wildomar (City) is a permittee under the San Diego Regional Water Quality Control Board's (Regional Board) National Pollutant Discharge Elimination System (NPDES) Permit. The NPDES Permit regulates discharges from the City's storm drain system (MS4) to protect water quality in the watershed. The current NPDES Permit in effect is Order No. R9-2013-0001, as amended. The NPDES Permit identifies which discharges must be categorized and treated as illicit discharges. Irrigation water discharges to the MS4 have been classified as a source of pollutants to water quality and therefore must be treated as illicit discharges and regulated accordingly.

**DISCUSSION:**

Over the last several years, the City has made efforts to help reduce over-irrigation and irrigation discharges into the MS4. In 2014, the City updated the Stormwater Drainage System Protection Ordinance to remove "landscaping irrigation and lawn watering" and irrigation water from the list of exempt discharges. The City has also worked with the local water purveyor, Elsinore Valley Municipal Water District (EVMWD), to help encourage water efficient and drought tolerant landscaping and on November 12, 2015, the City Council adopted the Water Efficient/Conservation Landscape Standards Manual. These efforts encourage existing development and require new development to

implement landscaping that uses minimal irrigation and smart irrigation controllers, and ultimately helps reduce over-irrigation and irrigation discharges into the MS4.

However, it has come to the City's attention that Wildomar Municipal Code Section 13.12.080 still provides some exemptions for potable water discharges and may potentially exempt irrigation discharges. The NPDES Permit requires that the City establish, maintain, and enforce adequate legal authority to "prohibit and eliminate all illicit discharges and illicit connections to its MS4". Therefore, Staff is recommending that the Stormwater Drainage System Protection Ordinance be amended so that it does not potentially exempt irrigation discharges and so that it complies with the NPDES Permit. The attached Ordinance amends the City's Municipal Code to be consistent with the NPDES Permit.

With Councils' approval of the first reading of this Ordinance, the second reading will be scheduled for August 14, 2019 and the Ordinance will be in effect 30 days after the second reading. The first day that will mandate compliance with the amended ordinance is September 13, 2019.

**FISCAL IMPACT:**

The Ordinance Amendment has no fiscal impact at this time. Moving forward, the City may incur costs related to enforcement of the amended ordinance.

Submitted by:  
Daniel A. York  
Assistant City Manager  
Public Works Director/City Engineer

Approved by:  
Gary Nordquist  
City Manager

**ATTACHMENTS:**

Ordinance  
WMC 13.12 Red-line

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,**  
**CALIFORNIA, AMENDING CHAPTER 13.12 (STORMWATER DRAINAGE**  
**SYSTEM PROTECTION) OF THE WILDOMAR MUNICIPAL CODE.**

**WHEREAS**, the City of Wildomar is a Copermittee under California Regional Water Quality Control Board San Diego Region Order No. R9-2013-0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100 NPDES No. CAS0109266 (NPDES Permit); and

**WHEREAS**, Provision E.2 of the NPDES Permit requires that “Each Copermittee must address all non-storm water discharges as illicit discharges unless a non-storm water discharge is either identified as a discharge authorized by a separate NPDES permit, or identified as a category of non-storm water discharges or flows that must be addressed pursuant to” requirements in the permit; and

**WHEREAS**, Provision II.E.1.a of the NPDES Permit requires that “Each Copermittee must establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 through statute, ordinance, permit, contract, order, or similar means”; and

**WHEREAS**, the City Council desires to amend Chapter 13.12 of the Wildomar Municipal Code to prohibit all discharges to the City’s Municipal Separate Sewer System (MS4) pursuant to the NPDES Permit to maintain consistency with the NPDES Permit.

NOW, THEREFORE, the City Council of the City of Wildomar ordains as follows:

**SECTION 1. AMENDMENT OF CHAPTER 13.12.020 (PURPOSE AND INTENT).**

Section 13.12.020, Wildomar Municipal Code are hereby amended to read as follows:

- A. Reducing pollutants in stormwater discharges to the maximum extent practicable; and
- B. Regulating illicit connections and discharges to the storm drain system.

