AGENDA
JOINT MEETING OF THE CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, PUBLIC FINANCE AUTHORITY, PUBLIC UTILITY AUTHORITY, HOUSING AUTHORITY, PERRIS JOINT POWERS AUTHORITY AND PERRIS COMMUNITY ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF PERRIS
Tuesday, October 30, 2018
6:30 P.M.
City Council Chambers
(corner of San Jacinto and Perris Boulevard)
101 North “D” Street
Perris, California

ROLL CALL:
Burke, Corona, Rabb, Rogers, Vargas

CLOSED SESSION: 5:30 P.M.

A. Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(d)(2); 1 case:
City of Perris v. Top Shelf, Case No. RIC 1723604

B. Conference with Legal Counsel - Potential Litigation - Government Code Section 54956.9 (d)(2) - 1 case

C. Conference with Real Property Negotiators – Government Code Section 54956.8
Property: APN #326-062-017; 326-071-001; 326-072-005
City Negotiator: Richard Belmudez, City Manager
Negotiating Parties: The Metz Road Trust
Under Negotiation: Price and terms of payment
1. **CALL TO ORDER:** 6:30 P.M.

2. **ROLL CALL:**
Burke, Corona, Rabb, Rogers, Vargas

3. **INVOCATION:**
Pastor Gerry Brown
U-Turn 4 Christ
20170 Patterson Avenue
Perris, CA 92570

4. **PLEDGE OF ALLEGIANCE:**
Councilwoman Burke will lead the Pledge of Allegiance.

5. **REPORT ON CLOSED SESSION ITEMS:**

6. **PRESENTATIONS/ANNOUNCEMENTS:**
At this time, the City Council may recognize citizens and organizations that have made significant contributions to the community and it may accept awards on behalf of the City.

A. Presentation of Proclamation and Certificates to Val Verde Continuation High School Teen Vision.

B. City of Perris Employee of the Quarter Recognition for Third Quarter of 2018.

7. **APPROVAL OF MINUTES:**

A. Approve the Minutes of the Regular Joint Meeting held on October 9, 2018 of the City Council, Successor Agency to the Redevelopment Agency, Public Finance Authority, Public Utility Authority, Housing Authority, Perris Community Economic Development Corporation and the Perris Joint Powers Authority.

8. **CONSENT CALENDAR:**

Consent Calendar items are normally enacted in one motion. The Mayor or City Council may remove a Consent Calendar item for separate action. **Public comment is limited to three (3) minutes.**

A. Approve to award bid to Greer's Contracting & Concrete, Inc. in the amount of $122,500 for the construction and expansion of the Perris Green City Farm (Community Garden) Phase 2.
B. Approve the application of the Supplemental Law Enforcement Services Fund Grant to supplement the cost of Perris Police Special Enforcement Operations which are included in the Police Department 2018-2019 Budget.

C. Approve the Lease Agreement with Riverside County for the Cesar Chavez Public Library.

D. Approve the TUMF Reimbursement Agreement for Nuevo Road Widening for Construction Phase and approve the Amendment Number 1 to the TUMF Reimbursement Agreement for Ramona Expressway Widening for Planning Phase.

E. Approve the allocation of $89,577.36 from the General Fund to reimburse Riverside County Transportation Commission (RCTC) for the 5th Street Waterline Replacement.

F. Approve Extension of Time No. 18-05262 for Tentative Tract Map 32497, located on the northwest corner of Orange Avenue and Medical Center Drive. (Applicant: CHT Investment, LLC).

G. Approve the Assignment and Assumption of two of the three South Perris Development Agreements from the GM Gabrych Family Limited Partnership to IDR PLC, LLC (Phase II) and South Perris Gateway, LLC (Phase III) for projects located at the northeast corner of Mapes Road and "A" Street and the northeast corner of Ellis Avenue and Redlands Avenue.

H. Adopt ratifying Resolution Number (next in order) clarifying the purchase price included in Resolution #5263 for the purchase, maintenance and retro-fit of Southern California Edison's LS-1 Streetlights.

The Proposed Resolution Number (next in order) is entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA CORRECTING AND RATIFYING RESOLUTION NUMBER 5263 DUE TO A TYPOGRAPHICAL ERROR RELATING TO THE PRINCIPAL AMOUNT OF LEASE PAYMENTS IN CONNECTION WITH THE LEASE AGREEMENT WITH BANC OF AMERICA LEASING AND CAPITAL, LLC; (2) ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA LEASING AND CAPITAL, LLC.
I. Adopt Resolution Number (next in order) adjusting the Compensation of the City Clerk.

The Proposed Resolution Number (next in order) is entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ADJUSTING THE COMPENSATION FOR THE ELECTED CITY CLERK POSITION AND RESCINDING RESOLUTION NUMBER 4594

J. Adopt the Second Reading of Ordinance Number (next in order) regarding adjusting the compensation of the Mayor and City Council Members.

The Second Reading of Proposed Ordinance Number (next in order) is entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 2.03.030 AND 2.16.010 REGARDING COMPENSATION OF THE MAYOR AND MEMBERS OF THE CITY COUNCIL

K. Adopt Resolution Number (next in order) finding that the Master Network License Agreement between Mobilite, LLC and the City is covered under the Class 32 Categorical Exemption previously adopted in July 2018, for Conditional Use Permit #17-05277 (which contemplated the Master Network License Agreement) and approving the Mobilite Master Network License Agreement.

The Proposed Resolution Number (next in order) is entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING A MASTER NETWORK LICENSE AGREEMENT BY AND BETWEEN THE CITY OF PERRIS AND MOBILITIE, LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A 10 YEAR PERIOD TO OPERATE A SMALL CELL WIRELESS SYSTEM TO LEASE, INSTALL AND OPERATE SMALL CELL (STEALTH) WIRELESS FACILITIES AT FOUR (4) LOCATIONS ON EXISTING OR CONCRETE REPLACEMENT STREET LIGHTS

L. Approval of a Change Order to the Contract awarded to Community Works Design Group for the preparation of plans and specifications for the San Jacinto River Trail not to exceed $18,345.

M. Approve the City of Perris Monthly Check Register for September 2018.
9. **PUBLIC HEARINGS:**

The public is encouraged to express your views on any matter set for public hearing. It is our procedure to first receive the staff report, then to ask for public testimony, first from those in favor of the project followed by testimony from those in opposition to it, and if there is opposition, to allow those in favor, rebuttal testimony only as to the points brought up in opposition. To testify on the matter, you need to simply come forward to the speaker's podium at the appropriate time, give your name and address and make your statement. After a hearing is closed, you may not further speak on the matter unless requested to do so or are asked questions by the Mayor or a Member of the City Council. **Public comment is limited to three (3) minutes.**

A. Consideration to Adopt Resolution Number (next in order) regarding Annexation of Parcel 2, Parcel Map 33587 to the City's Landscape Maintenance District No. 1. Parcel 2, Parcel Map 33587 is a 4.10 acre industrial project located on Markham Street, Approximately 315 feet west of Perris Boulevard. (Ownership of: Markham JP/ARA, LLC).

The Proposed Resolution Number (next in order) is entitled:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL 2, PARCEL MAP 33587 TO BENEFIT ZONE 141, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019**

Introduced by: Habib Motlagh, City Engineer

PUBLIC COMMENT:

B. Consideration to adopt Resolution Numbers (next in order) regarding Annexation of Parcel Map 36678 to the City's Maintenance Districts. Parcel Map 36678 is a 48.58 acre industrial project. Patterson Avenue is located along the project's west boundary, Nance Street is located parallel to and 300 feet above the project's north boundary, excepting that portion of the north boundary along Washington Avenue. North Webster Avenue is located along the project's east boundary and Markham Street is located along the project's south boundary. (Ownership of: Mader Incorporated and CPT Perris Industrial, LLC).

The Proposed Resolution Numbers (next in order) are entitled:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 36678 TO CITY OF PERRIS MAINTENANCE**
C. Consideration to adopt Resolution Numbers (next in order) regarding Annexation of Parcel Map 35762 to the City's Maintenance Districts. Parcel Map 35762 is a 2.81 acre commercial project. Case Road is located along the project's north and west boundary, Interstate 215 is located along the project's east boundary, and Ethanac Road is located along the project's south boundary. (Ownership of: Cahan Perris, LLC and Quick Quack Development II, LLC).

The Proposed Resolution Numbers (next in order) are entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO BENEFIT ZONE 139, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1,
GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO BENEFIT ZONE 106, CITY OF PERRIS FLOOD CONTROL MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

Introduced by: Habib Motlagh, City Engineer

PUBLIC COMMENT:

D. Consideration to introduce the First Reading of Ordinance Number (next in order) adding Chapter 5.38 Short Term Rentals to the Municipal Code of the City of Perris.

The First Reading of Proposed Ordinance Number (next in order) is entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ADDING CHAPTER 5.38, "SHORT-TERM RENTALS," TO TITLE 5 OF THE PERRIS MUNICIPAL CODE

Introduced by: Jennifer Erwin, Director of Finance

PUBLIC COMMENT:

E. Consideration to adopt Resolution Numbers (next in order) regarding Financing and Issuance of Bonds, associated with Improvement Area No. 3 CFD No. 2014-1 (Avelina) to fund public fees for public improvements. The District is generally bounded by Orange Avenue to the North, Sunset to the South and Evans to the East.

The Proposed Resolution Numbers (next in order) are entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING FOR THE CITY AND IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, AUTHORIZING THE ISSUANCE OF BONDED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $5,000,000 ON BEHALF OF ITS IMPROVEMENT AREA NO. 3 TO FINANCE PUBLIC FACILITIES, PERMITTING THE PURCHASE OF SUCH BONDS BY THE PERRIS JOINT POWERS
A RESOLUTION OF THE PERRIS JOINT POWERS AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED $5,000,000 OF ITS PERRIS JOINT POWERS AUTHORITY LOCAL AGENCY REVENUE BONDS (IA3-CFD NO. 2014-1 (AVELINA), 2018 SERIES A TO PURCHASE LOCAL OBLIGATION BONDS ISSUED BY COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, ON BEHALF OF IMPROVEMENT AREA NO. 3, UPON CERTAIN TERMS AND CONDITIONS, AND APPROVING CERTAIN DOCUMENTS AND OTHER ITEMS RELATING THERETO

Introduced by: Jennifer Erwin, Director of Finance

PUBLIC COMMENT:

F. Consideration to introduce the First Reading of Ordinance Number (next in order) authorizing the implementation of a Community Choice Aggregation Program.

The First Reading of Proposed Ordinance Number (next in order) is entitled:

AN ORDINANCE OF THE CITY OF PERRIS AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

Introduced by: Clara Miramontes, Assistant City Manager

PUBLIC COMMENT:

G. Consideration to adopt Resolution Numbers (next in order) regarding Annexation of Assessors Parcel Numbers 302-170-015; 302-160-028; 302-160-026; and 302-150-028 to the Citywide Trails Community Facilities District (Public Services District).

The Proposed Resolution Numbers (next in order) are entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, CALLING A SPECIAL ELECTION FOR THE PURPOSE OF APPROVING A SPECIAL TAX IN THE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) AND ESTABLISHMENT OF AN APPROPRIATIONS LIMIT
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THE RESULTS OF A SPECIAL ELECTION HELD IN THE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) AND DIRECTING RECORDING OF A NOTICE OF SPECIAL TAX LIEN

Introduced by: Darren Madkin, Assistant City Manager

PUBLIC COMMENT:

10. BUSINESS ITEMS: (not requiring a “Public Hearing”):

Public comment will be called for each non-hearing item. Please keep comments brief so that everyone who wishes to speak has the opportunity to do so. After public comment is closed, you may not further speak on the matter unless the Mayor or City Council requests further clarification of your statement. Public Comment is limited to three (3) minutes.

A. Update from the Riverside County Sheriff’s Department regarding park security.

Introduced by: Greg Fellows, Perris Police Chief

PUBLIC COMMENT:

11. PUBLIC COMMENT/CITIZEN PARTICIPATION:

This is the time when any member of the public may bring a matter to the attention of the Mayor and the City Council that is within the jurisdiction of the City Council. The Ralph M. Brown act limits the Mayor’s, City Council’s and staff’s ability to respond to comments on non-agendized matters at the time such comments are made. Thus, your comments may be agendized for a future meeting or referred to staff. The City Council may discuss or ask questions for clarification, if desired, at this time. Public comment is limited to three (3) minutes.

12. COUNCIL COMMUNICATIONS:

(Committee Reports, Agenda Items, Meeting Requests and Review etc.)

This is an opportunity for the Mayor and City Councilmembers to report on their activities and the actions of the Committees upon which they sit, to bring a matter to the attention of the full Council and staff, and to request agenda items. Any matter that was considered during the public hearing portion is not appropriate for discussion in this section of the agenda. NO ACTION CAN BE TAKEN AT THIS TIME.

13. CITY MANAGER’S REPORT:

14. ADJOURNMENT:

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building Official (951) 443-1029. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.
TO: The Honorable Mayor and Members of the City Council
FROM: Nancy Salazar, City Clerk
DATE: October 30, 2018
SUBJECT: Approval of Minutes

BACKGROUND: None.

FISCAL IMPACT: None.

- RECOMMENDATION: Motion to approve the Minutes of the Regular Joint Meeting held on October 9, 2018 of the City Council, Successor Agency to the Redevelopment Agency, Public Finance Authority, Public Utility Authority, Housing Authority, Perris Community Economic Development Corporation and Perris Joint Powers Authority

Prepared by: Judy L. Haughney, CMC, Assistant City Clerk
Approved by: Nancy Salazar, City Clerk

Attachments:
- Minutes of the Regular Joint Meeting held on October 9, 2018 of the City Council, Successor Agency to the Redevelopment Agency, Public Finance Authority, Public Utility Authority, Housing Authority, Perris Community Economic Development Corporation and Perris Joint Powers Authority
CITY OF PERRIS

MINUTES:

Date of Meeting: October 9, 2018
06:30 PM

Place of Meeting: City Council Chambers

CLOSED SESSION

Mayor Vargas called the Closed Session to order at 5:46 p.m.

ROLL CALL

Present: Rogers, Burke, Corona, Rabb, Vargas

Staff Present:
City Manager Belmudez, City Attorney Dunn and City Clerk Salazar

A. Conference with Legal Counsel - Potential Litigation - Government Code Section 54956.9 (d)(2) - 2 cases

The City Council adjourned to Closed Session at 5:47 p.m.

1. CALL TO ORDER: 6:30 P.M.

Mayor Vargas called the Regular City Council meeting to order at 6:31 p.m.

2. ROLL CALL: Rogers, Burke, Corona, Rabb, Vargas

Present: Rogers, Burke, Corona, Rabb, Vargas

Staff Members Present: City Manager Belmudez, City Attorney Dunn, City Engineer Motlagh, Assistant City Manager Madkin, Police Captain Fellows, Chief Information Officer Cervantes, Director of Planning and Economic Development Williams, Director of Administrative Services Carlos, Director of Community Services and Housing Chavez, Director of Finance Erwin, Director of Public Works Hartwill, Public Information Officer Vargo and City Clerk Salazar.

3. INVOCATION: Pastor Bob Ybarra Calvary Chapel Perris Valley 3060 Barrett Avenue Perris, CA 92571

4. PLEDGE OF ALLEGIANCE:

Councilwoman Rogers led the Pledge of Allegiance.

5. REPORT ON CLOSED SESSION ITEMS:
City Attorney Dunn reported that the City Council met in Closed Session to discuss the items listed on the agenda. He noted that an update was given, direction was given to staff, but no reportable action was taken.

6. PRESENTATIONS/ANNOUNCEMENTS:

A. Invitation to the Grand Opening of the Mottagh Fitness Court at Paragon Park, taking place on October 26, 2018. Introduced by: Isabel Carlos, Director of Administrative Services.

B. Presentation of the City’s Harvest Festival scheduled on Friday, October 19, 2018. Presented by: Crystal Driever, Recreation Leader

7. APPROVAL OF MINUTES:

A. Approved the Minutes of the Regular Joint Meeting held on September 25, 2018 of the City Council, Successor Agency to the Redevelopment Agency, Public Finance Authority, Public Utility Authority, Housing Authority, Perris Community Economic Development Corporation and the Perris Joint Powers Authority.

The Mayor called for a motion.

M/S/C: Moved by David Starr Rabb, seconded by Rita Rogers to Approve the Minutes as presented.

AYES: Rita Rogers, Tonya Burke, Malcolm Corona, David Starr Rabb, Michael Vargas

NOES:

ABSENT:

ABSTAIN:

8. CONSENT CALENDAR:

Councilmember Rogers requested that Item 8.A. be pulled for a separate vote.

The Mayor called for Public Comment on the balance of the Consent Calendar.

The following person spoke regarding item 8.H.:

Joe Whitcher

A. This item was considered separately. Adopted the Second Reading of Ordinance Number 1372 amendng Chapter(s) 5.58 and 5.54 of the Municipal Code to allow adult-use marijuana retailers to operate within the City provided that they first obtain and maintain a permit to operate a medical marijuana dispensary.

The Second Reading of Ordinance Number 1372 is entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PERRIS, CALIFORNIA, AMENDING SECTIONS 5.58.040 AND 5.58.050 OF CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE IN ORDER TO PERMIT ADULT USE CANNABIS DISPENSARIES (TYPE 10- RETAILER (ADULT-USE/NON-MEDICAL)) WITHIN THE CITY OF PERRIS, DELETING SECTION 5.54.230 (B) OF TITLE 5 OF CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE, AND ADDING SECTION 5.58.127 TO CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE, WHICH PROVIDES REGULATIONS FOR ADULT USE CANNABIS DISPENSARIES.

The Mayor called for a motion.

M/S/C: Moved by Malcolm Corona, seconded by David Starr Rabb to Approve the Second Reading of Ordinance Number 1372, as presented.
AYES: Malcolm Corona, David Starr Rabb, Michael Vargas
NOES: Rita Rogers, Tonya Burke
ABSENT:
ABSTAIN:

B. Adopted Resolution Numbers 5371, 5372 and 5373 regarding Annexation of DPR 16-00015 to Maintenance District No. 84-1. DPR 16-00015 is a 9.12 acre industrial project location on the northeast corner of Indian Avenue and Markham Street. (Ownership of: Markham Perris, L.I.C).

Resolution Number 5371 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, INITIATING PROCEEDINGS, APPOINTING THE ENGINEER OF WORK, ORDERING THE PREPARATION OF A DISTRICT MAP INDICATING THE PROPOSED BOUNDARIES OF AN ANNEXATION TO THE CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1, AND FOR PROVIDING OTHER ENGINEERING SERVICES IN THE MATTER OF THE ANNEXATION OF DPR 16-00015 INTO MAINTENANCE DISTRICT NUMBER 84-1

Resolution Number 5372 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, OF PRELIMINARY APPROVAL OF ENGINEER'S REPORT FOR ANNEXATION OF DPR 16-00015 TO CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1

Resolution Number 5373 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA DECLARING INTENTION TO ORDER THE ANNEXATION TO CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1, DECLARING THE WORK TO BE OF MORE LOCAL THAN ORDINARY PUBLIC PUBLIC BENEFIT; SPECIFYING THE EXTERIOR BOUNDARIES OF THE AREA TO BE ANNEXED TO MD NUMBER 84-1 AND TO BE ASSESSED THE COST AND EXPENSE THEREOF; DESIGNATING SAID ANNEXATION AS ANNEXATION OF DPR 16-00015 TO MD
NUMBER 84-1; DETERMINING THAT THESE PROCEEDINGS SHALL BE TAKEN PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972; AND OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO ON NOVEMBER 27, 2018

C. Adopted Resolution Numbers 5374, 5375 and 5376 regarding Annexation of DPR 16-00015 to Landscape Maintenance District No. 1 (LMD 1). DPR 16-00015 is a 9.12 acre industrial project located on the northeast corner of Indian Avenue and Markham Street. (Ownership of: Markham Perris, LLC).

Resolution Number 5374 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, INITIATING PROCEEDINGS, APPOINTING THE ENGINEER OF WORK, ORDERING THE PREPARATION OF A DISTRICT MAP INDICATING THE PROPOSED BOUNDARIES OF AN ANNEXATION TO THE CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, AND FOR PROVIDING OTHER ENGINEERING SERVICES IN THE MATTER OF THE ANNEXATION OF BENEFIT ZONE 135 (DPR 16-00015) TO LANDSCAPE MAINTENANCE DISTRICT NUMBER 1

Resolution Number 5375 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, OF PRELIMINARY APPROVAL OF ENGINEER'S REPORT FOR ANNEXATION OF DPR 16-00015 TO BENEFIT ZONE 135, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1

Resolution Number 5376 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DECLARING INTENTION TO ORDER THE ANNEXATION TO BENEFIT ZONE 135, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, DECLARING THE WORK TO BE OF MORE LOCAL THAN ORDINARY PUBLIC BENEFIT; SPECIFYING THE EXTERIOR BOUNDARIES OF THE AREA TO BE ANNEXED TO BENEFIT ZONE 135, LANDSCAPE MAINTENANCE DISTRICT NUMBER 1 AND TO BE ASSESSED THE COST AND EXPENSE THEREOF; DESIGNATING SAID ANNEXATION AS ANNEXATION OF DPR 16-00015 TO BENEFIT ZONE 135, LANDSCAPE MAINTENANCE DISTRICT NUMBER 1; DETERMINING THAT THESE PROCEEDINGS SHALL BE TAKEN PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972; AND OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO ON NOVEMBER 27, 2018

D. Adopted Resolution Number 5377 regarding Annexation of DPR 16-00015 to Flood Control Maintenance District No. 1. DPR 16-00015 is a 9.12 acre industrial project located on the northeast corner of Indian Avenue and Markham Street. (Ownership of: Markham Perris, LLC).

Resolution Number 5377 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DECLARING INTENTION TO AUTHORIZE LEVYING ASSESSMENTS UPON CERTAIN PARCELS OF REAL PROPERTY TO ORDER ANNEXATION OF DPR 16-00015 TO BENEFIT ZONE 100, FLOOD CONTROL MAINTENANCE DISTRICT NUMBER 1, PURSUANT TO THE BENEFIT ASSESSMENT ACT OF 1982; AND OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO ON NOVEMBER 27, 2018

E. Authorized the City Manager to execute the Memorandum of Understanding between the City of Perris, Study.Com, and the Silicon Valley Community Foundation wherein Study.com will host a website where up to (150) individuals who live in the City of Perris can apply to earn their bachelor's degree with all costs covered through funding from Silicon Valley Community Foundation, Study.com and other third-party contributions including Duke Realty’s $1,000,000 funding pledge to the City.

F. Approved Contract Services Agreement with Crane Architecture Group to prepare a Master Site Plan for a portion of a City facility located at 227 North D Street, Perris, California.

G. Adopted Resolution Number 5378 regarding the acceptance of Irrevocable Offer of Dedication for Harley Knox Right-of-Way for public purposes.

Resolution Number 5378 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ACCEPTING DONALD DAVID CAMPBELL'S IRREVOCABLE OFFER OF DEDICATION FOR PUBLIC PURPOSES

H. Approved the Community Workforce Agreement between the City of Perris, the San Bernardino/Riverside Building and Construction Trades Council and the Signatory Craft Councils and Local Unions for Public Works projects exceeding $1,000,000.

I. Approved Extension of Time No. 18-05254 for Tentative Tract Map 36797 located at the northeast corner of Wilson Avenue and Water Avenue. (Applicant: Tom Mungari, Nova Homes).

J. Approved Extension of Time No. 18-05252 for Tentative Tract Map 34260 located at the north side of Flame Avenue approximately 250 feet west of Redlands Avenue. (Applicant: Dave Jeffers, David Jeffers Consulting, Inc.).

The Mayor called for a motion.

M/S/C: Moved by Malcolm Corona, seconded by Tonya Burke to Approve the balance of the Consent Calendar with the exception of Item 8.A.

AYES: Rita Rogers, Tonya Burke, Malcolm Corona, David Starr Rabb, Michael Vargas

NOES: 
ABSENT:
ABSTAIN:

9. PUBLIC HEARINGS:

A. Adopted Resolution Numbers 5379 and 5380 regarding widening of Nuevo Road and the Replacement of Nuevo Road Bridge.

Resolution Number 5379 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF INTERESTS IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 320-430-005

Resolution Number 5380 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF AN INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 320-430-018

Nick Papajohn, Aleshire & Wynder, gave the presentation on this item.

The Mayor opened the Public Hearing at 7:00 p.m.
There was no Public Comment.
The Mayor closed the Public Hearing at 7:00 p.m.

The Mayor called for a motion.

M/S/C: Moved by David Starr Rabb, seconded by Malcolm Corona to Approve Resolution Numbers 5379 and 5380 as presented.
AYES: Rita Rogers, Tonya Burke, Malcolm Corona, David Starr Rabb, Michael Vargas

NOES:
ABSENT:
ABSTAIN:

B. Introduced the First Reading of Ordinance Number 1373 regarding adjusting the compensation of the Mayor and City Council Members.

The First Reading of Ordinance Number 1373 is entitled:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 2.03.030 AND 2.16.010 REGARDING COMPENSATION OF THE MAYOR AND MEMBERS OF THE CITY COUNCIL

City Attorney Dunn gave the presentation on this item.

The Mayor opened the Public Hearing at 7:07 p.m.
There was no Public Comment.
The Mayor closed the Public Hearing at 7:07 p.m.

The following Councilmember's spoke:
Rogers
Rabb
Corona
Burke
Vargas

The Mayor called for a motion.

M/S/C: Moved by Tonya Burke, seconded by Rita Rogers to Approve the First Reading of Ordinance Number 1373, as presented
AYES: Rita Rogers, Tonya Burke, David Starr Rabb, Michael Vargas
NOES: Malcolm Corona
ABSENT:
ABSTAIN:

10. BUSINESS ITEMS:

A. Adopted Resolution Number 5381 approving an official name for the new park located at 3020 Goetz Road in the Monument Ranch Community.

Resolution Number 5381 is entitled:
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, NAMING THE PARK LOCATED AT 3020 GOETZ ROAD, ON THE SOUTHWEST CORNER OF GOETZ ROAD AND ETHANAC ROAD, AS "GOETZ PARK"

Recreation Coordinator Gilmore gave the presentation on this item.

The Mayor called for Public Comment. There was no Public Comment.

The Mayor called for a motion.

M/S/C: Moved by Rita Rogers, seconded by Tonya Burke to Approve Resolution Number 5381 as presented.
AYES: Rita Rogers, Tonya Burke, Malcolm Corona, David Starr Rabb, Michael Vargas
NOES:
ABSENT:
ABSTAIN:

11. PUBLIC COMMENT/CITIZEN PARTICIPATION:

The following person spoke at Public Comment:

Bill Lamb

12. COUNCIL COMMUNICATIONS:
The following Councilmember’s spoke:
Rabb
Burke
Rogers
Corona
Vargas

13. CITY MANAGER’S REPORT:

14. ADJOURNMENT:

There being no further business Mayor Vargas adjourned the Regular City Council meeting at 7:47 p.m.

Respectfully Submitted,

______________________________
Nancy Salazar, City Clerk
SUBJECT: Award of Bid to Greer's Contracting & Concrete Inc., for $122,500 for the construction and expansion of the Perris Green City Farm (Community Garden) Phase 2.

REQUESTED ACTION: That the City Council award a contract to Greer's Contracting & Concrete Inc., for a total bid of ($122,500) for the construction and expansion of the Perris Green City Farm (Community Garden) Phase 2; including a project contingency of up to 10% of the contract amount ($122,500), and Authorize the City Manager to enter into contract with Greer's Contracting & Concrete Inc.

CONTACT: Isabel Carlos, Director of Administrative Services

BACKGROUND/DISCUSSION:

On April 22, 2016, the City of Perris had the Grand Opening of the Perris Green City Farm ("PGCF"). Through the PGCF the City hosts events to promote healthier life styles such as Yoga in the Garden, Chef in the Garden, Master in the Garden, and the Junior Master Gardener Program. The PGCF serves as the main satellite hub for the Grow Perris Initiative. The expansion of the PGCF includes a Kid’s Growing Corner, ADA Accessibility, Outdoor Nutrition Educational Platform, Open Space for physical activity promotion and special events, and alternative components for energy use such as solar panels.

Major sponsor partners for the PGCF include the Western Riverside Council of Governments, Eastern Municipal Water District, American Beverage Association in partnership with United States Conference of Mayors, Riverside University Health Systems (County of Riverside Department of Public Health) and Kaiser Permanente.

The project was advertised for public bid on October 10, 2018. Bids from a total of four (4) bidders ranging from $122,500 to $544,398 were received through the Active Bidder System on October 24, 2018. The lowest bid was placed at $122,500; as shown in the attached bid summary. The lowest bid was submitted by Greer's Contracting & Concrete Inc. References provided by Greer's Contracting & Concrete Inc. were contacted and the contractor’s work was found to be satisfactory. A copy of their proposal is attached with this report. The total project budget will be $122,500, which will include construction and architectural management, and contingencies.

Funding for the Perris Green City Farm expansion project is majorly provided by the Western Riverside Council of Governments (WRCOG) in an estimate amount of $66,000; American Beverage Association in Partnership with the United States Conference of Mayors in the amount of $20,000; Eastern Municipal Water District in the amount of $20,000; and in-kind contributions totaling $1,700. The total cost for the expansion of the Perris Green City Farm is at $122,500, with staff recommending a request of $15,000 to utilize the secured funding from external sources. Funds from WRCOG are to be expended by December 1st, 2018 to receive a full reimbursement of the $66,000 grant awarded to the City.

Respectfully, Staff recommends that City Council award a contract to Greer's Contracting & Concrete Inc. for a total contract sum of $122,500 for the construction and expansion of Phase II of the Perris Green City Farm.
BUDGET (or FISCAL) IMPACT: Additional funding of $15,000 is being requested for the completion of the expansion of Phase 2 of the Perris Green City Farm.

Prepared by: Eduardo Sida, Program Coordinator

Reviewed by:
Assistant City Manager, Darren Madkin
Director of Finance, Jennifer Erwin

Attachments: Bid Summary
Contract proposal from Greer's Contracting & Concrete Inc.
Conceptual Design of the Perris Green City Farm

Consent Item: October 30, 2018
Perris Community Garden Project

Estimated Value: $107,000  
Bid Post Date: 10/09/2018 14:39 PDT

Department:  
Bid Due Date: 10/24/2018 before 14:00 PDT

Bid Bond: REQUIRED  
Performance Bond: REQUIRED

Payment Bond: REQUIRED

License Requirements:
B OR C-27

Project Information:

1) PERRIS COMMUNITY GARDEN PROJECT

Location: 101 NORTH "D" STREET  
10 NORTH "D" STREET  
PERRIS, CA 92570

Project Start Date: 11/05/2018  
Project End Date: 10/24/2018

Scope of Services:

THE EXPANSION (PHASE TWO) TO AN EXISTING PERRIS COMMUNITY GARDEN PROJECT. SITE GRADING, CLEAR AND GRUBING, SITE DRAINAGE, CONCRETE FLATWORK, MASONRY WORK, WOOD FENCING, STABILIZING DG OVER CRUCHED BASE MATERIALS, SMALL SHADE STRUCTURE, IRRIGATION, MAIN WATER LINE, SITE ELECTRICAL WORK AND ADDITIONAL WORKS AS IDENTIFIED ON THE APPROVED PLANS. THE TRELLIS, SOLAR LIGHTING, GREENHOUSE STRUCTURES, METAL SHADE STRUCTURES, METAL TRELLIS STRUCTURE, FURNISHING, KIOSK, KITCHEN COUNTERS AND CABINETS ALONG WITH THE SEWER AND LANDSCAPING WILL NOT BE BUILT IN THE IS PHASE TWO.

Notes:

THIS IS PHASE TWO FOR THE PROPOSED PERRIS COMMUNITY GARDEN PROJECT. PHASE THREE IS EXPECTED SOMETIME NEXT YEAR. THE TRELLIS STRUCTURES, LANDSCAPING AS INDICATED ON THE PLANS WILL NOT BE BUILT IN THIS PHASE.
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1) PERRIS COMMUNITY GARDEN PROJECT

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Perris Community Garden Project

Post Date: 10/09/2018 14:39 PDT  
Due Date: 10/24/2018 before 14:00 PDT  
Estimated Value: $107,000

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## Perris Community Garden Project

| Post Date: 10/09/2018 14:39 PDT | Due Date: 10/24/2018 before 14:00 PDT | Estimated Value: $107,000 |

### File attachment details for: Boyer, Larry / AToM Engineering Construction, Inc.

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CITY OF PERRIS
CONTRACT FOR THE CONSTRUCTION AND EXPANSION OF THE PERRIS GREEN
CITY FARM PHASE 2 PROJECT

THIS CITY CONTRACT (herein "Agreement") is made and entered into this 30TH day of October 2018, by between the CITY OF PERRIS, a municipal corporation, (herein “City”) and Greer’s Contracting & Concrete Inc. (herein “Contractor”).

NOW, THEREFORE, the parties hereto agree as follows:

1.0 SERVICE OF CONTRACTOR

1.1 Contract.

The complete contract includes all contract documents, to wit: THE PERRIS GREEN CITY FARM PHASE 2 PROJECT Plans and Specifications and Information for Bidders, Special Provisions, which are incorporated by this reference as though set forth in full herein; and the applicable State or Federal Prevailing Wage General Decision(s) which are incorporated by this reference as though set forth in full herein.

1.2 Scope of Services.

In compliance with all of the terms and conditions of this Agreement, the Contractor shall furnish all tools, equipment, services, apparatus, facilities, transportation, labor, building/encroachment permits, disposal and materials necessary and reasonably incidental to create the expansion of the Perris Green City Farm Phase 2 located on 135 North D St. Perris, CA 92570, and miscellaneous related improvements in Perris, CA in strict accordance with improvements plans and Specification. Contractor warrants that all work and services set forth in the Scope of Service will be performed in a competent, professional and satisfactory manner.

1.3 Incorporation of and Compliance With State, Federal and Local Law.

All applicable State of California, Federal, and local laws, statutes, rules, regulations, orders, determinations, and resolutions required to be contained in City contracts which are not specifically referenced in the Agreement are incorporated herein by this reference. The Contractor is responsible for and has an independent duty to be familiar with all State of California, Federal, and local laws, statutes, rules, regulations, orders, determinations, and resolutions related to, pertaining to, and/or associated with the work and services to be provided under the Agreement. All work and services rendered hereunder shall be provided in accordance with all laws, statutes, rules, regulations, orders, determinations, and resolutions of the City and any Federal, State or local governmental agency of competent jurisdiction.
1.4 **Licenses, Permits, Fees and Assessments.**

If applicable, Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement.

1.5 **Additional Services**

City shall have the right at any time during the performance of the work and services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustments in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. City and Contractor agree to negotiate the cost for additional services based on the unit pricing proposed by the Contractor in the original Bid Schedule of Values found in Section BF, "Bid Form," of the Specification. City and Contractor agree that City may seek additional cost estimates from third party contractor’s to perform additional services. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, while City seeks estimates from third party contractor’s to perform additional services. Written orders shall be made on forms prescribed by the Contract Officer in accordance with Part I “Procedural Documents,” Section CO of the Specification. Any increase in compensation of up to ten percent (10%) of the Contract Sum; or in the time to perform of up to one hundred twenty (120) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services and work specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the work and services to be provided pursuant to the Scope of Services may be more costly or time consuming than the Contractor anticipates and that the Contractor shall not be entitled to additional compensation therefore.

2.0 **COMPENSATION**

2.1 **Contract Sum.**

For the services rendered pursuant to this Agreement, the Contractor shall be compensated, except as provided in Section 1.5, the sum of **One hundred twenty-two thousand, five hundred and 00/100 dollars ($122,500.00)**, in accordance with Section GP and Section SP, “General Provisions” and “Special Provisions,” respectively of the construction and expansion of the Perris Green City Farm Phase 2 project Specifications and Information for bidders.

2.2 **Method of Payment.**

Contractor shall submit to the City, and invoice for services rendered prior to the date
of the invoice. In accordance with Section GP and Section SP, “General Provisions” and
Perris Green City Farm Phase 2 Expansion project Specifications and Information for bidders;
and upon receipt and approval of invoice by the City, City shall pay Contractor within a
reasonably prompt manner consistent with City's normal procedures for payable accounts, but
not to exceed thirty (30) days from date received by City, unless otherwise directed by the
labor compliance officer. Progress payments shall be issued upon successful completion of
items listed on the bid schedule of values, and inspection made by the City, unless otherwise
directed by the project manager or labor compliance officer. A retention of five percent (5%),
unless otherwise directed by the project manager shall be withheld from this payment. Upon
completion of the work by the contractor, a final inspection shall be made by the City. Unless
otherwise directed by the project manager or labor compliance officer, upon approval, the City
shall file a Notice of Completion and a final payment will be issued (minus five (5%) percent
retention). The final retention payment shall be issued following 45 days from the filing of the
Notice of Completion, unless otherwise directed by the labor compliance officer. The City
must pay interest at the legal rate on any Contractor payment request not paid within 30 days
of its submission when the validity of the request is not disputed and the request has been
properly submitted. (Public Contract Code § 20104.50)

2.3 Retention of Funds.

Contractor hereby authorized City to deduct from any amount payable to Contractor
(whether or not arising out of this Agreement) (i) any amounts the payment of which may be in
dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities,
or damages suffered by City, and (ii) all amounts for which City may be liable to third parties,
by reason of Contractor's acts or omission in performing or failing to perform Contractor's
obligation under this Agreement. In the event that any claim is made by a third party, the
amount or validity of which is disputed by Contractor, or any indebtedness shall exist which
shall appear to be the basis of such withholding, an amount sufficient to cover such claim.
The failure of City to exercise such right to deduct or to withhold shall not, however, affect the
obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided
herein.

3.0 COORDINATION OF WORK

3.1 Representative of Contractor.

John Greer, designated as being the principal and representative of Contractor
authorized to act in its behalf with respect to the work and services specified herein and make
all decisions in connection therewith.

3.2 Contract Officer.

City Manager, is hereby designated as being the representative the City authorized to
act in its behalf with respect to the work and services specified herein and make all decisions
in connection therewith ("Contract Officer"). The City Manager of City shall have the right to
designate another Contract Officer at any time.
3.3 **Prohibition Against Subcontracting or Assignment.**

Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

3.4 **Independent Contractor.**

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City and shall remain under only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way for any purpose become or deemed to be a partner of Contractor in its business or otherwise or a joint venture or a member of any joint enterprise of Contractor.

4.0 **INSURANCE, INDEMNIFICATION AND BONDS**

4.1 **Insurance.**

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance.

(a) **Commercial General Liability Insurance.** A policy of commercial general liability insurance written on a per occurrence basis with a combined single limit of at least $2,000,000 bodily injury and property damage including coverage for contractual liability, personal injury, independent contractors, broad form property damage, products and completed operations. The Commercial General Liability Policy shall name the City of Perris, California, its officers, employees and agents as additional insured in accordance with standard ISO additional insured endorsement form CG2010(1185) or equivalent language.

(b) **Worker's Compensation Insurance.** A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Contractor and the City against any loss, claim or damage arising from any injuries or occupational diseases carrying out the work or service contemplated in this Agreement.

(c) **Business Automobile Insurance.** A policy of business automobile liability insurance written on a per occurrence basis with a single limit liability in the amount of $1,000,000 bodily injury and property damage. Said policy shall include coverage for owned, non-owned, lease and hired cars.
All of the above policies of insurance shall be primary insurance. The insurer shall waive all rights of subrogation and contribution it may have against the City of Perris, its officers, employees and agents, and its insurers. In the event any of said policies of insurance are canceled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 4.1 to the Contract Officer. No work or service under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverage and said Certificates of Insurance or binders are approved by the City.

Contractor agrees that the provision of this Section 4.1 shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor’s activities or the activities of any person or person for which the Contractor is otherwise responsible.

In the event the Contractor subcontracts any portion of the work in compliance with Section 3.3 of this Agreement, the contract between the Contractor and such subcontractor shall required the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to this Section.

4.2 **Indemnification.**

(a) To the fullest extent permitted by law, Contractor hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless the City of Perris, its officers and their representatives, consultants, employees, directors, shareholders, successors, and assignors (individually as “Indemnities” ) from and against any and all damages, cost, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, attorneys, expert witnesses, consultants, or other professionals and all costs associated therewith (collectively, “Claims”), to the extent arising or claimed to arise out of, in connection with, resulting from, or related to any negligent act, error, omission or failure to act of Contractor or any of its subcontractors and their respective officers, agents, servants, employees, subcontractors, material men, suppliers or Contractor’s failure to perform or negligent performance of any term, provision, covenant or condition of the Agreement or the Scope of Services, including this indemnity provision. This indemnity also applies to any Claims of any type or nature asserted on behalf of any of Contractor’s subcontractors. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnities may have under the law. Payment is not required as a condition precedent to and Indemnities’ right to recover under this indemnity provision. An indemnities shall have the right to select the attorneys to represent it in the event of a Claim and at Contractor’s expense. Contractor shall pay Indemnities for any attorney’s fees, consultant and expert witness fees and costs incurred in enforcing this indemnification provision. This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under the Agreement or any additional insured endorsements, which may extend to Indemnities.

(b) Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against any Indemnities.
with respect to those Claims as to which such Indemnities is indemnified under Section 4.2(a) above, except for such Claims which are the result of such Indemnities' willful misconduct.

(c) In the event the City and its officers, agents or employees are made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operations or activities of Contractor hereunder, Contractor agrees to pay to the City and its officers, agents or employees, any and all costs and expenses incurred by the City, and its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

4.3 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or designee of the City due to unique circumstances. In the event the City's Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies required by this Section 5 may be changed accordingly upon receipt of written notice from the City's Risk Manager or designee; provided that the Contractor shall have the right to appeal a determination of increased coverage by the City's Risk Manager to the City Council within ten (10) days of receipt of notice from the City's Risk Manager.

4.4 Labor and Materials Bond.

Concurrently with the execution of this Agreement, Contractor shall deliver to City a labor and materials bond in a sum not less than one hundred percent of the total amount payable by terms of the Agreement, in the form provided by the City Clerk, which secures payments to subcontractors and suppliers in the event of default by Contractor. The labor and materials bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The labor and materials bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor completely and faithfully pays all subcontractors and suppliers that have been approved in writing to perform in whole or part the services required herein. If Contractor is the provider of architectural, engineering, and land surveying services pursuant to an existing contract with City for a public work, Contractor shall not be required to post or deliver a labor and materials bond.

4.5 Performance Bond.

Concurrently with execution of this Agreement, Contractor shall deliver to City a performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement, unless such requirement
is waived by the Contract Officer. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.0 TERM

5.1 Time For Completion and Liquidated Damages.

The work for the construction and expansion of the Perris Green City Farm Phase 2 Project shall commence on the 5th day of November, 2018 and shall be completed within Forty Five days (45) calendar days from and after said date. It is expressly agreed that, except for extensions of time duly granted in writing by the City Manager and for reasons authorized in this Agreement, time shall be of the essence, and contractor shall be held responsible for liquidated damages in a sum equal to $500.00 (five hundred dollars) for each and every day after the permitted time if the work is not completed to the City's satisfaction.

5.2 Force Majeure.

The time period(s) specified in this Agreement for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

5.3 Termination for Default of Contractor.

If the Contract Officer determines that the Contractor is in default due to the Contractor's failure to fulfill its obligations under this Agreement, City will give Contractor a written Notice of Default which will be served personally on the Contractor's representative or sent via U.S. First Class Mail to the Contractor at the address set forth in Section 8.1. The Contractor shall continue performing its obligations hereunder so long as the Contractor commences to cure such default within five (5) calendar days of service of such notice and completes the cure of such default within forty-five (45) calendar days after service of the notice, or such longer period as may be permitted by the City; provided that if the default is an immediate danger to the health, safety and general welfare, the City reserves the right to not
notify the Contractor of the default and to take any and all action that may be necessary to cure the default.

If a Notice of Default is issued and the Contractor fails to cure the default within the time periods set forth in this Section, the City may take over the work and prosecute the same to completion by contract or otherwise. The City may use any portion or all of the Contract Sum to pay for said work. The Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages).

Contractor agrees that if the default is an immediate danger to the health, safety, and general welfare, the City may take immediate action to cure the default and the Contractor shall be liable for all costs and expenses associated with curing the default.

Compliance with the provisions of this Section shall only be a condition precedent to termination of this Agreement for cause. Such compliance shall not be a waiver of the City's right to take legal action in the event that the dispute is not cured. Further, compliance with this Section shall not be a waiver of the City's right to seek liquidated damages or other damages from the Contractor caused by the Contractor's failure to comply with any term of the Agreement.