**SECTION 2. AMENDMENT OF CHAPTER 13.12.070 (ILLICIT CONNECTIONS / DISCHARGES**

Section 13.12.070 of the Wildomar Municipal Code is hereby renamed and amended to read as follows:

**13.12.070 Illicit discharges and connections.**

- A. All discharges to the city's storm drain system prohibited pursuant to the NPDES permit are prohibited.
- B. It is a violation of this chapter to establish, use, maintain, or continue illicit connections to the storm drain system, or to commence or continue any illicit discharges to the storm drain system. This prohibition against illicit connections and discharges is expressly retroactive and applies to connections and discharges made in the past, regardless of whether permissible under the law or practices applicable or prevailing at the time of the connection or discharge. (Ord. 18 § 2, 2008, RCC § 13.12.070)

**SECTION 3. AMENDMENT OF CHAPTER 13.12.080 (NONSTORMWATER DISCHARGES).**

Section 13.12.080 of the Wildomar Municipal Code is hereby deleted.

**SECTION 4. SEVERABILITY.**

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect thirty (30) days from its passage by the  
City Council.

**SECTION 6. PUBLICATION.**

The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code Section 36933(c).

**PASSED, APPROVED AND ADOPTED** this 10th day of July, 2019

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Marsha Swanson  
Mayor

APPROVED AS TO FORM:

ATTEST:

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Thomas Jex  
City Attorney

---

Acting City Clerk  
Janet Morales



| Wildomar Municipal Code                  |          |      |      |          |        |       |           |
|--|----------|------|------|----------|--------|-------|-----------|
| Up                                       | Previous | Next | Main | Collapse | Search | Print | No Frames |
| <a href="#">Title 13 PUBLIC SERVICES</a> |          |      |      |          |        |       |           |

**Chapter 13.12 STORMWATER DRAINAGE SYSTEM PROTECTION**

**Article I. Title, Purpose and General Provisions**

**13.12.010 Title.**

The ordinance codified in this chapter shall be known as the “Stormwater/Urban Runoff Management and Discharge Controls Ordinance” and may be so cited. (Ord. 18 § 2, 2008, RCC § 13.12.010)

**13.12.020 Purpose and intent.**

The purpose of this chapter is to ensure the future health, safety, and general welfare of City residents by:

- A. Reducing pollutants in stormwater discharges to the maximum extent practicable; **and**
- B. Regulating illicit connections and discharges to the storm drain system; ~~and~~
- ~~C. Regulating nonstormwater discharges to the storm drain system.~~

The intent of this chapter is to protect and enhance the water quality of City watercourses, water bodies, groundwater, and wetlands in a manner pursuant to and consistent with applicable requirements contained in the Federal Clean Water Act (Title 33 U.S.C. Sections 1251 et seq.), Porter-Cologne Water Quality Control Act (California [Water Code](#) Sections 13000 et seq.), any applicable state or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith. (Ord. 18 § 2, 2008, RCC § 13.12.020)

**13.12.030 Definitions.**

The terms as used in this chapter shall have the following meanings:

“Best management practice (BMPs)” means any activities, prohibitions, practices, procedures, programs, or other measures designed to prevent or reduce the discharge of pollutants directly or indirectly into waters of the United States. BMPs shall include, but are not limited to, those measures specified in the California Stormwater Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity and those measures identified by the Director of Public Works.

“City” means the City of Wildomar.

“Commercial and industrial facilities” means and refers to a facility or facilities that consist of any of the following:

1. Auto-Related Activities. Mechanical repair, maintenance, fueling or cleaning of automobiles, airplanes, boats and equipment, body repair or painting of automobiles and other vehicles, retail or wholesale fueling, automobile parking lots and storage facilities;
2. Mobile-Related Activities. Mobile automobile or other motor vehicle washing; pest control services; mobile carpet, drape or furniture cleaning; concrete mixing or cutting; masonry; painting and coating; landscaping; pool and fountain cleaning; and Port-a-Potty or other portable toilet servicing;
3. Others. Cemeteries, nurseries, greenhouses, golf courses, parks, other recreational areas/facilities, eating and drinking establishments;



4. Industrial. Industrial facilities as defined within the Federal Clean Water Act, operating and closed municipal landfills, facilities subject to SARA Title III, hazardous waste treatment, disposal, storage and recovery facilities.