5.4 Resolution of Contractor Construction Claims.

Public Contracts Code section 20104 ET. Seq. sets forth detailed procedures for resolving disputes of $375,000 or less. In the event that a dispute, valued at $375,000 or less, arises as a result of the work described in this Agreement, the Contractor shall notify the City in writing of its contentions by submitting a claim therefore. Contractor and City shall comply with the detailed procedures stipulated in Public Contract Code Section 20104-20104.6, for resolving claims of $375,000 or less.

In the event of any dispute valued at more than $375,000 arises as a result of the work described in this Agreement, the Contractor shall notify the City in writing of its contentions by submitting a detailed claim that sets forth the amount of damages, the basis and/or cause of the damages and all supporting documents which support the claim within ten (10) calendar days after the claim arose. Contractor agrees to submit any additional information or documents requested by the City so it can fully analyze the claim.

In the event of any dispute, the Contractor shall not be relieved of its obligations under this Agreement and shall continue performing its obligations hereunder unless the City agrees in writing to release the Contractor from its obligations under the Agreement. Compliance with the provisions of this Section shall be a condition precedent to any legal action.

6.0 CITY OFFICERS, EMPLOYEES, AND U.S. MEMBERS OF CONGRESS

6.1 Non-liability of City Officers and Employees
No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

6.2 Conflict of Interest
No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

6.3 Federal Employee Benefit Clause
No member of or delegate to the Congress of the United States, and no resident commissioner shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

7.0 NON-DISCRIMINATION AND EQUAL OPPORTUNITY

7.1 Covenants Against Discrimination
Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

Statement of Equal Opportunity Clause

(a) Contractor will not discriminate against any employee or applicant for employment because of race, color religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this non-discriminating clause.

(b) Contractor will ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

8.0 MISCELLANEOUS PROVISIONS
8.1 Notice

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail addressed as follows:

City

City of Perris
101 N. "D" Street
Perris, CA 92570
ATTN: City Manager

Contractor

Greer's Contracting & Concrete Inc. License # 905082
21490 Garfield Road
Perris, CA 92570
ATTN: John Greer

8.2 Handicap Accessibility Certification.

Contractor certifies that with respect to the public facilities or parts thereof that are altered by the work in this contract, the altered portions of the facilities are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, and meet the laws established by the Americans With Disabilities Act of 1990, Public Law 101-336, and applicable portions of Title 24 of the California Code of Regulations (Access Code).

8.3 Records Retention Clause Examination and Audit

Contractor shall maintain and keep books and records on a current basis, recording all transactions pertaining to this Agreement in a form in accordance with generally acceptable accounting principals. Said books and records shall be made available to the City of Perris, the State Auditor of California, the Federal Government and to any authorized representatives thereof for purposes of audit at all reasonable times and places. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least five (5) years after the final payment is received by the Contractor.

8.4 Payroll Records

Contractor shall comply with State Labor Code section 1776, and shall maintain and keep accurate payroll records of employees, and shall certify these records upon request by the City. Said payroll records shall be made available to the City, the State Division of Labor Standards Enforcement, and the State Division of Apprenticeship Standards. If the Contractor fails to comply with
State Labor Code Section 1776, Contractor shall be held responsible for penalties as set forth in said section.

8.5 Prevailing Wages

Pursuant to State and Federal statutes, rules, orders, resolutions, and regulations, the Contractor is required to pay the higher of the State of California or Federal prevailing wages. The Contractor is required to be fully familiar with and comply with all State of California and Federal statutes, rules, regulations, orders, resolutions, and determinations which govern the payment of wages for the work and services provided for in this Agreement.

Under the State Labor Code, Contractor shall not pay less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate per diem wages for holiday, overtime, health and welfare, pension, vacation and similar purposes to all workers employed on the work described in this Agreement. The City has obtained from the Director of the Department of Industrial Relations, State of California, the determination of general prevailing rates of per diem wages believed to be applicable to the work described in this Agreement, including employer payments for health and welfare, pension, vacation and similar purposes. Contractor shall obtain from the City Clerk said General Prevailing Wage Determination, and post it in a conspicuous place at the site of the work described in this Agreement.

8.6 Working Hours Restriction and Penalties For Non-Compliance

Contractor agrees that eight (8) hours is a legal days work for all employees hired by the Contractor, and that any worker’s time of service is restricted to eight (8) hours during any calendar day, and forty (40) hours during any calendar week, unless overtime compensation is paid at not less than one and one half times the basic rate of pay. Contractor shall comply with said working hours restrictions and overtime compensation provisions, and shall pay a penalty of $50.00 (fifty and 00/100 dollars) for each and every day a worker is employed in violation of said working hours restrictions and overtime compensation provisions.

8.7 Interpretation

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

8.8 Integration; Amendment

It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.
8.9 **Severability**

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

8.10 **Corporate Authority**

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[End – Signature Page Follows]
IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

CITY:
CITY OF PERRIS,
a municipal corporation

ATTEST:

__________________________
Nancy Salazar, City Clerk

__________________________
Richard Belmudez,
City Manager

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

__________________________
Eric L. Dunn, City Attorney

__________________________
John Greer

CONTRACTOR:
Greer's Contracting & Concrete Inc.
21490 Garfield Road
Perris, CA 92570

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CONTRACT AGREEMENT WITH
GREER'S CONTRACTING & CONCRETE INC.
**CITY COUNCIL
AGENDA SUBMITTAL**

**Meeting Date:** October 30, 2018

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<th>Supplemental Law Enforcement Services Fund Grant Application</th>
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<td>REQUESTED ACTION:</td>
<td>To approve the application of the Supplemental Law Enforcement Services Fund Grant to supplement the cost of Perris Police Special Enforcement Operations which are included in the Police Department 2018-2019 Budget.</td>
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<tr>
<td>CONTACT:</td>
<td>Jennifer Erwin, Director of Finance</td>
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**BACKGROUND/DISCUSSION:**

The Supplemental Law Enforcement Services Fund (SLESF) provides funds, for eligible cities, to receive a proportionate share of COS funds appropriated by the State, for the exclusive purpose of funding "front line law enforcement services". In April 2002, Senate Bill 923 amended the Government Code Sections 30061 and 30063 to require City Council approval in the appropriation of such monies exclusively for front line municipal police services, in accordance with requests of the Chief of Police and/or law enforcement agency providing police services.

The City of Perris has used, in prior years, the SLESF allocation to supplement the cost of the Perris Police Special Enforcement Operations and requests to continue in this provision.

**BUDGET (or FISCAL) IMPACT:** None. State appropriation of SLESF fund revenue and related police services expenditures are included in the FY 2018-2019 Office of Traffic Safety Fund budget.

Reviewed by:
Assistant City Manager
Director of Finance

**Attachments:**
1. Department of Finance Letter – Local Apportionments
2. SLESF Expenditure Report for Fiscal Year 2017-2018
3. SLESF Expenditure Plan for Fiscal Year 2018-2019

Consent: X
September 11, 2018

Honorable Betty T. Yee
State Controller
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Attention: Ms. Debra Morton
Local Government Programs and Services Division, Manager, Local Apportionments

Dear Controller Yee:

Pursuant to Government Code section 30029.05, subdivision (e), paragraph (2), the Department of Finance respectfully submits the attached (Attachments I and II) percentages for the 2018-19 allocation of $214,200,000 in Citizens' Option for Public Safety (COPS) and Juvenile Justice Crime Prevention Act (JJCPA) funds deposited in the Enhancing Law Enforcement Activities Subaccount (ELEAS) in the Law Enforcement Services Account within the Local Revenue Fund 2011.

Pursuant to Government Code section 30061, subdivisions (b) and (g), subsequent to the allocation described in subdivision (d) of Section 29552, 47.08727192 percent of the remaining funds deposited in the ELEAS for the COPS (23.54363596 percent) and JJCPA (23.54363596 percent) programs are to be allocated, according to the relative population for each county and city, as follows:

1. 5.15 percent to the county sheriff for county jail construction and operation ($11,031,300).
2. 5.15 percent to the district attorney for criminal prosecution ($11,031,300).
3. 50 percent to the county or city and county to implement a comprehensive multi-agency juvenile justice plan ($107,100,000).
4. 39.7 percent to the county and the cities within the county for front-line law enforcement ($85,037,400). Note that pursuant to Government Code section 30061, subdivision (b), paragraph (3), each law enforcement jurisdiction receiving front-line law enforcement funding is to receive a minimum grant of $100,000. The percentages included in Attachment II are calculated in a manner that provides for a minimum grant allocation of $100,000 to each law enforcement jurisdiction listed in Attachment II.

Note that the by-county percentages for the first three allocations above: (1) county jail construction, (2) district attorney criminal prosecution, and (3) multi-agency juvenile justice plans, are specified on Attachment I and the by-county/city percentages for the fourth allocation, front-line law enforcement, are identified on Attachment II.
Honorable Betty T. Yee  
September 11, 2018  
Page 2

Also note that the allocations shown on Attachments I and II may be slightly different from the final allocations made by the State Controller’s Office due to rounding.

If you have any questions, or need additional information, please call Madelynn McClain, Principal Program Budget Analyst, at (916) 445-8913.

Sincerely,

Amy Jarvis  
Program Budget Manager

Attachments

cc: Mr. George Lolas, Chief Operating Officer, State Controller’s Office  
Ms. Jill Kanematsu, Chief, Local Government Programs and Services Division, State Controller’s Office  
Ms. Evelyn Calderon-Yee, Chief, Bureau of Payments, Local Government Programs and Services Division, State Controller’s Office  
Ms. Melma Dizon, Supervisor, Local Government Programs and Services Division, State Controller’s Office  
Ms. Kathleen Howard, Executive Director, Board of State and Community Corrections
<table>
<thead>
<tr>
<th>City/County</th>
<th>City/County Population Estimates 1/1/2018</th>
<th>Projected Allocations by City/County</th>
<th>Percent of Allocation by City/County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seal Beach</td>
<td>25,984</td>
<td>$100,000</td>
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<tr>
<td>Stanton</td>
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<tr>
<td>Tustin</td>
<td>82,344</td>
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<tr>
<td>Villa Park</td>
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<tr>
<td>Westminster</td>
<td>94,476</td>
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<tr>
<td>Yorba Linda</td>
<td>69,121</td>
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<tr>
<td>Unincorporated</td>
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<tr>
<td>Placer</td>
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<td>Auburn</td>
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<tr>
<td>Colfax</td>
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<tr>
<td>Lincoln</td>
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<td>Loomis</td>
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<td>Rocklin</td>
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<td>Roseville</td>
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<tr>
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<tr>
<td>Plumas</td>
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<td>Portola</td>
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<tr>
<td>Unincorporated</td>
<td>17,612</td>
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<tr>
<td>Riverside</td>
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<tr>
<td>Banning</td>
<td>31,282</td>
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<td>Beaumont</td>
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<td>Blythe</td>
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<td>Calimesa</td>
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<td>Canyon Lake</td>
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<td>Cathedral City</td>
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<td>Desert Hot Springs</td>
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<td>Eastvale</td>
<td>64,855</td>
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<td>Hemet</td>
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<td>87,883</td>
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<td>Lake Elsinore</td>
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<td>La Quinta</td>
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<td>Menifee</td>
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<td>Murrieta</td>
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<td>Norco</td>
<td>26,761</td>
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<tr>
<td>Palm Desert</td>
<td>52,769</td>
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</tr>
<tr>
<td>Palm Springs</td>
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<tr>
<td>Perris</td>
<td>77,837</td>
<td>$118,299</td>
<td>0.13911390%</td>
</tr>
<tr>
<td>Rancho Mirage</td>
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<td>Riverside</td>
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<td>San Jacinto</td>
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<td>Temecula</td>
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<tr>
<td>Wildomar</td>
<td>36,287</td>
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## Supplemental Law Enforcement Standardized Forms
### Oversight Committee Summary
#### For the Fiscal Year Ended June 30, 2018

City of Perris  
County of Riverside

<table>
<thead>
<tr>
<th>Categories</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Beginning Fund Balance</td>
<td>$ 41,105.06</td>
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<tr>
<td>Prior Year Adj To Fund Balance (Growth Funds)</td>
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<tr>
<td>Beginning Fund Balance Restate</td>
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### REVENUE

<table>
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<tr>
<th>Description</th>
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<tbody>
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<td>State Funding</td>
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<tr>
<td>Interest Revenue</td>
<td>-</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>115,881.00</td>
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</tbody>
</table>

### EXPENDITURE

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Benefits</td>
<td>140,880.99</td>
</tr>
<tr>
<td>Services and Supplies (Support Costs)</td>
<td>-</td>
</tr>
<tr>
<td>Equipment</td>
<td>-</td>
</tr>
<tr>
<td>Administrative Overhead (.5%)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Expenditure</strong></td>
<td>140,880.99</td>
</tr>
<tr>
<td>Excess (deficiency) Revenue over (under) Expenditures</td>
<td>(24,999.99)</td>
</tr>
<tr>
<td>Reverted Monies and Penalties</td>
<td>-</td>
</tr>
</tbody>
</table>

**Ending Fund Balance**  
$ 49,949.11

### STATISTICAL DATA

<table>
<thead>
<tr>
<th>Positions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn Officers</td>
<td>0.82</td>
</tr>
<tr>
<td><strong>Total Positions</strong></td>
<td>0.82</td>
</tr>
</tbody>
</table>

The Chief Financial Officer hereby certifies that the "State Funding" amounts equal the payments issued by the Riverside County Auditor-Controller.

Jennifer Erwin, Director of Finance  
Date 10/17/2018  
(951) 943-4610 x 244  
Telephone Number
Supplemental Law Enforcement Services Fund
Expenditure Plan
Fiscal Year 2018 - 2019

City of Perris
County of Riverside

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Fund Balance</td>
<td>$49,949.11</td>
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<tr>
<td>Prior Year Allocation received in Current Year</td>
<td>$-</td>
</tr>
<tr>
<td>Current Year Allocation</td>
<td>$118,299.00</td>
</tr>
</tbody>
</table>

**EXPENDITURES PLANNED**
Salaries and Benefits          | 168,248.11 |
Services and Supplies (Support Costs) | -          |
Equipment                      | -          |
Administrative Overhead        | -          |
Total Planned Expenditures     | $168,248.11|

Date Approved by the City Council: October 30, 2018

The Finance Director hereby certifies that the Supplemental Law Enforcement Services Plan was submitted to the City Council and approved as listed:

Jennifer Erwin, Director of Finance

Date: October 30, 2018

Please provide the name of a contact person if there are any questions:

Jennifer Erwin, Director of Finance
(951) 943-4610 x244

Typed Name
Telephone
CITY COUNCIL
AGENDA SUBMITAL

Meeting Date: October 30, 2018

SUBJECT: Renew Cesar Chavez Public Library Lease Agreement with Riverside County

REQUESTED ACTION: Approve Lease Agreement with Riverside County for Cesar Chavez Public Library

CONTACT: Daryl Hartwill, Director of Public Works

BACKGROUND/DISCUSSION: The City of Perris has coordinated with the County for over a decade, providing Perris residents and the community the opportunity to explore their ideas and visions through reading and learning applications. As an ongoing effort to promote education and advanced learning objectives, the City of Perris along with Riverside County provide public library services to the City and all are welcomed.

Libraries serve as a fundamental learning location for anyone in the community to gather and enhance their goals, perspectives, and insights into the world of published materials and electronic media. The library is located on 163 East San Jacinto Avenue and has served the community for years by offering learning courses for youths and adults, a peaceful and resourceful study location, as well as special events and educational book fairs to promote reading and creativity.

BUDGET (or FISCAL) IMPACT:

There will be no budgetary impact.

Reviewed by:

City Attorney
Assistant City Manager
Director of Public Works
Director of Finance

Attachments: Lease Agreement

Consent:
LEASE
Perris Community Library
163 East San Jacinto Avenue, Perris, Ca

CITY OF PERRIS, a municipal corporation, herein called Lessor, leases to the
COUNTY OF RIVERSIDE, a political subdivision of the State of California, herein
called “County,” the property described below under the following terms and conditions:

1. Description. The premises leased hereby consist of approximately
20,000 square feet located within that certain building located at 163 East San Jacinto
Avenue, City of Perris, California, also identified as Assessor Parcel Number 313-091-
004, as more particularly shown on Exhibit "A", attached hereto, and by this reference
made a part of this Lease ("Leased Premises").

2. Use.

(a) The premises are leased to County solely for the purpose of
providing County library services to the residents of the County of Riverside, and for all
activities incidental or necessary to accomplish said purposes. County agrees that it
accepts the ("Leased Premises") "As-Is" without any representation or warranties of
any nature of kind whatsoever from Lessor.

(b) Subject to Lessor’s right to use the Leased Premises, County shall
have the exclusive possession of the Leased Premises and common usage of the
walkways, rest rooms, driveways, vehicular parking spaces, and other similar facilities
maintained by Lessor for other tenants and the public.

(c) Lessor may use the library community rooms and other portions of
the building subject to availability and with notice to the County prior to such use.
Notice may be given in writing or by telephone. Lessor shall be responsible for
custodial services when utilizing the community room.

(d) County agrees that all operations and activities by or under County
on the Leased Premises shall be conducted in compliance with all applicable statues,
ordinances, orders laws, rules and regulations, and the requirements of all federal,
state and municipal governments and appropriate departments, commissions, boards
and offices thereof, which may be applicable to the Leased Premises or to the use or
manner of use of the Leased Premises. County shall indemnify and hold Lessor
harmless against all actions, claims and damages by reason of (i) Lessee's failure to
perform the terms hereof; or (ii) County's non-observance or non-performance of any
statute, ordinance order, law, rule, regulation and/or governmental requirement related
to County's use of occupancy of the Leased Premises or the conditions thereof.

3. Access and Parking. County, its officers, employees and agents and
the patrons of the free public library shall have reasonable access to the vehicular
parking spaces located on the Leased Premises.

4. Term.
   (a) The Term of this Lease shall be for a period of thirty-six months
    commencing upon execution of this Lease.
   (b) Any holding over by County after the expiration of said term shall
    be deemed a month-to-month tenancy upon the same terms and conditions of this
    Lease until terminated by either party giving thirty (30) days' writing notice to the other
    party.
   (c) County shall have the right of first refusal as to the renewal of this
    Lease at the expiration of said Term on whatever terms and conditions Lessor may
    then offer.

5. Option to Extend. Lessor and County have the option to mutually
extend the Term of this Lease for three (3) additional years. County shall give Lessor
written notice of its intention to exercise the option at lease sixty (60) days prior to the
expiration of the initial Term of this Lease.

6. Consideration.
   (a) In consideration for the use of the Leased Premises, County shall
    provide library services to City residents in accordance with the contract between
    Lessor and County.
7. Custodial.

(a) County, through the County of Riverside Library System, shall provide, or cause to be provide, and pay for all custodial services in connection with the Leased Premises.

(b) Notwithstanding Paragraph 7(a) above, County shall determine whether to utilize County employees to provide custodial or contract for services.

8. Utilities.

(a) County shall pay for all utility services used in connection with the leased Premises, including, but not limited to, telephone, electric, water, gas, refuse collection and sewer services, as may be required in the maintenance, operation and use of the leased Premises.

(b) County agrees to purchase electricity produced by Lessor's solar energy equipment at rates equal to the rates charged by Southern California Edison. In the event solar energy equipment generates more electricity than is used at the property on a monthly basis, County will only pay for the electricity used at the property.


(a) Lessor shall, at Lessor's sole expense and in accordance with the terms of this Lease Agreement, repair, replace and maintain in attractive condition, good order and function throughout the Term (a) the structural portions of the Leased Premises (understood to include the roof, foundation and load bearing walls); (b) the nonstructural portions of the Leased Premises (understood to include the roof covering and membrane); (c) all systems and equipment, including, but not limited to, electrical, plumbing (sewer and irrigation lines), fire sprinkler, fire suppression system, fire/life/safety system, elevator, if any, lighting, heating, ventilating and air condition systems (HVAC) equipment, loading doors, if any, that serve the Leased Premises and all other such elements (herein defined as the "Base Premises Systems"), other than those installed or constructed by County, that serve the Leased Premises; and (d) the
exterior portions of the Leased Premises, and real property including, but not limited to, driveways, sidewalks, lighting and parking facilities servicing the Leased Premises. Lessor agrees to make all repairs to or alterations of the interior and exterior of the Leased Premises that may become necessary by reason of industry standard for age, wear and tear, deferred maintenance or defects in any construction thereof by Lessor. Lessor shall be responsible for all repairs to the HVAC.

(b) In the event Lessor fails, or refuses, to make repairs to the exterior wall, roof, and other structural portions of the building, as may be required or necessitated, County reserves the right to undertake such repairs, subject to two (2) weeks' notice to Lessor in writing. The costs and expenses of such repairs incurred by County shall be reimbursed by Lessor within thirty (30) days after receiving County's invoice for such charges.

(c) In the event an emergency arises which requires or necessitates repairs to the exterior walls, roof, and other structural portions of the building in order to insure the health and safety of persons or property or both, and Lessor fails, or refuses, to make such repairs in an expeditious manner, County may undertake such repairs and notify Lessor thereof in writing promptly thereafter. Lessor shall reimburse County for such repairs.

(d) Notwithstanding Paragraph 9(a), and (b) and (c) above, Lessor shall maintain the interior of the Leased Premises, including, but not limited to, air conditioning equipment, heating equipment, plumbing, electrical wiring and fixtures, and windows, in good working condition and repair. Lessor, at Lessor's expense, shall be responsible for preventive ground and subterranean termite treatment.

(e) County shall maintain all landscaping in good and healthy condition. County acknowledges Lessor, at Lessor's expense, landscaped the library grounds with native plants. Subsequently, County shall maintain the landscaping in accordance with Eastern Municipal Water District grant requirements with respect to irrigation efficiency. Plant types, pursuant to such requirements, shall not be altered.
Additionally, in the event the landscaping is not maintained in a manner satisfactory, as determined by Lessor, Lessor shall provide County with a written notice of such dissatisfaction and ten (10) working days to correct the deficiencies. After the ten (10) day period, if County has failed to correct landscaping deficiencies, Lessor shall have the right to assume landscaping activities as provided above. Any costs associated with such landscaping activities shall be the responsibility of County. County shall reimburse Lessor within thirty (30) days of receiving a request for remittance from Lessor.

(f) Normal building operations services shall be called into the Economic Development Agency, Work Control Office, (951) 955-4850. For emergency services after regular business hours, on weekends or holidays call (951) 955-4850 and remain on the line for a live representative.

10. Furnishings and Equipment. All furnishings and equipment placed in or upon the Leased Premises by the Lessor may be used by County during the Term of this Lease, or any renewal thereof. Any furnishings and equipment placed in or on the Leased Premises by County shall remain the Property of County.

11. Improvements by County.

(a) Any alterations, improvements or installation of fixtures to be undertaken by County shall have the prior written consent of Lessor after County has submitted plans for any such proposed alterations, improvements or fixtures to Lessor in writing. Such consent shall not be unreasonably withheld by Lessor.

(b) All alterations and improvements made, and fixtures installed, by County shall remain County property and may be removed by County at or prior to the expiration of this Lease; provided, however, that such removal does not cause injury or damage to the Leased Premises, or in the event it does, the premises shall be restored.
12. **Improvements by Lessor.**

(a) Lessor recognizes and understands that said preparation of the leased premises shall be subject to the provisions contained in the California Labor Code (commencing with Section 1720) relating to general prevailing wage rates and other pertinent provisions therein.

(b) Lessor shall comply and stay current with all applicable building standards, which may change from time to time, including but not limited to, the Americans with Disabilities Act.

13. **Hold Harmless/Indemnification.** In contemplation of the provisions of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the Code, the parties hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of the Code, agree that each party shall be liable for any damages, including, but not limited to, claims, demands, losses, liabilities, costs and expenses including reasonable attorney's fees, resulting from the acts or omissions of their employees or agents in the performance of this Lease Agreement, and each party shall indemnify, defend and hold harmless the other party from such claims, demands, damages, losses or liabilities."

14. **Insurance.** Lessor agrees to procure and maintain fire and casualty insurance on the Lease Premises to the same extent as provided for Lessor’s other facilities. County shall procure and maintain fire and casualty insurance on County’s furnishings, equipment, and books to the same extent as provided for County’s other library facilities. Each party shall provide proof of such insurance upon request.

15. **Options to Terminate.**

(a) County shall have the option to terminate this Lease if the Leased Premises are destroyed or damaged to the extent that they cannot be repaired within sixty (60) days. If the damage can be repaired within sixty (60) days, it shall be the duty of the Lessor to make such repairs promptly, and during said period, the rent shall
abate pro rata as to any portion of the Leased Premises not usable by the County. County reserves the right to determine what, if any portions of the Leased Premises are usable.

(b) Either party to this Lease shall have the right to terminate this Lease at any time during the Term or any renewal thereafter upon the giving of a sixty (60) day written notice to the other party.

16. **Entry by Lessor.** Lessor shall have the right to enter the Leased Premises at all reasonable times to inspect the same or to maintain the Leased Premises or any part thereof.

17. **Surrender of Premises.**

(a) In the event of any termination of this Lease, whether by lapse of time, cancellation, forfeiture or otherwise, County shall immediately surrender and deliver the Leased Premises to Lessor and all rights and claims of County in and to use and enjoyment of such Leased Premises shall cease. Such termination shall not release the County from any liability which accrued under this Lease to Lessor prior to such termination.

(b) Upon said termination, County shall surrender the Leased Premises neat and clean, in good and tenantable condition, reasonable wear and tear excepted. County shall do all work and make all repairs necessary to place the Lease Premises in said condition at County's sole expense, and should County fail to do such work and make such repairs after receipt of Lessor's demand to do so, Lessor may perform such work, and County shall reimburse Lessor for the expense thereof within ten (10) days after being invoiced therefor by Lessor.

18. **Notices.** Any notices required or desired to be served by either party upon the other shall be addressed to the respective parties as set forth below:

**County:**

- County of Riverside
- Department of Facilities Management

**Lessor:**

- City of Perris
- 101 North D Street
19. **Quiet Enjoyment.** Lessor covenants that County shall at all times during the term of this Lease peaceable and quietly have, hold and enjoy the use of the Leased Premises so long as County shall fully and faithfully perform the terms and conditions that it is required to do under this Lease.

20. **Binding on Successors.** The terms and conditions herein contained shall apply to and bind the heirs, successors in interest, executors, administrators, representatives and assigns of all the parties hereto.

21. **Severability.** The invalidity of any provision in the Lease as determined by court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

22. **Venue.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Lease shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

23. **County's Representative.** County hereby appoints the Assistant Executive Officer/EDA as its authorized representative to administer this Lease Agreement. City hereby appoint the City Manager as its authorized representative to administer this Lease Agreement.

24. **Entire Lease.** This Lease is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous leases, agreements and understandings, oral
or written, in connection therewith. This Lease may be changed or modified only upon
the written consent of the parties hereto.

25. Interpretation. The parties hereto have negotiated this Lease at arm’s
length with advice of their respective attorneys, and no provision contained herein shall
be construed against County solely because it prepared this Lease in its executed
form.

26. Approval of Supervisors. This Lease shall not be binding or
consummated until its approval by the Riverside County Board of Supervisors and fully
executed by the Parties.

Dated: ________________

LESSEE:
COUNTY OF RIVERSIDE,
a political subdivision of the
State of California

By: __________________________
   Chairman Chuck Washington
   Board of Supervisors

LESSOR:
CITY OF PERRIS, a municipal Corporation

By: __________________________
   Name: Richard Belmudez
   Its: City Manager

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: __________________________
   Deputy

APPROVED AS TO FORM:
Gregory P. Priamos, County Counsel

By: __________________________
   Deputy County Counsel

MH:ra/062018/PR010/19.275
**CITY COUNCIL/REDEVELOPMENT AGENCY**

**AGENDA SUBMITTAL**

**Meeting Date:** October 30, 2018

<table>
<thead>
<tr>
<th>SUBJECT:</th>
<th>TUMF Reimbursement Agreement for Nuevo Road Widening for Construction Phase and Amendment Number 1 to the TUMF Reimbursement Agreement for Ramona Expressway Widening for Planning Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>REQUESTED ACTION:</td>
<td>Approve the TUMF Reimbursement Agreement for Nuevo Road Widening for Construction Phase; and approve the Amendment Number One to the TUMF Reimbursement Agreement for Ramona Expressway Widening for Planning Phase</td>
</tr>
<tr>
<td>CONTACT:</td>
<td>Habib Motlagh, City Engineer</td>
</tr>
</tbody>
</table>

**BACKGROUND/DISCUSSION:** The enclosed TUMF reimbursement agreement with WRCOG for Nuevo Road Widening between Murrieta Road and Dunlap Drive (including widening of bridge over Perris Valley Channel) allocates $4,300,000 for the Construction phase of the project.

The initial phase of this project includes the removal and replacement of the bridge and is expected to start late Spring of 2019.

The enclosed Amendment Number 1 to the TUMF Reimbursement Agreement with WRCOG for Ramona Expressway Widening between I-215 and Webster Avenue increases the funding for the project’s planning phase from $97,000 to $100,480.

**BUDGET (or FISCAL) IMPACT:** Construction costs for Nuevo Road Widening (up to $4,300,000) will be reimbursed by WRCOG. Planning costs for Ramona Expressway Widening (up to $100,480) will be reimbursed by WRCOG.

Reviewed by:

City Attorney
Assistant City Manager
Director of Finance

Attachments: TUMF Reimbursement Agreement for Nuevo Road Widening Amendment Number 1 to the TUMF Reimbursement Agreement for Ramona Expressway Widening

Consent: Yes
Public Hearing: Business Item: Other:
TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM
AGREEMENT TO REIMBURSE TUMF FUNDS
NUEVO ROAD WIDENING BETWEEN MURRIETA ROAD AND DUNLAP DRIVE
WITH A 300' BRIDGE
CONSTRUCTION PHASE

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of this day of ___, 20___, by and between the Western Riverside Council of Governments ("WRCOG"), a California joint powers authority and CITY OF PERRIS, a California municipal corporation ("AGENCY"). WRCOG and AGENCY are sometimes hereinafter referred to individually as "Party" and collectively as "Parties".

RECIDALS

A. WRCOG is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program").

B. WRCOG has identified and designated certain transportation improvement projects throughout Western Riverside County as projects of regional importance ("Qualifying Projects" or "Projects"). The Qualifying Projects are more specifically described in that certain WRCOG study titled "TUMF Nexus Study", as may be amended from time to time. Qualifying Projects can have Regional or Zonal significance as further described in the TUMF Nexus Study.

C. The TUMF Program is funded by TUMF fees paid by new development in Western Riverside County (collectively, "TUMF Program Funds"). TUMF Program Funds are held in trust by WRCOG for the purpose of funding the Qualifying Projects.

D. The AGENCY proposes to implement a Qualifying Project, and it is the purpose of this Agreement to identify the project and to set forth the terms and conditions by which WRCOG will release TUMF Program Funds.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. Description of the Qualifying Project. This Agreement is intended to distribute TUMF Program Funds to the AGENCY for Nuevo Road Widening between Murrieta Road and Dunlap Drive with a 300' Bridge, (the "Project"), a Qualifying Project. The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and incorporated herein by reference and, pursuant to Section 20 below, is subject to modification if requested by the AGENCY and approved by WRCOG. The work shall be consistent with one or more of the defined WRCOG Call for Projects phases detailed herein as follows:

1) CON – Construction
2. **WRCOG Funding Amount.** WRCOG hereby agrees to distribute to AGENCY, on the terms and conditions set forth herein, a sum not to exceed **Four Million Three Hundred Thousand Dollars ($4,300,000)**, to be used for reimbursing the AGENCY for eligible Project expenses as described in Section 3 herein (“Funding Amount”). The Parties acknowledge and agree that the Funding Amount may be less than the actual cost of the Project. Nevertheless, the Parties acknowledge and agree that WRCOG shall not be obligated to contribute TUMF Program Funds in excess of the maximum TUMF share identified in the TUMF Nexus Study (“Maximum TUMF Share”), as may be amended from time to time.

3. **Project Costs Eligible for Advance/Reimbursement.** The total Project costs ("Total Project Cost") may include the following items, provided that such items are included in the scope of work attached hereto as Exhibit "A" ("Scope of Work"): (1) AGENCY and/or consultant costs associated with direct Project coordination and support; (2) funds expended in preparation of preliminary engineering studies; (3) funds expended for preparation of environmental review documentation for the Project; (4) all costs associated with right-of-way acquisition, including right-of-way engineering, appraisal, acquisition, legal costs for condemnation procedures if authorized by the AGENCY, and costs of reviewing appraisals and offers for property acquisition; (5) costs reasonably incurred if condemnation proceeds; (6) costs incurred in the preparation of plans, specifications, and estimates by AGENCY or consultants; (7) AGENCY costs associated with bidding, advertising and awarding of the Project contracts; (8) construction costs, including change orders to construction contract approved by the AGENCY; (9) construction management, field inspection and material testing costs; and (10) any AGENCY administrative cost to deliver the Project.

4. **Ineligible Project Costs.** The Total Project Cost shall not include the following items which shall be borne solely by the AGENCY without reimbursement: (1) any AGENCY administrative fees attributed to the reviewing and processing of the Project; and (2) expenses for items of work not included within the Scope of Work in Exhibit "A".

5. **Procedures for Distribution of TUMF Program Funds to AGENCY.**

   (a) **Initial Payment by the AGENCY.** The AGENCY shall be responsible for initial payment of all the Project costs as they are incurred. Following payment of such Project costs, the AGENCY shall submit invoices to WRCOG requesting reimbursement of eligible Project costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the AGENCY, and documents evidencing the AGENCY's payment of the invoices or demands for payment. Documents evidencing the AGENCY'S payment of the invoices shall be retained for four (4) years and shall be made available for review by WRCOG. The AGENCY shall submit invoices not more often than monthly and not less often than quarterly.

   (b) **Review and Reimbursement by WRCOG.** Upon receipt of an invoice from the AGENCY, WRCOG may request additional documentation or explanation of the Project costs for which reimbursement is sought. Undisputed amounts shall be paid by WRCOG to the AGENCY within thirty (30) days. In the event that WRCOG disputes the eligibility of the AGENCY for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in
resolving the dispute, the AGENCY may appeal WRCOG’s decision as to the eligibility of one or more invoices to WRCOG’s Executive Director. The WRCOG Executive Director shall provide his/her decision in writing. If the AGENCY disagrees with the Executive Director’s decision, the AGENCY may appeal the decision of the Executive Director to the full WRCOG Executive Committee, provided the AGENCY submits its request for appeal to WRCOG within ten (10) days of the Executive Director’s written decision. The decision of the WRCOG Executive Committee shall be final. Additional details concerning the procedure for the AGENCY’s submittal of invoices to WRCOG and WRCOG’s consideration and payment of submitted invoices are set forth in Exhibit “B”, attached hereto and incorporated herein by reference.

(c) **Funding Amount/Adjustment.** If a post Project audit or review indicates that WRCOG has provided reimbursement to the AGENCY in an amount in excess of the Maximum TUMF Share of the Project, or has provided reimbursement of ineligible Project costs, the AGENCY shall reimburse WRCOG for the excess or ineligible payments within 30 days of notification by WRCOG.

6. **Increases in Project Funding.** The Funding Amount may, in WRCOG’s sole discretion, be augmented with additional TUMF Program Funds if the TUMF Nexus Study is amended to increase the maximum eligible TUMF share for the Project. Any such increase in the Funding Amount must be approved in writing by WRCOG’s Executive Director. In no case shall the amount of TUMF Program Funds allocated to the AGENCY exceed the then-current maximum eligible TUMF share for the Project. No such increased funding shall be expended to pay for any Project already completed. For purposes of this Agreement, the Project or any portion thereof shall be deemed complete upon its acceptance by WRCOG’s Executive Director which shall be communicated to the AGENCY in writing.

7. **No Funding for Temporary Improvements.** Only segments or components of the construction that are intended to form part of or be integrated into the Project may be funded by TUMF Program Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, tapers or drainage facilities, shall be funded with TUMF Program Funds, except as needed for staged construction of the Project.

8. **AGENCY’s Funding Obligation to Complete the Project.** In the event that the TUMF Program Funds allocated to the Project represent less than the total cost of the Project, the AGENCY shall provide such additional funds as may be required to complete the Project.

9. **AGENCY’s Obligation to Repay TUMF Program Funds to WRCOG; Exception For PA&ED Phase Work.** Except as otherwise expressly excepted within this paragraph, in the event that: (i) the AGENCY, for any reason, determines not to proceed with or complete the Project; or (ii) the Project is not timely completed, subject to any extension of time granted by WRCOG pursuant to the terms of this Agreement; the AGENCY agrees that any TUMF Program Funds that were distributed to the AGENCY for the Project shall be repaid in full to WRCOG, and the Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism. If the Project involves work pursuant to a PA&ED phase, AGENCY shall not be obligated to repay TUMF Program Funds to WRCOG relating solely to PA&ED phase work performed for the Project.
10. **AGENCY’s Local Match Contribution.** AGENCY local match funding is not required, as shown in Exhibit “A” and as called out in the AGENCY’s Project Nomination Form submitted to WRCOG in response to its Call for Projects.

11. **Term/Notice of Completion.** The term of this Agreement shall be from the date first herein above written until the earlier of the following: (i) the date WRCOG formally accepts the Project as complete, pursuant to Section 6; (ii) termination of this Agreement pursuant to Section 15; or (iii) the AGENCY has fully satisfied its obligations under this Agreement. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

12. **Representatives of the Parties.** WRCOG’s Executive Director, or his or her designee, shall serve as WRCOG’s representative and shall have the authority to act on behalf of WRCOG for all purposes under this Agreement. The AGENCY hereby designates Habib Motlagh, City Engineer, or his or her designee, as the AGENCY’s representative to WRCOG. The AGENCY’s representative shall have the authority to act on behalf of the AGENCY for all purposes under this Agreement and shall coordinate all activities of the Project under the AGENCY’s responsibility. The AGENCY shall work closely and cooperate fully with WRCOG’s representative and any other agencies which may have jurisdiction over or an interest in the Project.

13. **Expenditure of Funds by AGENCY Prior to Execution of Agreement.** Nothing in this Agreement shall be construed to prevent or preclude the AGENCY from expending funds on the Project prior to the execution of the Agreement, or from being reimbursed by WRCOG for such expenditures. However, the AGENCY understands and acknowledges that any expenditure of funds on the Project prior to the execution of the Agreement is made at the AGENCY’s sole risk, and that some expenditures by the AGENCY may not be eligible for reimbursement under this Agreement.

14. **Review of Services.** The AGENCY shall allow WRCOG’s Representative to inspect or review the progress of the Project at any reasonable time in order to determine whether the terms of this Agreement are being met.

15. **Termination.**

   (a) **Notice.** Either WRCOG or AGENCY may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other Party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30 day period to cure any alleged breach. During the 30 day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

   (b) **Effect of Termination.** In the event that the AGENCY terminates this Agreement, the AGENCY shall, within 180 days, repay to WRCOG any unexpended TUMF Program Funds provided to the AGENCY under this Agreement and shall complete any portion or segment of work for the Project for which TUMF Program Funds have been provided. In the
event that WRCOG terminates this Agreement, WRCOG shall, within 90 days, distribute to the
AGENCY TUMF Program Funds in an amount equal to the aggregate total of all unpaid
invoices which have been received from the AGENCY regarding the Project at the time of the
notice of termination; provided, however, that WRCOG shall be entitled to exercise its rights
under Section 5(b), including but not limited to conducting a review of the invoices and
requesting additional information. Upon such termination, the AGENCY shall, within 180 days,
complete any portion or segment of work for the Project for which TUMF Program Funds have
been provided. This Agreement shall terminate upon receipt by the non-terminating Party of the
amounts due to it hereunder and upon completion of the segment or portion of Project work for
which TUMF Program Funds have been provided.

(c) Cumulative Remedies. The rights and remedies of the Parties provided in
this Section are in addition to any other rights and remedies provided by law or under this
Agreement.

16. Prevailing Wages. The AGENCY and any other person or entity hired to perform
services on the Project are alerted to the requirements of California Labor Code Sections 1770 et
seq., which would require the payment of prevailing wages were the services or any portion
thereof determined to be a public work, as defined therein. The AGENCY shall ensure
compliance with these prevailing wage requirements by any person or entity hired to perform the
Project. The AGENCY shall defend, indemnify, and hold harmless WRCOG, its officers,
employees, consultants, and agents from any claim or liability, including without limitation
attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code
Sections 1770 et seq.

17. Progress Reports. WRCOG may request the AGENCY to provide WRCOG with
progress reports concerning the status of the Project.

18. Indemnification.

(a) AGENCY Responsibilities. In addition to the indemnification required
under Section 16, the AGENCY agrees to indemnify and hold harmless WRCOG, its officers,
agents, consultants, and employees from any and all claims, demands, costs or liability arising
from or connected with all activities governed by this Agreement including all design and
construction activities, due to negligent acts, errors or omissions or willful misconduct of the
AGENCY or its subcontractors. The AGENCY will reimburse WRCOG for any expenditures,
including reasonable attorneys’ fees, incurred by WRCOG, in defending against claims
ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of
the AGENCY.

(b) WRCOG Responsibilities. WRCOG agrees to indemnify and hold
harmless the AGENCY, its officers, agents, consultants, and employees from any and all claims,
demands, costs or liability arising from or connected with all activities governed by this
Agreement including all design and construction activities, due to negligent acts, errors or
omissions or willful misconduct of WRCOG or its sub-consultants. WRCOG will reimburse the
AGENCY for any expenditures, including reasonable attorneys’ fees, incurred by the AGENCY,
in defending against claims ultimately determined to be due to negligent acts, errors or omissions or willful misconduct of WRCOG.

(c) **Effect of Acceptance.** The AGENCY shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Project. WRCOG’s review, acceptance or funding of any services performed by the AGENCY or any other person or entity under this Agreement shall not be construed to operate as a waiver of any rights WRCOG may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the AGENCY shall be and remain liable to WRCOG, in accordance with applicable law, for all damages to WRCOG caused by the AGENCY’s negligent performance of this Agreement or supervision of any services provided to complete the Project.

19. **Insurance.** The AGENCY shall require, at a minimum, all persons or entities hired to perform the Project to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the AGENCY and WRCOG. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.

(a) **Commercial General Liability Insurance.** Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:

(i) Name WRCOG and AGENCY, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

(ii) Be primary with respect to any insurance or self-insurance programs covering WRCOG and AGENCY, and/or their respective officials, officers, employees, agents, and consultants; and

(iii) Contain standard separation of insured provisions.

(b) **Business Automobile Liability Insurance.** Business automobile liability insurance or equivalent form with a combined single limit of not less than $1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

(c) **Professional Liability Insurance.** Errors and omissions liability insurance with a limit of not less than $1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.
(d) **Workers’ Compensation Insurance.** Workers’ compensation insurance with statutory limits and employers’ liability insurance with limits of not less than $1,000,000.00 each accident.

20. **Project Amendments.** Changes to the characteristics of the Project, including the deadline for Project completion, and any responsibilities of the AGENCY or WRCOG may be requested in writing by the AGENCY and are subject to the approval of WRCOG’s Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Project shall be approved in the sole discretion of WRCOG’s Representative. Nothing in this Agreement shall be construed to require or allow completion of the Project without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; “CEQA”) and the National Environmental Policy Act of 1969 (42 USC 4231 et seq.), if applicable, but the necessity of compliance with CEQA and/or NEPA shall not justify, excuse, or permit a delay in completion of the Project.

21. **Conflict of Interest.** For the term of this Agreement, no member, officer or employee of the AGENCY or WRCOG, during the term of his or her service with the AGENCY or WRCOG, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

22. **Limited Scope of Duties.** WRCOG’s and the AGENCY’s duties and obligations under this Agreement are limited to those described herein. WRCOG has no obligation with respect to the safety of any Project performed at a job site. In addition, WRCOG shall not be liable for any action of AGENCY or its contractors relating to the condemnation of property undertaken by AGENCY or construction related to the Project.

23. **Books and Records.** Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Project under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least four (4) years following termination of this Agreement, and they shall have access to such information during the four-year period for the purposes of examination or audit.

24. **Equal Opportunity Employment.** The Parties represent that they are equal opportunity employers and they shall not discriminate against any employee or applicant of reemployment because of race, religion, color, national origin, ancestry, sex or age. Such nondiscrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. **Governing Law.** This Agreement shall be governed by and construed with the laws of the State of California.
26. **Attorneys’ Fees.** If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys’ fees and costs of suit.

27. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

28. **Headings.** Article and Section Headings, paragraph captions or marginal headings contained in this Agreement are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

29. **Public Acknowledgement.** The AGENCY agrees that all public notices, news releases, information signs and other forms of communication shall indicate that the Project is being cooperatively funded by the AGENCY and WRCOG TUMF Program Funds.

30. **No Joint Venture.** This Agreement is for funding purposes only and nothing herein shall be construed to make WRCOG a party to the construction of the Project or to make it a partner or joint venture with the AGENCY for such purpose.

31. **Compliance With the Law.** The AGENCY shall comply with all applicable laws, rules and regulations governing the implementation of the Qualifying Project, including, where applicable, the rules and regulations pertaining to the participation of businesses owned or controlled by minorities and women promulgated by the Federal Highway Administration and the Federal Department of Transportation.

32. **Notices.** All notices hereunder and communications regarding interpretation of the terms of this Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to AGENCY:  
City of Perris  
101 North D Street  
Perris, CA 92570  
Attn: Habib Motlagh, City Engineer  
Telephone: (951) 943-6504  
Facsimile: (951) 943-8416

If to WRCOG:  
Western Riverside Council of Governments  
Citrus Tower  
3390 University Ave. Suite 450  
Riverside, California 92501-3609  
Attention: Christopher Gray, Director of Transportation  
Telephone: (951) 405-6710  
Facsimile: (951) 787-7991
Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

33. **Integration; Amendment.** This Agreement contains the entire agreement between the PARTIES. Any agreement or representation respecting matters addressed herein that are not expressly set forth in this Agreement is null and void. This Agreement may be amended only by mutual written agreement of the PARTIES.

34. **Severability.** If any term, provision, condition or covenant of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

35. **Conflicting Provisions.** In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties’ understanding concerning the Agreement.

36. **Independent Contractors.** Any person or entities retained by the AGENCY or any contractor shall be retained on an independent contractor basis and shall not be employees of WRCOG. Any personnel performing services on the Project shall at all times be under the exclusive direction and control of the AGENCY or contractor, whichever is applicable. The AGENCY or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Project and as required by law. The AGENCY or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance and workers’ compensation insurance.

37. **Effective Date.** This Agreement shall not be effective until executed by both Parties. The failure of one party to execute this Agreement within forty-five (45) days of the other party executing this Agreement shall render any execution of this Agreement ineffective.

38. **No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives to be effective on the day and year first above-written.

WESTERN RIVERSIDE COUNCIL
OF GOVERNMENTS

By: Rick Bishop
   Executive Director

Date: 10-4-18

CITY OF PERRIS

By: Richard Belmudez
   City Manager

Date: 10-6-18

Approved to Form:

By: Steven C. DeBaun
   General Counsel

Date: 10-4-18
EXHIBIT "A"

SCOPE OF WORK

SCOPE OF WORK:

This project will widen Nuevo Road between Murrieta Road and Dunlap Drive within the City of Perris to a total of four through lanes, with additional turn pockets at major intersections as warranted by traffic volumes. The project length is 1.0 miles (2.0 lane miles). Within the project reach, the majority of the roadway has two existing lanes.

Along with lane widening, curb & gutter and sidewalks will be installed throughout the project limits, and where necessary traffic signal modifications will be completed. The project will also widen the existing bridge that crosses over Perris Valley Channel. The project is located entirely within Perris City Limits, and the City will be the lead for all project phases.

*This Reimbursement Agreement is for the Construction Phase Only*
EXHIBIT "A-1"

ESTIMATE OF COST

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*This Reimbursement Agreement is for the Construction Phase Only*
**EXHIBIT “A-2”**

**PROJECT SCHEDULE**

**TIMETABLE:**

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<td></td>
<td></td>
</tr>
<tr>
<td>RIGHT OF WAY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CONSTRUCTION</td>
<td>December 2020</td>
<td>$4,300,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$4,799,806</td>
<td></td>
</tr>
</tbody>
</table>
Elements of Compensation

EXHIBIT “B”
PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. For professional services, WRCOG recommends that the AGENCY incorporate this Exhibit “B-1” into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the AGENCY and ultimately to WRCOG for reimbursement of AGENCY contractor costs.

2. Each month the AGENCY shall submit an invoice for eligible Project costs incurred during the preceding month. The original invoice shall be submitted to WRCOG’s Executive Director with a copy to WRCOG’s Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit “B-2”.

3. For jurisdictions with large construction projects (with the total construction cost exceeding $10 million) under construction at the same time, may with the approval of WRCOG submit invoices to WRCOG for payment at the same time they are received by the jurisdiction. WRCOG must receive the invoice by the 5th day of the month in order to process the invoice within 30 days. WRCOG will retain 10% of the invoice until all costs have been verified as eligible and will release the balance at regular intervals not more than quarterly and not less than semi-annually. If there is a discrepancy or ineligible costs that exceed 10% of the previous invoice WRCOG will deduct that amount from the next payment.

4. Each invoice shall include documentation from each contractor used by the AGENCY for the Project, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or subcontractor for the month and for the entire Project to date. Samples of acceptable task level documentation and progress reports are attached as Exhibits “B-4” and “B-5”. All documentation from the Agency’s contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit “B-3”.

5. If the AGENCY is seeking reimbursement for direct expenses incurred by AGENCY staff for eligible Project costs, the AGENCY shall provide the same level of information for its labor and any expenses as required of its contractors pursuant to Exhibit “B” and its attachments.

6. Charges for each task and milestone listed in Exhibit “A” shall be listed separately in the invoice.

7. Each invoice shall include a certification signed by the AGENCY Representative or his or her designee which reads as follows:
"I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the contractors or subcontractors listed.

Signed ________________________________

Title ________________________________

Date ________________________________

Invoice No. ________________________________

8. WRCOG will pay the AGENCY within 30 days after receipt by WRCOG of an invoice. If WRCOG disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

9. The final payment under this Agreement will be made only after: (I) the AGENCY has obtained a Release and Certificate of Final Payment from each contractor or subcontractor used on the Project; (ii) the AGENCY has executed a Release and Certificate of Final Payment; and (iii) the AGENCY has provided copies of each such Release to WRCOG.
EXHIBIT “B-1”
[Sample for Professional Services]

For the satisfactory performance and completion of the Services under this Agreement, Agency will pay the Contractor compensation as set forth herein. The total compensation for this service shall not exceed (___ INSERT WRITTEN DOLLAR AMOUNT ___) ($___ INSERT NUMERICAL DOLLAR AMOUNT ___) without written approval of Agency’s City Manager [or applicable position] (“Total Compensation”).

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 DIRECT SALARY COSTS

Direct Salary Costs are the base salaries and wages actually paid to the Contractor’s personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Contractor’s personnel appears in Section 2 below.)

1.1.2 MULTIPLIER

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is ________________, and is the sum of the following components:

1.1.2.1 Direct Salary Costs

1.1.2.2 Payroll Additives

*The Decimal Ratio of Payroll Additives to Direct Salary Costs.* Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 Overhead Costs
The Decimal Ratio of Allowable Overhead Costs to the Contractor Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE.

1.2.1 The fixed fee is $__________________.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

1.3 ADDITIONAL DIRECT COSTS.

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>REIMBURSEMENT RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[<em><strong>insert charges</strong></em>]</td>
</tr>
<tr>
<td>Per Diem</td>
<td>$/day</td>
</tr>
<tr>
<td>Car mileage</td>
<td>$/mile</td>
</tr>
<tr>
<td>Travel</td>
<td>$/trip</td>
</tr>
<tr>
<td>Computer Charges</td>
<td>$/hour</td>
</tr>
<tr>
<td>Photocopies</td>
<td>$/copy</td>
</tr>
<tr>
<td>Blueline</td>
<td>$/sheet</td>
</tr>
<tr>
<td>LD Telephone</td>
<td>$/call</td>
</tr>
<tr>
<td>Fax</td>
<td>$/sheet</td>
</tr>
<tr>
<td>Photographs</td>
<td>$/sheet</td>
</tr>
</tbody>
</table>

Travel by air and travel in excess of 100 miles from the Contractor's office nearest to Agency’s office must have Agency's prior written approval to be reimbursed under this Agreement.
2. **DIRECT SALARY RATES**

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Contractor's adjustments to individual compensation. The Contractor shall notify Agency in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

**POSITION OR CLASSIFICATION**  **RANGE OF HOURLY RATES**

<table>
<thead>
<tr>
<th>Position</th>
<th>Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Sr. Engineer/Planner</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Project Engineer/Planner</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Assoc. Engineer/Planner</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Technician</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Drafter/CADD Operator</td>
<td>$ .00 - $ .00/hour</td>
</tr>
<tr>
<td>Word Processor</td>
<td>$ .00 - $ .00/hour</td>
</tr>
</tbody>
</table>

2.3 The above rates are for the Contractor only. All rates for subcontractors to the Contractor will be in accordance with the Contractor's cost proposal.

3. **INVOICING.**

3.1 Each month the Contractor shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to Agency's Executive Director with two (2) copies to Agency's Project Coordinator.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by Agency's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Contractor under this Agreement shall be listed separately on an attachment to the invoice.
3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to Agency such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 If applicable, each invoice shall indicate payments to DBE subcontractors or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Contractor's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed

______________________________
Title

______________________________
Date

______________________________
Invoice No.

4. **PAYMENT**

4.1 Agency shall pay the Contractor within four to six weeks after receipt by Agency of an original invoice. Should Agency contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

4.2 The final payment for Services under this Agreement will be made only after the Contractor has executed a Release and Certificate of Final Payment.
EXHIBIT B-2
Sample Cover Letter to WRCOG

Date
Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
ATTN: Accounts Payable

Re: Project Title - Invoice # __________

Enclosed for your review and payment approval is the AGENCY’s invoice for professional and
technical services that was rendered by our contractors in connection with the 2002 Measure “A”
Local Streets and Roads Funding per Agreement No. ______ effective (Month/Day/Year). The
required support documentation received from each contractor is included as backup to the
invoice.

Invoice period covered is from __Month/Date/Year__ to __Month/Date/Year__.

Total Authorized Agreement Amount: $0,000,000.00
Total Invoiced to Date: $0,000,000.00
Total Previously Invoiced: $0,000,000.00
Balance Remaining: $0,000,000.00

Amount due this Invoice: $0,000,000.00

I certify that the hours and salary rates charged in this invoice are the actual hours and rates
worked and paid to the contractors listed.

By: ________________________________
    Name
    Title

cc:
EXHIBIT B-3
Sample Letter from Contractor to AGENCY

Month/Date/Year

Western Riverside Council of Governments
3390 University Avenue; Suite 450
Riverside, California 92501
Attention: Deputy Executive Director
Attn: Accounts Payable

Invoice #____________

For [type of services] rendered by [contractor name] in connection with [name of project]
This is per agreement No. XX-XX-XXX effective __Month/Date/Year___.

Invoice period covered is from __Month/Date/Year___ to __Month/Date/Year___.

Total Base Contract Amount: $000,000.00
Authorized Extra Work (if Applicable) $000,000.00
--------------------------------------------
TOTAL AUTHORIZED CONTRACT AMOUNT: $000,000.00

Total Invoice to Date: $000,000.00
Total Previously Billed: $000,000.00
Balance Remaining: $000,000.00

Amount Due this Invoice: $000,000.00

I certify that the hours and salary rates charged in this invoice are the actual hours and rates
worked and paid to the employees listed,

By: ________________________________
    Name
    Title

Exhibit B-3
Page 21 of 23
EXHIBIT B-4
SAMPLE TASK SUMMARY SCHEDULE
(OPTIONAL)
EXHIBIT B-5
Sample Progress Report

REPORTING PERIOD: Month/Date/Year to Month/Date/Year
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

    TASK 01 - 100% PS&E SUBMITTAL
    1. Responded to Segment 1 comments from Department of Transportation
    2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems                     Corrective Action
None                         None

C. Work Planned Next Period

    TASK 01 - 100% PS&E SUBMITTAL
    1. Completing and to submit Traffic Signal and Electrical Design plans
    2. Responding to review comments
AMENDMENT NO. 1 TO TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AGREEMENT

RAMONA EXPRESSWAY WIDENING PROJECT BETWEEN I-215 AND WEBSTER AVENUE

PLANNING PHASE

This Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement ("Amendment No. 1") is entered into this _____ day of __________, 2018, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS ("WRCOG") and CITY OF PERRIS ("AGENCY"). WRCOG and the AGENCY are sometimes referred to individually as "Party" and collectively as "Parties."

RECITALS

A. WRCOG and AGENCY have entered into an agreement titled "Transportation Uniform Mitigation Fee Program Agreement" that is dated September 8th, 2015 ("Agreement"). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the construction of the Ramona Expressway Widening Project Between I-215 and Webster Avenue (hereinafter the "Project").

B. The Parties desire to amend the Agreement by increasing the Planning (PA&ED) funding amount pursuant to Sections 6 and 33 of the Agreement.

C. The Parties desire to amend the Agreement as additional funding for Planning (PA&ED) has become available through the 2018 Central Zone 5-Year Transportation Improvement Program.
AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. The Funding Amount contained in Section 2 of the Agreement is hereby increased by Three Thousand Four Hundred and Eighty Dollars ($3,480) from Ninety Seven Thousand Dollars ($97,000) to an amount not to exceed One Hundred Thousand Four Hundred Eighty Dollars ($100,480).

2. The foregoing increase in the Funding Amount is within the Maximum TUMF Share.

3. AGENCY’s Local Match Contribution. AGENCY funding is not required, as shown in Exhibit “A” attached hereto.


5. The above-stated Recitals are hereby fully incorporated into this Amendment No. 1.

6. Except to the extent specifically modified or amended hereunder, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect between the Parties hereto.
IN WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to be executed by their duly authorized representatives to be effective on the day and year first written above.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By:  
Rick Bishop, Executive Director

Approved to Form:

By:  
Steven C. DeBaun, General Counsel

CITY OF PERRIS

By:  
Richard Belmudez, City Manager

Approved to Form:

By:  
Eric Dunn, City Attorney

Attest:

By:  
Nancy Salazar, City Clerk
Exhibit A

SCOPE OF SERVICES

1. SCOPE OF WORK:

This project will widen Ramona Expressway between I-215 and Webster Avenue within the City of Perris to a total of six through lanes, with additional turn pockets at major intersections as warranted by traffic volumes. The project length is 0.4 miles. Within the project reach, the majority of the roadway has four existing lanes.

Along with lane widening, curb & gutter and sidewalks will be installed throughout the project limits, and where necessary traffic signal modifications will be completed. The project is located entirely within Perris City Limits, and the City will be the lead for all project phases.

*This Reimbursement Agreement is for the Planning Phase Only*
EXHIBIT "A-1"

ESTIMATE OF COST

<table>
<thead>
<tr>
<th>Phase</th>
<th>TUMF</th>
<th>LOCAL</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>PA&amp;ED</td>
<td>$100,480</td>
<td></td>
<td>$100,480</td>
</tr>
<tr>
<td>PS&amp;E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RIGHT OF WAY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CONSTRUCTION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>$100,480</td>
<td></td>
<td>$100,480</td>
</tr>
</tbody>
</table>

*This Reimbursement Agreement is for the Planning Phase Only*
**EXHIBIT “A-2”**

**PROJECT SCHEDULE**

**TIMETABLE:**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Estimated Completion Date</th>
<th>Estimated Cost</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>PA&amp;ED</td>
<td>12/31/2019</td>
<td>$100,480</td>
<td>This agreement only for PA&amp;ED</td>
</tr>
<tr>
<td>PS&amp;E</td>
<td></td>
<td></td>
<td>Future Phase</td>
</tr>
<tr>
<td>RIGHT OF WAY</td>
<td></td>
<td></td>
<td>Future Phase</td>
</tr>
<tr>
<td>CONSTRUCTION</td>
<td></td>
<td></td>
<td>Future Phase</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>PA&amp;ED Only</td>
</tr>
</tbody>
</table>
SUBJECT: 5th Street Waterline

REQUESTED ACTION: Allocate $89,577.36 from General Fund to Reimburse RCTC for the Waterline Replacement

CONTACT: Habib Motlagh, City Engineer

BACKGROUND/DISCUSSION: Pursuant to an agreement between City of Perris and RCTC approved in July 2014, RCTC as part of the Metrolink project installed a new City owned waterline under the Railroad Crossing @ 5th Street. The city at that time had allocated funds to reimburse RCTC however; after payment of initial invoice for the sum of $8,358.19, the project was inadvertently closed out and the balance of funds transferred out.

The enclosed invoice 01024 for the sum of $89,577.36 is due and payable to RCTC for work completed through June 30, 2015.

BUDGET (or FISCAL) IMPACT: Allocate $89,577.36 from General Fund to project W10-1543000-8322.

Reviewed by:

City Attorney
Assistant City Manager
Director of Finance

Attachments: Invoice

Consent: Yes
Public Hearing:
Business Item:
Other:
INVOICE

01024

Page 1 of 1

CITY OF PERRIS
HABIB MOLTLAGH, CITY ENGINEER
101 NORTH O STREET
PERRIS, CA 92570

DATE 06/30/2015
ACCOUNT 0067
AMT DUE 69,577.36

<<< PAST DUE INVOICE >>>

AMOUNT PAID

Riverside County Transportation Commission

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Billing for professional and technical services from April 1, 2015 through June 30, 2015, as related to the 5th Street Water Line Relocation, per Agreement 15-33-003-00. Effective 7/25/14.</td>
<td>69,577.36</td>
</tr>
</tbody>
</table>

<<< 9/13/18 - The abovementioned invoice is outstanding and due now. Please send payment as soon as possible. >>>

TOTAL AMOUNT DUE: 69,577.36

IF YOU HAVE ANY QUESTIONS, PLEASE CALL ACCOUNTS RECEIVABLE AT (951) 787-7141

ACCOUNT NO. 0067 INVOICE NO. 01024 CONTRACT NO. PAYABLE UPON RECEIPT 69,577.36

Please Remit to: RIVERSIDE COUNTY TRANSPORTATION COMMISSION P.O. BOX 12008 RIVERSIDE, CA 92502-2200
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Extension of Time No. 18-05262 for Tentative Tract Map 32497, located on the northwest corner of Orange Avenue and Medical Center Drive. Applicant: CHT Investment, LLC

REQUESTED ACTION: APPROVE a one (1) year Extension of Time (EOT 17-05264) for Tentative Tract Map 32497, until October 31, 2019, for the subdivision of 12 acres into 80 single-family residential lots.

CONTACT: Dr. Grace Williams, Director of Planning and Economic Development

BACKGROUND/DISCUSSION:

On October 31, 2006, the Perris City Council approved Tentative Tract Map 32497 (TTM 05-0457) to subdivide 12 acres into 80 single-family residential lots, subject to the enclosed Conditions of Approval. The project is located on the northwest corner of Orange Avenue and Medical Center Drive. The applicant is now requesting the fourth of five available extensions of time for a period of one year, extending the expiration of time to October 31, 2019.

TENTATIVE TRACT MAP EXTENSION:

Pursuant to Section 18.12.090(a) of the municipal code, the approval or conditional approval of a tentative map shall expire 24 months from the date the map was approved or conditionally approved by the City Council, which would have set an initial expiration date for the map at October 31, 2008. In 2008, 2009, 2011, and 2013 the City recognized and granted map extensions per Senate Bill 1185 and State Assembly Bills 333, 208 and 116, which authorized automatic extensions of approved tentative maps due to the economic downturn. The bills provided an overall extension of seven (7) years to the maps; thereby extending the expiration date for TPM 31407 to October 31, 2015. In 2015, the applicant obtained City Council approval of the first extension of time, extending the expiration date to October 31, 2016. In 2016 and 2017 the applicant obtained City approval of the second and third extensions of time, extending the expiration date to October 31, 2018. A summary of the applicant-filed EOTs and state extensions are summarized below:

➤ **Original Approval Date:** October 31, 2006 – October 31, 2008 – Approved by City Council; start of initial two-year life per subdivision map act.

➤ **Automatic Extension for 1 year SB 1185:** October 31, 2008 – October 31, 2009

➤ **Automatic Extension for 2 years AB 333:** October 31, 2009 – October 31, 2011

➤ **Automatic Extension for 2 years AB 208:** October 31, 2011 – October 31, 2013

➤ **Automatic Extension for 2 years AB 116:** October 31, 2013 – October 31, 2015

➤ **First Extension:** October 31, 2015 – October 31, 2016 – EOT 15-05209 was approved on January 12, 2016 by City Council.

➤ **Second Extension:** October 31, 2016 – October 31, 2017 – EOT 16-05126 was approved on November 29, 2016 by City Council.
➢ **Third Extension:** October 31, 2017 – October 31, 2018- EOT 17-05264 was approved on January 9, 2018 by City Council.

➢ **Proposed Fourth Extension:** October 31, 2018 – October 31, 2019- EOT 18-05262.

If the subject Tentative Tract Map is not recorded or an extension is not submitted prior to the new expiration date, a new Tentative Tract Map application must be filed and approved by the City Council in addition to payment of the appropriate filing fees.

**FISCAL IMPACT:** Cost for staff preparation of this item is covered by the applicant.

Prepared by: Ryan Griffiths, Development Services Assistant
Reviewed by: Kenneth Phung, Planning Manager
Assistant City Manager: Darren Madkin
Assistant City Manager: Clara Miramontes
Director of Finance: Jennifer Erwin

Attachments:
1. Tentative Tract Map 32497
2. Conditions of Approval (Planning and Engineering)

Consent: October 30, 2018
CITY OF PERRIS
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

CITY COUNCIL
CONDITIONS OF APPROVAL
(Revised at Planning Commission September 20, 2006)

Zone Change 05-456
Tentative Tract Map 32497(05-0457)
Development Plan Review 06-0274

October 31, 2006

PROJECT: Zone Change, Tentative Tract Map 32497, and Development Plan Review to change the zoning designation from MFR-14 to MFR-14/Planned Development Overlay and revise the Tentative Tract Map to subdivide 12.15 gross acres into 131 residential lots and 3 lettered lots (Lot A for common open space, streets and private drives, Lots B for the detention basin, and Lot C for common open space and monument wall/landscaping), and construct 131 single family detached units and recreation facility within a gated community maintained by a Home Owners Association. Applicant: Classic Pacific

1. Approval Period. In accordance with the Subdivision Map Act, the recordation of the final map shall occur within two (2) years from the approval date unless an extension is granted. The applicant may apply for a maximum of five (5) one-year extensions, to permit additional time to record the final map. A written request for extension shall be submitted to the Planning Division at least thirty (30) days prior to the expiration of Tentative Map approval.

2. Approved Plans. This approval is granted to change the zoning designation from MFR-14 to MFR-14/Planned Development Overlay, revise Tentative Tract Map 32497 to subdivide 12.15 gross acres into 131 residential lots and 3 lettered lots (Lot A for common open space, streets and private drives, Lots B for the detention basin, and Lot C for common open space and monument wall/landscaping), and Development Plan Review that includes site plan, plotting, building architecture, colors, and materials, except as may be modified by the conditions of approval contained herein. Any deviation shall require the appropriate Planning Division review and approval.

3. Final Map Submittal. A final map application shall be submitted to the Planning Division with payment of appropriate fees for review and approval concurrently with application to the City Engineer. The Final Map shall be substantially as shown on the approved (revised) Tentative Tract Map, and consisting of one sheet, except as may be modified by the conditions of approval contained herein.

4. Failure to Utilize Planned Development Overlay District Permit. Any planned development overlay district permit granted by the City Council as provided in Chapter 19.59 of the City of Perris Municipal Code shall be conditioned upon the privilege granted being utilized within the approval period specified for the applicable subdivision.
map. In the event that the approved project does not include a subdivision of land, said approval shall be valid for a period of 24 months. Failure to implement the approved project within the time limits specified herein will automatically void said project, unless an extension of time has been granted by the City Council.

5. **Cancellation of a Planned Development Overlay District Permit.** Any previously approved Planned Development overlay district may be repealed by the same procedure as the district was originally adopted. Cancellation of a Planned Development overlay district shall be approved by Ordinance and shall similarly nullify all related approvals including, but not limited to, General Plan Amendments, Tentative Tract Maps, Parcel Maps, Conditional Use Permits and/or Development Plan Reviews, which were approved concurrent with the Planned Development overlay district.

6. **City Codes.** The project shall comply with all local requirements of the City of Perris Municipal Code Titles 18 and 19. Any deviation shall require the appropriate Planning Division review and approval.

7. **City Engineer.** The proposed project shall adhere to the requirements of the City Engineer as indicated in the in the Conditions of Approval dated September 15, 2004.

8. **School District.** The proposed project shall adhere to the standard requirements and mitigation fees established by the Val Verde Unified School District.

9. **Building Official/Fire Marshal.** The proposed project shall adhere to all requirements of the Building Official/Fire Marshal. Fire hydrants shall be located on the project site pursuant to the Building Official. Water, gas, sewer, electrical transformers, power vaults and separate fire/water supply lines (if applicable) must be shown on the final set of construction plans pursuant to the requirements of the Building Official. All Conditions of Approval shall be included on building plans.

10. **ADA Compliance.** The project shall conform to all disabled access requirements in accordance with the State of California, Title 24, and Federal Americans with Disabilities Act (ADA). Disabled parking spaces shall be **provided for access to common facilities (Lot A) in conformance** designated in the parking area (3 spaces) adjacent to the gazebo, and shall be designed to comply with ADA requirements.

11. **Southern California Edison.** Prior to issuance of building permits, the applicant shall contact the area service planner (951 928-8323, Art Alvarado) for Southern California Edison (SCE) to complete the required forms prior to commencement of construction.

12. **Residential Use and Development Restrictions.** Any use, activity, and/or development occurring on the site without appropriate city approvals shall constitute a code violation and shall be treated as such. Placement of any construction trailer or sales office shall require separate review and approval by the City. Any deviation shall require the appropriate Planning Division review and approval.
13. **Compatibility with March Air Reserve Base (March ARB).** The project is located in March ARB Airport Influence Zone II and shall, therefore, comply with the following measures:

A. The project shall provide an executed aviation easement to the March Joint Powers Authority as a condition of project approval. Aviation easement forms are available on the March Joint Powers Website, www.marchpa.com. Instructions for the submittal of an executed easement are available on the website.

B. Any model home complex used in conjunction with the sale of homes shall prominently identify the location of the March Air Reserve Base/March Inland Port Airport on an aerial photo clearly visible to prospective buyers within the model home complex sales office. The model home complex shall also display a “Notice of Airport in Vicinity” disclosure in an area clearly visible and in a manner that is clearly legible to prospective buyers.

   **NOTICE OF AIRPORT IN VICINITY**
   
   "This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyance, if any are associated with the property before you complete your purchase and determine whether they are acceptable to you.”

C. Buyers shall also be provided the “Notice of Airport in Vicinity” disclosure at the time of closing for the purchase of a home or residential lot.

D. **Upgraded Sound Insulation.** The applicant shall offer an optional sound insulation package (e.g., upgraded doors, windows, insulation, baffles, etc.) for homebuyers who have considered potential noise impacts from March ARB and future traffic, and wish to purchase additional sound attenuation materials. The upgraded sound insulation package is voluntary and any costs shall be borne by the purchaser. Each optional measure shall be in addition to any sound mitigation measures otherwise required to meet City of Perris standards for residential land use.

E. **Prohibited Uses:**

1. Any use which would direct a steady light or flashing light of red, white, green or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following take off or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

2. Any use which would cause sunlight to be reflected towards an aircraft
engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

3. Any use which would generate excessive smoke or water vapor, attract large concentrations of birds, or otherwise affect safe air navigation in the area.

4. Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

5. Any obstruction of the Federal Aviation Regulations, Part 77 Conical Surface.

14. Disclosure Statements – Dam Inundation Area. The developer shall record a disclosure on each unit and provide a disclosure to the purchaser of each unit indicating that the project is within a dam inundation area and is subject to flooding in the event of a dam failure. The developer shall provide an acknowledgement of the disclosure by each purchaser to the City, and disclosure shall be included on the Final Map prior to recordation.

15. Required Approvals. Prior to recordation of the Final Map, the developer shall obtain the following clearances or approvals:

   a. Verification from the Planning Division that all pertinent conditions of approval have been met, as mandated by the Perris Municipal Code;

   b. Planning Commission approval of all proposed street names; and,

   c. Any other required approval from an outside agency.

16. Plans and CC&Rs. Prior to recordation of the Final Map, the developer shall submit and obtain approvals on the following items:

   a. Public improvement plans to the City Engineer. These plans shall include but not be limited to street, drainage, utility improvements, and dedications in accordance with Municipal Code Title 18.

   b. Any Covenants, Conditions, and Restrictions (CC&Rs) to the Planning Division and the City Attorney's office. Approved CC&Rs shall be recorded with the final map.

   c. Grading plans to the City Engineer, demonstrating compliance with National Pollution Discharge Elimination System requirements. The plans shall include a Storm Water Pollution Prevention Plan detailing water quality management controls and identifying Best Management Practices (BMPs) to control pollutant runoff. The applicant shall identify measures specified in Supplement A of the Riverside County Drainage Area Management Plans New Development Guidelines or other equally effective standard for implementing project BMPs, assignment of long-term maintenance responsibilities (specifying the developer, parcel owner, lessee, etc.) and shall reference the location(s) of structural BMPs.
17. **Home Owners Association (HOA).** Prior to final map recordation, the applicant shall incorporate the following standard provisions in the CC&Rs:
   a. Home Owners Association shall be responsible for the maintenance of recreation facilities, drainage easements, drainage facilities, all onsite landscaping, streets, and utility systems;
   b. Any modifications or additions of any building structures onsite shall require appropriate City review and approval;
   c. All marketing and sales literature, leasing information for this development shall clearly state that this project is complete as built and that no further expansions to building structures are permitted without appropriate City approval.
   d. The Home Owners Association shall be responsible for replacing any special pavers or textured/colored concrete that is removed to repair, replace or maintain any underground utilities located within private streets, driveways, or easement areas.

18. **Water Resources Control Board.** Prior to issuance of Building Permits, the applicant shall submit a copy of the State Water Resources Control Board permit letter with the WDID number.

19. **Graffiti.** Graffiti located on site shall be removed within 72 hours. The site shall be maintained in a graffiti-free state at all times.

20. **Utilities.** All utility facilities attached to buildings, including meters and utility boxes, shall be painted to match the wall of the building to which they are affixed. These facilities shall also be screened from the public right-of-way by landscaping.

21. **Mechanical Equipment.** All mechanical equipment, including air conditioning units, pool equipment, etc., shall be screened from the public right-of-way by a view obscuring fence, wall, or landscaping to the satisfaction of the Planning Division.

22. **Window Treatments.** All units abutting a public street, tract boundary, or a downhill slope having an elevation change in excess of 20 feet shall provide for window treatment 360 degree around the dwelling.

23. **Spark Arresters.** Spark arresters shall be provided for each unit and shall be screened by sheet metal enclosures, or other material acceptable to the City Building Official, and painted to match the main stucco building color.

24. **Energy Conservation.** To improve local air quality, the applicant is encouraged to incorporate any or all of the following energy-conservation features into the project:
   - Low NOX water heaters per specifications in the Air Quality Attainment Plan;
   - Heat transfer modules in furnaces;
   - Light colored water-based paint and roofing materials;
   - Passive solar cooling/heating; and,
Energy efficient appliances and lighting.

25. **Tract Identification.** Decorative project theme walls shall be installed at project entries and at Medical Center Drive and Orange Avenue intersection (Lot C), as shown on the site plan. Theme walls shall not be installed within the public right-of-way, and shall be set back a minimum of 5 feet from the property line. The design of entry statements shall be subject to the review and approval of the Planning Division.

26. **Unit Identification.** Each unit in the tract shall include a lighted address fixture. This fixture shall allow for replacement of light bulbs, and shall be reviewed and approved by the Planning Division.

27. **Phasing.** Any Phasing Plan shall be reviewed and approved by the Community Development Department and the City Engineer. Each Phase of the project shall provide adequate drainage and at least two points of access to all lots. A phasing plan shall be submitted with the Administrative Development Plan Review application.

28. **Assessment and Community Facilities Districts.** The project shall be annexed into any assessment, community facilities, or similar district that provides funding for maintenance, services, or public improvements that benefit the project. The costs and benefits shall be described in the applicable district and annexation documents. The Developer shall complete all actions required to complete such annexation prior to the issuance of a certificate of occupancy. This condition shall apply only to districts existing at the time the proposed project is approved. Such districts may include but are not limited to the following:

   a. Landscape Maintenance District No. 1;
   b. Flood Control Maintenance District No. 1 (may include Streets);
   c. Maintenance District No. 84-1 (Street Lights and Traffic Signals);
   d. North Perris Public Safety Community Facilities District (Police and Fire);
   e. Ramona Mobility Group District (Transportation Improvements); and
   f. Road and Bridge Benefit District (Transportation Improvements).

29. **Landscaping.** Three (3) copies of Construction Landscaping and Irrigation Plans shall be submitted to the Planning Division for approval and shall be accompanied by the appropriate filing fee. The landscape and irrigation plan shall be prepared by a registered landscape architect. The location, number, genus, species, and container size of the plants shall be shown. Hydro-seed is not permitted. Protection shall be provided for existing landscaped areas, including trees, and be shown on the plans. Irrigation plans shall show connections to existing irrigation system for new landscape areas. Landscape and irrigation plans shall be consistent with Section 19.70 of the Perris Municipal Code. The landscaping and irrigation plans shall include:

   a. Streetscape landscaping for Orange Avenue, Medical Center Drive, private drives and streets
   b. Typical front yard landscaping for production units with street tree treatments.
   c. Front and rear yard landscaping for model home units.
d. Full landscaping for detention basin (Lot B).
e. Enhanced landscape materials for project entries and theme wall (Lot C)
f. Ornamental landscaping and decorative surface pavement for project entries, pedestrian linkages, and paseos
g. Decorative landscape and trellis entry treatment for paseos.

30. **Landscape Inspections.** The project applicant shall be aware and inform the on-site project or construction manager and the landscape contractor of their responsibility to call for landscape inspections. A minimum of three (3) landscape inspections are required in the following order, and the landscape inspection card shall be signed by the City’s landscape inspector to signify approval at the following stages of landscape installation:

a. At installation of irrigation equipment, when the trenches are still open;
b. After soil preparation, when plant materials are positioned and ready to plant; and,
c. At final inspection, when all plant materials are installed and the irrigation system is fully operational.

31. **Walls and Fences.** A wall and fencing plan shall be submitted for review and approval to the Planning Division. The plan shall include a site plan, elevations, and construction details for all proposed fencing and walls. The wall and fencing plan shall be included with the landscape plan check application submittal. Wall and fencing required on site consists of:

a. Six-foot high, decorative block wall (split face or slump stone) shall be installed along the perimeter of the project site, with the exception of view fencing along Orange Avenue (northern property line), as shown on the conceptual fencing plan. Stone veneer pilasters with rolled stone cap shall be installed at all block ends and meeting points.
b. Decorative theme walls shall be installed at project entries designated on Orange Avenue and Medical Center Drive and Lot C. Theme walls shall be installed 5 feet from property line and not within the public right-of-way.
c. Six-foot high, white, U.V. protected vinyl fencing shall be installed on all interior side property lines.
d. Walls and fencing atop retaining walls that extend along differences in grade behind the right of way shall require an additional landscape setback area equal to 1 foot in width for every 1 foot in height in excess of a 6 foot wall height as measured from the natural grade. The additional landscape setback shall be measured from the property line, and be provided in addition to the right of way landscaping area. This additional landscape area may or may not incorporate a split wall design, and shall extend the full length of the street frontage.

32. **Fees.** The developer shall pay the following fees according to the timeline noted herein:

a. Prior to the issuance of building permits, the applicant shall pay Stephen's Kangaroo Rat Mitigation Fees of $500.00 per acre;
b. Prior to the issuance of building permits, the applicant shall pay City
Development Impact and TUMF Fees in effect at the time of development;

c. Prior to the issuance of building permits, the applicant shall pay Multi-Species Habitat Conservation Plan fees in effect at that time;

d. Prior to issuance of building permits, the applicant will pay the statutory school fees in effect at issuance of building permits to all appropriate school districts;

e. The applicant shall pay any outstanding development processing fees.

33. **Construction Practices.** To reduce potential noise and air quality nuisances, the following items shall be listed as "General Notes" on the construction drawings:

a. Construction activity and equipment maintenance is limited to the hours between 7:00 a.m. and 7:00 p.m., on weekdays. Construction may not occur on weekends or State holidays, without prior consent of the Building Official. Non-noise generating activities (e.g., interior painting) are not subject to these restrictions.

b. Stationary construction equipment that generates noise in excess of 65 dBA at the project boundaries must be shielded and located at least 100 feet from occupied residences. The equipment area with appropriate acoustic shielding shall be designated on building and grading plans. Equipment and shielding shall remain in the designated location throughout construction activities.

c. Construction routes are limited to City of Perris designated truck routes.

d. Water trucks or sprinkler systems shall be used during clearing, grading, earth moving, excavation, transportation of cut or fill materials and construction phases to prevent dust from leaving the site and to create a crust after each day's activities cease. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.

e. A person or persons shall be designated to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. The name and telephone number of such persons shall be provided to the City.

f. Project applicants shall provide construction site electrical hook ups for electric hand tools such as saws, drills, and compressors, to eliminate the need for diesel powered electric generators or provide evidence that electrical hook ups at construction sites are not practical or prohibitively expensive.

34. **Indemnification/Hold Harmless.** The developer/applicant shall indemnify, protect, defend, and hold harmless, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees and agents, to attack, set aside, void, annul, or seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal
board or legislative body including actions approved by the voters of the City. City shall promptly notify the developer/applicant of any claim, action, or proceeding for which indemnification is sought and shall further cooperate fully in the defense of the action.

35. **City-Approved Waste Hauling.** The developer shall use only the City-approved waste hauler for all construction and other waste disposal.

36. **Property Liens.** The applicant shall pay all liens owed to the city prior to the issuance of building permits.

37. **Street Improvement Plan.** Two copies of street improvement plans shall be concurrently submitted to the Planning Division for reference purposes.

38. **Right-of-Way Improvements.** The applicant shall have all right-of-way improvements and associated landscaping, street lighting and irrigation installed and in good working order. All right-of-way improvements shall be installed prior to the issuance of building permits.

39. **Mail Box Security.** The applicant shall install multi-unit mail boxes with high security type features designed to resist mail theft and prevent break-in damage. The multi-unit mail boxes shall be approved by the United States Postal Office and supporting documentation of the high security type mail boxes used for the proposed development shall be submitted to the Planning Division prior to final occupancy of Phase 1.

40. **Preliminary Water Quality Management Plan (WQMP).** Prior to advertising and scheduling of Zone Change 05-0456, Tentative Tract Map 32497 (05-0457), and Development Plan Review 06-0274 for City Council Approval, the developer shall first submit for review and approval, to the Community Development Department, a preliminary Water Quality Management Plan (WQMP) for City approval. The preliminary WQMP shall include site design, source control, and treatment control best management practices, and shall be prepared by registered civil engineer. *(Revised by Staff)*

41. **Final Water Quality Management Plan (WQMP).** Prior to the issuance of grading permits the owner shall submit for review and approval, along with the appropriate filing fee, a Final Water Quality Management Plan to the Department of Public Works Engineering Administration Division which substantially complies with the site design, source control and treatment control Best Management Plans proposed in the approved Preliminary Water Quality Management Plan.
CONDITIONS OF APPROVAL

P8-731
September 15, 2004, Revised September 20, 2006,
Revised October 5, 2006
TTM 32497 – Private Subdivision

With respect to the Conditions of Approval for the above referenced project, the City of Perris requires that the land divider provide the following street improvements and/or road dedications in accordance with the City of Perris Municipal Code Title 18. It is understood that the Site Plan correctly shows all existing easements, traveled ways and drainage courses with appropriate Q's and that their omission may require the map to be resubmitted for further consideration. These Ordinances and the following conditions are essential parts and requirement occurring in ONE is as binding as though occurring in all. They are intended to be complimentary and to describe the conditions for a complete design of the improvements. All questions regarding the true meaning of the conditions shall be referred to the City Engineers’ office.

1. Drainage and flood control facilities and improvements shall be provided in accordance with Riverside County Flood Control and Water Conservation District and the City of Perris requirements and standards. The following drainage related conditions are the requirements of this project:

   a. Onsite drainage facilities located outside of road right-of-way (if required) shall be constructed within dedicated drainage easements.

   b. Drainage facilities outletting sump conditions shall be designed to convey the tributary 100-year storm flows. Additional emergency escape shall also be provided.
c. The property's street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area. No ponding or concentration of water to upstream and downstream properties shall be permitted.

d. Drainage easements shall be obtained from the affected property owners for the release of concentrated or diverted storm flows, if any, onto the adjacent property. A copy of the drainage easements shall be submitted to the City for review prior to its recordation.

e. All drainage facilities with exception of nuisance drainage improvements as indicated below shall be designed to convey the 100-year storm runoff. Minimum 18" storm drain and catch basins to eliminate nuisance runoff from cross gutters shall be installed and connected to proposed storm drain facilities in addition to those shown on tentative map at the following locations:

- Catch basin and pipe at the intersection of:

  1. "A" "B" Street and Orange Avenue.
  2. "B" "A" Street and Medical Center Drive.
  3. "E" Street and "B" Street at upstream end of proposed cross gutters. *All intersections of "B" with interior streets.*
  4. "A" Street and "F" Street at upstream end of proposed cross gutters.
  5. Orange Avenue and Medical Center Drive.

f. A detailed hydrology report and hydraulic calculation shall be submitted to the City for review and approval. The report shall address the offsite flow, accumulative onsite runoff and the impact to adjacent downstream properties. *This shall include upgrading of existing downstream facilities to accommodate this project. Coordination with proposed projects located westerly of Perris Blvd. will be required.*

g. All grading and drainage improvements shall comply with NPDES and Best Management Practices. Erosion control plans shall be prepared and submitted to Water Quality Board and the City as part of the grading plans.

h. Storm drain plan shall be submitted to the Riverside County Flood Control for review and approval prior to connection to
the existing storm drain facility along Medical Center Drive and Orange Avenue.

i. All onsite storm drain facilities are private.

2. Sufficient right-of-way along Orange Avenue shall be dedicated to provide for a 50' 47', half-width dedicated right-of-way. Orange Avenue from west tract boundary up to east tract boundary shall be improved to provide for new 36' wide paving, curb, gutter and sidewalk located 38' on the south side of centerline.

3. Sufficient right-of-way along Medical Center Drive shall be dedicated to provide for 66' dedicated right-of-way from the intersection of Orange Avenue to the intersection of Flame Avenue. Medical Center Drive within this reach along west side shall be improved with 40' wide 20' new paving and curb and gutter located 22' on either side of from centerline. Medical Center Drive from the intersection of Flame Avenue up to the southerly tract boundary along west side shall have sufficient right-of-way to provide for 33', half width dedicated right-of-way. Medical Center Drive from the intersection of Flame Avenue to the existing development on the south shall be improved to provide minimum 20' new paving, curb, gutter and sidewalk located at 22' on the west side of centerline and 0.15' grind and overlay on the east side of the centerline within the same reach. Existing pavement along Medical Center from south tract boundary to Orange Avenue along east side shall be grind (0.15') and overlay.

4. All interior streets are private and shall be improved with concrete curb, gutter, and paving located minimum of 11' from either side of centerline located within the proposed right-of-way as shown on the map.

5. Street lights shall be installed along all interior streets, Orange Avenue, and Medical Center Drive as approved by the City Engineer per Riverside County and Southern California Edison standards.

6. 6' 4' wide concrete sidewalk shall be installed throughout this project along interior and 6' sidewalk along Orange and Medical Center Drive.

7. The proposed development is in the service area of Eastern Municipal Water District for sewer and water. The applicant shall provide water and sewer facilities to this development and
comply with City, EMWD, Fire Department, and Health Department's requirements.

8. Prior to issuance of any permit, the developer shall sign the consent and waiver forms to join the landscaping (offsite), flood control (offsite and non master planned facilities) and lighting districts. The developer shall maintain the **onsite storm drain and offsite** landscaping for a period of one year after acceptance of these improvements and pay the 18-month advanced energy charges for street lights.

All onsite storm drain facilities including catch basins, and pipes shall be maintained by residents of this sub-division.

9. Existing power poles fronting this site (if any) shall be undergrounded. **Existing power poles within the project site or along the project boundary (under 65kv), if any, shall be removed and cables undergrounded. All other utility poles, if any, shall be removed and utilities undergrounded.**

10. On and off-site street, drainage, water, sewer, striping, signing, street lighting, grading, and erosion control plans along with hydrology and hydraulic reports shall be submitted to City Engineer's office for review and approval.