“Illicit connection” means any physical connection to a storm drain system which has not been permitted by the City, the Riverside County flood control and water conservation district, or other appropriate public agency.

“Illicit discharge” means any discharge to the storm drain system that is not composed entirely of stormwater runoff except discharges made pursuant to a national pollutant discharge elimination system (NPDES) permit or as otherwise authorized by the Santa Ana, San Diego, or Colorado River Basin Regional Water Quality Control Board.

“Low impact development (LID)” means a stormwater management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

“Low impact development best management practices (LID BMPs).” LID BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States through stormwater management and land development strategies that emphasize conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. LID BMPs include retention practices that do not allow runoff, such as infiltration, rain water harvesting and reuse, and evapotranspiration. LID BMPs also include flow-through practices such as biofiltration that may have some discharge of stormwater following pollutant reduction.

“Municipal NPDES permit” means an area-wide NPDES permit issued to a government agency or agencies for the discharge of stormwater from a stormwater system. Such a permit is commonly referred to as a “MS4 Permit” (referring to “municipal separate storm sewer system”).

“National pollutant discharge elimination system (NPDES) permit” means a stormwater discharge permit issued by the Santa Ana, San Diego, or Colorado River Basin Regional Water Quality Control Board or the State Water Resources Control Board in compliance with the Clean Water Act.

“Nonstormwater discharge” means any discharge to the storm drain system that is not entirely composed of stormwater.

“Person” means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

“Pollutant” means anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include, but are not limited to, paints, oil and other automotive fluids, soil, sand, dirt, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, other biological materials, radiological materials, suspended solids, heavy metals, hazardous waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

“Premises” means any building, lot, parcel of land, land or portion of land, whether improved or unimproved.

“Storm drain system” means any facility within the City by which stormwater may be conveyed to waters of the United States. Storm drain system includes, but is not limited to, any roads with drainage systems, streets, curbs, gutters, catch basins, natural and artificial channels, ditches, aqueducts, storm drains, inlets, conduit or other drainage structure.

“Stormwater runoff” means surface runoff and drainage associated with rain storm events and snow melt.

“Suspended solids” means solid materials or particles that either float on the surface of, or are in suspension in, stormwater, wastewater or other liquid. (Ord. 102 § 3, 2015; Ord. 18 § 2, 2008, RCC § [13.12.030](#))

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#### **13.12.040 Responsibility for administration.**

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This chapter shall be administered for the City by the Director of Public Works. (Ord. 102 § 3, 2015; Ord. 18 § 2, 2008, RCC § [13.12.040](#))

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#### **13.12.050 Regulatory consistency.**

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This chapter shall be construed to assure consistency with the requirements of the Clean Water Act, Porter-Cologne Water Quality Control Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NPDES permits and any amendments or revisions thereto or reissuance thereof. (Ord. 18 § 2, 2008, RCC § [13.12.050](#))

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### **Article II. Management and Discharge Controls**

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#### **13.12.060 Reduction of pollutants in stormwater.**

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A. General. It is a violation of this chapter to throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any pollutant in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the City. The only exception being where such pollutant is temporarily placed in an appropriate container with a spill containment system for later collection and removal. It is a violation of this chapter to cause or permit any dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the City.

B. Construction Sites. Any person performing construction work in the City shall comply with the provisions of this chapter, Chapter [15.12](#), and Sections [16.12.060](#)(D) and [16.12.070](#)(E). All such sites shall be subject to a regular program of inspection as required by this chapter, California [Water Code](#) Section 13000 et seq. (Porter-Cologne Water Quality Control Act), Title 33 U.S.C. Section 1251 et seq. (Clean Water Act), any applicable state or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith.

C. New Development and Redevelopment. New development or redevelopment projects shall implement low impact development BMPs to control stormwater runoff so as to prevent any deterioration of water quality that would impair subsequent or competing uses of the water. LID BMPs shall collectively minimize directly connected impervious areas, limit loss of existing infiltration capacity, and protect areas that provide important water quality benefits necessary to maintain riparian and aquatic biota, and/or are particularly susceptible to erosion and sediment loss. Where low impact development BMPs are shown to be technically infeasible, new development or redevelopment projects shall implement conventional treatment control BMPs and must participate in the LID waiver program contained in the City’s current Standard Stormwater Mitigation Plan. The Director of Public Works shall identify the BMPs that may be implemented to prevent such deterioration, as previously described, and shall identify the manner of implementation. The BMPs may, among other things, require new developments to do the following:

1. Maintain or restore natural storage reservoirs and drainage corridors (including depressions, areas of permeable soils, swales, and ephemeral and intermittent streams) to the extent feasible. Priority development projects proposing to dredge or fill materials in waters of the U.S. must obtain a CWA Section 401 Water Quality Certification. Priority development projects proposing to dredge or fill waters of the state must obtain waste discharge requirements.

2. Projects with landscaped or other pervious areas must, where feasible, properly design and construct the pervious areas to effectively receive and infiltrate, retain and/or treat runoff from impervious areas, prior to discharge to the MS4. Soil compaction for these areas must be minimized. The amount of the impervious areas that are to drain to pervious areas must be based upon the total size, soil conditions, slope, and other pertinent factors.

3. Projects with low traffic areas and appropriate soil conditions must be constructed with permeable surfaces.

D. Existing Development. Existing development shall control stormwater runoff so as to prevent any deterioration of water quality that would impair subsequent or competing uses of the water. The Director of Public Works shall identify the BMPs that may be implemented to prevent such deterioration and

Add subsection (a).

A. All discharges to the city's storm drain system prohibited pursuant to the NPDES permit are prohibited.

it owns or operates a commercial chapter and Chapters 5.76 and 15.12. n as required by this chapter,

California Water Code Sections 13000 et seq. (Porter-Cologne Water Quality Control Act), Title 33 U.S.C. Sections 1251 et seq. (Clean Water Act), any applicable state or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith. (Ord. 102 § 3, 2015; Ord. 18 § 2, 2008, RCC § 13.12.060)

#### **13.12.070 Illicit connections/discharges. discharges and connections.**

B. It is a violation of this chapter to establish, use, maintain, or continue illicit connections to the storm drain system, or to commence or continue any illicit discharges to the storm drain system. This prohibition against illicit connections and discharges is expressly retroactive and applies to connections and discharges made in the past, regardless of whether permissible under the law or practices applicable or prevailing at the time of the connection or discharge. (Ord. 18 § 2, 2008, RCC § 13.12.070)

#### **13.12.080 Nonstormwater discharges.**

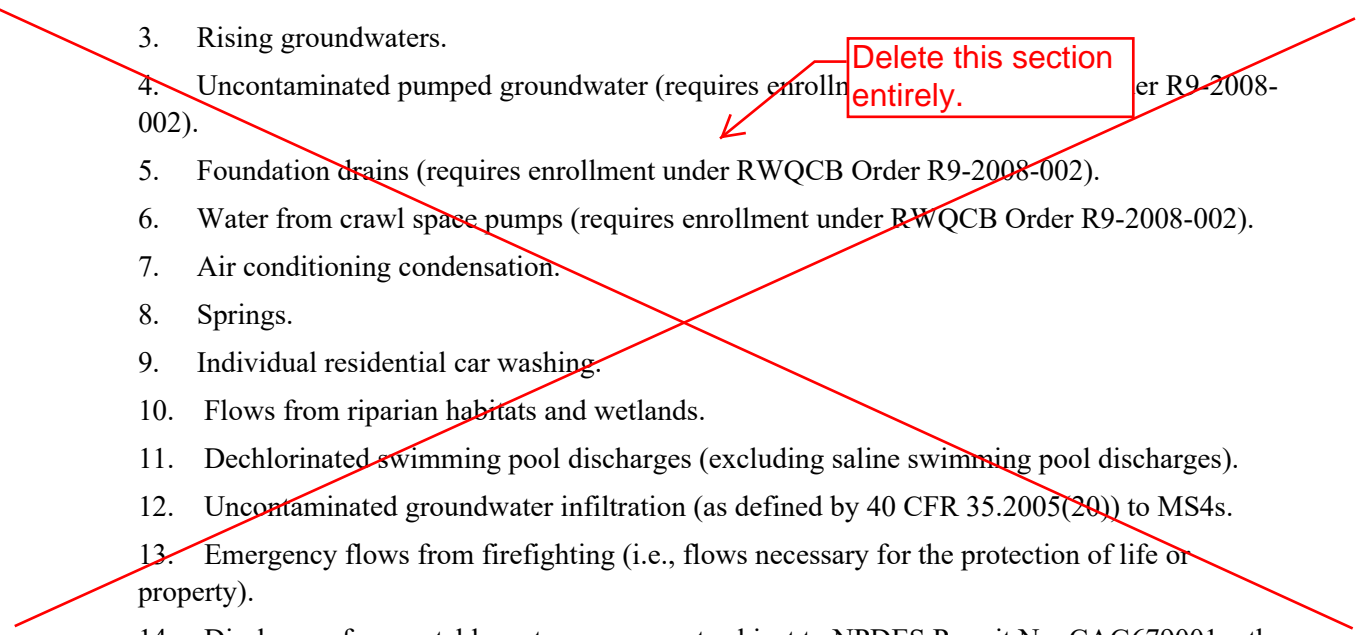
The discharge of nonstormwater into the storm drain system is a violation of specified in this section.