11. Access shall be restricted along Orange Avenue and Medical Center Drive as shown on the tentative map and so noted on the final map.

12. Additional street improvements shall be provided along existing paved area if disturbed due to construction of utilities as directed by the City Engineer.

13. Prior to issuance of any permit or recordation of the map, a warrant study shall be prepared to determine the need and timing for signal at the intersection of Orange Avenue and Medical Center Drive. If the signal is warranted, the City shall reimburse the developer up to $100,000 for the cost of the signal utilizing the projects street portion of the Gap Fee pursuant to DIF Ordinance.

14. Prior to approval of improvements, an encroachment permit from Riverside County Flood Control and other governing agencies (if necessary) shall be obtained for all work within their right-of-way.
15. This development shall be required to purchase and incorporate the net a part parcel at intersection of Orange Avenue and Medical Center Drive and use this and lot 81 as entry monuments as driveways close to Orange Avenue will create potential safety hazard.

16. Installation of raised median on Orange to prohibit left turn movements to and from "A" "B" Street will be required as determined by City. **If the entrance from "B" to Orange Avenue is for emergency vehicles only and is protected by a private gate, no median is required.**

17. The City Council is concerned about the speeding along Medical Center Drive. Traffic calming devices and improvements such as raised median and other improvements shall be implemented along this road as determined by the City Engineer.

_Habib Motlagh_

Habib Motlagh
City Engineer
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Consent to the Assignment & Assumption of two of the three South Perris Development Agreements from the GM Gabrych Family Limited Partnership to IDR PLC, LLC (Phase II) and South Perris Gateway, LLC (Phase III) for projects located at the northeast corner of Mapes Road and “A” Street and the northeast corner of Ellis Avenue and Redlands Avenue

REQUESTED ACTION: Approval of Assignment and Assumption Agreements for two of the Project’s three Phases.

CONTACT: Eric Dunn, City Attorney

BACKGROUND/DISCUSSION:

On August 31, 2010, the City Council adopted Ordinances 1269, 1270 and 1271 approving three Development Agreements for entitlements granted to three affiliates of FirstCal Industrial, LLC for the development of three industrial logistic distribution campuses on three different sites encompassing 458 acres at locations described below. Each property was defined as a “Phase” and are shown on the attached map. On February 14, 2017, the City Council approved the assignment of all three Phases to the GM Gabrych Family Limited Partnership (“Gabrych”).

The Project’s three Phases are:

a. **Phase I:** Ordinance 1269 Instrument 20174-0092054 Riverside County Official Records
   Owner: GM Gabrych Family Limited Partnership
   Location: 38 acres located at the southwest corner of Mountain Avenue and Goetz Road

b. **Phase II:** Ordinance 1270 Instrument 2014-0092059 Riverside County Official Records
   Owner: GM Gabrych Family Limited Partnership
   Location: 205 acres located at the northeast corner of Mapes Road and “A” Street

c. **Phase III:** Ordinance 1271 Instrument 2014-0092090 Riverside County Official Records
   Owner: GM Gabrych Family Limited Partnership
   Location: 217 acres located at the northeast corner of Ellis Avenue and Redlands Avenue

The Effective Date for all three Development Agreements is as of September 30, 2011, and each has a Term of fifteen (15) years, through September 30, 2026. The Development Agreements
allow for the owner(s) to assign their rights and obligations to another party, provided the City consents to and approves the respective Assignment & Assumption Agreement for each Phase. Pursuant to the terms of the Development Agreements, the City must approve the Assignment & Assumption Agreements absent good cause.

The current owner, Gabrych, desires to assign the Development Agreements for Phase II and Phase III to IDR PLC, LLC ("IDR"). IDR subsequently desires to assign the Development Agreement for Phase III to South Perris Gateway, LLC ("Gateway"). IDR would remain as the owner for Phase II and Gabrych would remain as the owner for Phase I.

The Assignee for Phase II is IDR. IDR is a California limited liability company composed of high net worth individuals. The Lansing Companies ("Lansing") shall serve as IDR’s project manager/development partner. Lansing has processed projects in and around the City of Perris and County of Riverside for over thirty years.

- Processed the specific plan (with Strata Equities as our partner) on the Riverwoods Specific Plan in South Perris. Touted as a great plan by the then City Council.
- Sold 500 acres (in 1984 to the current owners) which is now the Parkwest and East West Specific Plan.
- Processed the Tentative Tract Map on 77 lots on Mountain Avenue next to Pinacate Middle School.
- Own 108 lots Tentative Tract Map ready to record at southwest corner of Ellis and "A" street.
- Currently processing in the City a 165 unit Senior apartment project at the northwest corner of Ellis and "A" street.
- Assisted in multiple engineering efforts regarding the channelization of the San Jacinto River.
- Worked with EMWD on many projects.
- Own and have processed Specific Plan to the east of the City 240 acres Nuevo Road.
- Processing in the county 267 lots next to former ski land lake, project called Nuevo Meadows.
- Previously owned the 205 acres south on Goetz Road, subject of this project.
- Also owned in the 1980’s part of the Ellis property, subject of this project.
- Worked with Lakeview Nuevo on their community plans over the years (mostly back in the 1990’s).
- Processed in the County just to the South the Menifee North Specific Plan and the Winchester Hills Specific Plan.
- Worked on future alignment of Hwy 74 by-pass from Perris to Elsinore.
- In the 1990’s owned the Regency Apartments 72 units off Perris Boulevard.

The Lansing Companies website contains further information at: www.lansingcompanies.com.

The final Assignee for Phase III is Gateway. Gateway is a Delaware limited liability company and an affiliate of Alere Property Group, LLC. Alere Property Group LLC is a fully integrated real estate firm specializing in the investment and development of industrial assets in the Western United States, particularly in California. Since its founding in 2003, the company
has developed or acquired in excess of 25 million square feet of industrial product with a current market value over $2.7 billion. Alere has completed the following industrial distribution projects in Southern California:

- Citrus Commerce Center (Fontana, CA).
- Slover Avenue Commerce Park (Fontana, CA).
- North Orange Show Logistics Center (San Bernardino, CA).
- Ontario Gateway, (Ontario, CA).
- Sultana Distribution Center (Fontana, CA).
- Moreno Valley Commerce Park I and II (Moreno Valley, CA).
- Industry Avenue (Fontana, CA).
- Etiwanda Commerce Center (Ontario, CA).
- Marlay Pacific Distribution Center (Fontana, CA).
- Holly Street Industrial (Colton, CA).
- Alere currently has two industrial distribution projects under development, Modular Commerce Center (Moreno Valley, CA) and 200 Alondra Boulevard (Carson, CA).

Staff has reviewed Gabrych’s request for consent by the City for the Assignment & Assumption Agreements for two of the Project’s Phases with Assignee IDR (Phase II) and Gateway (Phase III), and has found no good cause to deny such consent, and therefore recommends approval. The agreements are attached.

BUDGET (or FISCAL) IMPACT:

None to the City.

Reviewed by:

Assistant City Manager Darren Madkin  
Director of Finance Jennifer Erwin  
City Attorney ___X___

Attachments:

1. Site Map
2. Assignment and Assumption Agreement (Phase II) by and between GM Gabrych Family Limited Partnership (Assignor) and IDR PLC, LLC (Assignee)
3. Assignment and Assumption Agreement (Phase III) by and between GM Gabrych Family Limited Partnership (Assignor) and IDR PLC, LLC (Assignee)
4. Assignment and Assumption Agreement (Phase III) by and between IDR PLC, LLC (Assignor) and South Perris Gateway, LLC (Assignee)

Consent: X
Public Hearing: 
Business Item: 
Other:
ASSIGNMENT AND ASSUMPTION AGREEMENT

PHASE II

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is made and entered into as of ____________, 2018 ("Effective Date"), by and between GM GABRYCH FAMILY LIMITED PARTNERSHIP, a California limited partnership (the "Developer" or "Assignor") and IDR PLC, LLC, a California limited liability company ("Assignee"), with reference to the following Recitals.

Recitals

A. Assignor owns the approximately two hundred five (205) acre parcel of real property ("Site") located at the NE corner of Mapes Road and "A" Street (commonly known as APN 330-125-002-5 (Lots 3 and 8), 330-120-003-6 (Lots 2 and 9), 330-120-008-1 (Portion of Lots 1 and 10), 330-120-009-2 (Portion of Lot 10), 330-120-010-2 (Portion of Lots 1 and 10) and 330-120-011-3 (Portion of Lot 10)), which is within the City of Perris, County of Riverside, State of California. The Site is legally described in Exhibit "A" attached hereto.

B. Assignor, as "Developer," and the City of Perris, a California municipal corporation ("City"), have entered into that certain Development Agreement dated September 30, 2011 (the "Development Agreement"). The Development Agreement is recorded as instrument 2014-0092059 in Riverside County Official Records.

C. Capitalized terms not defined herein shall have the same meaning as set forth in the Development Agreement.

D. Concurrently with the Effective Date of the Assignment, Assignor shall have conveyed to Assignee the Site.

E. In accordance with Section 2.3 of the Development Agreement, Assignor now desires to assign all of its obligations and its right, title, and interest in and to the Development Agreement as it relates to a specific piece of property to Assignee, and Assignee desires to accept such assignment on, and subject to, the terms and conditions set forth in this Assignment.
F. The City of Perris desires to consent to same assignment and assumption and to release Developer as provided by its signature below.

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

AGREEMENT:

1. **Assignment.** From and after the Effective Date of the Assignment, Assignor hereby assigns, conveys, transfers and delivers to Assignee all of Assignor’s right, title, interest, and obligation in, to and under the Development Agreement as such rights, title, interest and obligation apply to the Site and/or a portion of the Site, and Assignee hereby accepts such assignment and agrees to assume performance of all terms, covenants, obligations and conditions occurring or arising under the Development Agreement (with respect to the site) from and after the date of this Assignment.

2. **Assumption of Obligations.** By acceptance of this Assignment, Assignee hereby agrees to assume all of Assignor’s right, title, interest and obligation in, to and under the Development Agreement to the extent rights, title, interest and obligation apply to the Site, and Assignee agrees to timely discharge, perform or cause to be performed and to be bound by all of the liabilities, duties and obligations imposed in connection with the Development Agreement as such rights, title, interest and obligation apply to the Site, from and after the date of this Assignment to the same extent as if Assignee had been the original party thereto. Assignor is hereby released from all future liabilities, duties and obligations created by the Development Agreement with respect to the Site.

3. **City Release of Developer.** The City agrees that, by the City’s approval of this Assignment, Assignor is hereby released and discharged from all rights, privileges, obligations and liabilities under the Development Agreement first arising and accruing from and after the Effective Date, and the City and Assignee each hereby acknowledge that, as of the Effective Date, Assignee enjoys all such right and privileges and is responsible for satisfying all such obligations and liabilities of the same as if the Development Agreement had originally been executed between the City and Assignee.

4. **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

5. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of California.

6. **Further Assurances.** The parties covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Assignment.

7. **Authority of Signatories to Bind Principals.** The persons executing this Assignment on behalf of their respective principals represent that (i) they have been authorized to do so and
that they thereby bind the principals to the terms and conditions of this Assignment and (ii) their respective principals are properly and duly organized and existing under the laws of, and permitted to do business in, the State of California.

8. **Interpretation.** The paragraph headings of this Assignment are for reference and convenience only and are not part of this Assignment. They have no effect upon the construction or interpretation of any part hereof. The provisions of this Assignment shall be construed in a reasonable manner to effect the purposes of the parties and of this Assignment.

9. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, this Assignment has been executed by the parties as of the date set forth above.

ASSIGNOR:

GM GABRYCH FAMILY LIMITED PARTNERSHIP, a California limited partnership

By: ____________________________
Name: __________________________
Its: ____________________________

ASSIGNEE:

IDR PLC LLC, a California limited liability company

By: ____________________________
Name: __________________________
Its: ____________________________

CONSENT

The City of Perris, a California municipal corporation, hereby consents to this Assignment for purposes of Section 2.3 of the Development Agreement and hereby releases Developer pursuant to Section 2.4 of the Development Agreement of its obligations and responsibilities under the Development Agreement to the extent such obligations and responsibilities relate to the Site, except as may be provided in Section 3 of this Assignment.

CITY OF PERRIS, a municipal corporation

By: ____________________________
Name: __________________________
Its: ____________________________

ATTEST:

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

STATE OF CALIFORNIA

COUNTY OF ________________

On ________________, 2018, before me, ___________________________________, a Notary Public in and for said State, personally appeared __________________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the persons(s), or the entity upon behalf of which the person(s) acted, executed said instrument.

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

WITNESS my hand and official seal.

Signature ________________________________ (Seal)
EXHIBIT A

LOTS 1, 2, 3, 8, 9 AND 10 OF JOHNSON'S SUBDIVISION, AS SHOWN BY MAP ON FILE IN BOOK 15, PAGE 705 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA, TOGETHER WITH THAT CERTAIN UNNAMED ROAD LYING SOUTH OF LOTS 1, 2 AND 3, AND NORTH OF LOTS 8, 9, AND 10, AS ABANDONED BY THE COUNTY OF RIVERSIDE BY RESOLUTION ABANDONING COUNTY HIGHWAY, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1960, AS INSTRUMENT NO. 64051 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

TOGETHER WITH THAT PORTION OF LAND CONVEYED THROUGH GRANT DEED RECORDED ON JANUARY 06, 2009 OF INSTRUMENT NO. 2009-0004206 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THE EAST 30 FEET OF LOTS 1 AND 10 FOR ROAD PURPOSES.

ASSIGNMENT AND ASSUMPTION AGREEMENT

[PHASE III]

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Assignment”) is made and entered into as of ______________, 2018 (“Effective Date”), by and between GM GABRYCH FAMILY LIMITED PARTNERSHIP, a California limited partnership (the “Developer” or “Assignor”) and IDR PLC, LLC, a California limited liability company (“Assignee”), with reference to the following Recitals.

Recitals

A. Assignor owns the approximately two hundred seventeen (217) acre parcel of real property (“Site”) located at the NE corner of Ellis Avenue and Redlands Avenue (commonly known as APN 310-170-006-8 (Parcel 1), 310-170-007-9 (Parcel 2), 310-170-008-0 (Portion of Parcel 3) and 310-220-050-1 (Portion of Parcel 3)), which is within the City of Perris, County of Riverside, State of California. The Site is legally described in Exhibit “A” attached hereto.

B. Assignor, as “Developer,” and the City of Perris, a California municipal corporation (“City”), have entered into that certain Development Agreement dated September 30, 2011 (the “Development Agreement”). The Development Agreement is recorded as instrument 2014-0092090 in Riverside County Official Records.

C. Capitalized terms not defined herein shall have the same meaning as set forth in the Development Agreement.

D. Concurrently with the Effective Date of the Assignment, Assignor shall have conveyed to Assignee the Site.

E. In accordance with Section 2.3 of the Development Agreement, Assignor now desires to assign all of its obligations and its right, title, and interest in and to the Development Agreement as it relates to a specific piece of property to Assignee, and Assignee desires to accept such assignment on, and subject to, the terms and conditions set forth in this Assignment.

F. The City of Perris desires to consent to same assignment and assumption and to release Developer as provided by its signature below.
NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT:

1. Assignment. From and after the Effective Date of the Assignment, Assignor hereby assigns, conveys, transfers and delivers to Assignee all of Assignor’s right, title, interest, and obligation in, to and under the Development Agreement as such rights, title, interest and obligation apply to the Site and/or a portion of the Site, and Assignee hereby accepts such assignment and agrees to assume performance of all terms, covenants, obligations and conditions occurring or arising under the Development Agreement (with respect to the site) from and after the date of this Assignment.

2. Assumption of Obligations. By acceptance of this Assignment, Assignee hereby agrees to assume all of Assignor’s right, title, interest and obligation in, to and under the Development Agreement to the extent rights, title, interest and obligation apply to the Site, and Assignee agrees to timely discharge, perform or cause to be performed and to be bound by all of the liabilities, duties and obligations imposed in connection with the Development Agreement as such rights, title, interest and obligation apply to the Site, from and after the date of this Assignment to the same extent as if Assignee had been the original party thereto. Assignor is hereby released from all future liabilities, duties and obligations created by the Development Agreement with respect to the Site.

3. City Release of Developer. The City agrees that, by the City’s approval of this Assignment, Assignor is hereby released and discharged from all rights, privileges, obligations and liabilities under the Development Agreement first arising and accruing from and after the Effective Date, and the City and Assignee each hereby acknowledge that, as of the Effective Date, Assignee enjoys all such right and privileges and is responsible for satisfying all such obligations and liabilities of the same as if the Development Agreement had originally been executed between the City and Assignee.

4. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

6. Further Assurances. The parties covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Assignment.

7. Authority of Signatories to Bind Principals. The persons executing this Assignment on behalf of their respective principals represent that (i) they have been authorized to do so and that they thereby bind the principals to the terms and conditions of this Assignment and (ii) their
respective principals are properly and duly organized and existing under the laws of, and permitted
to do business in, the State of California.

8. **Interpretation.** The paragraph headings of this Assignment are for reference and
convenience only and are not part of this Assignment. They have no effect upon the construction
or interpretation of any part hereof. The provisions of this Assignment shall be construed in a
reasonable manner to effect the purposes of the parties and of this Assignment.

9. **Counterparts.** This Assignment may be executed in any number of counterparts,
each of which when so executed and delivered shall be deemed to be an original and all of which
counterparts taken together shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, this Assignment has been executed by the parties as of the date set forth above.

ASSIGNOR:  
GM GABRYCH FAMILY LIMITED PARTNERSHIP, a California limited partnership

By: ____________________________________  
Name: ____________________________________  
Its: _____________________________________

ASSIGNEE:  
IDR PLC LLC, a California limited liability company

By: ____________________________________  
Name: ____________________________________  
Its: _____________________________________

CONSENT
The City of Perris, a California municipal corporation, hereby consents to this Assignment for purposes of Section 2.3 of the Development Agreement and hereby releases Developer pursuant to Section 2.4 of the Development Agreement of its obligations and responsibilities under the Development Agreement to the extent such obligations and responsibilities relate to the Site, except as may be provided in Section 3 of this Assignment.

CITY OF PERRIS, a municipal corporation

By: ____________________________________  
Name: ____________________________________  
Its: _____________________________________

ATTEST:

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

STATE OF CALIFORNIA

COUNTY OF ________________

) s.s.

On _____________, 2018, before me, ____________________________, a Notary Public in and for said State, personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed said instrument.

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

WITNESS my hand and official seal.

Signature ________________________________ (Seal)

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

STATE OF CALIFORNIA

COUNTY OF ________________

) s.s.

On _____________, 2018, before me, ____________________________, a Notary Public in and for said State, personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed said instrument.

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

WITNESS my hand and official seal.

Signature ________________________________ (Seal)
EXHIBIT A

PARCEL 1:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THENCE NORTH 00° 10' 39" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 753.38 FEET TO THE SOUTHWEST CORNER OF PARCEL 4270-2 OF SAID RECORD OF SURVEY;

THENCE NORTH 89° 49' 59" EAST ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A
DISTANCE OF 973.37 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411; OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 740.84 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 4270-2;

THENCE NORTH 51° 49' 22" WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 4270-2, A DISTANCE OF 340.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 365.00 FEET;

THENCE SOUTHWESTERLY ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38° 20' 39", AN ARC DISTANCE OF 244.27 FEET;

THENCE SOUTH 89° 49' 59" WEST TANGENT TO SAID CURVE AND ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 1137.54 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3:
THENCE SOUTH 00° 10' 39" EAST, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1953 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET FOR THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 440.71 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 89° 58' 42" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 373.52 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF PARCEL 4270-1 OF SAID RECORD OF SURVEY;

THENCE SOUTH 51° 49' 22" EAST ALONG SAID PARCEL 4270-1, A DISTANCE OF 2566.04 FEET;

THENCE SOUTH 38° 08' 42" WEST, A DISTANCE OF 339.49 FEET;

THENCE SOUTH 41° 33' 24" WEST, A DISTANCE OF 130.70 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 30.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.51 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE SOUTH 00° 10' 46" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID ELLIS AVENUE (60.00 FEET IN WIDTH);
THENCE NORTH 89° 58' 12" WEST ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 660.90 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 00° 14' 09" WEST ALONG THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 44.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID CENTERLINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 330.47 FEET TO A POINT ON THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE SOUTH 00° 15' 51" EAST ALONG SAID WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON SAID CENTER LINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID CENTERLINE, A DISTANCE OF 330.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33;

THENCE SOUTH 89° 49' 34" WEST ALONG THE SOUTH LINE OF SAID SECTION 32 AND ALONG SAID CENTERLINE OF ELLIS AVENUE, A DISTANCE OF 1938.92 FEET TO THE TRUE POINT OF BEGINNING.


APN: 310-170-006-8 (Affects Parcel 1)
     310-170-007-9 (Affects Parcel 2)
     310-170-008-0 (Affects Portion Parcel 3)
     310-220-050-1 (Affects Portion Parcel 3)
ASSIGNMENT AND ASSUMPTION AGREEMENT

[PHASE III]

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is made and entered into as of ________________, 2018 ("Effective Date"), by and between IDR PLC, LLC, a California limited liability company (the "Developer" or "Assignor") and SOUTH PERRIS GATEWAY, LLC, a Delaware limited liability company ("Assignee"), with reference to the following Recitals.

Recitals

A. Assignor owns the approximately two hundred seventeen (217) acre parcel of real property ("Site") located at the NE corner of Ellis Avenue and Redlands Avenue (commonly known as APN 310-170-006-8 (Parcel 1), 310-170-007-9 (Parcel 2), 310-170-008-0 (Portion of Parcel 3) and 310-220-050-1 (Portion of Parcel 3)), which is within the City of Perris, County of Riverside, State of California. The Site is legally described in Exhibit "A" attached hereto.

B. Assignor, as "Developer," and the City of Perris, a California municipal corporation ("City"), have entered into that certain Development Agreement dated September 30, 2011 (the "Development Agreement"). The Development Agreement is recorded as instrument 2014-0092090 in Riverside County Official Records.

C. Capitalized terms not defined herein shall have the same meaning as set forth in the Development Agreement.

D. Concurrently with the Effective Date of the Assignment, Assignor shall have conveyed to Assignee the Site.

E. In accordance with Section 2.3 of the Development Agreement, Assignor now desires to assign all of its obligations and its right, title, and interest in and to the Development Agreement as it relates to a specific piece of property to Assignee, and Assignee desires to accept such assignment on, and subject to, the terms and conditions set forth in this Assignment.

F. The City of Perris desires to consent to same assignment and assumption and to release Developer as provided by its signature below.
NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT:**

1. **Assignment.** From and after the Effective Date of the Assignment, Assignor hereby assigns, conveys, transfers and delivers to Assignee all of Assignor's right, title, interest, and obligation in, to and under the Development Agreement as such rights, title, interest and obligation apply to the Site and/or a portion of the Site, and Assignee hereby accepts such assignment and agrees to assume performance of all terms, covenants, obligations and conditions occurring or arising under the Development Agreement (with respect to the site) from and after the date of this Assignment.

2. **Assumption of Obligations.** By acceptance of this Assignment, Assignee hereby agrees to assume all of Assignor's right, title, interest and obligation in, to and under the Development Agreement to the extent rights, title, interest and obligation apply to the Site, and Assignee agrees to timely discharge, perform or cause to be performed and to be bound by all of the liabilities, duties and obligations imposed in connection with the Development Agreement as such rights, title, interest and obligation apply to the Site, from and after the date of this Assignment to the same extent as if Assignee had been the original party thereto. Assignor is hereby released from all future liabilities, duties and obligations created by the Development Agreement with respect to the Site.

3. **City Release of Developer.** The City agrees that, by the City's approval of this Assignment, Assignor is hereby released and discharged from all rights, privileges, obligations and liabilities under the Development Agreement first arising and accruing from and after the Effective Date, and the City and Assignee each hereby acknowledge that, as of the Effective Date, Assignee enjoys all such right and privileges and is responsible for satisfying all such obligations and liabilities of the same as if the Development Agreement had originally been executed between the City and Assignee.

4. **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

5. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of California.

6. **Further Assurances.** The parties covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Assignment.

7. **Authority of Signatories to Bind Principals.** The persons executing this Assignment on behalf of their respective principals represent that (i) they have been authorized to do so and that they thereby bind the principals to the terms and conditions of this Assignment and (ii) their
respective principals are properly and duly organized and existing under the laws of, and permitted to do business in, the State of California.

8. **Interpretation.** The paragraph headings of this Assignment are for reference and convenience only and are not part of this Assignment. They have no effect upon the construction or interpretation of any part hereof. The provisions of this Assignment shall be construed in a reasonable manner to effect the purposes of the parties and of this Assignment.

9. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, this Assignment has been executed by the parties as of the date set forth above.

ASSIGNOR:

IDR PLC LLC, a California limited liability company

By: ________________________________
Name: ________________________________
Its: ________________________________

ASSIGNEE:

SOUTH PERRIS GATEWAY, LLC, a Delaware limited liability company

By: ________________________________
Name: ________________________________
Its: ________________________________

CONSENT

The City of Perris, a California municipal corporation, hereby consents to this Assignment for purposes of Section 2.3 of the Development Agreement and hereby releases Developer pursuant to Section 2.4 of the Development Agreement of its obligations and responsibilities under the Development Agreement to the extent such obligations and responsibilities relate to the Site, except as may be provided in Section 3 of this Assignment.

CITY OF PERRIS, a municipal corporation

By: ________________________________
Name: ________________________________
Its: ________________________________

ATTEST:

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

STATE OF CALIFORNIA )
COUNTY OF ____________ ) ss.

On ________________, 2018, before me, ____________________________, a Notary Public in and for said State, personally appeared ________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed said instrument.

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

WITNESS my hand and official seal.

Signature ____________________________ (Seal)

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

STATE OF CALIFORNIA )
COUNTY OF ____________ ) ss.

On ________________, 2018, before me, ____________________________, a Notary Public in and for said State, personally appeared ________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed said instrument.

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

WITNESS my hand and official seal.

Signature ____________________________ (Seal)
EXHIBIT A

PARCEL 1:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

THENCE NORTH 00° 10' 39" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 753.38 FEET TO THE SOUTHWEST CORNER OF PARCEL 4270-2 OF SAID RECORD OF SURVEY;

THENCE NORTH 89° 49' 59" EAST ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A
DISTANCE OF 973.37 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER, SAID CORNER BEING ON THE CENTER LINE OF REDLANDS AVENUE (FORMERLY KITCHING STREET), AS SHOWN BY RECORD OF SURVEY ON FILE IN BOOK 62 OF RECORD OF SURVEYS AT PAGES 61 AND 62 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID CENTERLINE OF REDLANDS AVENUE, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411; OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 740.84 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL 4270-2;

THENCE NORTH 51° 49' 22" WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 4270-2, A DISTANCE OF 340.13 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 365.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, TO THE LEFT, THROUGH A CENTRAL ANGLE OF 38° 20' 39", AN ARC DISTANCE OF 244.27 FEET;

THENCE SOUTH 89° 49' 59" WEST TANGENT TO SAID CURVE AND ALONG THE SOUTH LINE OF SAID PARCEL 4270-2, A DISTANCE OF 1137.54 FEET;

THENCE SOUTH 52° 05' 22" WEST, A DISTANCE OF 1230.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3:
THENCE SOUTH 00° 10' 39" EAST, A DISTANCE OF 823.38 FEET;

THENCE NORTH 89° 49' 21" EAST, A DISTANCE OF 44.00 FEET, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF REDLANDS AVENUE CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED MAY 6, 1963 AS INSTRUMENT NO. 46411, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 10' 39" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1816.45 FEET TO A POINT ON THE CENTERLINE OF ELLIS AVENUE (60.00 FEET IN WIDTH);

THENCE NORTH 89° 49' 34" EAST ALONG SAID CENTER LINE, A DISTANCE OF 669.71 FEET FOR THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 10' 26" WEST, A DISTANCE OF 64.00 FEET;

THENCE NORTH 52° 05' 22" EAST, A DISTANCE OF 2409.79 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MURRIETA ROAD (60.00 FEET IN WIDTH);

THENCE NORTH 89° 42' 28" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID MURRIETA ROAD;

THENCE NORTH 00° 17' 32" WEST ALONG SAID EAST LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 440.71 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 89° 58' 42" EAST ALONG THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 373.52 FEET TO A POINT ON THE SOUTH-WESTERLY LINE OF PARCEL 4270-1 OF SAID RECORD OF SURVEY;

THENCE SOUTH 51° 49' 22" EAST ALONG SAID PARCEL 4270-1, A DISTANCE OF 2566.04 FEET;

THENCE SOUTH 38° 08' 42" WEST, A DISTANCE OF 339.49 FEET;

THENCE SOUTH 41° 33' 24" WEST, A DISTANCE OF 130.70 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 30.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 762.51 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE SOUTH 00° 10' 46" EAST ALONG SAID WEST LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, SAID POINT ALSO BEING ON THE CENTERLINE OF SAID ELLIS AVENUE (60.00 FEET IN WIDTH);
THENCE NORTH 89° 58' 12" WEST ALONG SAID SOUTH LINE AND ALONG SAID CENTERLINE, A DISTANCE OF 660.90 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33;

THENCE NORTH 00° 14' 09" WEST ALONG THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 44.00 FEET, MEASURED AT A RIGHT ANGLE, FROM SAID CENTERLINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 330.47 FEET TO A POINT ON THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE SOUTH 00° 15' 51" EAST ALONG SAID WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 44.00 FEET TO A POINT ON SAID CENTER LINE OF ELLIS AVENUE;

THENCE NORTH 89° 58' 12" WEST ALONG SAID CENTERLINE, A DISTANCE OF 330.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33;

THENCE SOUTH 89° 49' 34" WEST ALONG THE SOUTH LINE OF SAID SECTION 32 AND ALONG SAID CENTERLINE OF ELLIS AVENUE, A DISTANCE OF 1938.92 FEET TO THE TRUE POINT OF BEGINNING.


APN: 310-170-006-8 (Affects Parcel 1)
310-170-007-9 (Affects Parcel 2)
310-170-008-0 (Affects Portion Parcel 3)
310-220-050-1 (Affects Portion Parcel 3)
CITY OF PERRIS
CITY COUNCIL
AGENDA SUBMITTAL

MEETING DATE: October 30, 2018

SUBJECT: Ratifying Resolution for the Purchase, Maintenance and Retro-fit of SCE's LS-1 Streetlights

REQUESTED ACTION: Adopt Ratifying Resolution No. (Next in Order) clarifying the purchase price included in Resolution # 5263, and approving and authorizing the City Manager to execute, subject to the City Attorney approval as to form, 1) Equipment Lease/Purchase Agreement with Banc of America Leasing and Capital, LLC.

CONTACT: Habib Motlagh, City Engineer

BACKGROUND:

On May 8, 2018 the City Council Approved Resolution #5263 and authorized the City Manager to execute, subject to the City Attorney approval as to form, several Agreements relating to the financing and implementation agreements for the purchase and retrofit of Southern California Edison Streetlights with any changes therein or additions thereto which were deemed advisable by the City Manager (see Attachment #1). The loan between the City of Perris and Banc of America Leasing and Capital, LLC (herein BALCAP) closed on October 11, 2018, with a lower than expected interest rate of 5.52%, in the amount of $4,987,537.

During the process of closing the loan with BALCAP, the finance team noted a typographical error concerning the purchase price/lease principal or the acquisition and LED retrofit in Section 2 of the Resolution. Section 2 authorized a finance package in the amount of $10,250.00, which did not match the amount actually authorized by the City Council, $4,987,537.00. The finance team determined that in order to secure the current interest rate and keep the closing processing moving forward, this typographical error could be addressed after closing, through the adoption of a "Ratifying Resolution" clarifying the purchase price in Resolution #5263. The City Attorney’s Office worked with BALCAP to develop Ratifying Resolution # (Next in Order) and to revise the Equipment Lease/Purchase Agreement, to include language providing for the submittal of the ratifying resolution (see Attachments #2 & 3). On October 11, 2018 the City Manager signed the revised Equipment Lease/Purchase Agreement, and the loan closed on time.

RECOMMENDATION

Adopt Ratifying Resolution No. (Next in Order) clarifying the purchase price in Resolution #5263; and

Authorize the City Manager to execute the Equipment Lease/Purchase Agreement with Banc of America Leasing and Capital, LLC, in substantial conformance with the form attached to the staff report

REVIEWED BY:

City Attorney: 10-23-18
Assistant City Manager: 
Director of Finance:

Attachment(s):
1. Resolution #5263
2. Equipment Lease/Purchase Agreement
3. Ratifying Resolution Number (Next in Order)

Consent: x
Public Hearing:
Business Item:
Other:
ATTACHMENT 1
Resolution #5263
RESOLUTION NUMBER 5263

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AUTHORIZING THE EXECUTION AND DELIVERY OF (1) EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC; (2) ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC, AND WILMINGTON TRUST, NATIONAL ASSOCIATION; (3) PAYING AGENT AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC, WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AND WILMINGTON TRUST, NATIONAL ASSOCIATION; (4) IMPLEMENTATION AGREEMENT WITH WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS; AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Perris (the "City") is a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City desires to finance certain improvements (the "Improvements") consisting of the acquisition of certain street lights and the installation of certain energy savings equipment thereto as described in that certain Purchase and Sale Agreement dated September 11, 2017 (the "Purchase Agreement") by and between the City and Southern California Edison, a California corporation; and

WHEREAS, the City desires to provide for financing in the approximate amount of four million nine hundred eight-seven thousand five hundred thirty-seven and 00/100 dollars ($4,987,537.00) for the acquisition and installation of the Improvements; and

WHEREAS, Banc of America Leasing & Capital, LLC ("Banc of America") has proposed a cost-effective lease purchase financing arrangement for the acquisition and installation of the Improvements, as set forth under the Equipment Lease Purchase Agreement (the "Agreement") between Banc of America and the City, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, in connection with the execution and delivery of the Agreement, it will be necessary for the City to enter into an Escrow and Account Control Agreement (the "Escrow Agreement") among the City, Banc of America and Wilmington Trust, National Association, as escrow agent, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, the City has determined that this lease financing arrangement is the most economical means for providing the Improvements to the City; and
WHEREAS, as a condition of the Agreement, the City must properly maintain, repair and replace such streetlights (the “Services”) during the term of the Lease Agreement; and

WHEREAS, the City believes that it can achieve economies of scale for such Services if the City authorizes Western Riverside Council of Governments (“WRCOG”) to administer the Services on behalf of the City and other member agencies of WRCOG; and

WHEREAS, to allow WRCOG to administer the Services, the City must enter into an Implementation Agreement (the “Implementation Agreement”) with WRCOG, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, the City desires to enter into the Paying Agent Agreement (the “Paying Agent Agreement”) with Banc of America and Wilmington Trust, National Association, and WRCOG pursuant to which funds deposited in accordance with the Agreement and Implementation Agreement will be held and disbursed, the form of which has been presented to the City and is on file with the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS does resolve as follows:

SECTION 1. CEQA. Based upon its review of the entire record before the City Council, the City Council in its role as a CEQA responsible agency hereby finds and determines that the proposed Agreement and Escrow Agreement, as part of the Project authorized in the Implementation Agreement between the City and the Western Riverside Council of Governments, is categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines §§ 15301, 15302, 15303 and 15061(b)(3).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The lease financing arrangement will provide Improvements that require the maintenance on existing streetlights and does not involve an expansion of the floor area of the structures. The replacement of the bulbs to high-efficiency bulbs is a minor alteration. It does not change the use of the street lights, and is more beneficial in terms of reduced energy use and improved public safety. The Class 2 exemption specifically exempts from further CEQA review the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The Improvements will have the same purpose as the existing streetlights and the new LED bulbs will not exceed the capacity of the existing bulbs. The Class 3 exemption specifically exempts from further CEQA review the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure. The Improvements include the installation of new LED bulbs in existing small structures and general maintenance in accordance with the Class 3 exemption.
None of the exceptions to the use of the Class 1, 2 or 3 categorical exemptions identified in State CEQA Guidelines section 15300.2 apply. The Improvements include the retrofitting of light poles within the City’s jurisdiction, but none are located in a particularly sensitive environment and therefore there would not be impacts on an environmental resource of hazardous or critical concern. The Improvements will not result in a cumulative impact from successive projects of the same type in the same place, over time, as they entail the upgrade of bulbs on all currently owned SCE fixtures within the City’s jurisdiction. There are no unusual circumstances surrounding the Improvements that result in a reasonable possibility of a significant effect on the environment, as there are no sensitive resources on the existing pole sites and the Improvements do not involve structural modifications. The replacement of bulbs and maintenance of existing structures will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The Improvements will not take place on any hazardous waste sites or cause a substantial adverse change in the significance of a historical resource as the existing poles are not considered historical resources. Thus, the categorical exemptions apply, and no further environmental review is required.

The Improvements to be provided as part of the lease financing arrangement are also exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), which exempts a Project if “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. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The execution of the Agreement and Escrow Agreement regarding the Improvements project involves replacing existing light bulbs in City’s jurisdictions with LED technology bulbs. The Improvements do not involve an expansion of use or the bulbs’ capacity. Accordingly, there is no possibility that obtaining financing for the replacement of bulbs will have a significant effect on the environment.

SECTION 2. Authorization and Approval of Agreement, Escrow Agreement, Implementation Agreement and Paying Agent Agreement. The City Council hereby approves and authorizes the City to enter into (a) the Agreement in a principal amount which shall not exceed ten thousand two hundred fifty and 00/100 dollars ($10,250.00) in the form attached hereto as Exhibit A and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager, (b) the Escrow Agreement in the form attached hereto as Exhibit B and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager (c) the Implementation Agreement in the form attached hereto as Exhibit C and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager and (d) the Paying Agent Agreement in the form attached hereto as Exhibit D and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager. The City Manager is authorized and directed to take all steps and actions which are necessary to accomplish execution of the Agreement, the Escrow Agreement, the Implementation Agreement and Paying Agent Agreement pursuant to the authorization given by and the conditions specified in this resolution. The City Manager, or his designee, is authorized to execute the Agreement, the Escrow Agreement, the Implementation Agreement, the Paying Agent Agreement, and appendices to the Professional Services Agreement and Equipment Purchase Agreement between WRCOG and Siemens Industry, Inc. for and on behalf of the City.
SECTION 3. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the City Manager or of such other person or persons as may have been designated by the City Manager, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Agreement, the Escrow Agreement, the Implementation Agreement and the Paying Agent Agreement.

SECTION 4. Other Actions. The City Manager and his designees are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all agreements, documents and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution, the Agreement, the Escrow Agreement, the Implementation Agreement and the Paying Agent Agreement. Such actions are hereby ratified, confirmed and approved.

SECTION 5. General Liability. Nothing contained in this Resolution, the Agreement, the Escrow Agreement nor any other instrument shall be construed with respect to the City, as Lessee, as incurring a pecuniary liability or charge upon the general credit of the City, as Lessee, or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City, as Lessee, or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Agreement are limited obligations of the City, as Lessee, subject to annual appropriation by its governing body, as provided in the Agreement.

SECTION 6. Appointment of Authorized Lessee Representatives. The City Manager and her or his designees (the "Authorized Representatives") are each hereby designated to act as authorized representatives of the City, as Lessee, for purposes of the Agreement and the Escrow Agreement until such time as the governing body of the City, as Lessee, shall designate any other or different authorized representative for purposes of the Agreement or the Escrow Agreement.

SECTION 7. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 8. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

SECTION 9. Location and Custodian of Records. The documents and materials associated with the action that constitute the record of proceedings on which these findings are based are located at City of Perris, 101 N. D Street, Perris, CA 92570.

SECTION 10. CEQA Notice of Exemption. The City Council hereby directs staff to prepare and file a Notice of Exemption with the Riverside County Clerk within five (5) working days of the approval of the proposed project.
SECTION 11. Effect. This Resolution shall take effect immediately upon its passage.

ADOPTED, SIGNED and APPROVED this 8th day of May, 2018.

Michael M. Vargas, Mayor

ATTEST:

Nancy Salazar, City Clerk

STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS

I, Nancy Salazar, City Clerk of the City of Perris do hereby certify that the foregoing Resolution Number 5263 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 8th day of May 2018, by the following vote:

AYES: BURKE, CORONA, RABB, ROGERS, VARGAS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Nancy Salazar, City Clerk
EXHIBIT A

EQUIPMENT LEASE/PURCHASE AGREEMENT

(ON FILE WITH CITY OF PERRIS CITY CLERK'S OFFICE)
EXHIBIT B

ESCROW AND ACCOUNT CONTROL AGREEMENT

(ON FILE WITH CITY OF PERRIS CITY CLERK'S OFFICE)
EXHIBIT C

IMPLEMENTATION AGREEMENT

(ON FILE WITH CITY OF PERRIS CITY CLERK'S OFFICE)
EXHIBIT D

PAYING AGENT AGREEMENT

(ON FILE WITH CITY OF PERRIS CITY CLERK'S OFFICE)
Attachment 2

Equipment Lease/Purchase Agreement
(Includes Exhibit I Escrow Account Control)
EQUIPMENT LEASE/PURCHASE AGREEMENT
(ESROW ACCOUNT; IMPLEMENTATION AGREEMENT)

This Equipment Lease/Purchase Agreement (the "Agreement") dated as of October 11, 2018 and entered into between Banc of America Leasing & Capital, LLC, a Delaware limited liability company (together with its successors, assigns and transferees, and as more particularly defined herein, "Lessor"), and the City of Perris, a city existing under the laws of the State of California ("Lessee").

WITNESSETH:

WHEREAS, Lessee desires the Lessor to finance the acquisition, installation and retrofitting of certain Equipment (as such term is defined herein) to be leased by Lessee, subject to the terms and conditions hereof; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Acquisition Amount" means $4,987,537.00. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with other funds of the Lessee (if any) that are legally available for that purpose, to acquire and install the Equipment.

"Acquisition Period" means the period ending five (5) business days prior to April 11, 2020.

"Additional Lessee-Owned Streetlights" means all streetlights and related fixtures owned by Lessee and located within the City of Perris, California, described on Exhibit G attached hereto (as may be amended by a True-Up Amendment), and all replacements, repairs, restorations, modifications and improvements thereof or thereto; provided that "Additional Lessee-Owned Streetlights" shall not include Lessee-Owned Streetlights or Retired Streetlights.

"Agreement" means this Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.04.
“Alternate EPA” means any Vendor Agreement relating to the acquisition of equipment or other property to be installed on the Streetlights during the retrofit thereof, by and between the Lessee and the Contractor named therein, as the same may be amended from time to time.

“Closing Date” has the meaning set forth in the Pole Agreement.

“Collateral” has the meaning provided in Section 6.02.

“Collection Fund” has the meaning set forth in the Paying Agent Agreement.

“Commencement Date” means the date when Lessee’s obligation to pay rent commences hereunder, which shall be the date on which the Acquisition Amount is deposited with the Escrow Agent.

“Contractor” means the contractor providing Equipment pursuant to the EPA.

“Contract Rate” means the rate identified as such in the Payment Schedule.

“Disbursement Request” means the disbursement request attached to the Escrow Agreement as Schedule I and made a part thereof.

“Disposed Equipment Collateral Value” means an amount equal to the product obtained by multiplying (A) the Prepayment Price shown on the Payment Schedule for the Rental Payment Date next preceding the Partial Prepayment Date (or if the Partial Prepayment Date occurs prior to the first Rental Payment Date for which the Prepayment Price is shown, then the product obtained by multiplying the then aggregate unpaid principal component of Rental Payments outstanding on the Partial Prepayment Date times 102%) times (B) a fraction (i) the numerator of which equals the cost of the Equipment (including any costs of installation or other related costs financed or refinanced under this Agreement) located in or on such property, facilities and buildings subject to demolition, disposition, damage, destruction, casualty, title defect or condemnation event, as the case may be, and (ii) the denominator of which equals the total cost of the Equipment financed under this Agreement.

“Disposed Equipment Prepayment Amount” means, as of a Partial Prepayment Date, an amount equal to the Disposed Equipment Collateral Value.

“EPA” means, depending upon the agreement chosen by the Lessee, either the WRCOG EPA or the Alternate EPA.

“Equipment” means (a) the property listed in the Equipment Schedule (as may be amended by a True-Up Amendment, if any) and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Article V or Section 8.01, (b) the Lessee-Owned Streetlights and (c) the Additional Lessee-Owned Streetlights; provided that Equipment shall exclude any Retired Streetlights. Whenever reference is made in this Agreement to Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.
"Equipment Costs" means the total cost of the Equipment, including related costs such as freight, installation and sales and other taxes, capitalizable costs, and costs of issuance incurred in connection with the acquisition, installation and/or financing of the Equipment.

"Equipment Schedule" means the equipment schedule attached hereto as Exhibit A and made a part hereof.

"Escrow Account" means the fund established and held by the Escrow Agent pursuant to the Escrow Agreement.

"Escrow Agent" means the Escrow Agent identified in the Escrow Agreement, and its successors and assigns.

"Escrow Agreement" means the Escrow and Account Control Agreement dated as of October 11, 2018 in form and substance acceptable to and executed by Lessee, Lessor and the Escrow Agent, pursuant to which an Escrow Account is established and administered.

"Event of Default" means an Event of Default described in Section 12.01.

"Event of Non-appropriation" means the failure of Lessee’s governing body to appropriate or otherwise make available funds to pay Rental Payments under this Agreement following the Original Term or then current Renewal Term sufficient for the continued performance of this Agreement by Lessee.

"Excess Proceeds" has the meaning provided in Section 4.05.

"Implementation Agreement" means the Implementation Agreement dated as of October 11, 2018 between WRCOG and Lessee relating to the acquisition and maintenance of the Equipment, as the same may be amended by WRCOG and Lessee, with the prior written consent of Lessor.

"Inoperable Component" has the meaning provided in Section 5.04.

"Inventory Inspection Period" has the meaning provided in the Pole Agreement.

"Lease Term" means the Scheduled Term upon its expiration or as terminated as provided in Section 3.03.

"Lessee" means the entity referred to as Lessee in the first paragraph of this Agreement.

"Lessee-Owned Streetlights" means the streetlights and related fixtures owned by Lessee, as identified in Exhibit A attached hereto, as may be amended with the prior written consent of Lessor in its discretion or upon the True-Up Process, and located within the City of Perris, California, (x) which are to be acquired, constructed, furnished and installed with amounts to be disbursed pursuant to the Escrow Agreement (and thereby constituting Equipment hereunder) and/or (y) on, about and to which a portion of the Equipment is to be acquired, constructed,
furnished and installed with amounts to be disbursed pursuant to the Escrow Agreement; provided that "Lessee-Owned Streetlights" shall not include Retired Streetlights.

"Lessor" means (a) the entity referred to as Lessor in the first paragraph of this Agreement and its successors or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement, including the Equipment, the Rental Payments and other amounts due hereunder, pursuant to Section 11.01, or the Escrow Account, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

"Lien" means any lien (statutory or otherwise), security interest, mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, preference, priority or other security or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction).

"Light Pole License Agreement" means that certain No-Fee Light Pole License Agreement for Wireless Attachment between Southern California Edison and Lessee dated as of September 11, 2017, including amendments and supplements thereto relating to the issuance of licenses thereunder to Southern California Edison in order for Southern California Edison to attach certain wireless equipment (the "SCE Equipment") to the Streetlights and Lessee's poles and facilities for the purpose of operating or managing the provision of electricity to the Streetlights, all as further described therein. Nothing in this Agreement shall require Lessee to maintain such Light Pole License Agreement beyond the term of such agreement.

"Material Adverse Change" means any change in Lessee's creditworthiness that could reasonably be expected to have a material adverse effect on (a) the financial condition or operations of Lessee, or (b) Lessee's ability to perform its obligations under this Agreement.

"Material Adverse Effect" means any event or occurrence which could (a) adversely affect the rights, interests, remedies or security of the Lessor under this Agreement or with respect to the Collateral, (b) impair the ability of the Lessee to perform its obligations under this Agreement, the WRCOG Agreements and/or any Vendor Agreement or (c) have an adverse effect upon the legality, validity, binding effect or enforceability against the Lessee of this Agreement, the WRCOG Agreements and/or any Vendor Agreement.

"Original Term" means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at such Commencement Date.

"Outstanding Balance" means the amount that is shown for each Rental Payment Date under the column titled "Outstanding Balance" on the Payment Schedule.

"Partial Prepayment Date" means a business day selected by Lessee that is the earlier of the next Rental Payment Date or 65 days after the casualty, title defect or condemnation event (or such other date approved in writing by Lessor), and shall be the date that Lessee exercises its right of partial prepayment following a partial casualty or condemnation event as provided in Section
10.01(b)(2). Lessee shall provide Lessor with at least 60 days prior written notice of the Partial Prepayment Date.

"Paying Agent Agreement" means the Paying Agent Agreement dated as of October 11, 2018 among Lessee, Lessor, WRCOG and Wilmington Trust, National Association, as paying agent, with respect to the Collection Fund and the subaccounts therein and which provides for the orderly distribution of payments under this Agreement and the Implementation Agreement, as the same may be amended from time to time.

"Payment Schedule" means the payment schedule attached hereto as Exhibit B and made a part hereof.

"Phase Closing Date" has the meaning set forth in the Pole Agreement.

"Pole Agreement" means (i) that Purchase and Sale Agreement between Southern California Edison and Lessee dated as of September 11, 2017, including amendments and supplements thereto (including but not limited to any amendments or supplements effectuated in the final bill of sale from Southern California Edison), relating to, among other things, the purchase of certain Equipment from Southern California Edison and (ii) any such other agreements, as supplemented and amended, pursuant to which licenses are issued thereunder to Lessee in order for Lessee or its Vendor to attach certain Equipment to Pole Owner’s poles and facilities all as further described therein.

"Pole Owner" means Southern California Edison, its successors or assigns, or any other owner of the streetlights, brackets, photocells and poles to be acquired by Lessee.

"Prepayment Price" means the amount provided under the column titled "Prepayment Price" in the Payment Schedule minus the amount of any partial prepayment pursuant to Section 10.01(b) paid prior to the date of prepayment pursuant to Section 10.01(a).

"Principal Portion" means the amount that is shown for each Rental Payment Date under the column titled "Principal Portion" on the Payment Schedule.

"Professional Services Agreement" means (a) the Amended and Restated Professional Services Agreement dated as of March 27, 2018 between WRCOG and Siemens Industry Inc., Intelligent Traffic Systems (the "Consultant") together with Appendix 8 attached thereto executed by WRCOG, the Consultant and Lessee, as the same may be amended from time to time and (b) any subsequent agreement entered into between WRCOG and a third party provider and accepted and agreed to in writing by the Lessee for the services described therein, as the same may be amended from time to time.

"Real Property" means real estate where the Equipment is and/or will be located.

"Real Property Issue" has the meaning provided in Section 2.01(t).
"Related Agreements" means this Agreement, the Escrow Agreement, the EPA and each of the WRCOG Agreements.

"Renewal Terms" means the consecutive renewal terms of this Agreement, the first of which commences immediately after the end of the Original Term and each having a duration and term coextensive with each successive fiscal year of Lessee; provided that the final such Renewal Term shall commence on the first day of the last such fiscal year and end on the first business day after the last scheduled Rental Payment Date.

"Rental Payment Date" means each date on which Lessee is required to make a Rental Payment under this Agreement as specified in the Payment Schedule.

"Rental Payment Subaccount" has the meaning set forth in the Paying Agent Agreement.

"Rental Payments" means the basic rental payments payable by Lessee on the Rental Payment Dates and in the amounts as specified in the Payment Schedule, consisting of a principal component and an interest component, and in all cases sufficient to repay such principal component and interest thereon at the applicable Contract Rate.

"Replaced Equipment" has the meaning provided in Section 8.01.

"Replacement Equipment" has the meaning provided in Section 8.01.

"Retired Streetlights" means in the aggregate over the Lease Term, the Streetlights that are permitted pursuant to Section 5.04(c) hereof to be retired and removed from Equipment and not replaced, which number of Streetlights shall equal no more than one percent (1%) of the total Lessee-Owned Streetlights (as of the Commencement Date, a total of 42 of the 4,140 Lessee-Owned Streetlights could become Retired Streetlights).

"Scheduled Term" means the Original Term and all Renewal Terms, with a final Renewal Term ending on December 1, 2033.

"State" means the State of California.

"Streetlights" means all Additional Lessee-Owned Streetlights and all Lessee-Owned Streetlights, in each case, subject to Lessor’s first priority Lien under this Agreement, but shall exclude any Retired Streetlights.

"Surety Bond" means a payment or performance bond.

"True-Up Amendment" means an amendment to this Agreement and the Equipment Schedule executed by Lessee and Lessor substantially in the form attached as Exhibit J hereto.

"True-Up Process" means, upon the expiration of the final Inventory Inspection Period and following the Closing Date under the Pole Agreement, the execution of the True-Up Amendment by Lessee and Lessor to adjust the Equipment under this Agreement to add, delete or
modify references to be consistent with the property, equipment and/or streetlights acquired under the Pole Agreement during and as a result of the final Inventory Inspection Period.

"Vendor" means the manufacturer, installer, contractor, supplier or provider of the Equipment or services (excluding Southern California Edison and WRCOG) with respect to the Equipment or any other person as well as the agents or dealers of the manufacturer, installer, contractor, supplier or provider with whom Lessee arranged Lessee’s acquisition, installation, operation, maintenance and/or servicing of the Equipment.

"Vendor Agreement" means any contract entered into by Lessee and any Vendor, as supplemented and amended, for the acquisition, installation, maintenance and/or servicing of the Equipment, and shall include, without limitation, the EPA and the Professional Services Agreement.

"WRCOG" means Western Riverside Council of Governments, a joint powers authority formed under Government Code sections 6500 et seq.

"WRCOG Agreements" means the Implementation Agreement, the Professional Services Agreement, the WRCOG EPA (unless the Lessee shall have entered into the Alternate EPA, in which case "WRCOG Agreements" shall include the Alternate EPA instead of the WRCOG EPA), and the Paying Agent Agreement.

"WRCOG EPA" means the Equipment Purchase Agreement dated as of June 28, 2018 between WRCOG and California Electric Supply, as Contractor, together with Appendix 8 thereto, including the exhibits attached to such Appendix 8, executed by WRCOG, the Contractor and Lessee, as the same may be amended from time to time.

ARTICLE II

Section 2.01. Representations, Warranties and Covenants of Lessee. For the benefit of Lessor, Lessee represents and warrants as of the Commencement Date (and such other dates as may be provided herein), and covenants at all times during the Lease Term as follows:

(a) Lessee is a city, duly organized and existing under the constitution and laws of the State, with full power and authority to enter into this Agreement and the Related Agreements and the transactions contemplated hereby and thereby and to perform all of its obligations hereunder and thereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement and the Related Agreements by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Related Agreements.
(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to this Agreement.

(d) Lessee will do or cause to be done all things, as legally permissible, necessary to preserve and keep in full force and effect its existence as a city of the State.

(e) Lessee has complied with such procurement and public bidding requirements as are applicable to this Agreement and the Related Agreements and the acquisition and installation by Lessee of the Equipment, under federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, order or decree of any court or other governmental authority.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid hereunder.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor (i) annual audited financial statements including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within nine months of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual budget for any prior five fiscal years or current fiscal year or for the following fiscal year when approved but not later than thirty (30) days prior to the end of its current fiscal year. The financial statements described in subsection (g)(i) shall be accompanied by an unqualified opinion of Lessee's independent auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns. All financial statements and other information delivered to Lessor by the Lessee is correct as of the date thereof. Since June 30, 2017, no material adverse change has occurred in the Lessee's financial condition that would adversely affect the Lessee's ability to perform its obligations hereunder.

(h) Lessee has an essential need for the Equipment and expects to make immediate use of the Equipment. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Scheduled Term.

(i) The payment of the Rental Payments or any portion thereof is not (under the terms of this Agreement or any other Related Agreement) directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect
of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit, except where failure to comply with such requirement would not result in a Material Adverse Effect or a Material Adverse Change. The Equipment will not be used or operated, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit if it would result in a Material Adverse Effect or a Material Adverse Change. No portion of the Acquisition Amount will be used, directly or indirectly, to make or finance loans to any person other than Lessee if it would result in a Material Adverse Effect or a Material Adverse Change. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment that would result in a Material Adverse Effect or a Material Adverse Change.

(j) There is no pending litigation, tax claim, other proceeding or dispute (of which Lessee is aware, has notice or has been served), or to Lessee’s best knowledge, threatened, litigation, tax claim, proceeding or dispute against Lessee that could materially adversely affect Lessee’s financial condition or impairs its ability to perform its obligations under this Agreement or any Related Agreement. There is no public vote or referendum pending, proposed or concluded, the results of which could adversely affect Lessee’s financial condition or impairs its ability to perform its obligations under this Agreement or any Related Agreement. Lessee will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor’s first priority security interest in the Equipment, the Escrow Account, the Collection Fund and the Rental Payment Subaccount, and Lessor’s rights and benefits under this Agreement and the Related Agreements.

(k) With respect to the Real Property: (i) Lessee is the fee owner of the Real Property and has good and marketable title thereto, and there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such Real Property, (ii) the Equipment will be located on improvements within, a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term and/or (iii) to the extent neither (i) or nor (ii) is true with respect to any portion of the Real Property ("Non-Lessee Real Property"), then Lessee has the right to enter onto said Non-Lessee Real Property for the purposes of returning the Equipment to Lessor and/or exercising remedies under this Agreement on behalf of Lessor, including, without limitation (subject to the Light Pole License Agreement), the right to physically detach and remove the Equipment from the Non-Lessee Real Property and return the same to Lessor. Lessee is (or upon the acquisition of the Lessee-Owned Streetlight under the Pole Agreement, will be) the fee of owner with free and clear title to all the Lessee-Owned Streetlights on, about and to which a portion of the Equipment is or will be located. Lessee has the right to install, operate, maintain and remove Equipment on, to and from the Lessee-Owned Streetlights for a period that is longer than the Scheduled Term, and the right, upon Lessor’s request (subject to the Light Pole License Agreement), to physically detach and remove the Equipment from the Lessee-Owned Streetlights and return the same to Lessor. Lessee covenants and agrees that throughout the Lease Term and prior to the payment of the last scheduled Rental Payment and the payment of all other amounts due
hereunder, Lessee shall not, to the extent it may legally agree to do so, transfer title to or control over, or encumber the Real Property to another entity or devote any portion of the Real Property to another entity. The Light Pole License Agreement does not and shall in no way impair, adversely affect or prime Lessor’s first priority Lien on any of the Equipment under this Agreement; provided, however, Lessor acknowledges that the Light Pole License Agreement may require the substitution of certain existing poles and/or provision of certain notices prior to the removal of the Equipment.

(i) The portion of the Equipment that is or will be subject to a Pole Agreement is and will be located on within a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term. Based solely on Southern California Edison’s representations in the Pole Agreement, Southern California Edison owns, operates and maintains overhead electric distribution facilities, including distribution poles on which the portion of the Equipment is to be installed, within the political jurisdiction of Lessee. Any streetlights (other than Lessee-Owned Streetlights and Additional Lessee-Owned Streetlights) on, about and to which any portion of the Equipment is to be acquired, constructed, furnished and installed are all subject to the applicable Pole Agreement, which is currently in full force and effect. Lessee has obtained, or will have obtained prior to disbursement from the Escrow Account for the related Equipment, all necessary licenses, permits, approvals or other authorizations, if any, issued by any applicable governmental authority and/or the Pole Owner in accordance with the applicable Pole Agreement for the specific locations for the Equipment to be installed.

(m) (i) The portion of the Equipment that is and will be acquired and installed on Lessee-Owned Streetlights are and will be located on, or on improvements within, a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term. Lessee is entitled to the benefit and use of such right-of-way for the Lessee-Owned Streetlights and has good and marketable title to the Lessee-Owned Streetlights on, about and to which a portion of the Equipment is or will be located. Subject to the Light Pole License Agreement, there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to the Lessee-Owned Streetlights, except under this Agreement. Subject to modification by a True-Up Amendment, the number of Lessee-Owned Streetlights subject to Lessor’s Lien under this Agreement is and shall be at least equal to 4,140 at all times (unless any such Lessee-Owned Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number 4,140 may be reduced by the number of such applicable Retired Streetlights).

(ii) Lessee is the fee owner with free and clear title to all the Additional Lessee-Owned Streetlights. The Additional Lessee-Owned Streetlights are and will be located on, or on improvements within, a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term. Lessee is entitled to the benefit and use of such right-of-way for the Additional Lessee-Owned Streetlights and has good and marketable title to the Additional Lessee-Owned Streetlights on, about and to which a portion of the Equipment is or will be located. Subject to the Light Pole License Agreement, there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature
whatever on or with respect to the Additional Lessee-Owned Streetlights, except under this Agreement. Subject to modification by a True-Up Amendment, the number of Additional Lessee-Owned Streetlights subject to Lessor's first priority Lien under this Agreement is and shall be at least equal to 150 at all times (unless any such Additional Lessee-Owned Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number 150 may be reduced by the number of such applicable Retired Streetlights). The insured value of each Additional Lessee-Owned Streetlight shall equal or exceed the insured value of each Lessee-Owned Streetlight.

(iii) At all times, Lessee shall ensure that the number of Additional Lessee-Owned Streetlights subject to Lessor's first priority Lien under this Agreement shall equal at least the greater of (i) 3.0% of the number of Lessee-Owned Streetlights or (ii) 150 Streetlights. The sum of (A) the aggregate number of Additional Lessee-Owned Streetlights subject to Lessor's first priority Lien under this Agreement plus (B) the aggregate number of Lessee-Owned Streetlights subject to Lessor's first priority Lien under this Agreement, is and shall be at least equal to 4,290 at all times (the "Required Collateral Amount") unless any such Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number 4,290 may be reduced by the number of such applicable Retired Streetlights.

(n) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time during the past ten (10) years has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No event of default that Lessee did not cure during the applicable cure period has existed or occurred under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(o) In connection with Lessor's remedies to obtain possession pursuant to Section 12.02 of the portion of the Equipment that is or will be subject to the Pole Agreement, Lessee has the authority to enter upon the premises where items of such Equipment are located for the purpose of disconnecting, de-installing and removing such items of Equipment from such premises, subject to compliance with the applicable Pole Agreement.

(p) Lessee represents to Lessor that that it has adopted a debt policy in compliance with SB 1029 and Section 8855 of the Government Code of California et seq. and covenants that it shall comply with Section 8855 of the Government Code of California et seq. throughout the Lease Term.

(q) Lessee has complied with the requirements of California Government Code Section 37350 and 37351 et seq. and all other applicable California law in connection with this Agreement and the Equipment.

(r) In connection with each request for a disbursement from the Escrow Account to pay all or any portion of the Purchase Price (as defined in the Pole Agreement) on each Phase Closing Date and the Closing Date under the Pole Agreement, Lessee shall
(i) complete and submit to Lessor a certificate setting forth the details of the property, equipment and/or streetlights acquired or adjusted under the Pole Agreement as a result of the related Inventory Inspection Period in reasonable detail, substantially in the form attached hereto as "Exhibit K" and (ii) provide Lessor with invoices and bills of sale relating to all the property, equipment and streetlights purchased or reimbursed (or to be purchased or reimbursed) with the proceeds of such disbursement and the payment of such Purchase Price. If any of the property, equipment and/or streetlights acquired under the Pole Agreement differs from the Equipment described on the Commencement Date, then prior to requesting the disbursement from the Escrow Account to pay the final Purchase Price (as defined in the Pole Agreement) on the final Closing Date, Lessee shall request (pursuant to the form attached hereto as "Exhibit K") that Lessor execute a True-Up Amendment to add to, delete some of or modify the Equipment under this Agreement to be consistent with the property, equipment and/or streetlights acquired under the Pole Agreement following the final Inventory Inspection Period. Lessee shall provide Lessor with such other information that Lessor may reasonably request to substantiate the change in or status of the property, equipment and/or streetlights acquired under the Pole Agreement. Lessee and Lessor shall negotiate in good faith in determining any adjustment to the Equipment based on the changes in the property, equipment and/or streetlights acquired under the Pole Agreement and in connection therewith, Lessee and Lessor shall execute a True-Up Amendment prior to the expiration of the Acquisition Period (or such later period consented to by Lessor in its sole discretion). Lessee shall pay all of Lessor's reasonable costs and expenses (including reasonable legal fees) in connection with the execution and delivery of a True-Up Amendment and preparation and filing of amendments to financing statements (personal property and fixture filings) and other documents which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment in connection with or following a True-Up Process. Without Lessor's prior written consent which shall not be unreasonably withheld, the True-Up Process may not occur more than once during the Lease Term. Lessor may condition its consent to any additional True-Up Process on receipt of the same or similar kinds of requirements for the original True-Up Process described herein. Lessee shall pay all of Lessor's reasonable costs and expenses (including reasonable legal fees) in connection with the execution and delivery of another True-Up Amendment and preparation and filing of amendments to financing statements (personal property and fixture filings) and other documents which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment in connection with or following an additional True-Up Process.

(s) Lessee is in compliance with all Pole Agreements, Light Pole License Agreements, each WRCOG Agreement and each Vendor Agreement. Lessee shall deliver, or cause to be delivered, to Lessor such information as Lessor shall request regarding WRCOG, the WRCOG Agreements, the Pole Agreement, the Light Pole License Agreement and the Vendor Agreements to the extent Lessee is in possession of such information.

(t) Upon an Event of Default or an Event of Non-appropriation, Lessee shall at Lessor's direction (subject to compliance with the Light Pole License Agreement) enter
onto the Real Property, including any Non-Lessee Real Property, and physically detach and remove the Equipment and return the same to Lessor pursuant to Section 3.03 hereof.

(u) Except as set forth in the Light Pole License Agreement, to the best knowledge of the Lessee, there exists no mortgage, pledge, Lien, security interest, reverter, charge or other encumbrance of any nature whatsoever on or with respect to the Real Property or the Streetlights that would adversely affect Lessor’s first priority Lien on and security interest in, the Equipment. In the event any Lien, encumbrance, reverter, restriction, asserted encumbrance, claim, dispute or other issue exists or arises with respect to the Lessee’s legal title to or valid and marketable, beneficial use and enjoyment of the Real Property or impairs or adversely impacts Lessor’s right, title or interest in the Equipment or any of Lessor’s rights or remedies under this Agreement with respect to the Equipment, (each of the foregoing referred to as a “Real Property Issue”), Lessee will take all steps necessary to promptly quiet, resolve and/or eliminate such Real Property Issue to the satisfaction of Lessor and ensure that Lessee and Lessor have adequate access to and use of (including beneficial use and enjoyment of) the Real Property for all purposes of the Equipment contemplated herein and Lessee shall, to the extent it may legally agree to do so, ensure that its fee interest in the Real Property and Lessor’s right, title or interest in the Equipment and rights or remedies under this Agreement with respect to the Equipment remain free and clear of Real Property Issues.

(v) Lessee has obtained, or will have obtained prior to disbursement from the Escrow Account for the related Equipment, all necessary licenses, permits, approvals or other authorizations, if any, issued by any applicable governmental authority to acquire, construct, furnish and install the Equipment as contemplated by this Agreement.

(w) Lessee represents and warrants that as of the Commencement Date the Light Pole License Agreement encumbers and affects only 19 out of the 4,290 Streetlights. Lessee covenants and agrees that the Light Pole License Agreement is limited to permitting Southern California Edison to attach its wireless communicating device used solely in connection with Southern California Edison’s utility operations together with associated ancillary equipment owned by Southern California Edison to serve the purpose of managing Southern California Edison’s electrical grid and provision of electricity for Lessee’s streetlights. Lessee covenants and agrees that the Light Pole License Agreement will not at any time encumber or affect more than 5% of the streetlights comprising the Equipment. To the extent the Light Pole License Agreement at any time encumbers or affects more than 5% of the streetlights comprising the Equipment, any and all restrictions on Lessor’s rights and remedies hereunder being subject to the Light Pole License Agreement shall automatically and immediately be limited to only 5% of the streetlights comprising the Equipment and the parties shall enter into an amendment to this Agreement to reflect such limited impact of the Light Pole License Agreement, provided that such limited impact shall apply even if the parties fail to enter into such amendment.

(x) Lessee acknowledges and covenants that to the extent applicable to this Agreement and/or any Related Agreement, Lessee is solely responsible for and shall comply with the legal requirements under the California Government Code Chapter 11.5
§§ 8855-8859 et seq., as amended (the "CDIAC Act"). Without limiting the generality of the foregoing, at the times and in the manner required by the CDIAC Act and the California Debt and Investment Advisory Commission ("CDIAC"), Lessee shall be solely responsible for (i) preparing, submitting and filing the report of the proposed debt issuance relating to this Agreement by the method required by CDIAC, (ii) preparing, submitting and filing the report of final sale (and accompanying documents) relating to this Agreement by the method required by CDIAC, (iii) submitting an annual report relating to the report of final sale for this Agreement by the method required by CDIAC, and (iv) paying all fees charged by CDIAC or the CDIAC Act relating to this Agreement, including, but not limited to the fee in an amount equal to one-fortieth of one percent of the Acquisition Amount, but not to exceed five thousand dollars ($5,000) relating to this Agreement.

(y) Lessee represents to Lessor that that it has adopted a debt policy in compliance with SB 1029 and Section 8855 of the Government Code of California et seq. and covenants that it shall comply with Section 8855 of the Government Code of California et seq. throughout the Lease Term.

(2) To the extent applicable, as determined by Lessee in its sole discretion, Lessee has complied with the requirements of California Government Code Section 5852.1 et seq. in connection with this Agreement and the Equipment.

(aa) In connection with the True-Up Process and the provision of a bill of sale by Southern California Edison, the Lessee shall ensure that the such bill of sale includes language acceptable to Lessor to the effect that the term "Facilities" set forth in the Pole Agreement is amended by such bill of sale so as to reflect the final number of street light poles purchased by the Lessee from Southern California Edison, as determined by the True-Up Process.

ARTICLE III

Section 3.01. Lease of Equipment. Subject to the terms and conditions of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire the Equipment. Lessor hereby demises, leases, and transfers to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Equipment. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term as set forth in the Payment Schedule. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to Section 3.03 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Payment Schedule.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term through the Original Term and all Renewal Terms and to pay the Rental Payments due hereunder in each fiscal year that such Rental Payments are due. Lessee affirms that sufficient funds are legally available to pay all Rental Payments when due during the current
fiscal year at the time of the execution of this Agreement, and Lessee reasonably believes that an
amount sufficient to make all Rental Payments during the entire Scheduled Term can be obtained
from legally available funds of Lessee at the time of execution of this Agreement. Lessee further
intends to do all things lawfully within its power to obtain and maintain funds sufficient and
available to discharge its obligation to make Rental Payments due hereunder, including making
provision for such payments to the extent necessary in each budget or appropriation request
submitted and adopted in accordance with applicable provisions of law. Notwithstanding the
foregoing, the decision whether or not to budget and appropriate funds or to extend the Lease Term
for any Renewal Term is within the sole discretion of the governing body of Lessee.

Section 3.03. Nonappropriation. Lessee is obligated only to pay such Rental Payments as
may lawfully be made during Lessee’s then current fiscal year from funds budgeted and
appropriated for that purpose. Should Lessee fail to budget, appropriate or otherwise make
available funds to pay Rental Payments following the then current Original Term or Renewal
Term, this Agreement shall be deemed terminated at the end of the then current Original Term or
Renewal Term. Lessee agrees to deliver notice to Lessor of such termination promptly after any
decision to non-appropriate is made, but failure to give such notice shall not extend the Scheduled
Term beyond such Original Term or then current Renewal Term. If this Agreement is terminated
in accordance with this Section, Lessee agrees to cease use of the Equipment and, subject to the
Light Pole License Agreement, peaceably remove and deliver to Lessor at Lessee’s sole expense
the Equipment at the location(s) in the State of California to be specified by Lessor; provided, that
Lessee shall pay month-to-month rent at the Contract Rate for each month or part thereof that
Lessee fails to return the Equipment pursuant to this Section 3.03.

Section 3.04. Conditions to Lessor’s Performance. (a) As a prerequisite to the performance
by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor, in form
and substance satisfactory to Lessor, the following:

(i) An Escrow Agreement substantially in the form attached hereto as Exhibit I, satisfac-
tory to Lessor and executed by Lessee and the Escrow Agent and Counterpart No.
1 of ___ manually executed and serially numbered counterparts of this Agreement;

(ii) (1) A certified copy of a resolution, ordinance or other official action of
Lessee’s governing body, substantially in the form attached hereto as Exhibit C-1,
authorizing the execution and delivery of this Agreement and the Escrow Agreement
and performance by Lessee of its obligations under this Agreement and the Escrow Agreement
(the “Original Resolution”); and (2) a ratifying resolution, ordinance or other official
action of Lessee’s governing body which supersedes Section 2 of the Original Resolution,
and which clarifies, ratifies and authorizes the execution and delivery of this Agreement in
the full amount of the Acquisition Amount (the “Ratifying Resolution”), provided, that
such Ratifying Resolution can be provided after the Commencement Date so long as Lessor
receives on the Commencement Date an unqualified due authorization and validity opinion
of City Attorney in form and substance satisfactory to Lessor with respect to the Original
Resolution and this Agreement, provided, further, that no “Disbursement Request,” other
than for disbursement of costs of issuance, pursuant to the Escrow Agreement shall be
authorized by Lessor until such Ratifying Resolution, in form and substance satisfactory to
the Lessor, shall have been passed by Lessee’s governing body;

(iii) A Certificate completed and executed by the Clerk or Secretary or other
comparable officer of Lessee, substantially in the form attached hereto as *Exhibit C-2*,
completed to the satisfaction of Lessor;

(iv) An opinion of counsel to Lessee substantially in the form attached hereto as
*Exhibit D* and otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and
similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or
appropriate at that time pursuant to Section 6.02;

(vii) A Certificate completed and executed by an officer of the Lessee certifying
that (A) the Lessee is the fee owner of the real estate on which the Equipment is and will
be located and has good and marketable title thereto, and there exists no mortgage, pledge,
Lien, security interest, charge or other encumbrance of any nature whatsoever on or with
respect to such real estate, (B) the Equipment will be located on improvements within a
right-of-way that is dedicated to public use for a period that is longer than the Scheduled
Term of this Agreement and/or (C) except as expressly disclosed in writing to the Lessor
prior to the Commencement Date and consented to in writing by the Lessor, no person or
entity other than Lessee has an interest in the real estate on which the Equipment is and
will be located;

(viii) Wire instructions for payments to be made to WRCOG, Vendors and
Form W-9 from WRCOG and each such Vendor;

(ix) A certified copy of any Surety Bond satisfying the conditions set forth in
Section 7.04, including supporting documentation provided by the Consultant in form and
substance acceptable to the Lessor setting forth the required value of any such Surety Bond
(the **“Supporting Documentation”**, or, at Lessor’s sole discretion, such Surety Bonds and
Supporting Documentation may be provided after the Commencement Date, *provided, however*,
that no “Disbursement Request” pursuant to the Escrow Agreement shall be
authorized by Lessor until such Surety Bonds satisfying the conditions set forth in
Section 7.04 have been delivered to Lessor;

(x) Invoices (and proofs of payment of such invoices, if Lessee seeks
reimbursement) and bills of sale as required by Section 5.01(b);

(xi) Fully executed copies of the Pole Agreement, the Light Pole License
Agreement, the EPA, each WRCOG Agreement and each Vendor Agreement; *provided, however*,
that the EPA may be provided by the Lessee to the Lessor after the
Commencement Date, *provided further*, that no “Disbursement Request” pursuant to the
Escrow Agreement, relating to the purchase price of any Equipment purchased pursuant to the EPA (or to reimburse the Lessee for the cost of any Equipment purchased pursuant to the EPA), shall be authorized by Lessor until a fully completed and properly executed EPA, including fully completed Exhibits thereto if applicable, in form and substance satisfactory to Lessor, shall have been delivered to the Lessor in form and substance satisfactory to the Lessor;

(xii) A “Summary of Expected Purchase Price and Facilities under Pole Agreement on Commencement Date” completed and executed by Lessee, substantially in the form attached hereto as Exhibit M, completed to the satisfaction of Lessor;

(xiii) To the extent applicable to this Agreement as provided by the CDIAC Act, evidence that Lessee has prepared, submitted and filed the report of the proposed debt issuance relating to this Agreement by the method required by CDIAC and the CDIAC Act; and

(xiv) Such other items reasonably required by Lessor.

(b) In addition to satisfaction of the conditions set forth in subsection (a) of this Section 3.04, the performance by Lessor of any of its obligations under this Agreement and the Escrow Agreement shall be subject to: (i) no Material Adverse Change shall have occurred since the date of this Agreement, (ii) no Event of Default or Event of Non-appropriation shall have occurred and then be continuing and (iii) no event or condition has occurred which, with notice, the passage of time or any combination of the foregoing would constitute an Event of Default or Event of Non-appropriation under this Agreement.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Escrow Agent for deposit into the Escrow Account as provided in the Escrow Agreement.

ARTICLE IV

Section 4.01. Rental Payments. Subject to Section 3.03, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the Rental Payment Dates and in such amounts as provided in the Payment Schedule. Interest on the Acquisition Amount shall begin to accrue as of the Commencement Date. If any Rental Payment or other amount payable hereunder is not paid within ten (10) days of its due date, Lessee shall pay an administrative late charge of five percent (5%) of the amount not timely paid or the maximum amount permitted by law, whichever is less. Rental Payments consist of principal and interest components as more fully detailed on the Payment Schedule, the interest on which begins to accrue as of the Commencement Date.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Payment Schedule.
Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, any disputes with the Lessor, WRCOG or any Vendor of any Equipment, or disputes under any WRCOG Agreement, or failure of WRCOG or any Vendor to deliver any Equipment or otherwise perform any of its obligations for whatever reason or any Vendor Agreement or WRCOG Agreement, including dissolution, bankruptcy, insolvency, reorganization or any similar event with respect to WRCOG or any Vendor.

Section 4.05. Mandatory Prepayment. (A) Any funds not applied to Equipment Costs and remaining in the Escrow Account on the earlier of (1) the expiration of the Acquisition Period or (2) the date on which Lessee delivers to Lessor the executed Disbursement Request to effect the final disbursement to pay (or reimburse) Equipment Costs from the Escrow Account (such amounts remaining in the Escrow Account on the earlier of such dates, referred to as the "Excess Proceeds") and/or (B) any Surety Bond Proceeds that are not applied to the payment and performance of the Vendor's obligations in accordance with the related Vendor Agreement: shall be applied by Lessor on each successive Rental Payment Date thereafter to all or a portion of the Rental Payment due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the remaining unpaid Principal Portion owing hereunder in the inverse order of Rental Payment Dates, on the following terms:

first, the portion of the Excess Proceeds or Surety Bond Proceeds, as the case may be, that is equal to 5% or less of the original aggregate principal component of all Rental Payments under this Agreement shall be applied to prepay principal components of Rental Payments at a price of 100% of such prepaid principal components plus accrued interest thereon at the Contract Rate to the prepayment date; and

second, any remaining Excess Proceeds or Surety Bond Proceeds, as the case may be, if any, shall be applied to further prepay the principal component of Rental Payments at a price of 102% of such prepaid principal components plus accrued interest thereon at the Contract Rate to the prepayment date.

In connection with any prepayment pursuant to this Section 4.05, Lessee shall pay the prepayment premium and interest portion of Rental Payments accrued to the prepayment date on such principal portion to be prepaid from funds other than the Excess Proceeds. In connection
with any partial prepayment of Rental Payments, Lessor shall prepare a new Payment Schedule and deliver the same to the Lessee, which shall be binding, absent manifest error.

**ARTICLE V**

Section 5.01. Delivery, Installation and Acceptance of Equipment. (a) Lessee shall order the Equipment to be acquired and financed hereunder, cause the Equipment to be delivered and installed at the location specified in the Equipment Schedule and pay any and all delivery and installation costs and other Equipment Costs in connection therewith through a Disbursement Request; provided that for costs in excess of the Acquisition Amount, Lessee shall pay such costs directly from its own legally available funds. Lessee shall conduct such inspection and testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment’s capability and functionality in order to accept such Equipment. When the Equipment has been delivered and installed, Lessee shall promptly accept such Equipment and evidence said acceptance by executing and delivering Disbursement Requests to the Lessor pursuant to the Escrow Agreement for the purpose of effecting disbursements from the Escrow Account to pay (or reimburse) Equipment Costs for the Equipment so acquired and installed. In connection with the execution and delivery by Lessee of the final Disbursement Request, Lessee shall deliver to Lessor an “Acceptance Certificate” in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor together with each Disbursement Request original invoices (and proof of payment of such invoices if Lessee seeks reimbursement for prior expenditures) and bills of sale or other evidence of title transfer relating to each item of Equipment accepted by Lessee as evidenced by such Disbursement Request. Once approved, Lessor shall deliver such Disbursement Request to the Escrow Agent for disbursement from the Escrow Account in accordance with the Escrow Agreement.

Section 5.02. Quiet Enjoyment of Equipment. So long as Lessee is not in default hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee’s quiet use and enjoyment of the Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor’s prior written consent, which consent shall not be unreasonably withheld; provided that so long as Lessor has at all times a first priority Lien and security interest on the Required Collateral Amount of Streetlights, Lessee may temporarily or permanently move or relocate up to the greater of (x) 3.0% of the number of Lessee-Owned Streetlights or (y) 150 Streetlights, from time to time in order to address Lessee’s governmental purposes; provided further, that (i) Lessor shall retain at all times its first priority security interest on such moved or relocated Streetlights, (ii) Lessee shall make and confirm all the representations, warranties and covenants set forth in Section 2.01(k) to Lessor with respect to such movement or relocation, and (iii) Lessee shall confirm in writing to Lessor that such movement and relocation does not result in any change in the Collateral or Equipment description, identifiers or ID number, and in the event such movement or relocation does result in a change in the Collateral or Equipment description, identifiers or ID number, Lessee shall pay all of Lessor’s reasonable costs and expenses (including reasonable legal fees) in connection with the execution and delivery of an amendment and preparation and filing of
amendments to financing statements (personal property and fixture filings) and other documents which Lessor deems necessary or appropriate to establish and maintain Lessor’s security interest in the Collateral or Equipment in connection with such movement or relocation. No such consent will be required for repair and/or replacement of Equipment in accordance with Section 5.04 hereof if such Equipment is repaired or replaced and returned to the same original location. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Equipment is located for the purpose of inspecting the Equipment; provided that, unless an Event of Default or an Event of Non-appropriation (or event which with the passage of time or the giving of notice or both would constitute an Event of Default or an Event of Non-appropriation) has occurred, such inspection may be subject to Lessee’s encroachment proceedings to the extent applicable for safety purposes. In the event of extreme weather-related events in which public safety is in jeopardy, the Lessee shall provide Lessor with notice as soon as practicable of such event and any known potential or actual impact to the Equipment, and the Lessor shall operate in good faith in taking such public safety concerns into consideration in exercising its rights and remedies under this Agreement. If in Lessee’s reasonable determination any portion of the Equipment poses an imminent danger to public safety (i.e. immediate serious risk of death or serious physical harm), without prior consent of the Lessor the Lessee may temporarily remove or relocate the Equipment solely to prevent immediate serious risk of death or serious physical harm to the public; provided that (x) the Lessee shall provide Lessor with notice as soon as practicable of such event and any known potential or actual impact to the Equipment, and (y) once the immediate serious risk of death or serious physical harm the public has reasonably abated Lessee shall promptly fully restore, replace, repair and maintain the Equipment pursuant to Section 5.04 hereof and as otherwise required under this Agreement.

Section 5.04. Use and Maintenance of the Equipment; Retired Streetlights. (a) Lessee, and its agents, deleeges and designees, shall not install, use, operate or maintain the Equipment (or cause the Equipment to be installed, used, operated or maintained) in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body, including, without limitation, all anti-money laundering laws and regulations; provided that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights hereunder.

(b) Lessee agrees that it shall, either directly or through WRCOG, as provided in the Implementation Agreement, (1) use, operate, protect, maintain, preserve, and keep the Equipment in good repair, condition, appearance and operating order, in the same condition as when received, ordinary wear and tear excepted; (2) use, operate, protect and maintain the Equipment (i) consistent with prudent industry practice (but in no event less than the extent to which Lessee maintains other similar equipment in the prudent management of its assets and properties) and (ii) in compliance with California Public Utilities Commission Order 165 ("Order 165") and all applicable insurance policies, laws, ordinances, rules, regulations and manufacturer’s recommended maintenance and repair procedures, to the extent such procedures are not in conflict with Order 165 to the extent Order 165 is in effect; (3) proceed promptly, at its expense, to protect
its rights and exercise its remedies under any warranty then in effect with respect to the Equipment (although all such remedies shall be exercised by Lessee, the order of exercising remedies may be prioritized in the most efficient manner); and (4) replace or rebuild any component of the Equipment that becomes permanently unfit for normal use or inoperable during the Lease Term (herein, the "Inoperable Component") in order to keep the Equipment as a whole in good repair and working order during the Lease Term. Lessee shall promptly notify Lessor in writing if at any time Equipment acquired (individually or in the aggregate) with five percent (5%) or more of the original Acquisition Amount (the "Noticed Equipment") is reasonably expected within forty-five (45) days to be or become an Inoperable Component(s); provided if Lessee becomes aware that any Noticed Equipment is or will become an Inoperable Component in a shorter time period, Lessee shall notify Lessor in writing within five (5) business days of such receipt of knowledge. Lessee shall promptly replace or rebuild, or cause to be replaced or rebuilt, the Inoperable Component with a similar component of comparable or improved make and model that has at least the equivalent value and utility of the Inoperable Component, a remaining useful life of no less than the remaining Scheduled Term and such replacement or rebuilt component shall be in good operating condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. When and if available, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for in Section 3.03 or 12.02(b), unless it is more cost effective for Lessee to replace the Equipment in accordance with Section 8.01.

(c) Notwithstanding anything herein to the contrary, so long as no Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened, Lessee may retire and exclude from the Equipment up to 42 Streetlights (which number is equal to one percent (1%) of the 4,140 Lessee-Owned Streetlights hereunder) in the aggregate over the course of the Lease Term (which number is subject to adjustment following modification by a True-Up Amendment) without prepayment or penalty or obligation to replace such Streetlights, provided that Lessee shall (i) provide Lessor with at least 30 days prior written notice substantially in the form of Exhibit O attached hereto, (ii) re-make and confirm all the representations, warranties and covenants set forth in this Agreement for the benefit of Lessor and (iii) confirm in writing to Lessor, (1) the number of Streetlights being retired at that time, (2) the cumulative number of Retired Streetlights under this Agreement taking into account the Streetlights then being retired, (3) the number of Streetlights that will remain subject to this Agreement, (4) the number of Lessee-Owned Streetlights that will remain subject to this Agreement and (5) the number of Additional Lessee-Owned Streetlights that will remain subject to this Agreement and provide such other information or confirmations with respect to the Retired Streetlights, the Equipment and the Collateral as Lessor may request.

(d) Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment owned by Lessee, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor, subject to the Light Pole License Agreement.
Section 5.05. Obligations Under Pole Agreement. Lessee hereby covenants and agrees to perform, or cause to be performed, its duties and obligations under each Pole Agreement strictly in accordance with the terms and provisions of each such Pole Agreement, for the purpose of maintaining the benefits thereunder for the installation, operation and maintenance of the portion of the Equipment subject to thereto during the Lease Term, including without limitation the timely removal of such Equipment if and when required by the applicable Pole Agreement in order to prevent such Equipment from becoming subject to any Lien or security interest in favor of Pole Owner. Lessee shall maintain in full force and effect during the Lease Term each applicable Pole Agreement until such time as full and marketable title in the streetlights, poles, related fixtures has passed to and vested in Lessee. Lessee shall not abandon any such Equipment or exercise its option, if any, to terminate the term of any Pole Agreement so long as any amount remains unpaid under this Agreement.

ARTICLE VI

Section 6.01. Title to the Equipment. During the Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions hereof. Subject to the Light Pole License Agreement, Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Equipment and Lessor’s first priority security interest constituting a first Lien on the Collateral from and against all claims, Liens and legal processes of its creditors, and keep all Equipment free and clear of all such claims, Liens and processes. Upon the occurrence of an Event of Default or upon termination of this Agreement pursuant to Section 3.03, full and unenumbered legal title to the Equipment shall, at Lessor’s option, pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee’s interest therein, and upon request by Lessor (subject to the Light Pole License Agreement) shall deliver possession of the Equipment to Lessor in accordance with Section 3.03 or Section 12.02, as applicable. Upon payment of all amounts due and owing hereunder by Lessee pursuant to Section 10.01 (including upon payment of all Rental payments and other amounts payable under this Agreement), Lessor’s security interest or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor’s security interest in the Equipment (including applicable UCC-3 termination statements).