Delete this section entirely.

A. The discharge prohibition shall not apply to any discharge regulated under an NPDES permit or waiver issued to the discharger and administered by the State of California under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit or waiver and other applicable laws or regulations.

B. Discharges from the following activities will not be considered a violation of this chapter when properly managed:

1. Water line flushing and other discharges from potable water sources (requires enrollment under RWQCB Order R9-2002-0020). This exemption does not include fire suppression sprinkler system maintenance and testing discharges.
2. Diverted stream flows.

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3. Rising groundwaters.
4. Uncontaminated pumped groundwater (requires enrollment under R9-2008-002).
5. Foundation drains (requires enrollment under RWQCB Order R9-2008-002).
6. Water from crawl space pumps (requires enrollment under RWQCB Order R9-2008-002).
7. Air conditioning condensation.
8. Springs.
9. Individual residential car washing.
10. Flows from riparian habitats and wetlands.
11. Dechlorinated swimming pool discharges (excluding saline swimming pool discharges).
12. Uncontaminated groundwater infiltration (as defined by 40 CFR 35.2005(20)) to MS4s.
13. Emergency flows from firefighting (i.e., flows necessary for the protection of life or property).
14. Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks. (Ord. 102 § 3, 2015; Ord. 18 § 2, 2008, RCC § [13.12.080](#))

#### **13.12.090 Discharges in violation of permit.**

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- A. Municipal NPDES Permit. Any discharge that would result in or contribute to a violation of an existing or future municipal NPDES permit(s) or any amendment or revision thereto or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.
- B. NPDES Permit for Industrial/Commercial and Construction Activity. Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Santa Ana Regional Water Quality Control Board, the San Diego Regional Water Quality Control Board or the Colorado River Basin Regional Water Quality Control Board, shall comply with all requirements of such permit. Such dischargers shall specifically comply with the following permits: the industrial stormwater general permit, the construction activity stormwater general permit, and the dewatering general permit. Proof of compliance with such NPDES general permits may be required in a form acceptable to the Director prior to issuance of any City grading, building, or occupancy permits. (Ord. 18 § 2, 2008, RCC § [13.12.090](#))

#### **13.12.100 Right to inspect.**

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An inspector employed by the City may enter free of charge, at any time, any premises, grounds, facilities or structures for which compliance is required by this chapter and inspect the premises, grounds, facilities and structures located therein for compliance with water quality requirements imposed by this chapter, Title 15 and Chapter [5.76](#), California [Water Code](#) Sections 13000 et seq. (Porter-Cologne Water Quality Control Act), Title 33 U.S.C. Sections 1251 et seq. (Clean Water Act) and any applicable state or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith. (Ord. 18 § 2, 2008, RCC § [13.12.100](#))

## **Article III. Enforcement**

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### **13.12.110 Enforcement of provisions.**

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Any person in violation of this chapter is subject to the procedures and penalties set forth in Chapter [1.16](#). In addition, to the extent that the City makes any provision of this chapter or identified BMP a condition of approval to the issuance of a permit, any person in violation of such condition is subject to the permit revocation and/or suspension procedures set forth in the ordinance governing permit issuance. (Ord. 18 § 2, 2008, RCC § [13.12.110](#))

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View the [mobile version](#).