Section 6.02. Security Interest. As additional security for the payment and performance of all of Lessee’s obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first Lien (subject to the Light Pole License Agreement) on (a) the Equipment together with all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to this Agreement and all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment, and all substitutions, renewals, or replacements of and additions, improvements, accessions and accumulations to any and all of such Equipment, together with all the rents, issues, income, profits, proceeds and avails therefrom, (b) the Escrow Account and moneys and investments held from time to time therein, (c) the Collection Fund and the Rental Payment Subaccount and moneys and investments held from time
to time therein (but not the Administrative Fee Subaccount, the Annual Maintenance Subaccount or the Re-lamping Reserve Subaccount), (d) all accounts, chattel paper, deposit accounts, documents, instruments, general intangibles and investment property (including any securities accounts and security entitlements relating thereto) evidenced by or arising out of or otherwise relating to the foregoing collateral described in clauses (a), (b) and (c) above, as such terms are defined in Article 9 of the California Commercial Code and (e) any and all proceeds of any of the foregoing (collectively, the "Collateral"). Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment, the Escrow Account and the proceeds thereof, including, without limitation, such financing statements with respect to personal property and fixtures under Article 9 of the California Commercial Code and treating such Article 9 as applicable to entities such as Lessee.

Section 6.03. Personal Property, No Encumbrances. Lessee agrees that, to the extent permitted by State law, the Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Other than the Light Pole License Agreement (if and to the extent applicable) and encumbrances existing on the Commencement Date that are consented to in writing by the Lessor and identified on Exhibit N hereto, Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate where the Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate (each an "Encumbering Instrument") without the prior written consent of Lessor; provided, that if Lessor or its assigns is furnished with a waiver of interest in the Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect (which may be in the form of an acknowledgement in the Encumbering Instrument of Lessor's purchase money first priority security interest and rights in the Equipment and a carve-out of the Equipment from the Lien of the Encumbering Instrument), such consent shall not be unreasonably withheld and Lessor's response shall be provided within ten (10) business days of the request for such consent.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all levies, Liens, and encumbrances except those created by this Agreement and in particular, Lessee shall not create, incur, assume, permit or suffer to exist Lien or encumbrance with respect to the Equipment that impairs Lessee's use of the Equipment or has an adverse effect on Lessor's rights, interests, security or remedies in and to the Equipment or under this Agreement. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such Lien or encumbrance, if the same shall arise at any time; provided that Lessee may in good faith contest any such Lien or encumbrance, if it provides reasonable security to Lessor against any loss or forfeiture upon Lessor's request. Except as expressly limited by this Section, Lessee shall promptly pay (a) all utilities, sales and other taxes, special assessments and other charges of any kind that are at any time lawfully assessed or
levied against or with respect to the Equipment, the Rental Payments or any part of either thereof, or which become due during the Lease Term, whether assessed against Lessee or Lessor; and (b) the fee charged by the California Debt and Investment Advisory Commission with respect to this Agreement pursuant to Section 8856 (or any successor provision) of the California Government Code. Lessee shall also pay all utility and other charges incurred in the operation, use and maintenance of the Equipment. Lessee shall pay such taxes, assessments or charges as the same may become due; provided that, with respect to any such utilities, taxes, assessments or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term; provided, further, Lessee may, at Lessee’s expense and in its name, in good faith contest any such taxes, assessments, or other charges in good faith by appropriate proceedings which prevent enforcement of the matter under contest and as to which adequate reserves have been established in accordance with generally accepted accounting principles, and, in the event thereof such taxes, assessments, or other charges so contested and reserved may remain unpaid during the period of such contest and any appeal therefrom. Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or similar tax payable by Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section. During the Lease Term, Lessor will not claim ownership of the Equipment for the purposes of any tax credits, benefits or deductions with respect to the Equipment.

Section 7.02. Insurance. Lessee shall during the Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the greater of (i) the then applicable Prepayment Price of the Equipment or (ii) the replacement cost of the Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability with limits of at least $5,000,000 per occurrence for bodily injury and property damage coverage (such liability insurance coverage may be in a combination of primary general liability and/or excess liability umbrella coverage), and in all events in form and amount satisfactory to Lessor; and (c) worker’s compensation coverage as required by the laws of the State; provided that, with Lessor’s prior written consent, Lessee may self-insure against the risks described in clauses (a) and/or (b). In the event Lessee is permitted, at Lessor’s sole discretion, to self-insure as provided in this Section 7.02, Lessee shall provide to Lessor a self-insurance letter in substantially the form attached hereto as Exhibit F. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout the Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest
extent permitted by applicable law, but only from legally available funds for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into of this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement. The provisions of this Section 7.03 shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties. Lessee shall, or shall cause WRCOG to, secure from the Vendor under the Professional Services Agreement and any successor, assignee or replacement thereto, directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment from the proceeds of this Agreement, a Surety Bond executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement, as such sum is set forth in supporting documentation provided by the Consultant in form and substance acceptable to the Lessor. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond (“Surety Bond Proceeds”) shall be applied in accordance with such Surety Bond to the payment and performance of the Vendor’s obligations in accordance with the related Vendor Agreement and, if for whatever reason such proceeds are not so applied, then first to amounts due to Lessor under this Agreement pursuant to Section 4.05 hereof, and any remaining amounts shall be payable to Lessee.

In the event of a material default of WRCOG or any Vendor under any WRCOG Agreement or Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Equipment, Lessee will promptly proceed to exhaust its remedies against WRCOG or the Vendor in default, as applicable (although all such remedies shall be exercised by Lessee, the order of exercising remedies may be prioritized in the most efficient manner). Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds and adjustments or otherwise in connection with the foregoing (“Vendor Proceeds”) shall be paid to Lessor and applied against Lessee's obligations hereunder pursuant to the prepayment provisions in Section 10.01(b), unless otherwise approved in writing by Lessor.
Section 7.05. Advances. In the event Lessee shall fail to keep the Equipment in good repair and working order or shall fail to maintain any insurance required by Section 7.02, Lessor may, but shall be under no obligation to, maintain and repair the Equipment or obtain and maintain any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced until paid at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less; provided, however, Lessor shall provide notice to Lessee of any such event.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If, prior to the termination of the Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay the obligations hereunder in accordance with Section 10.01(b).

If Lessee elects to replace any item of the Equipment (the "Replaced Equipment") pursuant to this Section, the replacement equipment (the "Replacement Equipment") shall be new or of a similar quality, type, utility and condition at least as good as the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment. Subject to the Light Pole License Agreement, if applicable, Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, Liens, security interests and encumbrances, excepting only those Liens created by or through Lessor, and the Light Pole License Agreement, if applicable, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Agreement. Lessee shall complete the aforementioned documentation relating to the Replacement Equipment (such as documentation evidencing Lessee's title to the Replacement Equipment free and clear of all claims, Liens, security interests and encumbrances subject only to Lessor's security interest in the Replacement Equipment), on or before the next Rental Payment Date after the occurrence of a casualty event, or be required to exercise its option to prepay the obligations hereunder with respect to the damaged Equipment in accordance with Section 10.01(b).

For purposes of this Article VIII, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under
threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. (a) If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall, to the extent permitted by law and in any event solely from legally available funds, either (i) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (ii) pay or cause to be paid to Lessor the amount of the then applicable Prepayment Price, and, upon such payment, the Lease Term shall terminate and Lessor's security interest in the Equipment shall terminate as provided in Section 6.01 hereof.

(b) If (x) at least 10% and no more than 50% of the Equipment under this Agreement is destroyed, or is damaged by fire or other casualty or title to, or the temporary use of, at least 10% and no more than 50% of the Equipment under this Agreement shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, and (y) the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement referred to in Section 8.01, then, no more than once during the Lease Term, in lieu of paying the full applicable Prepayment Price as described in Section 8.02(a)(ii) above, Lessee shall have the option of partially prepaying the related Rental Payments pursuant to Section 10.01(b)(2) hereof from legally available funds.

(c) The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after prepaying Rental Payments in full and purchasing such Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section 8.02 to complete such replacement, repair, restoration, modification or improvement, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of any of the Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Equipment shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement.

Section 9.02. Amendments of Transaction Documents; Warranties. (a) Lessee covenants that it shall not amend, modify, rescind, waive or alter the Paying Agent Agreement without the prior written consent of Lessor.
(b) Lessee covenants that prior to the satisfactory receipt by Lessor of the Acceptance Certificate (Exhibit E), without the prior written consent of the Lessor it shall not in any material respect amend, modify, rescind, waive or alter (or permit the assignment or transfer of) any Pole Agreement, any Light Pole License Agreement, the Implementation Agreement, the Professional Services Agreement, the EPA and/or any Vendor Agreement.

(c) Lessee covenants that after the satisfactory receipt by Lessor of the Acceptance Certificate, without the prior written consent of the Lessor it shall not amend, modify, rescind, waive or alter (or permit the assignment or transfer of) any Pole Agreement, any Light Pole License Agreement, the Implementation Agreement, the Professional Services Agreement, the EPA or any Vendor Agreement if doing so could result in a Material Adverse Change or a Material Adverse Effect.

(d) At all times after the satisfactory receipt by Lessor of the Acceptance Certificate, Lessee covenants to provide Lessor with at least fifteen (15) business days’ prior written notice of any proposed amendment, modification, rescission, waiver, assignment, transfer or alteration (each a “Change”) of any Pole Agreement, any Light Pole License Agreement, the Implementation Agreement, the Professional Services Agreement, the EPA and/or any Vendor Agreement, in each case that the Change will not result in a Material Adverse Change or a Material Adverse Effect.

(e) Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as no Event of Non-appropriation has occurred and Lessee shall not be in default under this Agreement, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against Southern California Edison under the Pole Agreement or WRCOG under the WRCOG Agreements or Vendor under the Vendor Agreements. Lessee’s sole remedy for the breach of such warranty, indemnification or representation shall be against Southern California Edison under the Pole Agreement, if applicable, WRCOG and the applicable Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor hereunder, including the right to receive full and timely Rental Payments and other payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to any Equipment.

**ARTICLE X**

Section 10.01. Prepayment Option. In addition to the prepayment provided by Section 4.05 hereof, Lessee shall have the option to prepay (or satisfy, pursuant to (c) below) its obligations hereunder at the following times and upon the following terms:

(a) Optional Prepayment. From and after the date specified (if any) in the Payment Schedule (the “Prepayment Option Commencement Date”), on the Rental Payment Dates specified in the Payment Schedule, upon not less than thirty (30) days’ prior written notice, and upon payment in full of the sum of (i) the Rental Payments then due and all other amounts then owing hereunder plus (ii) the then applicable Prepayment Price,
which shall include a prepayment premium on the unpaid Outstanding Balance as set forth in the Payment Schedule plus (iii) all other amounts then owing hereunder; or

(b) *Casualty, Condemnation or Vendor Proceeds Prepayment.* (1) In the event of substantial damage to or destruction, title defect or condemnation of all or a majority of the Equipment (i.e. more than 50% of the Equipment) or in the event Lessee receives Vendor Proceeds in an amount at least equal to the outstanding Principal Portion of Rental Payments, on the day specified in Lessee’s notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next applicable Rental Payment Date or sixty (60) calendar days after the casualty, title defect or condemnation event or receipt of such Vendor Proceeds) upon payment in full to Lessor (A) in the event such prepayment occurs on a Rental Payment Date, the sum of (i) all Rental Payments then due plus (ii) the then applicable Prepayment Price, which shall include a prepayment premium on the unpaid Outstanding Balance as set forth in the Payment Schedule plus (iii) all other amounts then owing hereunder or (B) in the event such prepayment occurs on a date other than a Rental Payment Date, the sum of (i) of the applicable Prepayment Price shown on the Payment Schedule for the Rental Payment Date immediately preceding the prepayment date (or if such prepayment date occurs prior to the first Rental Payment Date, the earliest Prepayment Price shown on the Payment Schedule), which shall include a prepayment premium on the unpaid Outstanding Balance as set forth in the Payment Schedule plus (ii) accrued interest at the Contract Rate on the Outstanding Balance as of the Rental Payment Date immediately preceding the applicable prepayment date from such Rental Payment Date (or if such prepayment date occurs prior to the first Rental Payment Date, the Commencement Date) to such prepayment date plus (iii) all other amounts then owing hereunder; or

(2) If (A)(x) at least 10% and no more than 50% of the Equipment is destroyed, or is damaged by fire or other casualty or title to, or the temporary use of at least 10% and no more than 50% of the Equipment shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, and (y) the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement referred to in Section 8.01, or (B) Lessee receives any Vendor Proceeds in an amount less than the outstanding Principal Portion of Rental Payments, then, no more than once during the Lease Term, in lieu of paying the full applicable Prepayment Price for the Equipment as described in Section 10.01(b)(1) above, Lessee shall have the option of partially prepaying the Rental Payments by paying or causing to be paid to Lessor on the Partial Prepayment Date the principal portion of Rental Payments that are then unpaid under this Agreement in the amount equal to the Disposed Equipment Prepayment Amount plus accrued interest on such amount from the Rental Payment Date next preceding the applicable Partial Prepayment Date to such date plus all other amounts then due and owing by Lessee under this Agreement. If a Partial Prepayment Date is also a Rental Payment Date, Lessee shall also pay any Rental Payment due as of such date and all other amounts then due and owing by Lessee hereunder. Upon Lessor’s receipt of the Disposed Equipment Prepayment Amount
on the applicable Partial Prepayment Date plus all other amounts then due and owing by Lessee under this Section 10.01(b)(2), Lessor shall adjust the Rental Payments to be paid by Lessee from and after the applicable Partial Prepayment Date to reflect credit for payment of the Disposed Equipment Prepayment Amount as directed by Lessor either in the inverse order of the applicable Rental Payment Dates or on a pro rata basis (after giving effect to the application of such partial prepayment to remaining Rental Payments on an inverse or pro rata basis) for the remainder of the Scheduled Term will satisfy the proviso set forth above in this Section 10.01(b)(2); or

(c) Payment in Full. Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing hereunder to Lessor.

After (i) payment of the applicable Prepayment Price and all other amounts then owing hereunder in accordance with Section 10.01(a) or (b) of this Agreement or (ii) upon the expiration of the Lease Term, payment in full of all Rental Payments then due and all other amounts then owing hereunder in accordance with Section 10.01(c) of this Agreement, Lessor’s security interests in and to the Equipment (or portion thereof so prepaid) will be terminated and Lessee will own such Equipment (or portion thereof so prepaid) free and clear of Lessor’s security interest in such Equipment.

ARTICLE XI

Section 11.01. Assignment by Lessor. Lessor is entering into this Lease Agreement for its own account without a present intention to sell, or transfer, however (a) Lessor’s right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Escrow Agreement, its security interest in the Collateral (collectively, the “Assigned Rights”) may be assigned and reassigned by Lessor at any time, in whole or in part, to one or more assignees or sub-assignees, without the necessity of obtaining the consent of Lessee; provided, that any such assignment, transfer or conveyance (i) shall be made only to investors each of whom Lessor reasonably believes is a “qualified institutional buyer” as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended, or an “accredited investor” as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended, and in either case is purchasing the Assigned Rights (or any interest therein) for its own account with no present intention to resell or distribute such Assigned Rights (or interest therein), subject to each investor’s right at any time to dispose of the Assigned Rights (or any interest therein) as it determines to be in its best interests, (ii) shall not result in more than 35 owners of the Assigned Rights or the creation of any interest in the Assigned Rights in an aggregate principal component that is less than $100,000 and (iii) shall not require Lessee to make Rental Payments to more than one thereafter defined Lease Servicer at a time (or if the Paying Agent Agreement is in effect, to anyone other than the Paying Agent under the Paying Agent Agreement), to send notices or otherwise to deal with respect to matters arising hereunder or under the Escrow Agreement with or to more than one Lease Servicer (as such term is defined below), and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Assigned Rights are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single entity, trustee, owner,
servicer or other fiduciary or agent acting on behalf of all of the assignees (herein referred to as the "Lease Servicer") to act on their behalf with respect to the Assigned Rights, including with respect to the exercise of rights and remedies of Lessor on behalf of such owners upon the occurrence of an Event of Default or an Event of Non-appropriation under this Agreement. Lessor shall endeavor to provide written notice of any such assignment or reassignment at least three (3) business days prior to such assignment or reassignment, but in any event Lessor shall provide Lessee with such notice prior to any such assignment or reassignment (and such notice shall disclose the name and address of each such assignee and the Lease Servicer, if any). Lessor and Lessee hereby acknowledge and agree that the restrictions and limitations on transfer as provided in this Section 11.01 shall apply to the first and subsequent assignees and sub-assignees of any of the Assigned Rights (or any interest therein). To the extent applicable, Lessor shall comply with Sections 5950-5955 of the California Government Code and any other applicable law in assigning the Assigned Rights, and Lessee shall not be responsible for Lessor's non-compliance with applicable law in connection with an assignment.

(b) Subject to Section 11.01(a), unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective as against Lessee until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee, identifies the new sole Lease Servicer, if applicable, and an investment letter in substantially the form attached as Exhibit L attached hereto (the "Investor Letter") from such assignee; provided, that if such assignment is (i) made to a bank or trust company as trustee or paying agent for owners of certificates of participation, participation interests, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement and (ii) such owners are limited to a "qualified institutional buyer" as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended, or an "accredited investor" as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank, trust company or other entity that acts as the Lease Servicer and no Investor Letter is required; provided further that any such assignment, transfer or conveyance shall occur only on a private placement basis (and not pursuant to any "public offering"). Notices of assignment provided pursuant to this Section 11.01(b) shall contain a confirmation of compliance with the transfer requirements imposed by Section 11.01(a) hereof. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees or Lease Servicer last designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor, Southern California Edison, WRCOG or any Vendor. Assignments in part may include without limitation assignment of all of Lessor's security interest in and to the Equipment and all rights in, to, and under this Agreement related to such Equipment, and all of Lessor's security interest in and to the Escrow Account, or all rights in, to and under the Escrow Agreement.

(c) If Lessor notifies Lessee of its intent to assign this Agreement, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment substantially in the form of Exhibit H attached hereto within five (5) business days after its receipt of such request.
Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title, and interest in, to and under this Agreement or any portion of the Equipment or the Escrow Agreement or the Escrow Account may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor's prior written consent shall be null and void.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an "Event of Default" under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within ten (10) days after the date when due as specified herein, (ii) maintain insurance as required herein, or (iii) observe and perform any covenant, condition or agreement on its part to be observed or performed under Section 2.01(k), 2.01(m), 2.01(r), 2.01(u), 2.01(w), 5.03, 6.01 or 6.02 hereof;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor, or (ii) arises under any obligation for governmental funds (other than enterprise revenues specifically and solely pledged to the repayment of other obligations) under which there is outstanding, owing or committed an aggregated amount in excess of $1,000,000 in each case under which the Lessee is an obligor, and such default remains uncured following the applicable cure period, if any, and either (1) arises from a failure to pay any amounts due with respect to such agreement for borrowing money, lease financing of property or provision of credit and/or (2) causes or permits amounts to become immediately due and payable in full as a result of such default. In event of a default under this 12.01(d), prior to exercising any remedies under Section 12.02 of this Agreement, the Lessor shall enter into good faith negotiations with Lessee to ensure the continued payment of Rental Payments and performance of Lessee's obligations under this Agreement;
(e) Lessee shall (i) apply for, or consent to, the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium, liquidation, readjustment or insolvency proceeding;

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days;

(g) Any Pole Agreement shall be terminated (whether by Lessee, the Pole Owner or otherwise) for any reason whatsoever prior to such time as full and marketable title in the Equipment purchased hereunder has passed to and vested in Lessee; or

(h) Any license granted pursuant to any Pole Agreement and relating to any Equipment shall be canceled, terminated, suspended, revoked or otherwise not in full force and effect at any time during the Lease Term.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be immediately due and payable;

(b) With or without terminating the Lease Term, but subject to the Light Pole License Agreement, Lessor may enter the premises where the Equipment is located and retake possession of such Equipment or require Lessee at Lessee’s expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the State of California as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies hereunder, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment, any costs related to removal of equipment owned by Southern California Edison or other equipment, and all brokerage, auctioneer’s and attorney’s fees), subject, however, to the provisions of Section 3.03 and

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provided, that to the extent that such net proceeds (after payment of costs) exceed the sum of the remaining Rental Payments and any other amounts due to Lessor hereunder, Lessor shall promptly pay the amount of such excess to Lessee. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or with respect to the Equipment;

(c) Lessor may terminate the Escrow Agreement and apply any proceeds in the Escrow Account to the Rental Payments scheduled to be paid hereunder, and/or

(d) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement or the Escrow Agreement or as a secured party in any or all of the Equipment or the Escrow Account.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article XII it shall not be necessary to give any notice other than such notice as may be required in this Article XII.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement may only be amended by Lessor and Lessee in writing.

Section 13.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, that only Counterpart No. 1 of this Agreement shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.
Section 13.06. Applicable Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State. The parties hereto consent to jurisdiction in the State of California and venue in any state or Federal court located in the County of Riverside, California.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08. Entire Agreement. The parties agree that this Agreement constitutes the final and entire agreement between the parties superseding all conflicting terms or provisions of any prior proposals, term sheets, solicitation documents, requests for proposals, award notices, approval letters or any other agreements or understandings between the parties.

Section 13.09. Benefits Limited to Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person or entity other than Lessee, Lessor (and permitted assigns and Lease Servicer, if any) any right, remedy or claim under or by reason of this Agreement.

[Remainder of Page Intentionally Left Blank]

[Signature Page Follows]
IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:
Banc of America Leasing & Capital, LLC
11333 McCormick Road
Hunt Valley II
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administration
Fax No.: (443) 541-3057

LESSEE:
City of Perris, California
24 South D Street
Suite 100
Perris, CA 92570
Attention: Richard Belmudez, City Manager
Phone: (951) 943-6100
E-mail: rbelmudez@cityofperris.org

By: ________________________________
   Name: ________________________________
   Title: ________________________________

(Seal)

Attest:

By: ________________________________
   Name: ________________________________
   Title: ________________________________

Counterpart No. _____ of _____ manually executed and serially numbered counterparts. To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

[Signature Page of Equipment Lease/Purchase Agreement]
List of Exhibits

Exhibit A  —  Equipment Schedule
Exhibit B  —  Payment Schedule
Exhibit C-1  —  Form of Authorizing Resolution
Exhibit C-2  —  Form of Incumbency and Authorization Certificate
Exhibit D  —  Form of Opinion of Counsel
Exhibit E  —  Form of Acceptance Certificate
Exhibit F  —  Form of Self-Insurance Certificate
Exhibit G  —  Description of Additional Lessee-Owned Streetlights
Exhibit H  —  Form of Notice and Acknowledgement of Assignment
Exhibit I  —  Form of Escrow and Account Control Agreement
Exhibit J  —  Form of True-Up Amendment
Exhibit K  —  Provision of Detail of True-Up Process [and Request for True-Up Amendment]
Exhibit L  —  Form of Investor Letter
Exhibit M  —  Form of Summary of Expected Purchase Price and Facilities under Pole Agreement on Commencement Date
Exhibit N  —  Permitted Encumbrances on Real Property
Exhibit O  —  Form of Notice of Retired Streetlights
EXHIBIT A

EQUIPMENT SCHEDULE

The Equipment consists of: (i) any and all of the equipment and other property now existing or hereafter acquired or installed with proceeds of the Agreement including, but not limited to, street light poles (as further described below under the heading Streetlight ID Information), street lighting conversion equipment, and energy conservation equipment (including all machinery, equipment, items, parts, materials and all other property) to be acquired and installed thereon or with respect thereto, including, but not limited to, all machinery, equipment, items, parts, materials and all other property to be acquired and installed pursuant to that certain (a) EPA, (b) Appendix 8 to the Professional Services Agreement, and (c) the Implementation Agreement (whether such goods constitute inventory, equipment or fixtures under, and as such terms are defined in, Article 9 of the California Commercial Code) and related improvements and equipment, and all replacements, repairs, restorations, modification and improvements thereof, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereof; (ii) any property acquired in substitution, renewal, repair or replacement for or as additions, improvements, accessions and accumulations to any of the property described in clause (i); and (iii) any accessories, parts and appurtenances appertaining or attached to any of such property or from time to time incorporated therein or installed thereon.

The Equipment includes, but is not limited to, 4,290 street light poles, the LED lamps installed therein and the other related items therein or attached thereto (as described above) Such streetlight poles include (i) the 150 streetlight poles as listed on Exhibit G hereto, the LED lamps installed therein and the other related items therein and attached thereto, and (ii) the 4,140 street light poles, the LED lamps installed therein and the other related items therein or attached thereto (as described above), identified by the streetlight ID numbers and other identifying information set forth below:
## Exhibit B

### Payment Schedule

<table>
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<tr>
<th>Rental Payment Date</th>
<th>Rental Payment Amount</th>
<th>Interest Portion</th>
<th>Principal Portion</th>
<th>Outstanding Balance</th>
<th>(including prepayment premium, if applicable)</th>
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</thead>
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</table>

**Contract Rate.** The Contract Rate is 5.52% per annum.

**Prepayment Option Commencement Date.** For purposes of Section 10.01 of the Agreement, the Prepayment Option Commencement Date is December 1, 2019.
LESSOR:
Banc of America Leasing & Capital, LLC

LESSEE:
City of Perris, California

By: ____________________________  By: ____________________________
Name: ________________________  Name: ________________________
Title: _________________________  Title: _________________________
EXHIBIT C-1

FORM OF AUTHORIZING RESOLUTION

RESOLUTION NO. _________

AUTHORIZING THE EXECUTION AND DELIVERY OF (1) EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC; (2) ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC, AND WILMINGTON TRUST, NATIONAL ASSOCIATION; (3) PAYING AGENT AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC, WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AND WILMINGTON TRUST, NATIONAL ASSOCIATION; (4) IMPLEMENTATION AGREEMENT WITH WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS; AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Perris, California (the "City") is a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City desires to finance certain improvements (the "Improvements") consisting of the acquisition of certain street lights and the installation of certain energy savings equipment thereto as described in that certain Purchase and Sale Agreement dated __________, 2017 (as amended and supplemented, the "Purchase Agreement") by and between the City and Southern California Edison, a California corporation; and

WHEREAS, the City desires to provide for financing in the approximate amount of $___________ for the acquisition and installation of the Improvements; and

WHEREAS, Banc of America Leasing & Capital, LLC ("Banc of America") has proposed a cost-effective lease purchase financing arrangement for the acquisition and installation of the Improvements, as set forth under the Equipment Lease/Purchase Agreement (the "Agreement") between Banc of America and the City, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, in connection with the execution and delivery of the Agreement, it will be necessary for the City to enter into an Escrow and Account Control Agreement (the "Escrow Agreement") among the City, Banc of America and Wilmington Trust, National Association, as escrow agent, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, the City has determined that this lease financing arrangement is the most economical means for providing the Improvements to the City; and
WHEREAS, as a condition of the Agreement, the City must properly maintain, repair and replace such streetlights (the “Services”) during the term of the Lease Agreement; and

WHEREAS, the City believes that it can achieve economies of scale for such Services if the City authorizes Western Riverside Council of Governments (“WRCOG”) to administer the Services on behalf of the City and other member agencies of WRCOG; and

WHEREAS, to allow WRCOG to administer the Services, the City must enter into an Implementation Agreement (the “Implementation Agreement”) with WRCOG, the form of which has been presented to the City and is on file with the City Clerk; and

WHEREAS, the City desires to enter into the Paying Agent Agreement (the “Paying Agent Agreement”) with Banc of America and Wilmington Trust, National Association, and WRCOG pursuant to which funds deposited in accordance with the Agreement and Implementation Agreement will be held and disbursed, the form of which has been presented to the City and is on file with the City Clerk.

NOW, THEREFORE, it is resolved by the City Council of the City of Perris, California as follows:

SECTION 1. **CEQA.** Based upon its review of the entire record before the City Council, the City Council in its role as a CEQA responsible agency hereby finds and determines that the proposed Agreement and Escrow Agreement, as part of the Project authorized in the Implementation Agreement between the City and the Western Riverside Council of Governments, is categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines §§ 15301, 15302, 15303 and 15061(b)(3).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The lease financing arrangement will provide Improvements that require the maintenance on existing streetlights and does not involve an expansion of the floor area of the structures. The replacement of the bulbs to high-efficiency bulbs is a minor alteration. It does not change the use of the street lights, and is more beneficial in terms of reduced energy use and improved public safety. The Class 2 exemption specifically exempts from further CEQA review the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The Improvements will have the same purpose as the existing streetlights and the new LED bulbs will not exceed the capacity of the existing bulbs. The Class 3 exemption specifically exempts from further CEQA review the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure. The Improvements include the installation of new LED bulbs in existing small structures and general maintenance in accordance with the Class 3 exemption.
None of the exceptions to the use of the Class 1, 2 or 3 categorical exemptions identified in State CEQA Guidelines section 15300.2 apply. The Improvements include the retrofitting of light poles within the City’s jurisdiction, but none are located in a particularly sensitive environment and therefore there would not be impacts on an environmental resource of hazardous or critical concern. The Improvements will not result in a cumulative impact from successive projects of the same type in the same place, over time, as they entail the upgrade of bulbs on all currently owned SCE fixtures within the City’s jurisdiction. There are no unusual circumstances surrounding the Improvements that result in a reasonable possibility of a significant effect on the environment, as there are no sensitive resources on the existing pole sites and the Improvements do not involve structural modifications. The replacement of bulbs and maintenance of existing structures will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The Improvements will not take place on any hazardous waste sites or cause a substantial adverse change in the significance of a historical resource as the existing poles are not considered historical resources. Thus, the categorical exemptions apply, and no further environmental review is required.

The Improvements to be provided as part of the lease financing arrangement are also exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), which exempts a Project if “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. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The execution of the Agreement and Escrow Agreement regarding the Improvements project involves replacing existing light bulbs in City’s jurisdictions with LED technology bulbs. The Improvements do not involve an expansion of use or the bulbs’ capacity. Accordingly, there is no possibility that obtaining financing for the replacement of bulbs will have a significant effect on the environment.

SECTION 2. Authorization and Approval of Agreement, Escrow Agreement, Implementation Agreement and Paying Agent Agreement. The City Council hereby approves and authorizes the City to enter into (a) the Agreement in a principal amount which shall not exceed $_________ in the form attached hereto as Exhibit A and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager, (b) the Escrow Agreement in the form attached hereto as Exhibit B and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager (c) the Implementation Agreement in the form attached hereto as Exhibit C and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager and (d) the Paying Agent Agreement in the form attached hereto as Exhibit D and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager. The City Manager is authorized and directed to take all steps and actions which are necessary to accomplish execution of the Agreement, the Escrow Agreement, the Implementation Agreement and Paying Agent Agreement pursuant to the authorization given by and the conditions specified in this resolution. The City Manager, or his designee, is authorized to execute the Agreement, the Escrow Agreement, the Implementation Agreement, the Paying Agent Agreement, and appendices to the Professional Services Agreement and Equipment Purchase Agreement between WRCOG and Siemens Industry, Inc. for and on behalf of the City.
SECTION 3.  **Attestations.** The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the City Manager or of such other person or persons as may have been designated by the City Manager, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Agreement, the Escrow Agreement, the Implementation Agreement and the Paying Agent Agreement.

SECTION 4.  **Other Actions.** The City Manager and his designees are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all agreements, documents and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution, the Agreement, the Escrow Agreement, the Implementation Agreement and the Paying Agent Agreement. Such actions are hereby ratified, confirmed and approved.

SECTION 5.  **General Liability.** Nothing contained in this Resolution, the Agreement, the Escrow Agreement nor any other instrument shall be construed with respect to the City, as Lessee, as incurring a pecuniary liability or charge upon the general credit of the City, as Lessee, or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City, as Lessee, or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Agreement are limited obligations of the City, as Lessee, subject to annual appropriation by its governing body, as provided in the Agreement.

SECTION 6.  **Appointment of Authorized Lessee Representatives.** The City Manager and her or his designees (the “Authorized Representatives”) are each hereby designated to act as authorized representatives of the City, as Lessee, for purposes of the Agreement and the Escrow Agreement until such time as the governing body of the City, as Lessee, shall designate any other or different authorized representative for purposes of the Agreement or the Escrow Agreement.

SECTION 7.  **Severability.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 8.  **Repealer.** All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

SECTION 9.  **Location and Custodian of Records.** The documents and materials associated with the action that constitute the record of proceedings on which these findings are based are located at [insert address and name].

SECTION 10.  **CEQA Notice of Exemption.** The City Council hereby directs staff to prepare and file a Notice of Exemption with the Riverside County Clerk within five (5) working days of the approval of the proposed project.

SECTION 11.  **Effect.** This Resolution shall take effect immediately upon its passage.
PASSED AND ADOPTED this ___ day of __________, 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Approved: ________________________________

__________________________, Mayor

Attest:

______________________________

__________________________, City Clerk
EXHIBIT C-2

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, a duly elected or appointed and acting City Clerk of the City of Perris, California ("Lessee") certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the "Officials") in the capacity set forth opposite their respective names below and the original or facsimile signatures below are true and correct as of the date hereof;

B. The Resolution of Lessee’s City Council, No. 5263, dated May 8, 2018, authorized the Officials, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease/Purchase Agreement dated as of October 11, 2018 by and between Lessee and Banc of America Leasing & Capital, LLC ("Lessor"), the Escrow and Account Control Agreement dated as of October 11, 2018 among Lessor, Lessee and Wilmington Trust, National Association, as Escrow Agent, the Paying Agent Agreement dated as of October 11, 2018 by and among Lessee, Western Riverside Council of Governments ("WRCOG"), Lessor and Wilmington Trust, National Association, the Implementation Agreement dated as of October 11, 2018 between WRCOG and Lessee and all documents related thereto and delivered in connection therewith (collectively, the "Agreements").

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<tr>
<th>NAME OF OFFICIAL</th>
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Dated: October 11, 2018

By: ___________________________________________________________________

Name: ___________________________________________________________________

Title: ___________________________________________________________________

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

C-2-1
EXHIBIT D

FORM OF OPINION OF COUNSEL TO LESSEE
(to be typed on letterhead of counsel)

October 11, 2018

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018, between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee

Ladies and Gentlemen:

As legal counsel to the City of Perris, California ("Lessee"), I have examined (a) an executed counterpart of a certain Equipment Lease/Purchase Agreement, dated as of October 11, 2018 and Exhibits thereto by and between Banc of America Leasing & Capital, LLC (together with its successors, assigns and transferees, and as more particularly defined in the Agreement, "Lessor") and Lessee (the "Agreement"), which, among other things, provides for the lease of certain property (the "Equipment"), a certain Escrow and Account Control Agreement among Lessor, Lessee, and Wilmington Trust, National Association, as Escrow Agent, dated October 11, 2018 (the "Escrow Agreement"), a certain Paying Agent Agreement dated as of October 11, 2018 by and among Lessee, Western Riverside Council of Governments ("WRCOG"), Lessor and Wilmington Trust, National Association, as paying agent, a certain Implementation Agreement dated as of October 11, 2018 between WRCOG and Lessee and all documents related thereto and delivered in connection therewith, (b) an executed counterpart of the ordinances or resolutions of Lessee with respect to authorization of the transaction contemplated by the Agreement, the Escrow Agreement, and documents related thereto and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Agreement, the Escrow Agreement and the WRCOG Agreements (as defined in the Agreement) are referred to collectively as the "Transaction Documents."

The opinions expressed herein are based on an analysis of existing statutes, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions or events

D-1
are taken or do occur. We express no opinion with respect to any indemnification, contribution, lien priority or choice of law provisions contained in the foregoing documents.

In our examination, we have assumed, without independent investigation, the authenticity of all documents submitted to us as originals, of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such latter documents and the accuracy of the statements and representations contained in such documents. In addition, we have assumed the authority of and due execution by each of the parties to the documents other than the Lessee.

As used in this opinion, the phrase "to our current actual knowledge" means knowledge as we have obtained from (i) the incumbency and signature certificate of the Lessee, (ii) the representations and warranties contained in each closing certificate of the Lessee, and (iii) knowledge of facts or other information currently known to lawyers in our firm who have performed legal services for the Lessee.

Based on the foregoing, I am of the following opinions:

1. Lessee is a city, duly organized and existing under the laws of the State.

2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents constitute legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws.

5. To our current actual knowledge there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined against the Lessee, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment, the Escrow Account or other collateral thereunder.

All capitalized terms herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein. Lessor and its successors, assigns and transferees are entitled to rely on this opinion.

Sincerely,
EXHIBIT E

FORM OF ACCEPTANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018
between Banc of America Leasing & Capital, LLC, as Lessor, and the City
of Perris, California, as Lessee

Ladies and Gentlemen:

In accordance with the above-referenced Equipment Lease/Purchase Agreement (the
"Agreement"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor
as follows:

1. All of the Equipment has been delivered, installed, is operating in a manner
consistent with the intended use and has been inspected and finally accepted for all
purposes by Lessee and title thereto has transferred to Lessee and any security interest of
Southern California Edison and Vendor therein has been released, subject to any Light Pole
License Agreement permitted under the Agreement.

2. Lessee has conducted such inspection and testing of the Equipment as it
deems necessary and appropriate in order to determine the Equipment's capability and
functionality in order to accept such Equipment and hereby acknowledges that it accepts
the Equipment for all purposes of the disbursement of funds pursuant to this Certificate,
provided that such acceptance shall not serve to affect or diminish the Lessee's rights under
any warranty by the manufacturer or any other entity with respect to the Equipment.

3. Lessee is currently maintaining the insurance coverage required by
Section 7.02 of the Agreement.

4. Lessee hereby reaffirms that the representations, warranties and covenants
contained in the Agreement are true and correct as of the date hereof.

5. No event or condition that constitutes, or with notice or lapse of time, or
both, would constitute, an Event of Default exists at the date hereof.

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6. No Material Adverse Change has occurred since the date of the execution and delivery of the Agreement.

7. No Event of Non-appropriation has occurred or been threatened.

Capitalized terms used, but not defined, in this Acceptance Certificate shall have the same meanings as when such terms are used in the Agreement.

Date: __________________

LESSEE:

City of Perris, California

By:
Name: __________________
Title: __________________

(Seal)
EXHIBIT F

FORM OF SELF INSURANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018 (the
"Agreement") between Banc of America Leasing & Capital, LLC, as
Lessor, and the City of Perris, California, as Lessee

In connection with the above-referenced Agreement, the City of Perris, California (the
"Lessee"), the Lessee warrants and represents to Banc of America Leasing & Capital, LLC the
following information. The terms capitalized herein but not defined herein shall have the meanings
assigned to them in the Agreement.

1. The Lessee is self-insured for damage or destruction to the Equipment. The dollar
amount limit for property damage to the Equipment under such self-insurance program is $___________. [The Lessee maintains an umbrella insurance policy for claims in excess of
Lessee’s self-insurance limits for property damage to the Equipment which policy has a dollar
limit for property damage to the Equipment under such policy of $___________.]

2. The Lessee is self-insured for liability for injury or death of any person or damage or
loss of property arising out of or relating to the condition or operation of the Equipment. The
dollar limit for such liability claims under the Lessee’s self-insurance program is $___________.
[The Lessee maintains an umbrella insurance policy for claims in excess of Lessee’s self-insurance limits for liability which policy has a dollar limit for liabilities for injury and death to persons as
well as damage or loss of property arising out of or relating to the condition or operation of the
Equipment in the amount of $___________.

[3]. The Lessee maintains a self-insurance fund. Monies in the self-insurance fund
[are/are not] subject to annual appropriation. The total amount maintained in the self-insurance
fund to cover Lessee’s self-insurance liabilities is $___________. [Amounts paid from the
Lessee’s self-insurance fund are subject to a dollar per claim of $___________.]

[3]. The Lessee does not maintain a self-insurance fund. The Lessee obtains funds to pay
claims for which it has self-insured from the following sources: _____________________.
Amounts payable for claims from the such sources are limited as follows: ________________.

F-1
4. Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

LESSEE:

City of Perris, California

By: ________________________________
   Name: ________________________________
   Title: ________________________________
EXHIBIT G

ADDITIONAL LESSEE-OWNED STREETLIGHTS

The Additional Lessee-Owned Streetlights (all of which constitute Equipment) includes, but is not limited to, the following 150 street light poles, the LED lamps installed therein and the other related items therein or attached thereto (as described in Exhibit A), identified by the streetlight ID numbers and other identifying information set forth below:
EXHIBIT H

FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

DATED ____________

Banc of America Leasing & Capital, LLC ("Assignor") hereby gives notice that it has assigned and sold to ____________________________ ("Assignee") all of Assignor’s right, title and interest in, to and under the Equipment Lease/Purchase Agreement (the "Agreement") dated as of October 11, 2018, between Assignor and the City of Perris, California ("Lessee"), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor’s right, title and interest in the Equipment (as defined in the Agreement), and all of Assignor’s right, title and interest in, to and under the Escrow and Account Control Agreement dated as of October 11, 2018 (the "Escrow Agreement") by and among Lessee, Assignor and Wilmington Trust, National Association, as Escrow Agent, together with the Escrow Account related thereto, and all of Assignor’s right, title and interest in, to and under the Paying Agent Agreement dated as of October 11, 2018 by and among Lessee, Western Riverside Council of Governments, Lessor and Wilmington Trust, National Association, as paying agent, together with the Collection Fund and the Rental Payment Subaccount and moneys and investments held from time to time therein (but not the Administrative Fec Subaccount, the Annual Maintenance Subaccount or the Re-lamping Reserve Subaccount therein) (collectively, the "Assigned Property"). Each capitalized term used but not defined herein has the meaning set forth in the Agreement.

1. For purposes of Section 11.01 of the Agreement, Lessee hereby acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignor, as Lease Servicer for Assignee, all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof and after the date of this Acknowledgment. The Investor Letter is attached hereto. It is hereby acknowledged that Lessee has never reviewed the agreement or any other instrument pursuant to which the assignment was made (the "Assignment Agreement"), assumes that such Assignment Agreement is valid and binding as between the Assignor and the Assignee, and relies on the representation (which is made hereby) that such assignment has been done in compliance with all applicable law.

2. Lessee and Assignor hereby agree that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Equipment in accordance with the terms of the Agreement, to declare a default and to exercise all rights and remedies thereunder in connection with the occurrence of an Event of Default or an Event of Non-appropriation in accordance with the Agreement; and (ii) except as provided in Section 3.03 of the Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.
3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this "Acknowledgement"), the following information about the Agreement is true, accurate and complete:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Rental Payments Remaining</td>
<td></td>
</tr>
<tr>
<td>Amount of Each Rental Payment</td>
<td>$</td>
</tr>
<tr>
<td>Total Amount of Rents Remaining</td>
<td>$</td>
</tr>
<tr>
<td>Frequency of Rental Payments</td>
<td></td>
</tr>
<tr>
<td>Next Rental Payment Due</td>
<td></td>
</tr>
<tr>
<td>Funds Remaining in Escrow Account</td>
<td>$</td>
</tr>
</tbody>
</table>

4. The Agreement remains in full force and effect, has not been amended, no Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened with respect thereto.

5. Assignor hereby acknowledges the transfer restrictions imposed by Section 11.01 of the Agreement and confirms that the assignment to Assignee has been made in accordance with the provisions of that Section.

6. Any inquiries of Lessee related to any requests for disbursements from the Escrow Account and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgment should be remitted to Assignor, as Lease Servicer for Assignee, at the following address (or such other address as provided to Lessee in writing from time to time by Assignor):

   Banc of America Public Capital Corp  
   11333 McCormick Road  
   Hunt Valley II  
   M/C MD5-032-07-05  
   Hunt Valley, MD 21031  
   Attention: Contract Administration  
   Fax No.: (443) 541-3057

7. Except as stated above in Section 6 hereof, any inquiries and/or notices of the Lessee related to the Agreement should be directed to Assignee at the address listed below:

   __________________________________________
   __________________________________________
   Attention: ________________________________

ACKNOWLEDGED AND AGREED:

H-2
LESSEE: CITY OF PERRIS, CALIFORNIA

By: ______________________________________
   Name: __________________________________
   Title: ___________________________________

ASSIGNOR:
BANC OF AMERICA LEASING & CAPITAL, LLC

By: ______________________________________
   Name: __________________________________
   Title: ___________________________________
EXHIBIT I

FORM OF ESCROW AND ACCOUNT CONTROL AGREEMENT

See Item # 8 in Transcript
EXHIBIT J

TRUE-UP AMENDMENT

[Date]

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018 (the "Agreement") between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee

(a) In connection with the above-referenced Agreement, the City of Perris, California (the "Lessee"), the Lessee warrants and represents to Banc of America Leasing & Capital, LLC (the "Lessor") that:

(i) the final Inventory Inspection Period and Closing Date has concluded under the Pole Agreement and some the property, equipment and/or streetlights acquired under the Pole Agreement differs from the Equipment described under the Agreement on the Commencement Date, and/or the Lessee actually acquired less Equipment than previously contemplated and/or Lessee actually acquired additional property, equipment and/or streetlights than previously contemplated;

(ii) Lessee has requested that Lessor execute this True-Up Amendment to [add to][delete some of][modify] the Equipment under the Agreement so that it is consistent with the property, equipment and/or streetlights acquired under the Pole Agreement following the final Inventory Inspection Period; and

(iii) Lessee has provided Lessor with such information as Lessor has requested to substantiate the change in property, equipment and/or streetlights under the Pole Agreement.