**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #3.3**  
**GENERAL BUSINESS**  
**Meeting Date: July 10, 2019**

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**TO:** Mayor and City Council Members

**FROM:** Matthew Bassi, Planning Director

**SUBJECT:** Establishment of the Sign Code Update (ZOA 19-02) Subcommittee

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council select and approve two Councilmembers to serve on a temporary ad-hoc Sign Code Update Subcommittee providing guidance to staff in drafting regulations and other permitting processes for signs in the City of Wildomar.

**DISCUSSION:**

At the June 26, 2019 City Council budget meeting, the City Council approved a Planning Department “decision package” to update the sign code (Chapter 17.252), including temporary sign/banner procedures. Direction was also given to set up a City Council Ad-Hoc Subcommittee to provide oversight and guidance.

Nominating and appointing two City Councilmembers to this Ad-Hoc Subcommittee will assist city staff in developing the sign code update for Planning Commission and City Council consideration later this calendar year. At the completion of this program, this subcommittee will disband.

**FISCAL IMPACT:**

The City Council approved \$15,000 in one-time expenditures to prepare the Sign Code Update (ZOA No. 19-02). This cost will cover city staff and city attorney time to prepare the ordinance for Planning Commission and City Council review.

Submitted By:  
Matthew Bassi  
Planning Director

Approved By:  
Gary Nordquist  
City Manager

**WILDOMAR CEMETERY DISTRICT  
REGULAR MEETING MINUTES  
May 8, 2019**

**CALL TO ORDER THE WILDOMAR CEMETERY DISTRICT**

The regular meeting of May 8, 2019, of the Wildomar Cemetery District was called to order by Chair Swanson at 9:27 p.m. at the Wildomar Council Chambers, 23873 Clinton Keith Road, Suite 106, Wildomar, California.

District Roll Call showed the following:

Members in attendance: Trustees Benoit, Moore, Morabito, Vice Chair Nigg, Chair Swanson.

Members absent: None

Staff in attendance: District Counsel Jex, General Manager Nordquist, Assistant General Manager York, and Acting Clerk of the Board Morales.

**PUBLIC COMMENTS**

There were no speakers.

**BOARD COMMUNICATIONS**

There were no board communications.

**APPROVAL OF THE AGENDA AS PRESENTED**

**A MOTION** was made by Trustee Benoit, seconded by Vice Chair Nigg, to approve the agenda as presented.

**MOTION** carried, 5-0, by the following vote:

|          |   |
|----------|---|
| YEA:     | Benoit, Moore, Morabito, Vice Chair Nigg, Chair Swanson |
| NAY:     | None  |
| ABSTAIN: | None  |
| ABSENT:  | None  |

**4.0 CONSENT CALENDAR**

**A MOTION** was made by Trustee Benoit, seconded by Vice Chair Nigg, to approve the consent calendar.

**MOTION** carried, 5-0, by the following vote:

YEA: Benoit, Moore, Morabito, Vice Chair Nigg, Chair Swanson  
NAY: None  
ABSTAIN: None  
ABSENT: None

**4.1 Minutes – March 13, 2019 Regular Meeting**

The Minutes as presented.

**4.2 Warrant Register**

Approved the following:

1. Warrant Register dated 04-04-2019, in the amount of \$332.41;
2. Warrant Register dated 04-11-2019, in the amount of \$255.34;
3. Warrant Register dated 04-18-2019, in the amount of \$47.74.

**4.3 Treasurer's Report**

Approved the Treasurer's Report for March 2019.

**5.0 PUBLIC HEARINGS**

There were no items scheduled.

**6.0 GENERAL BUSINESS**

There were no items scheduled.

**GENERAL MANAGER REPORT**

There was no report given.

**FUTURE AGENDA ITEMS**

There were no items.

**ADJOURN WILDOMAR CEMETERY DISTRICT**

There being no further business Chair Swanson declared the meeting adjourned at 9:28 p.m.



Submitted by:

Approved by:

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Janet Morales  
Acting City Clerk

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Marsha Swanson  
Chair

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.2**  
**CONSENT CALENDAR**  
**Meeting Date: July 10, 2019**

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**TO:** Chairperson and Members of the Board of Trustees  
**FROM:** Robert Howell, Finance Manager  
**SUBJECT:** Warrant Register

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the following:

1. Warrant Register dated 06-06-2019, in the amount of \$11,425.80;
2. Warrant Register dated 06-20-2019, in the amount of \$1,383.77;
3. Warrant Register dated 06-27-2019, in the amount of \$34.87.

**DISCUSSION:**

The Wildomar Cemetery District requires that the Trustees audit payments of demands and direct the General Manager to issue checks. The Warrant Registers are submitted for approval.

**FISCAL IMPACT:**

These Warrant Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2018/2019 Budget.

Submitted by:  
Robert Howell  
Finance Manager

Approved by:  
Gary Nordquist  
General Manager

**ATTACHMENTS:**

Voucher List 06/06/2019  
Voucher List 06/20/2019  
Voucher List 06/27/2019

**Voucher List**  
**City of Wildomar**

Page: 1

06/06/2019 1:46:36PM

Bank code : wf

| Voucher                              | Date     | Vendor                    | Invoice    | PO #    | Description/Account                     | Amount                            |
|--------------------------------------|----------|---------------------------|------------|---------|---|-----------------------------------|
| 210823                               | 6/6/2019 | 000088 ACE HARDWARE       | 304466/3   |         | CEMETERY DEPT SUPPLIES                  | 34.38                             |
| <b>Total :</b>                       |          |                           |            |         |   | <b>34.38</b>                      |
| 210824                               | 6/6/2019 | 001102 BEE GUY TRAVIS     | 3163       |         | BEE REMOVAL SERVICE - CEMETERY          | 250.00                            |
| <b>Total :</b>                       |          |                           |            |         |   | <b>250.00</b>                     |
| 210825                               | 6/6/2019 | 000367 CINTAS CORPORATION | 4022799136 |         | STAFF UNIFORM MAINTENANCE               | 59.65                             |
|                                      |          |                           | 4023194999 |         | STAFF UNIFORM MAINTENANCE               | 81.77                             |
| <b>Total :</b>                       |          |                           |            |         |   | <b>141.42</b>                     |
| 210826                               | 6/6/2019 | 000342 FENCE MASTERS      | 91350      | 0000221 | CHAINLINK FENCE AND GATES INSTALLED FOR | 11,000.00                         |
| <b>Total :</b>                       |          |                           |            |         |   | <b>11,000.00</b>                  |
| <b>4 Vouchers for bank code : wf</b> |          |                           |            |         |   | <b>Bank total : 11,425.80</b>     |
| <b>4 Vouchers in this report</b>     |          |                           |            |         |   | <b>Total vouchers : 11,425.80</b> |

06/20/2019 11:07:40AM

| Bank code : wf                       |           |   |            |      |  |                                  |
|--------------------------------------|-----------|---|------------|------|--|----------------------------------|
| Voucher                              | Date      | Vendor                                    | Invoice    | PO # | Description/Account                        | Amount                           |
| 210887                               | 6/20/2019 | 000367 CINTAS CORPORATION                 | 4023628934 |      | STAFF UNIFORM MAINTENANCE                  | 81.77                            |
| <b>Total :</b>                       |           |   |            |      |  | <b>81.77</b>                     |
| 210888                               | 6/20/2019 | 000011 CR&R INC.                          | 314889     |      | JUNE 2019 WASTE SERVICES - 3 YD COMMERCIAL | 137.60                           |
| <b>Total :</b>                       |           |   |            |      |  | <b>137.60</b>                    |
| 210889                               | 6/20/2019 | 000012 ELSINORE VALLEY MUNICIPAL, WATER C | 9846230    |      | 04/19/19-05/19/19 CEMETERY WATER SERVICE   | 874.00                           |
| <b>Total :</b>                       |           |   |            |      |  | <b>874.00</b>                    |
| 210890                               | 6/20/2019 | 001005 PEOPLEREADY INC                    | 24787149   |      | 05/20/19-05/26/19 CEMETERY LABOR           | 290.40                           |
| <b>Total :</b>                       |           |   |            |      |  | <b>290.40</b>                    |
| <b>4 Vouchers for bank code : wf</b> |           |   |            |      |  | <b>Bank total : 1,383.77</b>     |
| <b>4 Vouchers in this report</b>     |           |   |            |      |  | <b>Total vouchers : 1,383.77</b> |