(b) Lessee and Lessor desire to execute this True-Up Amendment to [add to][delete some of][modify] the Equipment under the Agreement, which following the final Inventory Inspection Period consists of a total of _____ streetlights.

[(c) Lessee and Lessor hereby agree that Section 2.01(m) of the Agreement is hereby amended and restated in its entirety as follows:

(m) (i) The portion of the Equipment that is and will be acquired and installed on Lessee-Owned Streetlights are and will be located on, on improvements within, a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term. Lessee is entitled to the benefit and use of such right-of-way for the Lessee-Owned Streetlights and has good and marketable title to the Lessee-Owned Streetlights on, about and to which a portion of the Equipment is or will be located. Subject to the Light Pole License Agreement, there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to the Lessee-Owned

J-1
Streetlights, except under this Agreement. The number of Lessee-Owned Streetlights subject to Lessor’s Lien under this Agreement is and shall be at least equal to ___ at all times (unless any such Lessee-Owned Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number ___ may be reduced by the number of such applicable Retired Streetlights).

(ii) Lessee is the fee owner with free and clear title to all the Additional Lessee-Owned Streetlights. The Additional Lessee-Owned Streetlights are and will be located on, or on improvements within, a right-of-way that is dedicated to public use for a period that is longer than the Scheduled Term. Lessee is entitled to the benefit and use of such right-of-way for the Additional Lessee-Owned Streetlights and has good and marketable title to the Additional Lessee-Owned Streetlights on, about and to which a portion of the Equipment is or will be located. Subject to the Light Pole License Agreement, there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to the Additional Lessee-Owned Streetlights, except under this Agreement. The number of Additional Lessee-Owned Streetlights subject to Lessor’s first priority Lien under this Agreement is and shall be at least equal to ___ at all times (unless any such Additional Lessee-Owned Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number ___ may be reduced by the number of such applicable Retired Streetlights). The insured value of each Additional Lessee-Owned Streetlight shall equal or exceed the insured value of each Lessee-Owned Streetlight.

(iii) At all times, Lessee shall ensure that the number of Additional Lessee-Owned Streetlights subject to Lessor’s first priority Lien under this Agreement shall equal at least the greater of (i) 3.0% of the number of Lessee-Owned Streetlights or (ii) 150 Streetlights. The sum of (A) the aggregate number of Additional Lessee-Owned Streetlights subject to Lessor’s first priority Lien under this Agreement plus (B) the aggregate number of Lessee-Owned Streetlights subject to Lessor’s first priority Lien under this Agreement, is and shall be at least equal to ___ at all times (the "Required Collateral Amount") unless any such Streetlights are permitted to be Retired Streetlights pursuant to Section 5.04(c) hereof, in which case the number ___ may be reduced by the number of such applicable Retired Streetlights.

(d) Lessee and Lessor hereby agree that Section 5.04(c) of the Agreement is hereby amended and restated in its entirety as follows:

(c) Notwithstanding anything herein to the contrary, so long as no Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened, Lessee may retire and exclude from the Equipment up to ___1 Streetlights

---

1 In connection with a True-Up Amendment this number can be recalibrated but it cannot exceed 1% of the number of Lessee-Owned Streetlights under the Agreement.
(which number is equal to one percent (1%) of the 2 Lessee-Owned Streetlights hereunder) in the aggregate over the course of the Lease Term without prepayment or penalty or obligation to replace such Streetlights, provided that Lessee shall (i) provide Lessor with at least 30 days prior written notice substantially in the form of Exhibit O attached hereto, (ii) re-make and confirm all the representations, warranties and covenants set forth in this Agreement for the benefit of Lessor and (iii) confirm in writing to Lessor, (1) the number of Streetlights being retired at that time, (2) the cumulative number of Retired Streetlights under this Agreement taking into account the Streetlights then being retired, (3) the number of Streetlights that will remain subject to this Agreement, (4) the number of Lessee-Owned Streetlights that will remain subject to this Agreement and (5) the number of Additional Lessee-Owned Streetlights that will remain subject to this Agreement and provide such other information or confirmations with respect to the Retired Streetlights, the Equipment and the Collateral as Lessor may request.

(e) Lessee and Lessor hereby agree that Exhibit A of the Agreement is hereby amended and restated in its entirety as attached to this True-Up Amendment.

(f) Lessee and Lessor hereby agree that Exhibit G of the Agreement is hereby amended and restated in its entirety as attached to this True-Up Amendment.

The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

LESSOR:
Banc of America Leasing & Capital, LLC

LESSEE:
City of Perris, California

By: ____________________________
Name: __________________________
Title: __________________________

By: ____________________________
Name: __________________________
Title: __________________________

2 In connection with a True-Up Amendment this number will equal the revised number of Lessee-Owned Streetlights.
AMENDED EXHIBIT A TO TRUE-UP AMENDMENT

EQUIPMENT SCHEDULE

Location of Equipment:

Equipment Description (Scope of Work):

AMENDED EXHIBIT G TO TRUE-UP AMENDMENT

DESCRIPTION OF ADDITIONAL LESSEE-OWNED STREETLIGHTS
EXHIBIT K

PROVISION OF DETAIL OF TRUE-UP PROCESS [AND REQUEST FOR TRUE-UP AMENDMENT]

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018 (the "Agreement") between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee

In connection with the above-referenced Agreement, the City of Perris, California (the "Lessee"), the Lessee warrants and represents to Banc of America Leasing & Capital, LLC the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

1. (i) the Inventory Inspection Period relating to Phase __ has concluded under the Pole Agreement and [some][none] of the property, equipment and/or streetlights acquired under the Pole Agreement differs from the Equipment described under the Agreement on the Commencement Date; [and]

   [(ii)] Lessee hereby requests that Lessor execute a True-Up Amendment to [add to][delete some of][modify] the Equipment under the Agreement so that it is consistent with the property, equipment and/or streetlights acquired under the Pole Agreement as a result of the final Inventory Inspection Period; and]

   [(ii)][(iii)] Lessee has and will provide Lessor with such information as Lessor has requested to substantiate the [change in][status of the] property, equipment and/or streetlights under the Pole Agreement and the Equipment under the Agreement.

2. Lessee hereby certifies and represents to Lessor that following information is true, correct and complete:

<table>
<thead>
<tr>
<th></th>
<th>X</th>
<th>Y</th>
<th>Variance (X minus Y)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Poles to be</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Purchased by Lessee from Southern California Edison</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>----------------------------------------------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>B.</td>
<td>Number of Poles Subject to Light Pole License Agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SmartConnect = ___</td>
<td>SmartConnect = ___</td>
<td></td>
</tr>
<tr>
<td></td>
<td>NetComm = ___</td>
<td>NetComm = ___</td>
<td></td>
</tr>
<tr>
<td>C.</td>
<td>Percentage of Poles Subject to Light Pole License Agreement (Line B divided by Line A) x 100</td>
<td>___%</td>
<td>___%</td>
</tr>
<tr>
<td>D.</td>
<td>Is Line C Less than 5%?</td>
<td>Yes or No</td>
<td>Yes or No</td>
</tr>
<tr>
<td>E.</td>
<td>Purchase Price of Poles @ $___ per pole x ___ streetlights expected under Pole Agreement</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>F.</td>
<td>Expected Final Purchase Price</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>G.</td>
<td>Expected Final Transition Costs/Severance Costs</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>H.</td>
<td>Expected Total due to SCE Acquisition Price * (Line F plus Line G)</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>I.</td>
<td>Retro-fit Cost $___ per light (cost of LED fixture + cost to retrofit) x ___ streetlights under Pole Agreement</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td></td>
<td>Retrofit Costs *</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------------</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>K.</td>
<td>Expected Costs of Issuance</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>L.</td>
<td>5% Contingency (*)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>M.</td>
<td>Total Financed Amount</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>N.</td>
<td>Line H plus Line J plus Line K plus Line L</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>O.</td>
<td>Variance (Line M minus Line N)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>P.</td>
<td>Property Taxes: Variance Between Line E and Line F</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. *Lessee hereby requests that Lessor execute a True-Up Amendment to [add to][delete some of][modify] the Equipment under the Agreement so that it is consistent with the property, equipment and/or streetlights acquired under the Pole Agreement. Please identify any additional information that Lessor needs in order to approve execution of such a True-Up Amendment.* [Lessee hereby represents to Lessor that a True-Up Amendment is not necessary as all of the Equipment under the Agreement is consistent with the property, equipment and/or streetlights acquired under the Pole Agreement, and vice versa.]*3

LESSEE:

City of Perris, California

By: _______________________________

Name: ___________________________

Title: ____________________________

---

3 For multi-phase PSAs, this paragraph #3 would not be included until final Inventory Inspection Period has concluded.
EXHIBIT L

FORM OF INVESTOR LETTER

I, ________________, _______________ of _______________ (the “Purchaser”) do hereby certify for and on behalf of the Purchaser as follows with respect to that certain $____________ Equipment Lease/Purchase Agreement, dated as of October 11, 2018 (the “Agreement”) between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee:

1. The Purchaser is a Qualified Institutional Buyer as defined in Rule 144A promulgated under the Securities Act of 1933, as amended or an “accredited investor” as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended. The Purchaser has such knowledge and experience in financial and business matters in general, and in transactions such as the financial arrangements contemplated by the Agreement in particular, that it is capable of evaluating and has evaluated the merits and risks of entering into the financial arrangements contemplated by the Agreement and the Purchaser understands the risks of its purchase of the Agreement.

2. The Purchaser has conducted its own investigation of the financial condition of the Lessee, the purpose for which the Agreement is being entered into and of the security for payment of the Rental Payments due under the Agreement, and has obtained such information regarding the Agreement and the Lessee and its operations, financial condition and financial prospects as the Purchaser deems necessary to make an informed investment decision with respect to its purchase of the Agreement.

3. The Purchaser is purchasing the Agreement for its own account and without a present intention to sell any portion thereof to any other person, provided that the Purchaser retains the right at any time to dispose of the Agreement or any interest therein as it may determine to be in its best interests and that any subsequent resale shall be made only in accordance with the Agreement and applicable securities laws.

4. The Purchaser acknowledges and agrees that the obligation of the Lessee to pay Rental Payments under the Agreement shall constitute a current expense of the Lessee and shall not in any way be construed to be a debt of the Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Lessee, nor shall anything contained in the Agreement constitute a pledge of the full faith and credit or taxing power of the Lessee.

5. Each of the Lessee, WRCOG, the Lessee’s and WRCOG’s financial advisor and placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) with respect to the Agreement from its own financial, legal, tax and other advisors (and not from the Purchaser or its affiliates) to the extent that the Lessee, WRCOG, the Lessee’s and WRCOG’s financial advisor [or the placement agent] desires, should or needs to obtain such advice. The Purchaser expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any
legal requirements applicable to the Lessee, WRCOG, the Lessee's and WRCOG's financial advisor or the placement agent or any other party, or the correctness of any legal interpretation made by counsel or counsels to any such entity or any other party with respect to such matters. The Purchaser is not responsible for any the Lessee, WRCOG, the Lessee’s and WRCOG’s financial advisor or the placement agent or any other party’s compliance or noncompliance with any applicable law.

DATED this _________ day of ___________, 20___.

[PURCHASER/ASSIGNEE]

By: __________________________________________

Name: _________________________________________

Title: _________________________________________
**EXHIBIT M**

**SUMMARY OF EXPECTED PURCHASE PRICE AND FACILITIES UNDER POLE AGREEMENT ON COMMENCEMENT DATE**

October 11, 2018

Banc of America Leasing & Capital, LLC  
11333 McCormick Road  
Mail Code: MD5-032-07-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018 between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee

Ladies and Gentlemen:

In accordance with the above-referenced Equipment Lease/Purchase Agreement (the "Agreement"), the Pole Agreement and the Light Pole License Agreement (each as defined in the Agreement), the undersigned Lessee hereby certifies and represents as true, correct and complete its expectations as of the date hereof to Lessor as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Number of Poles to be purchased by Lessee from Southern California Edison</td>
</tr>
</tbody>
</table>
| B. | Number of Poles Subject to Light Pole License Agreement | SmartConnect =  
|    |                                                                 | NetComm =  
| C. | Percentage of Poles Subject to Light Pole License Agreement (Line B divided by Line A) x 100 |  
| D. | Is Line C Less than 5%? | Yes or No  
| E. | Purchase Price of Poles @ $ per pole x ____ streetlights expected under Pole Agreement | $  
| F. | Expected Final Purchase Price | $  
| G. | Expected Final Transition Costs/Severance Costs | $  
| H. | Expected Total due to SCE Acquisition Price *= (Line F plus Line G) | $  
| I. | Retro-fit Cost $ per light (cost of LED fixture + cost to retrofit) x ____ streetlights under Pole Agreement | $  
| J. | Retrofit Costs * | $  
| K. | Expected Costs of Issuance | $  
| L. | 5% Contingency (*) | $  
| M. | Total Financed Amount | $  

M-1
<table>
<thead>
<tr>
<th></th>
<th>Line H plus Line J plus Line K plus Line L</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>O.</td>
<td>Variance (Line M minus Line N)</td>
<td>$</td>
</tr>
<tr>
<td>P.</td>
<td>Property Taxes: Variance Between Line E and Line F</td>
<td></td>
</tr>
</tbody>
</table>

**LESSEE:**

City of Perris, California

By: ____________________________________________

Name: _________________________________________

Title: _________________________________________
EXHIBIT N

PERMITTED ENCUMBRANCES ON REAL PROPERTY

NONE
EXHIBIT O

FORM OF NOTICE OF RETIRED STREETLIGHTS

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement, dated as of October 11, 2018 (as amended, the “Agreement”) between Banc of America Leasing & Capital, LLC, as Lessor, and the City of Perris, California, as Lessee

In connection with the above-referenced Agreement, the City of Perris, California (the “Lessee”), the Lessee notifies, warrants and represents to Banc of America Leasing & Capital, LLC the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

(i) Pursuant to Section 5.04(c) of the Agreement, on __________, 20__ (the “Retirement Date”) Lessee intends to retire ___ number of Streetlights and exclude them from Equipment and the Agreement.

(ii) No Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened with respect to the Agreement. All representations, warranties and covenants set forth in the Agreement are hereby reaffirmed for the benefit of Lessor and remain true and correct.

(iii) Subject to the satisfaction of the requirements in Section 5.04(c) of the Agreement, Lessee may retire and exclude from the Equipment up to ___ Streetlights in the aggregate over the course of the Lease Term (which number is subject to adjustment following modification by a True-Up Amendment) without prepayment or penalty or obligation to replace such Streetlights.

(iv) The cumulative number of Retired Streetlights under the Agreement, including the Streetlights proposed to be retired in (i) above, will be ___ on the Retirement Date.

---

4 This should be a date that is at least 30 days following the date of this Notice.

5 Before closing, we will hard code the # of streetlights that can be permanently retired which cannot exceed 1% of the number of Lessee-Owned Streetlights under this Agreement. In connection with a True-Up Amendment this number can be recalibrated.
Date, which is less than or equal to the maximum amount of Streetlights permitted to be
required under the Agreement (and described in (iii) above).

(v) After the proposed retirement of the Streetlights on the Retirement Date, the
number of Streetlights that will remain subject to the Agreement will equal ____,
consisting of ____ Lessee-Owned Streetlights and ____ Additional Lessee-Owned
Streetlights.

Please let us know if Lessor requires any other information or confirmations with respect
to the Retired Streetlights, the Equipment and the Collateral.

LESSEE:

City of Perris, California

By:

Name: ________________________________

Title: ________________________________
ATTACHMENT 3
Ratifying Resolution # (Next In Order)
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA CORRECTING AND RATIFYING RESOLUTION NO. 5263 DUE TO A TYPOGRAPHICAL ERROR RELATING TO THE PRINCIPAL AMOUNT OF LEASE PAYMENTS IN CONNECTION WITH THE LEASE AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC; (2) ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA LEASING & CAPITAL, LLC

WHEREAS, the City of Perris (the "City") is a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City previously adopted Resolution No. 5263 on May 8, 2018 (the "Original Resolution") related to the Lease Agreement ("Lease Agreement") with Banc of America Leasing & Capital, LLC ("Banc of America Leasing") for financing the acquisition of streetlights and conversion fitting of such lights to LED and/or other efficient energy savings equipment ("Improvements"); and

WHEREAS, the City has executed and delivered the Lease Agreement in connection with the financings;

WHEREAS, due to an inadvertent error, Section 2 of the Resolution authorized lease payments in the amount of not to exceed ten thousand two hundred fifty and 00/100 dollars ($10,250.00) instead of the language earlier in the Resolution and the staff report stating an amount of four million nine hundred eight-seven thousand five hundred thirty-seven and 00/100 dollars ($4,987,537.00) for the acquisition and installation of the Improvements; and

WHEREAS, Banc of America Leasing has requested that the City adopt a resolution correcting the error;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS does resolve as follows:

SECTION 1. Correction and Ratification. The first Sentence of Section 2 of the Original Resolution is hereby corrected to substitute the amount of "four million nine hundred eight-seven thousand five hundred thirty-seven and 00/100 dollars ($4,987,537.00)" for the amount of "ten thousand two hundred fifty and 00/100 dollars ($10,250.00)." The Original Resolution is hereby ratified, corrected, confirmed and amended to reflect this amount and to reflect the intention of the Council on the date of the Original Resolution.

SECTION 2. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.
SECTION 3. Effect. This Resolution shall take effect immediately upon its passage.

ADOPTED, SIGNED and APPROVED this ________ day of ________, 2018.

__________________________________________
Michael M. Vargas, Mayor

ATTEST:

__________________________________________
Nancy Salazar, City Clerk

STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) §
CITY OF PERRIS         )

I, Nancy Salazar, City Clerk of the City of Perris do hereby certify that the foregoing Resolution Number _____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the ______ day of ________ 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

__________________________________________
Nancy Salazar, City Clerk
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Consideration of a Resolution Adjusting the Compensation of the City Clerk.

REQUESTED ACTION: That the City Council consider adopting a Resolution No. (next in order) entitled as set forth below, or provide alternate direction:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ADJUSTING THE COMPENSATION FOR THE ELECTED CITY CLERK POSITION AND RESCINDING RESOLUTION NUMBER 4594

CONTACT: Eric Dunn, City Attorney

BACKGROUND/DISCUSSION:

At the October 9, 2018, City Council meeting, the City Council provided direction to staff regarding an adjustment to the City Clerk’s compensation pursuant to Government Code Section 36517. As discussed below, the Government Code allows for the City Council to set the City Clerk’s compensation. A resolution is attached for the Council’s consideration.

The City Clerk’s compensation has not been adjusted since 2013. On May 28, 2013, the City Council adopted Resolution No. 4594 establishing the City Clerk’s compensation at $890 per month for the performance of statutory duties set forth in Perris Municipal Code Chapter 2.09. Under state law, the City Council may adjust the City Clerk’s compensation by resolution or ordinance.

Based upon the above, the attached resolution would increase the City Clerk’s monthly compensation from $890 to $1,335, effective December 1, 2018.

BUDGET (or FISCAL) IMPACT:

Approval of the attached resolution will increase annual expenditures for the City Clerk by $5,340.

Consent:
Public Hearing:
Business Item: X
Other:
RESOLUTION NO. (next in order)

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PERRIS ADJUSTING THE
COMPENSATION FOR THE ELECTED CITY CLERK
POSITION AND RESCINDING RESOLUTION
NUMBER 4594

WHEREAS, pursuant to Government Code Section 36517 the City Council of the City of Perris has the authority to establish the compensation of the elected city clerk ("Clerk") by resolution; and

WHEREAS, by Resolution Number 4594, adopted by the City Council on May 28, 2013, the City Council established a monthly stipend of $890 per month for the Clerk for the performance of statutory duties set forth in Perris Municipal Code Chapter 2.09; and

WHEREAS, the City Council now desires to increase the Clerk’s compensation to $1,335 per month for the performance of statutory duties set forth in Perris Municipal Code Chapter 2.09.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PERRIS AS FOLLOWS:

Section 1. The Clerk shall receive the following compensation:

A. Stipend. The Clerk shall be paid a stipend of one thousand three hundred thirty-five dollars ($1,335) per month as compensation for an elected official performing the limited statutory duties set forth in Perris Municipal Code Chapter 2.09. The stipend shall be paid once a month, no later than the 30th of the month. If the Clerk is requested to perform the duties of an elections official as set forth in the Elections Code, the Clerk may be compensated at an hourly rate to be set by the City Council.

B. Benefits. The Clerk shall be provided a vehicle allowance of two hundred dollars ($200) per month, and shall be provided medical and retirement (PERS) benefits at a rate equivalent to the members of the City Council.

C. Expenses. The Clerk shall be reimbursed for actual and necessary expenses incurred in the performance of the Clerk’s duties. Proof of such expenses in the form of receipts, etc., shall be provided to the City Manager, or his or her designee, before the City shall make a disbursement to the Clerk. Travel expenses shall require prior approval from the City Manager.

Section 2. The compensation provided herein shall be effective as of December 1, 2018.

Section 3. Resolution Number 4594 is hereby rescinded in its entirety.
ADOPTED, SIGNED and APPROVED this 30th day of October, 2018.

________________________________________
Michael M. Vargas, Mayor

ATTEST:

________________________________________
City Clerk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS  

I, Nancy Salazar, City Clerk of the City of Perris, California, do hereby certify that the foregoing Resolution No. (next in order) was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 30th day of October, 2018 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

______________________________
City Clerk, Nancy Salazar
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Consideration of Second Reading and Adoption of an Ordinance Adjusting the Compensation of the Mayor and City Council Members.

REQUESTED ACTION: That the City Council consider conducting a second reading and adoption of Ordinance No. (next in order) entitled as set forth below, or provide alternate direction:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 2.03.030 AND 2.16.010 REGARDING COMPENSATION OF THE MAYOR AND MEMBERS OF THE CITY COUNCIL

CONTACT: Eric Dunn, City Attorney

BACKGROUND/DISCUSSION:

At the October 9, 2018, City Council meeting, the City Council, after discussion, introduced and conducted the first reading of an ordinance amending Perris Municipal Code ("PMC") Section 2.16.010 so that the monthly compensation for Council members will be $1,335 while the Mayor's total monthly compensation will be $2,002.50. (the Mayor's monthly compensation consists of the compensation for Council members plus an additional 50%). Upon second reading and adoption, the changes to PMC Section 2.16.010 as provided in this Ordinance will be effective thirty days thereafter (November 29, 2018).

BUDGET (or FISCAL) IMPACT:

Approval of the attached ordinance will increase annual expenditures for the City Council by $34,710.

Reviewed by:
City Attorney _X_
Assistant City Manager Darren Madkin
Director of Finance Jennifer Erwin

01006.0001/512674.1
Attachments:

1. Ordinance No. (next in order) - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 2.03.030 AND 2.16.010 REGARDING COMPENSATION OF THE MAYOR AND MEMBERS OF THE CITY COUNCIL.

Consent: X
Public Hearing:
Business Item:
Other:
ORDINANCE NO. (next in order)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 2.03.030 AND 2.16.010 REGARDING COMPENSATION OF THE MAYOR AND MEMBERS OF THE CITY COUNCIL

WHEREAS, Perris Municipal Code Section 2.03.030 codifies the compensation rate for the mayor; and

WHEREAS, Perris Municipal Code Section 2.16.010 codifies the compensation rate for city council members; and

WHEREAS, Government Code Section 36516.1 authorizes the City to provide compensation to an elected mayor that is in addition to what he or she receives as a city council member; and

WHEREAS, Government Code Sections 36516 and 36516.5 authorize the City to change the compensation of a city councilmember in accordance with a statutory formula; provided, however, that any change shall not become effective until one or more councilmembers commences a new term; and

WHEREAS, the City Council desires to adjust the compensation of the mayor and city council members in accordance with the Government Code.

THE CITY COUNCIL OF THE CITY OF PERRIS HEREBY ORDAINS AS FOLLOWS:

Section 1. Recitals Incorporated. The foregoing Recitals are incorporated herein as if set forth in full.

Section 2. Amendment to Section 2.03.030 of the Perris Municipal Code. Section 2.03.030 (Compensation) of the Perris Municipal Code is hereby deleted and replaced in its entirety as follows:

“Section 2.03.030. – Compensation.

The mayor shall receive the same salary as city council persons, plus an additional fifty percent (50%) of the salary amount per month.”

Section 3. Amendment to Section 2.16.010 of the Perris Municipal Code. Section 2.16.010 (Councilmember -- Salary) of the Perris Municipal Code is hereby deleted and replaced in its entirety to read as follows:
"Section 2.16.010 Councilmember -- Salary

Each member of the city council shall receive a salary of $1,335 per month."

Section 4. Effective Date. This Ordinance shall take effect 30 days after its adoption. The new compensation for the mayor and city councilmembers shall be effective as of December 1, 2018.

Section 5. 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 portions 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 6. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and APPROVED this ___ day of __________, 2018.

__________________________
MAYOR, MICHAEL M. VARGAS

ATTEST:

__________________________
City C.erk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS  

I, Nancy Salazar, City Clerk of the City of Perris that the foregoing Ordinance Number (next in order) was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the ___ day of ____________, 2018, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:

City Clerk, Nancy Salazar
SUBJECT: Consideration of Adopting a Resolution finding that the Mobilitie Master Network License Agreement between Mobilitie, LLC and the City is covered under the Class 32 Categorical Exemption previously adopted in July 2018, for Conditional Use Permit # 17-05277 (which contemplated the Master Network License Agreement) and Approving the Mobilitie Master Network License Agreement

REQUESTED ACTION: Adopt Resolution No. (Next in order) finding that the Master Network License Agreement between Mobilitie, LLC is covered under the Class 32 Categorical Exemption adopted in July 2018, for Conditional Use Permit # 17-05277 for which the Master Network License Agreement was contemplated and made a condition of project approval; approving the Master Network License Agreement between the City of Perris and Mobilitie, LLC, for a 10-year period to operate a small cell wireless system to lease, install and operate small cell facilities at four locations on existing or concrete replacement street lights; and authorizing the City Manager to execute all documents necessary to complete the Master Network License Agreement transaction.

CONTACT: Dr. Grace Williams, Director of Planning and Economic Development

BACKGROUND/DISCUSSION:

On June 20, 2018 the Planning Commission adopted Resolution 18-14, granting Conditional Use Permit (i.e. CUP 17-05277) approval to Mobilitie, LLC to lease, install and operate small cell (stealth) wireless facilities at four (4) locations as summarized below, on existing or concrete replacement street lights:

1. On the north side of Walnut St approximately 500 feet east of Sherman Road
2. On the west side of Bradley Road between Morgan Street and Avalon Parkway
3. On the south side of 5th St. and approximately 100 feet west of G St.
4. On the north side Ellis St. and approximately 50 feet west Plaza Way

The approval required execution of a License Agreement to outline the terms of replacing the street light poles, maintenance responsibility and lease rate. Representatives for Mobilitie, LLC is now requesting approval of a 10-year lease/License Agreement with the City of Perris to enter the City’s right-of-way and other real property of the City, at the four locations summarized above to install, maintain and operate a small cell wireless system (the “Network”), so that wireless service providers with contracts to use the Network may provide wireless telecommunications and data services to the residents and visitors of the City who contract with these wireless service providers.
SUMMARY:

The execution of a License Agreement was a condition of approval of Conditional Use Permit #17-05277 (Condition #22). This proposed Master Network License Agreement with Mobilitie, LLC implements Condition of Approval # 22, outlined in Resolution 18-14. Mobilitie, LLC will be responsible for the replacement of any existing wood streetlight poles, with concrete poles (see Section 1.6 of License Agreement). It is contemplated that many or all of the streetlight sites are or will be owned by the City, as the City is in the process of acquiring various streetlight and poles in the public right-of-way. Mobilitie, LLC will also be responsible for the maintenance and reasonably needed repair to maintain the Network in good condition, in compliance with applicable laws.

To arrive at the annual lease rate for Perris’ License Agreement, Staff analyzed “Statewide and Regional Small Cell License Fee Agreement Data,” compiled by staff analysts at the Western Riverside Council of Governments (WRCOG). The WRCOG data, compiled since 2005 through the present, showed that lease rates vary widely across the region, but are steadily increasing, particularly in densely populated and tourist-oriented communities with heavy subscriber bases, such as San Diego. In Riverside County, recent WRCOG data compiled from 2016-2018, showed that annual lease rates continue to vary, but are nearing an average of $2,000.00 annually. The City of Hemet is in final negotiations with a carrier for an annual lease rate of $1,800. The proposed annual lease rate of $2,500.00 is based on the upward trend for lease rates in Riverside County and more particularly on the lease rate being negotiated by the City of Hemet for $1,800.00 annually, since Hemet is similarly positioned to Perris in terms of size and density.

The essential terms of the proposed Lease include:

1. Ten-year lease term. Renewals are not automatic and extended by mutual agreement.

2. A maximum of two “Customers” per site (i.e., “Customer” plus one “Additional Customer.”

3. License Fee (“Site Fee”) is established at the rate of $2,500.00 per Site per year for the first Customer per Site, upon City’s actual acquisition of ownership of the site, plus annual adjustments.

4. License Fee (“Site Fee”) is established at the rate of $500.00 per Additional Customer per year for each Site that is equipped for an Additional Customer, plus annual adjustments.

5. Annual License Fees (“Site Fees”) fees will be paid on a Fiscal Year Basis, following the effective date and prorated based on days accrued for each site.

6. Annual increase adjustment of 3% per year for the term of the lease beginning on the first anniversary of the Effective Date.

RECOMMENDATION:

That the City Council adopt a resolution finding that the Master Network License Agreement between Mobilitie, LLC is covered under the Class 32 Categorical Exemption adopted in July 2018, for Conditional Use Permit # 17-05277 for which the Master Network License Agreement was contemplated and made a condition of project approval; approving the Master Network License Agreement between the City of Perris and Mobilitie, LLC for a 10-year period to operate a small cell wireless system to lease, install and operate small cell facilities at four locations on
existing or concrete replacement street lights; and authorizing the City Manager to execute all
documents necessary to complete the Master Network License Agreement transaction.

BUDGET (or FISCAL) IMPACT: Approval of the Master Network License Agreement will not
result in a negative budget impact. The City will receive $2,500.00 per site per year for the first
Customer; and additional potential revenue of $500.00 per Additional Customer per year for each
Site from “Additional Customer,” plus annual adjustments.

Prepared by: Mary Blais, Contract Planner
Reviewed by: Kenneth Phung, Planning Manager

City Attorney: Eric Dunn
Assistant City Manager: Darren Madkin
Assistant City Manager: Clara Miramontes
Director of Finance: Jennifer Erwin

Consent Public Hearing: October 30, 2018

Attachments: 1. Resolution No. (next in order) approving License Agreement
2. Exhibit A – Master Network License Agreement
RESOLUTION NUMBER 18- (NEXT IN ORDER)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING A MASTER NETWORK LICENSE AGREEMENT BY AND BETWEEN THE CITY OF PERRIS AND MOBILITIE, LLC, A NEVADA LIMITED LIABILITY COMPANY, FOR A 10-YEAR PERIOD TO OPERATE A SMALL CELL WIRELESS SYSTEM TO LEASE, INSTALL AND OPERATE SMALL CELL (STEALTH) WIRELESS FACILITIES AT FOUR (4) LOCATIONS ON EXISTING OR CONCRETE REPLACEMENT STREET LIGHTS

WHEREAS, the Mobilitie, LLC ("Company") is a registered competitive local exchange carrier ("CLEC") and holds a valid full-facilities-based certificate of public convenience and necessity ("CPCN") issued by the PUC on December 2, 2010 (Decision 10-12-004); and

WHEREAS, the City of Perris and the Company desire to enter into that certain Master Network License Agreement, in which the Company will install, maintain and operate a small cell wireless system ("Network"), within the City’s right-of-way, at no cost to the City, and dismantle City-owned streetlight or stand-alone light pole or other facilities at certain Sites (as more particularly described in Exhibit B of the Master Network License Agreement and which is incorporated herein by this reference), and to further install, maintain and operate a small cell wireless system (the "Network"), within the right-of-way, at no cost to City, and dismantle the existing City-owned streetlight or stand-alone light poles or other facilities at certain Sites, described in Exhibit B to the Master Network License Agreement, which incorporated herein by reference, to install a new or replacement streetlight or stand-alone light pole or other facility (the "Replacement Poles"), more particularly described and shown in Exhibit C, to the Master Network License Agreement, which incorporated herein by this reference, so that wireless service providers with contracts to use the Network may provide wireless telecommunications and data services to the residents and visitors of the City who respectively contract with these wireless service providers ("Services"); and

WHEREAS, subject to 47 U.S.C. §253 and applicable laws, the City desires to grant right-of-way access to the Company for installation of Facilities, subject to the terms and conditions of this Master License Agreement; and

WHEREAS, Company desires to obtain from City, and City is willing to grant to Company, the right to use the Sites to locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Small Cell Facilities in a manner consistent with the Permit, the Wireless Ordinance, and this Agreement; and

WHEREAS, on October 10, 2017, the Company applied for a Conditional Use Permit (the "Entitlement" or "Permit") to locate its facilities within the City, which was approved by Planning Commission at the locations set forth in the Entitlement on June 20, 2018, in CUP

ATTACHMENT - 1
RESOLUTION NUMBER (next in order)  Page 2 of 3

No. 17-05277, attached to the Master Network License Agreement as Exhibit C, which is incorporated herein by this reference, subject to the terms and conditions set forth in the Entitlement Conditions of Approval and the City's Wireless Telecommunication Facilities Ordinance ("Wireless Ordinance"), Chapter 19.85 of Title 19 of the Municipal Code (Zoning Code); and

WHEREAS, the City Council hereby determines the Master Network License Agreement (MNLA) by and between the City of Perris and Mobilitie, LLC was a condition of project approval for Conditional Use Permit 17-05277 for which a Class 32 Categorical Exemption was adopted and recorded in July 2018 and is covered under the adopted Class 32 Categorical Exemption; and

WHEREAS, the City Council of the City of Perris in consideration of mutual benefits and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree to the terms of use, occupancy and manner in which such Facilities will be accommodated within the Right-of-Way, as described in the Master Network License Agreement; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the above recitals are all true and correct and incorporated herein by reference.

Section 2. That the City Council hereby determines and finds based upon its independent judgment the Master Network License Agreement (MNLA) by and between the City of Perris and Mobilitie, LLC was a condition of project approval for Conditional Use Permit 17-05277 for which a Class 32 Categorical Exemption was adopted in July 2018 and is covered under the adopted Class 32 Categorical Exemption.

Section 3. That for the foregoing reasons that the City Council approves the Master Network License Agreement by and between the City of Perris and Mobilitie, LLC, a Nevada Limited Liability Company ("company"), for a 10-year period to operate a small cell wireless system (the "network") to lease, install and operate small cell (stealth) wireless facilities at four (4) locations described in Exhibit B of the Master Network License Agreement on existing or concrete replacement street lights.

Section 4. That the City Manager is hereby authorized to execute the Master Network License Agreement, including any related and necessary documents.

Section 5. That should any provisions, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

Section 6. That the Mayor shall sign this Resolution and the City Clerk shall certify the adoption of this Resolution.
ADOPTED, SIGNED, and APPROVED this ___ day of ______, 2018.

______________________________
Michael M. Vargas, Mayor

Attest:

______________________________
Nancy Salazar, City Clerk

State of California    )
County of Riverside  ) ss
City of Perris       )

I, Nancy Salazar, City Clerk of the City of Perris, California, do hereby certify that the foregoing Resolution Number (next in order) was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the ____ day of ______ 2018, by the following vote.

______________________________
Nancy Salazar, City Clerk
MASTER NETWORK LICENSE AGREEMENT BETWEEN
THE CITY OF PERRIS AND MOBILITIE, LLC

This Master Network License Agreement ("Agreement") is entered into as of _______________________, 2018, ("Effective Date") by and between the City of Perris, a municipal corporation (the "City"), and Mobilitie, LLC, a Nevada limited liability company ("Company").

RECITALS

A. Company owns, maintains, operates or controls, in accordance with regulations promulgated by the Federal Communications Commission and the California Public Utilities Commission ("PUC"), telecommunications networks serving Company’s wireless carrier customers through small cell facilities in public rights-of-way ("ROW"), among other locations, in the State of California.

B. Company is a registered competitive local exchange carrier ("CLEC") and holds a valid full-facilities-based certificate of public convenience and necessity ("CPCN") issued by the PUC on December 2, 2010 (Decision 10-12-004).

C. Pursuant to the CPCN, Company seeks to enter the City’s ROW, and other real property of the City, to install, maintain and operate a small cell wireless system (the "Network"), so that wireless service providers with contracts to use the Network may provide wireless telecommunications and data services to the residents and visitors of the City who contract with these wireless service providers ("Services"). The Network will be designed to accommodate Sprint as a carrier providing the Services ("Customer"). The Network also will allow one additional carrier besides Customer, to provide the Services as provided in Section 1.7 below ("Additional Customer," together, "Customer" and "Additional Customer" are referenced herein as "Customers").

D. Some features of the Network include, without limitation, radios, wireless microwave or other backhaul equipment, cabling, power sources, antenna nodes, fiber repeaters and related equipment in a configuration and at locations approved by the City, as set forth in the Permit referenced below and the other related approvals referenced in this Agreement, together with the drawings and elevations depicted in Exhibit A, attached hereto and incorporated herein by reference ("Small Cell Facilities"), and to be located on streetlights at the sites within the City’s ROW and stand-alone light poles and other facilities located at sites on City property shown and described in Exhibit B, attached hereto and incorporated herein by reference (individually a "Site" and collectively the "Sites"). It is contemplated that many or all the Sites are, or will be, owned by the City, as the City is in the process of acquiring various streetlights and poles in the public ROW. Company’s fee payment obligations under this Agreement will become effective as to a Site only upon the City’s actual acquisition of ownership of such Site.

E. On October 10, 2017, Company applied for a Conditional Use Permit (the "Entitlement" or "Permit") to locate its facilities within the City. The City of Perris Planning Commission adopted findings approving the locations set forth in the Entitlement on June 20, 2018. The Entitlements (CUP No. 17-05277) are attached hereto as Exhibit C, which is incorporated herein by this reference. The Entitlements authorize Mobilitie to locate and utilize

F. To construct the Small Cell Facilities, Company desires, at no cost to City, to dismantle the existing City-owned streetlight or stand-alone light pole or other facility at certain Sites, and install a new or replacement streetlight or stand-alone light pole or other facility (the "Replacement Poles"), more particularly described and shown in Exhibit C attached hereto and by this reference incorporated herein.

G. Company desires to obtain from City, and City is willing to grant to Company, the right to use the Sites to locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Small Cell Facilities in a manner consistent with the Permit, the Wireless Ordinance, and this Agreement.

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE I
INSTALLATION OF THE NETWORK

1.1 Permitted Installation. Company may at Company’s sole cost and expense and during the term of this Agreement, locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Small Cell Facilities in the Sites, subject to the terms and conditions of this Agreement. Company shall undertake and perform any work authorized by this Agreement in a skillful and workmanlike manner. Company’s installation of the Small Cell Facilities shall be subject to the additional terms and conditions set forth herein.

1.1.1 The installation of the Small Cell Facilities shall all be made in accordance with the plans and specifications attached hereto as Exhibit A and by this reference incorporated herein or in accordance with such other plans and specifications as may be approved by the City and after obtaining all necessary permits for all work in the ROW and/or on City property (including without limitation such building and encroachment permits as required by the Wireless Ordinance and City Ordinances). The parties understand and agree that sites outside of the ROW may require additional easements for underground fiber to connect to Network facilities within the ROW. Such additional easements shall be located so as not to interfere with the City’s use of its property. The location, depth of the fiber underground, and any other requirements shall be approved in writing by the City prior to construction of the Small Cell Facilities at that Site. Approval of plans and specifications and the issuance of any permits by the City shall not release Company from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in the plans, specifications and/or permits. Company shall be responsible for notifying the City and all other relevant parties immediately upon discovery of such omissions and/or errors and with obtaining any amendments for corrected City-approved permits, as may be necessary.
1.1.2 The installation of the Small Cell Facilities shall be performed in accordance with traffic control plans for temporary construction work that are approved by the City, which approval shall not unreasonably be withheld.

1.1.3 As part of the Encroachment Permit, and at least ten (10) days prior to the installation of the Small Cell Facilities, Company shall deliver to the City a schedule for the proposed work related to the construction of the Replacement Poles and other facilities, as well as a list of the names of all agents and contractors of Company authorized by Company to enter the Sites.

1.1.4 Company shall be responsible for coordination of work to avoid any interference with existing utilities, substructures, facilities and/or operations at the Sites. Company shall be the City’s point of contact and all communications shall be through Company, with Company’s primary representative for purposes of City communications being Robert Schultz, as may be changed from time to time upon advance written notice to City.

1.1.5 Company and its employees, agents and contractors shall comply with all applicable local, state, and federal laws and regulations, including without limitation those laws which govern worker health and safety and reporting the use, handling, treatment, removal, or disposal of toxic or hazardous substances, materials or wastes, and shall obtain all required regulatory and governmental permits and licenses necessary to perform the work authorized herein and shall take all required steps to minimize dust and noise in conformance with City Ordinances and any other applicable governmental standards.

1.1.6 The City shall have full access to inspect any work conducted by Company during the installation, maintenance and/or repair of the Replacement Poles.

1.1.7 Company shall coordinate with Southern California Edison for electric service and associated meters. Company and the City will reasonably cooperate with Southern California Edison regarding (a) the location of any meter required for each Site, and (b) the opportunities to co-locate Company’s meters in the City’s meter boxes if possible. If a Site can be served through the City’s existing utility services without the installation of an additional meter, Company and the City will reasonably agree upon an allocation of the respective cost of utility services used by the parties. If an Additional Customer is located on a Site, Company may be entitled to install new meters as required by Southern California Edison. Such additional meters shall be consistent with the Permit, be subject to the review and approval of the Public Works Director, or designee, which review shall be accomplished in accordance with applicable preemptive legal parameters. If Southern California Edison determines meters are no longer required, Company shall remove the meter pedestals/cabinets and restore each site to the condition that existed prior to the installation of the meter pedestal/cabinet, or as required by the Public Works Director, or designee.

1.2 Expansion of the Network. If, during the term of this Agreement, Company pursuant to the prior written approval of the City and/or any and all permits required by the City, including but not limited to all land use permits, expands the Network by using other locations within the City’s ROW or on other real property owned by the City not described in Exhibit B, or obtains approval from the City to modify the facilities located at the locations set forth on Exhibit B to
add facilities (such as antennas or equipment to accommodate Additional Customers) not currently authorized by the Permit, the parties may enter into a written amendment to this Agreement that modifies Exhibit B to reflect the additional locations that Company desires to use and such other or different terms, including license fees, that may apply to any other locations or the additional facilities. Any agreed-upon expansion of the Network or modification of facilities and the applicable terms and conditions of such expansion or modification, pursuant to this Section 1.2 shall be subject to the City’s Wireless Ordinance and must be set forth in writing and agreed to by the parties. Alternatively, the parties may, at their discretion, enter into a separate agreement. The City, however, shall be under no obligation to agree to any expansion of the Network or to modifications to any of the Sites, Small Cell Facilities, or Replacement Poles included in this Agreement, except as may otherwise be required by preemptive state or federal laws.

1.3 Compliance with Laws. This Agreement is subject to the terms and conditions of the Permit and any and all applicable Laws, and Company shall comply with any such Laws in the exercise of its rights and performance of its obligations under this Agreement. “Laws” or “Law” as used in this Agreement means any and all state and federal statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, permits, approvals or other applicable requirements of the City or other governmental entity or agency having joint or several jurisdiction over Company’s activities under this Agreement or having jurisdiction that is applicable to any aspect of this Agreement, including the City’s Wireless Ordinance, that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Agreement.