Bank code : wf

| Voucher                           | Date      | Vendor                  | Invoice             | PO # | Description/Account                         | Amount       |
|-----------------------------------|-----------|-------------------------|---------------------|------|---|--------------|
| 210924                            | 6/27/2019 | 000790 SPARKLETTES      | 62219               |      | CEMETERY DRINKING WATER THROUGH<br>06/22/19 | 34.87        |
| <b>Total :</b>                    |           |                         |                     |      |   | <b>34.87</b> |
| <b>1 Vouchers for bank code :</b> |           | wf                      | <b>Bank total :</b> |      |   | <b>34.87</b> |
| <b>1 Vouchers in this report</b>  |           | <b>Total vouchers :</b> |                     |      |   | <b>34.87</b> |

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.3**  
**CONSENT CALENDAR**  
**Meeting Date: July 10, 2019**

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**TO:** Chairperson and Members of the Board of Trustees  
**FROM:** James R. Riley, Administrative Services Director  
**PREPARED BY:** Robert Howell, Finance Manager  
**SUBJECT:** Treasurer's Report – May 2019

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the Treasurer's Report for May 2019.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of May 2019.

**FISCAL IMPACT:**

None at this time.

Submitted by:  
James R. Riley  
Administrative Services Director

Approved by:  
Gary Nordquist  
General Manager

**ATTACHMENTS:**

Treasurer's Report

**WILDOMAR CEMETERY DISTRICT  
TREASURER'S REPORT FOR  
CASH AND INVESTMENT PORTFOLIO  
May 2019**

**DISTRICT INVESTMENT**

| ISSUER       | BOOK VALUE    | FACE VALUE    | MARKET VALUE  | PERCENT<br>OF<br>PORTFOLIO | DAYS<br>TO MAT. | STATED<br>RATE |
|--------------|---------------|---------------|---------------|----------------------------|-----------------|----------------|
| EDWARD JONES | \$ 137,899.51 | \$ 137,899.51 | \$ 137,899.51 | 100.00%                    | 0               | 0.000%         |
| TOTAL        | \$ 137,899.51 | \$ 137,899.51 | \$ 137,899.51 | 100.00%                    |                 |                |

| ISSUER       | BEGINNING<br>BALANCE | +<br>DEPOSITS/<br>PURCHASES | WITHDRAWALS/<br>SALES/<br>MATURITIES | ENDING<br>BALANCE | STATED<br>RATE |
|--------------|----------------------|-----------------------------|--------------------------------------|-------------------|----------------|
| EDWARD JONES | \$ 136,067.02        | \$ 1,832.49                 | \$ 0.00                              | \$ 137,899.51     | 0.000%         |
| TOTAL        | \$ 136,067.02        | \$ 1,832.49                 | \$ 0.00                              | \$ 137,899.51     |                |

|                  |               |
|------------------|---------------|
| TOTAL INVESTMENT | \$ 137,899.51 |
|------------------|---------------|

In compliance with the California Code Section 53646, as General Manager for the Wildomar Cemetery District, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the District's expenditure requirements for the next six months.

I also certify that this report reflects all Government Agency pooled investments and all of the District's Bank Balances.

*James R. Riley*  
\_\_\_\_\_  
James R. Riley  
Administrative Services Director

*7/1/2019*  
\_\_\_\_\_  
Date