1.4 Permits. In addition to the Entitlement, Company shall obtain any necessary ministerial permits and pay all fees associated therewith relating to the installation of the Network as required by Law, including without limitation, those permits listed below (the “Permits”):

1.4.1 Encroachment Permits. Company shall obtain any necessary encroachment permits from the City for the installation of the Network and for any other work within the City’s ROW or other real property of the City, if required by the City’s Municipal Code (“Code”).

1.4.2 Building Permits. Company shall obtain any necessary building permits from the City for the installation of the Network and for any other work within the City’s ROW or other real property of the City, if required by Law.

1.4.3 Compliance with Permits. All work within the City’s ROW or other real property of the City shall be performed in strict compliance with the applicable Permits and all applicable regulatory requirements and Laws.

1.5 Coordination of Excavation with Other Permittees. At least thirty (30) days prior to commencing excavation work in the City’s ROW or other real property of the City pursuant to this Agreement, Company shall notify the Public Works Director, or his designee, in writing. The notice shall describe the work to be performed, the specific ROW of the City or other real property of the City that will be used, and the dates such work is anticipated to be performed. The City’s Public Works Director, or designee, will provide Company with a notice form that identifies other existing or potential users (“User”) of the City’s ROW or other real property of
the City who are likely to be affected by such excavation work. Company shall provide the City's notice form to the Users identified by the Public Works Director, or designee. Each User receiving such notice shall have thirty (30) days from the date thereof to inform Company and the City in writing that such User desires to perform work jointly with Company. To the extent reasonably feasible, and subject to Company and User entering into a written agreement for such work and/or use, Company shall coordinate its work with any User who timely informs Company that it desires to perform work jointly in the City's ROW or other real property of the City, provided that such User obtains any required ROW agreement and permits from the City as required before such User performs any work in the City's ROW or other real property of the City, including the installation of any facilities, or uses any facilities installed by Company on their behalf. The notice requirement in this Section is in addition to any notice otherwise required by applicable Laws, such as Government Code section 4216.2, and does not replace or otherwise affect the requirements of other applicable Laws.

1.6 Replacement Streetlights and other City Facilities. It is understood that Company may replace the streetlight poles and other City light poles or City facilities required for the Small Cell Facilities, at the locations shown in Exhibit B, with new poles or facilities that meet the requirements of the Permit, are capable of supporting the Small Cell Facilities, and comply with all encroachment and building permits, applicable City, state and federal specifications, and Laws (the “Replacement Poles”). If Replacement Poles are used, Company shall replace the streetlights or other lighting on the Replacement Poles and any other equipment or facilities necessary to place the lights or facilities back in operation for all uses in place prior to the removal and replacement of the pole. The City shall own the Replacement Poles. Company shall provide such transfer or dedication documentation as the City reasonably requests.

1.6.1 The parties understand and agree that the City intends to use the City's poles and Replacement Poles for City purposes, including but not limited to streetlights and other lighting. The City may install such other facilities on, or otherwise make use of, the City’s poles and Replacement Poles as it deems desirable, including granting access to the City’s poles and Replacement Poles by third-parties; provided that such uses do not interfere with Company’s use of the Sites as permitted hereunder and as authorized by the Permit, and provided further that the City may not allow other communications providers to use the same City poles or Replacement Poles for the Services, unless specifically required by Law. Company shall reasonably cooperate with the City and all other licensees using the City’s poles or Replacement Poles.

1.6.2 Except for the installation of the lights and Small Cell Facilities and accessories hereto on or in the Replacement Poles and/or as set forth in Section 1.6.3, below, Company shall not be responsible for maintenance, repair, or replacement of City-owned lights, light bulbs and equipment or equipment owned by third-parties authorized by the City on the City’s poles or Replacement Poles.

1.6.3 If a Replacement Pole falls or is damaged such that there is an imminent threat of harm to persons or property, then the City may cause the Replacement Pole to be removed to the side of the street or a location that City believes reasonably eliminates the risk of such imminent threat of harm to persons or property. Company shall, after written notice from the City that any Replacement Pole has been damaged or removed, cause the Replacement Pole to be repaired or replaced within thirty (30) days after the City's written notice. The cost to repair and/or replace
any Replacement Pole, including the replacement City streetlight, bulb and ancillary equipment shall be paid by Company; provided, however, that if the Replacement Pole is damaged or destroyed by the City or a third-party user that the City has given the right to use the Replacement Pole, then the City and/or its third-party user shall pay the cost to repair and/or replace the Replacement Pole. To the extent that Company seeks reimbursement for a third-party either directly or through applicable insurance, the City shall assign to Company any rights the City may have against such third-party for such claim.

1.7 Number of Customers on Each Site. Subject to the scope of rights set forth in the Permit, and subject to any applicable Laws, Company may not have more than two (2) Customers providing the Services at each Site, pursuant to license agreements between Company and the Customer/Additional Customer, provided it meets all approved design/height standards set forth in Exhibit A. As of the Effective Date of this Agreement, Company may have two (2) initial Customers using each Site (Sprint, plus one Additional Customer). Further Additional Customers at any Site shall require any applicable further Permit(s) and a written amendment of this Agreement (which amendment may be in the form of a letter agreement signed by Company and Director). The Director may, in the Director’s reasonable discretion, require execution of an amendment increasing the number of Additional Customers to the City Council. Company shall promptly provide the City with written notice of any proposed change in the number of Customers using each of the Sites, provided that in no event shall notice be given less than thirty (30) days prior to installation of facilities and/or equipment to accommodate an Additional Customer. If no additional facilities or equipment are required to activate an Additional Customer’s Services, Company shall provide the City with written notice of the proposed change at least thirty (30) days prior to activation of an Additional Customer’s Services.

1.8 Use Fees. Company is solely responsible for the payment of all lawful fees in connection with Company’s performance under this Agreement, including those set forth below. Company’s fee payment obligations under this Agreement will become effective as to a Site only upon the date of City’s actual acquisition of ownership of such Site (the “Ownership Date”). City shall provide notice to Company of such Ownership Date(s).

1.8.1 Site Fees. Company shall pay to the City a license fee (“Site Fee”) at the rate of $2,500.00 per Site per year, for the first Customer per Site, except as such amount may be limited or reduced pursuant to preemptive Laws limiting such Fees. The Site Fees shall end as to any Site that ceases to be used to provide any Services and are removed as required by Article 3 of this Agreement. Termination of the Site Fees will be effective from the date the Site(s) are removed and the Site(s) is restored to its original condition or as otherwise required by the City, and any annual Site Fees then due shall be (a) prorated on a monthly and daily basis as each Site is removed, and (b) paid to the City within fifteen (15) days of such removal.

1.8.2 Additional Customer Fees. Unless prohibited or limited by preemptive Laws, if Company adds equipment to serve an Additional Customer to a given Site, Company shall pay an additional Five Hundred Dollars ($500.00) per Additional Customer per year for each Site that is equipped for an Additional Customer (“Additional Customer Fee”). The Additional Customer Fees shall be multiplied by the number of Sites actually equipped for an Additional Customer. The annual Additional Customer Fee for each Site shall be prorated on a monthly and
daily basis as each Site is equipped for an Additional Customer or as Additional Customer equipment is removed.

1.8.3 Payment of Site Fees and Additional Customer Fees; Annual Fees to be Paid on a Fiscal Year Basis. The first Site Fee payment and Additional Customer Fees shall be due and payable as follows: (a) for Site Fees, at the end of the first fiscal year following the Effective Date or Ownership Date, whichever occurs later, or (b) in the case of Additional Customer Fees, at the end of the first fiscal year following the installation of Additional Customer equipment. Thereafter, the annual Site Fees and any Additional Customer Fees due to the City shall be paid to City at each fiscal year end. The annual Site Fees and any Additional Customer Fees shall be prorated based on the days/months accrued for each Site and Additional Customer between the Effective Date or Ownership Date, whichever occurs later, (for Site Fees) or the date of equipment installation (for Additional Customer Fees) and the following fiscal year end.

i. As of the first anniversary of the Effective Date, and continuing annually thereafter on the anniversary date during the term hereof, the Site Fee and Additional Customer Fee amounts shall be increased by a percentage of three percent (3%).

1.8.4 Late Payment Charges. Company hereby acknowledges that late payment by Company to City of Site Fees and Additional Customer Fees will cause City to incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of Site Fees, Additional Customer Fees, or any other sum due from Company shall not be received by City within ten (10) business days after such amount is due, Company shall pay to City a late charge of six percent (6%) of such unpaid amount. In no event shall the late charge or interest exceed the maximum allowable by Law. The parties hereby agree that such late charge will automatically accrue by reason of any late payment by Company. Acceptance of such late charge by City shall in no event constitute a waiver of Company’s default with respect to such overdue amount, nor shall it prevent City from exercising any of the other rights and remedies granted hereunder.

1.8.5 Accounting Matters. Company shall maintain accurate books of account at its principal office or another location of its choosing, for the purpose of determining the amounts due to City under this Section 1.8. City, or a consultant acting on behalf of City, may inspect Company’s books of account relative to City at any time during regular business hours ten (10) business days prior written notice and may audit the books from time to time, but in each case only to the extent necessary to confirm the accuracy of payments due under this Section 1.8. If City receives a request for records related to information obtained from Company pursuant to this section, City agrees to promptly provide Company with written notice of the request. Company will then have the time specified in the City’s notice to determine whether it considers any of the information confidential proprietary information and whether it will take legal action to preclude disclosure of the requested information. Company understands that the City’s notice of a request for records under the California Public Records Act (Gov. Code, section 6250, et seq.) will require a prompt response from Company given the City’s obligation to respond to such a request within 10 days of its receipt. Absent a timely response, City may release the requested records. City shall have no monetary liability to Company for release of information pursuant to a request under the California Public Records Act or any subpoenas; nor shall City be
obligated to defend against any challenge related to a California Public Records Act request or a subpoena for records that Company asserts are confidential. Company further agrees to be liable for and pay all judgments against the City, as well as attorney fees and costs, resulting from a challenge related to a records request or subpoena for records that Company asserts are confidential.

1.9 Access to the Sites.

1.9.1 Company will be given reasonable access to each of the Sites for the purposes of routine installation, repair, maintenance or removal of Small Cell Facilities. A schedule of routine maintenance shall be provided to the City. If any such maintenance activities have the potential to result in an interruption of any City services at the Site, Company shall provide the City with a minimum of three (3) days prior written notice of such maintenance activities, or such period of time needed to obtain an encroachment permit. Such maintenance activities shall, to the extent feasible, be done with minimal impairment, interruption, or interference to City services.

If an emergency repair of the Small Cell Facilities or the Replacement Poles is necessary, Company may be allowed reasonable access to the Sites at any time. In the event of an emergency, Company will endeavor to provide the City’s Public Works Director, or designee, with prior written notice and shall, in any event, promptly provide written notice to the City of the emergency repair. An “emergency” for purposes of this section means there is an outage or disruption in Services.

1.9.2 Company shall allow a representative of the City to observe any repair, maintenance or removal work performed at the Sites.

1.9.3 The City reserves, and Company agrees to, the right of the City, its authorized officers, employees, agents or contractors, to enter into and access the Sites at any time. Without limiting the foregoing, the City and Company agree that the City may: (1) inspect the Sites and Small Cell Facilities for Company’s compliance with the terms of this Agreement; (2) make repairs, alterations or additions to the Sites or maintain or use the Site in a manner that, to the extent feasible, causes minimal impairment, interruption or interference with the operation of the Network by Customer or its Additional Customer (if any) and/or Company’s use of the Sites and in a manner that is consistent with the terms of this Agreement.

ARTICLE 2
TERM AND TERMINATION

2.1 Term. The initial term of this Agreement shall be ten (10) years or coextensive with the term of the Permit if such Permit term is express.

2.1.1 If Company obtains a new Entitlement or modifies or otherwise extends the Entitlement, resulting in an extension of the term thereof, then this Agreement may be extended to be coextensive with the term of the new Entitlement or the extension of the Entitlement provided that the parties shall mutually agree to such extension and the terms and conditions of such extension, including but not limited to license fees for the Sites.
2.1.2 If the Entitlement expires or is revoked and if Company does not obtain a new Entitlement or a modification and/or extension of the Entitlement, then Company shall have no more than ninety (90) days from the effective expiration or revocation date to remove its equipment and restore the Sites, as set forth in Article 3, below and in the Wireless Ordinance. Company shall pay to City per-month prorated Site Fees and Additional Customer Fees (if any) for any period beyond the effective expiration or revocation date until Company completes its obligation to remove its equipment and restore the Sites; the Site Fees and Additional Customer Fees shall continue in full until Company completes its obligation to remove its equipment.

2.2 Termination of Use. Notwithstanding Section 2.1 above, Company may terminate its use of any or all of the Network by providing the City with ninety (90) days prior written notice. In the event of any such termination, Company’s payment obligations to the City shall terminate simultaneously with the termination of use, provided Company removes its equipment and restores the Sites, as set forth in Article 3, below and in the Wireless Ordinance, prior to the termination date.

ARTICLE 3
REMOVAL AND RELOCATION

3.1 Removal Due to Public Project. Within ninety (90) days of receipt of a written demand from the City pursuant to this Article 3, Company, at its sole cost and expense, shall remove and relocate any part of the Network, constructed, installed, used and/or maintained by Company under this Agreement, whenever the City reasonably determines that the removal and/or relocation of any part of the Network is needed due to either (i) any work proposed to be done by or on behalf of the City or any other governmental agency, including but not limited to, any change of grade, alignment or width of any street, sidewalk or other public facility, installation of curbs, gutters or landscaping and installation, construction, maintenance or operation of any underground or aboveground facilities such as sewers, water mains, drains, storm drains, pipes, gas mains, poles, power lines, telephone lines, cable television lines and tracks, or (ii) because any part of the Network is interfering with or adversely affecting the proper operation of City-owned light poles, traffic signals, or other City facilities. In the event the City reasonably determines that the removal and/or relocation of any part of the Network is needed to protect or preserve the public health and safety, then upon receipt of a written demand from the City, Company, at its sole cost and expense, shall remove and relocate any part of the Network, constructed, installed, used and/or maintained by Company under this Agreement in a reasonably expeditious timeframe as needed to protect the public health and safety. The City shall cooperate with Company in relocating any portion of the Network removed pursuant to this Section 3.1 in a manner that allows Company to continue providing service to its Customers, including, but not limited to, expediting approval of any necessary permits required for the relocation of that portion of the Network relocated under this Section 3.1.

3.2 Removal Due to Termination. No later than ninety (90) days after termination of this Agreement pursuant to the provisions of this Agreement, Company shall by Encroachment Permit, at its sole cost and expense, remove the Network or the terminated portion thereof and, if such removal disturbs the Sites or adjacent property (including City ROW or City property), restore each Site and its adjacent property to its original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic
improvements made by Company to the Site or adjacent property, or as otherwise required by the City. For Replacement Poles, Company shall install a replacement streetlight or facility as directed by City’s Public Works Director, or designee. Alternatively, the City may allow Company, in the City’s sole and absolute discretion, to abandon the Network, or any part thereof, in place and convey it to the City.

3.3 Abandonment. In the event Company ceases to operate and abandons the Network, or any part thereof, for a period of ninety (90) days or more, Company shall, at its sole cost and expense and within the time period specified in this Section 3.4, vacate and remove the Network or the abandoned part thereof. If such removal disturbs the Site or adjacent property (including City ROW or City property), Company shall also, at its sole cost and expense, restore the Site or adjacent property to its original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic improvements made by Company to the Site or adjacent property. Alternatively, the City may allow Company, in the City’s sole and absolute discretion, to abandon the Network, or any part thereof, in place and convey it to the City.

3.4 No Relocation Compensation. The parties understand and agree that Company is not and shall not be entitled to compensation for any relocation of its Network that may be required under Section 3.1. Company further acknowledges that Company is not entitled to relocation assistance or any other compensation or benefits under the Uniform Relocation Assistance Act or any other applicable provision of law upon termination of this Agreement.

ARTICLE 4
MAINTENANCE AND REPAIR

4.1 Electricity Use. Company shall pay for the electricity and other utilities services it consumes in its operations at the rate charged by the servicing utility company.

4.2 Street Lighting. To the extent Company has any obligation to construct and install the Replacement Poles, as described in Section 1.6, Company shall, at its cost, install all mast arms, lighting equipment and other equipment or facilities necessary to place the lights or pole facilities back in operation for all lighting purposes that were in place before the removal and replacement of the pole. Once such lighting equipment is initially installed/replaced by Company, the City shall maintain the lighting components of the Replacement Poles, including the light mast arm, bulb maintenance and settings for automatic light detection sensors. The Company and City may, at any time, mutually agree in writing to an alternative means of allocating responsibility for the installation or maintenance of lighting equipment on any Replacement Pole.

4.3 Maintenance and Repair. Company shall, at Company’s sole cost and expense, perform all maintenance and repairs reasonably needed to maintain the Network in good condition and neat and orderly appearance, and in compliance with all applicable Laws. In the event any part of the Network requires replacement because such part cannot be repaired, Company shall, at Company’s sole cost and expense, replace the irreparable part of the Network. Company shall not cause rubbish, garbage or debris on or around the Small Cell Facilities or the Sites and shall not permit any rubbish, garbage or debris to accumulate on or around in any
enclosed areas around the Small Cell Facilities and the Sites. If the City gives Company written notice of a failure by Company to maintain the Small Cell Facilities, Company shall use its best efforts to remedy such failure within forty-eight (48) hours after receipt of such written notice.

4.4 **Repair of ROW.** Company shall be responsible for any damage, ordinary wear and tear excepted, to street pavement, existing facilities and utilities, curbs, gutters, sidewalks, landscaping, and all other public or private facilities, to the extent caused by Company's construction, installation, maintenance, access, use, repair, replacement, relocation, or removal of the Network in the City’s ROW. Company shall promptly repair such damage and return the City’s ROW and any affected adjacent property to a safe and satisfactory condition to the City in accordance with the City's applicable street restoration standards or to the property owner if not the City. Company’s obligations under this Section 4.4 shall survive for one (1) year past the completion of such reparation and restoration work and return of the affected part of the City’s ROW by Company to the City.

4.5 **Bond.** Company shall provide a bond in an amount determined by the City to represent the estimated cost of Company’s obligations under Sections 3 and 4 of this Agreement, which the City may require Company to increase from time to time (but no more frequently than every five years during the term of this Agreement) to reflect the reasonable estimated cost of performing such obligations, to secure performance of Company’s obligations under Sections 3 and 4.

**ARTICLE 5**

**TAXES**

5.1 **Taxes.** Company agrees that it will be solely responsible for the payment of any and all applicable taxes, fees and assessments levied on its ownership, use and maintenance of the Network and this Agreement. Pursuant to Section 107.6 of the California Revenue and Taxation Code, the City hereby advises, and Company recognizes and understands, that Company’s use of the City’s ROW, the Replacement Poles, and/or other non-ROW city property and facilities may create a possessory interest subject to real property taxation and that Company may be subject to, and responsible for, the payment of real property taxes levied on such interest. Company will cooperate with the San Bernardino County Assessor in providing any information necessary for the Assessor to make a property tax determination. Company reserves the right to challenge any such assessment, and the City agrees to cooperate with Company in connection with any such challenge.

**ARTICLE 6**

**INDEMNIFICATION**

6.1 **Indemnity.** Company shall indemnify, defend, and hold harmless the City, its councilmembers, officers, employees, agents, and contractors, from and against liability, claims, demands, losses, damages, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and the costs and expenses incurred in connection therewith, including reasonable attorneys’ fees and costs of defense to the extent resulting from activities undertaken by Company or its Customers pursuant to this Agreement, except to the extent arising from or caused by the gross negligence or willful misconduct of the City, its councilmembers, officers,
employees, agents, or contractors. The City shall promptly notify Company of any claim, action or proceeding covered by this Section 6.1.

6.2 Waiver of Claims. Company waives all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any portion of the Network, or any loss or degradation of the services provided by the Network resulting from any event or occurrence except for any loss, damage, or injury to any portion of the Network, or any loss or degradation of the services provided by the Network resulting from the gross negligence or willful misconduct of the City.

6.3 Limitation of City’s Liability. The City will be liable, if at all, only for the cost of repair to damaged portions of the Small Cell Facilities arising from the gross negligence or willful misconduct of City, its employees, agents, or contractors. The City, its agents, officers, employees or contractors, shall not be liable for any damage from any cause whatsoever to the Small Cell Facilities, specifically including, without limitation, damage, if any, resulting from the City’s maintenance operations adjacent to the Small Cell Facilities or from vandalism or unauthorized use of the Small Cell Facilities, except to the extent such damage is caused by the gross negligence or willful misconduct of City, its agents, officers, employees or contractors. The City will in no event be liable for indirect or consequential damages.

ARTICLE 7
INSURANCE

7.1 Minimum Insurance Requirements. Company shall obtain and maintain at its sole cost and expense for the duration of this Agreement insurance pursuant to the terms and conditions described in this Article. The insurance requirements herein may be satisfied by a combination of primary, umbrella, and/or excess liability insurance policies.

(a) Minimum Insurance. Company shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(i) General Liability: A policy or policies of Comprehensive General Liability Insurance, with minimum limits of $2,000,000 combined single-limit per-occurrence for bodily injury, personal injury, death, loss and property damage resulting from wrongful or negligent acts by Company. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(ii) Automobile Liability: A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of $1,000,000 combined single-limit per-accident for bodily injury and property damage covering any vehicle utilized by Company in performing the work covered by this Agreement.

(iii) Workers’ Compensation and Employer’s Liability: Workers’ compensation limits as required by the Labor Code, and Employer’s Liability limits of $1,000,000 per accident.
(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed $25,000; provided, however, if Company’s insurance policy expressly provides (i) that the insurer is required to pay covered claims with no deduction for all or any part of the Company’s deductible, and (ii) insurer’s obligation to pay covered claims is triggered irrespective of whether or not the insured pays the deductible, then Company’s deductible shall not exceed $100,000 for Comprehensive General Liability Insurance, $100,000 for Comprehensive Vehicle Liability Insurance and $250,000 for Workers’ Compensation and Employer’s Liability coverage.

(c) Other Insurance Provisions. The policies shall contain, or be endorsed to contain, the following provisions:

(i) General Liability and Automobile Liability Coverage.

(1) The City, and its elected and appointed council members, board members, commissioners, officers and officials (the “Insureds”) shall be named as additional insureds on all required insurance policies, except for Workers’ Compensation and Employer’s Liability policies.

(2) Company’s insurance coverage shall be primary insurance as respects the Insureds with respect to the matters covered by this Agreement. Any insurance or self-insurance maintained by the Insureds shall be in excess of Company’s insurance and shall not contribute with it.

(3) Any failure of Company to comply with reporting provisions of the policies shall not affect coverage provided to the Insureds.

(4) Company’s insurance shall apply separately to each of the Insureds against whom a claim is made or suit is brought, except with respect to the limits of the insurer’s liability. Each of the Insureds is subject to all policy terms and conditions and has an obligation, as an Insured, to report claims made against them to the insurance carrier.

(ii) Worker’s Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the Insureds for losses arising from work performed by Company in the City’s ROW.

(iii) All Coverages. Except for non-payment of premium, each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled or reduced in coverage or limits by the insurer except after thirty (30) days’ prior written notice has been given to the City. If for any reason insurance coverage is canceled or, reduced in coverage or in limits, Company shall, within two (2) business days of notice from the insurer, notify the City by phone or fax of the changes to or cancellation of the policy and shall confirm such notice via certified mail, return receipt requested.

(d) Acceptability of Insurers. Insurance shall be placed with insurers with an A.M. Best rating of no less than A-:VII.
(e) Verification of Coverage. Company shall furnish the City with certificates of insurance required by this Article 7. The certificates for each insurance policy are to be signed by a person, either manually or electronically, authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City before work commences.

(f) Secondary Parties. In the event Company hires any subcontractors, independent contractors or agents ("Secondary Parties") to locate, place, attach, install, operate, use, control, replace, repair or maintain the Network, Company shall ensure that each of its Secondary Parties adhere to the same insurance requirements set forth in this Section 7.1 (the "Insurance Requirements"); provided, however, this provision may be satisfied by insurance policies of such Secondary Parties which meet the Insurance Requirements, including having the City as an additional insured, and insure the activities of their subcontractors in lieu of separate subcontractor insurance policies.

ARTICLE 8
DEFAULT

8.1 Default.

8.1.1. Defined. A "Default" shall be deemed to have occurred under this Agreement if a party fails to cure such within thirty (30) days after written notice specifying such breach, provided that if the breach is of a nature that it cannot be cured within thirty (30) days, a default shall not have occurred so long as the breaching party has commenced to cure within said time period and thereafter diligently pursues such cure to completion.

8.1.2. Remedies. Upon the failure of a party to timely cure any breach after notice thereof from the other party and expiration of the above cure periods, then the non-defaulting party may, subject to the terms of Section 6.3 (Limitation of Liability), (i) terminate this Agreement in its entirety as to all Sites if the default arises from or pertains to all Sites and (ii) pursue all remedies provided for in this Agreement and/or any remedies it may have under applicable law or principles of equity relating to such breach; provided, however, if the default only arises from or pertains to particular Sites, City shall only terminate Permits for those Sites from which the default arises and require removal of the Small Cell Facilities thereon rather than terminate this Agreement in its entirety.

8.2 City Termination Right. In addition to the remedies set forth in Section 8.1.2, the City shall have the right to terminate this Agreement if (i) the City is mandated by Law, a court order or decision, or the federal or state government to take certain actions that will cause or require the removal of the Small Cell Facilities from the Sites; or (ii) if Company's CPCN is terminated, revoked, expired, or otherwise abandoned. Such termination rights shall be subject to Company's rights to just compensation, if any, for any taking of a protected property right.

8.3 No Waiver. A waiver by either party at any time of any of its rights as to anything herein contained shall not be deemed to be a waiver of any breach of covenant or other matter subsequently occurring.
ARTICLE 9
INTERFERENCE

9.1 Company shall operate the Network in a manner that will not cause interference with City non-public safety communications systems and to the services and facilities of other licensees or lessees of City property located at or near the Sites that were in operation prior to the installation of the Network or that are in operation prior to any modifications Company may make to the Network.

9.2 Company's Network and facilities shall not cause interference with public safety communications systems operated by City or any other public agency, regardless of the date such systems or any components thereof have been placed in service. Nor shall Company's Network and facilities cause interference with the City's use of the Replacement Poles for their intended purpose as streetlights, traffic lights, and/or stand-alone light poles.

9.3 If such interference with the facilities described in Sections 9.1 and 9.2 occur, Company shall, upon receipt of written notice thereof from City, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. If such interference cannot be corrected by Company to the reasonable satisfaction of City within the cure period set forth for in the City's notice, which notice shall not be less than 30 days absent an emergency or danger to public health and safety requiring shorter notice, such interference shall be deemed a material breach under this Agreement and City may terminate this Agreement. Interference caused by actions of Company's Customer(s) remain the responsibility of Company.

ARTICLE 10
MISCELLANEOUS PROVISIONS

10.1 Nonexclusive Use. Company acknowledges that this Agreement does not provide Company with exclusive use of the City's ROW or any municipal facility and that City retains the right to permit other providers of communications services to install equipment or devices in the City's ROW and on municipal facilities. Company acknowledges that the City may make information available to other providers of communications services concerning the presence or planned deployment of the Network in the City's ROW.

10.2 Notices. All notices which shall or may be given pursuant to this Agreement shall be in writing and personally served or transmitted through registered or certified mail, postage prepaid or by express mail providing for overnight delivery, postage prepaid, to the following address or such other address of which a party may give written notice:

City: City of Perris
101 North D Street
Perris, CA 92570
Attention: Public Works Director
With copies to:
Eric Dunn, City Attorney
Aleshire & Wynder, LLP
18881 Von Karman Ave., Suite 1700
Irvine, CA 92612

City of Perris Planning & Economic Development Department
135 North D Street
Perris, CA 92570
Attention: Director

Company: Mobilitie, LLC
660 Newport Center Drive
Suite 200
Newport Beach, CA 92660
Attention: Legal Department

With a copy to:
Mobilitie, LLC
660 Newport Center Drive
Suite 200
Newport Beach, CA 92660
Attention: Asset Management

Attention: Such notice shall be deemed made when personally delivered; if mailed via first class U.S. Mail, such notice shall be deemed made three (3) calendar days after the date of deposit in the U.S. Mail; if mailed via express/overnight mail, such notice shall be deemed made two (2) calendar days after the date of deposit in a designated overnight delivery mailbox or other like facility. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

10.3 Attorneys’ Fees. If legal action is brought by either party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to recover reasonable attorneys’ fees and court costs.

10.4 Sublease / Assignment. Other than the right to have up to two Customers as described in the Section 1.7 of this Agreement, which shall not be deemed to be subleases, sublicenses or assignments of this Agreement, Company shall not assign, sublet, enter into franchise, license or concession agreements, change fifty percent (50%) or more of Company’s ownership interest of the Network, change fifty percent (50%) or more of the voting control of Company, mortgage, encumber, pledge, hypothecate or otherwise transfer (including any transfer by operation of law this Agreement or any interest therein) without City’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed. This Agreement shall not be assignable by operation of law as to any interest of Company herein. The City’s consent to an assignment shall not be deemed to be a consent to a subsequent assignment. Subject to the above, the provisions contained in this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. It shall be reasonable for City to withhold consent to
any assignment to a third-party whose qualifications (including, without limitation, financial
condition, reputation and operating history) are less than those of Company, and Company shall
provide City evidence of such qualifications upon request.

10.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the
parties and their respective heirs, legal representatives, successors, assigns and transferees.

10.6 Entire Agreement; Modification; Waiver. This Agreement constitutes the entire
agreement between the parties relating to the subject matter hereof. All prior and
contemporaneous agreements, representations, negotiations, and understandings of the parties,
oral or written, relating to the subject matter hereof, are merged into and superseded by this
Agreement. Any modification or amendment to this Agreement shall be of no force and effect
unless it is in writing and signed by the parties. No waiver of any of the provisions of this
Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not
similar. No waiver or consent shall constitute a continuing waiver or consent or commit either
party to provide a waiver in the future except to the extent specifically set forth in writing. No
waiver shall be binding unless executed in writing by the party making the waiver.

10.7 Severability. If any one or more of the provisions of this Agreement shall be held by a
court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable,
such provision or provisions shall be deemed separable from the remaining provisions of this
Agreement and shall in no way affect the validity of the remaining portions of this Agreement.

10.8 Governing Law. This Agreement shall be interpreted and enforced according to, and the
parties’ rights and obligations governed by, the domestic law of the State of California or
applicable federal law, without regard to laws regarding choice of applicable law. Any
proceeding or action to enforce this Agreement, or otherwise directly related to this Agreement
shall occur in the federal court with jurisdiction over San Bernardino County or the state courts
located in San Bernardino County, California.

10.9 Survival of Terms. All of the terms and conditions in this Agreement related to payment,
removal due to termination or abandonment, indemnification, limits of City’s liability, attorneys’
fees and waiver shall survive termination of this Agreement.

10.10 Captions and Paragraph Headings. Captions and paragraph headings used herein are
for convenience only. They are not a part of this Agreement and shall not be used in construing
this Agreement.

10.11 Exhibits. All Exhibits referenced in this Agreement are hereby incorporated as though
set forth in full herein.

10.12 Drafting. The parties agree that this Agreement is the product of joint draftsmanship and
that should any of the terms be determined by a court, or in any type of quasi-judicial or other
proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases,
clauses or other wording or language of any kind shall not be construed against the drafting party
in accordance with California Civil Code Section 1654, and that each party to this Agreement
waives the effect of such statute.
10.13 Execution in Counterparts. This Agreement may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Agreement.

10.14 Authority to Execute This Agreement. Each person or persons executing this Agreement on behalf of a party, warrants and represents that he or she has the full right, power, legal capacity and authority to execute this Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations under this Agreement without the approval or consent of any other person or entity.

10.15 No Warranty by the City. The City makes no representations or warranties regarding the suitability, condition or fitness of the Sites for the installation, maintenance or use of the Replacement Poles or the Small Cell Facilities.

10.16 Agreement Applicable Only to the Sites. This Agreement shall not be construed to permit construction, installation, maintenance or use of Small Cell Facilities on any property other than the Sites.

10.17 No Abrogation of Legal Responsibilities. The City’s execution of this Agreement shall not abrogate, in any way, Company’s responsibility to comply with all permitting requirements or to comply with all Laws with respect to its performance of the activities permitted under this Agreement.

[Signatures Begin on Following Page]
IN WITNESS WHEREOF, the parties have signed this Agreement as of the date stated in the introductory clause.

CITY OF PERRIS, a municipal corporation

By: __________________________
   City Manager

By: __________________________
   Name:
   Title:

Mobilitie, LLC,
a Nevada limited liability company

By: __________________________
   Name:
   Title:

ATTEST:

By: __________________________
   City Clerk

By: __________________________
   Name:
   Title:

APPROVED AS TO FORM:

By: __________________________
   City Attorney
EXHIBIT A

Site Plans of the Small Cell Facilities

Attached behind this page are the Small Cell Facilities designs and individual site plan layouts covered by this Agreement.
MOBILITIE, LLC
PHOTO SIMULATION
FOR NEW SMALL CELL SITE LOCATED AT:
BRADLEY RD & MORGAN ST | PERRIS, CA 92571
SITE ID: RV90XS069F

SITE DESCRIPTION:
NEW SMALL CELL SITE WITHIN EXISTING RIGHT OF WAY

VIEWS: 3
SHEET INDEX
SHEET 2: VIEW 1
SHEET 3: VIEW 2
SHEET 4: VIEW 3

Photo Simulation
This photographic simulation is intended as a visual representation only and is not to be used for construction purposes. Accuracy of photo simulation is based on information provided by project applicant.

Tangent SYSTEMS

Site ID: RV90XS069F
POLE TYPE: (1) CONCRETE LIGHT POLE
BRADLEY RD & MORGAN ST
PERRIS, CA 92571

MOBILITIE, LLC

CUP 17-05277
APPROVED
CITY OF PERRIS
PLANNING DEPT.
BY
per CDA

06/20/18
EXISTING FRONT VIEW

NEW FRONT VIEW

POLE ELEVATIONS

SCALE: 1/8" = 1'-0" (1/4" = 1'-0" ON DEPICTED SHEET)

NOTES:
1. All hardware shall be stainless steel.
2. All cables shall be secured to pole over 24" or J-box.
3. Lightning rods shall be included as required.
4. Pole replacement will be conducted by SCL.
MOBILITIE, LLC
PHOTO SIMULATION
FOR NEW SMALL CELL SITE LOCATED AT:
WALNUT ST. | PERRIS, CA 92571
SITE ID: RV90XSA59C

SITE DESCRIPTION:
NEW SMALL CELL SITE
WITHIN EXISTING RIGHT
OF WAY

VIEWS: 3
SHEET INDEX
SHEET 2: VIEW 1
SHEET 3: VIEW 2
SHEET 4: VIEW 3

Photo Simulation By

Tangent
SYSTEMS
925-582-4167 - tangent systems

Photo Simulation
This photographic simulation is intended as a visual representation only and is not to be used for construction purposes. Accuracy of photo simulation is based on information provided by project applicant.

MOBILITIE, LLC

Site ID: RV90XSA59C
POLE TYPE: NEW CONCRETE LIGHT POLE
WALNUT ST
PERRIS, CA 92571
MOBILITIE, LLC
PHOTO SIMULATION
FOR NEW SMALL CELL SITE LOCATED AT:
E 5TH ST & S G ST | PERRIS, CA 92570
SITE ID: RV90XSB13C

SITE DESCRIPTION:
NEW SMALL CELL SITE WITHIN EXISTING RIGHT OF WAY

VIEWS: 3
SHEET INDEX
SHEET 2: VIEW 1
SHEET 3: VIEW 2
SHEET 4: VIEW 3

Photo Simulation
This photographic simulation is intended as a visual representation only and is not to be used for construction purposes. Accuracy of photo simulation is based on information provided by project applicant.

Site ID: RV90XSB13C
POLE TYPE: (N) CONCRETE LIGHT POLE
E 5TH ST & S G ST
PERRIS, CA 92570

MOBILITIE, LLC
EXISTING FRONT VIEW

NEW FRONT VIEW

NOT FOR CONSTRUCTION

1. ALL HARDWARE SHALL BE STAINLESS STEEL.
2. ALL CABLES SHALL BE SECURED TO POLE EVERY 36" OR LESS.
3. LIGHTNING PODS SHALL BE INCLUDED AS REQUIRED.
4. POLE REPLACEMENT WILL BE CONDUCTED BY SIC.

POLE ELEVATIONS

SCALE: 1" = 1'-0" (1/4" = 1'-0" ON 3 DRAW SHEETS)
MOBILITIE, LLC
PHOTO SIMULATION
FOR NEW SMALL CELL SITE LOCATED AT:
E. ELLIS AVE. | PERRIS, CA 92570
SITE ID: RV90XSA80D

SITE DESCRIPTION:
NEW SMALL CELL SITE
WITHIN EXISTING RIGHT
OF WAY

VIEWS: 3
SHEET INDEX
SHEET 2: VIEW 1
SHEET 3: VIEW 2
SHEET 4: VIEW 3

Photo Simulation
This photographic simulation is intended as a visual representation only and is not to be used for construction purposes. Accuracy of photo simulation is based on information provided by project applicant.

MOBILITIE, LLC

Site ID: RV90XSA80D
POLE TYPE: NEW CONCRETE LIGHT POLE
E. ELLIS AVE
PERRIS CA 92570
EXHIBIT B

INSTALLATION LOCATIONS

Attached behind this page are descriptions and diagrams indicating the locations at which the Small Cell Facilities covered by this Agreement will be installed.
<table>
<thead>
<tr>
<th>Approved Locations /Nearest Address</th>
<th>Mobilite Site ID</th>
<th>GPS COORDINATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Morgan St. &amp; Bradley St</td>
<td>RV90XS069F</td>
<td>33.83754, -117.191069</td>
</tr>
<tr>
<td>2. Walnut Ave. &amp; Sherman Rd</td>
<td>RV90XSA59C</td>
<td>33.82675, -117.180275</td>
</tr>
<tr>
<td>3. E. 5th St. &amp; G St</td>
<td>RV90XS813C</td>
<td>33.781288, -117.22214</td>
</tr>
<tr>
<td>4. E. Ellis St. &amp; Plaza Way</td>
<td>RV90XSA80D</td>
<td>33.77223, -117.22829</td>
</tr>
</tbody>
</table>
EXHIBIT C

ADMINISTRATIVE APPROVAL ENTITLEMENT:

Attached behind this page is the approval letter and conditions of approval for the Small Cell Facilities Project covered by this Agreement.
June 21, 2018

Mobilitie LLC
Attn: Robert Schultz, Permitting Manager
2955 Red Hill Avenue, Suite 200
Costa Mesa, CA 92626

Subject: **Conditional Use Permit 17-05277** – Approval to lease, install and operate four (4) stealth wireless facilities on replacement concrete streetlights in four existing locations within the City of Perris public right-of-way.

Dear Robert:

The City of Perris Planning Commission approved the above referenced projects on June 20, 2018, subject to the enclosed Conditions of Approval. Conditional Use Permit 17-05277 approves the lease, installation and operation of four mini (MM) stealth wireless facilities on replacement concrete light standards in four locations within the City of Perris public right-of-way:

<table>
<thead>
<tr>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walnut Ave. &amp; Shenan Rd.</td>
</tr>
<tr>
<td>Morgan St. &amp; Bradley St.</td>
</tr>
<tr>
<td>E. 5th St. &amp; G St.</td>
</tr>
<tr>
<td>E. Ellis St. &amp; Plaza Way</td>
</tr>
</tbody>
</table>

Prior to the issuance of building or occupancy permits, all respective Conditions of Approval must be in compliance. The applicant/property owner acknowledges the requirements of the City, and agrees to all Conditions of Approval.

Anyone dissatisfied with this decision or the Conditions of Approval may appeal within 10 working days from the date of the approval. Caution should be exercised in making any expenditures or commitments based upon this approval until the expiration of the appeal period and disposition of any appeals that may be filed. If you have any questions or require additional information, please contact me at (951) 943-5003, extension 252.

Sincerely,

Diane Sbardellati
Associate Planner

Attachments: Conditions of Approval (Planning, City Engineer)

cc: Daryl Hartwell, Director of Public Works
RESOLUTION NUMBER 18-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FINDING THE PROPOSED PROJECT EXEMPT FROM CEQA AS A CLASS 32 EXEMPTION, AND APPROVING CONDITIONAL USE PERMIT 17-05277 FOR THE LEASE, INSTALLATION AND OPERATION OF STEALTH WIRELESS FACILITIES ON EXISTING OR REPLACEMENT STREETLIGHTS LOCATED IN FOUR (4) LOCATIONS IN THE CITY OF PERRIS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the applicant filed Conditional Use Permit (CUP) 17-05277 proposing to lease, install and operate stealth wireless facilities on existing and proposed replacement streetlights in four locations within the City of Perris public right-of-way; and

WHEREAS, the streetlight near the intersection of 5th Street and G Street is owned by SCE, and as a possible distribution pole, is not on the City's list for purchase. If the City cannot purchase the pole, Mobilitie may contract directly with SCE to install their equipment and upgrade the wood pole to concrete.

WHEREAS, the four (4) locations to be approved under CUP 17-05277 are for the following locations:

- On the North side of Walnut St approximately 500 feet east of Sherman Rd.
- On the West side of Bradley Road between Morgan Street and Avalon Parkway
- On the South side of 5th St. and approximately 100 feet west of G St.
- On the North side Ellis St. and approximately 50 feet west Plaza Way

WHEREAS, the proposed project is consistent with the City’s General Plan and the Zoning Code, and conforms to all zoning standards and other Ordinances and Resolutions of the City; and

WHEREAS, this Conditional Use Permit (CUP) has been duly noticed; and

WHEREAS, a public hearing was held on June 20, 2018, at which time all interested persons were given full opportunity to be heard and to present evidence; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Perris as follows:

Section 1. The above recitals are all true and correct.

Section 2. The Planning Commission has determined that the project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15332 Class 32 for infill
development within city limits on less than five acres of land in compliance with applicable general plan policies and zoning requirements.

Section 3. Based upon the information contained within the staff report and accompanying attachments, with respect to the Conditional Use Permit, the Planning Commission hereby finds the following:

a) The proposed location of the conditional use is in accord with the objectives of the Perris Zoning Code Section 19.85, Wireless Telecommunication Facilities, and the purpose of the Zone where the site is located.

The proposed wireless small cell facilities will be an enhancement to the City due to their ability to provide additional telecommunication capabilities. The proposed sites have been chosen because there is a need to fill gaps in the network and add bandwidth due to a lack of capacity. The project meets the objectives of the ordinance by providing stealth facilities on streetlights, and upgrading the streetlights as needed.

b) The proposed plan is consistent with the City's General Plan and conforms to all Specific Plans, zoning standards, applicable subdivision requirements, and other ordinances and resolutions of the City.

The proposed wireless small cell facilities, by conforming to the requirements of Zoning Code Section 19.85, Wireless Telecommunication Facilities, is consistent with the General Plan and the Zoning Code.

c) The location of the conditional use and conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity.

The locations of the conditional use and the conditions under which they would be operated or maintained will not be detrimental to the public health, safety or welfare because wireless small cell facilities have been proven safe for the public, and the project will provide extended wireless communication coverage to areas that currently are underserved.

d) The proposed project is visually compatible with the existing streetscape, and protects the character of the adjacent development.

The proposed project is the addition of a 3-foot, 2-inch Shrouded Small Cell Mini-Macro (MM) Wireless Antenna and equipment to concrete streetlights in existing locations in the public right-of-way (ROW). No new streetlights are proposed, and if the existing streetlight does not support the added equipment, the streetlight will be replaced with a new concrete standard in conformance with the City's standard design. The proposed wireless facilities would increase the height of the standard light pole from approximately 26-feet, 7-inches, to 29-feet,
9-inches. The shroud extends out from the pole approximately one foot and is located beneath the luminaire arm. The antenna is located under the shroud and extends from the top of the streetlight. All components would be required to be painted “Marblelight” to match the concrete streetlight. Other equipment is located in an underground utility vault, with power run to the pole. No other equipment is visible or accessible. Therefore, the proposed project is compatible with the existing streetscape.

Section 4. Based upon the information contained within the staff report and accompanying attachments, with respect to the proposed Wireless Telecommunication Facilities, the Planning Commission hereby finds the following:

1. That the proposed Facility will be an enhancement to the City due to its ability to provide additional communication capabilities.

This project is needed to close a significant gap of coverage in the Perris area. The most significant issue is either gaps in coverage or the need for additional bandwidth to improve wireless services in Perris. The streetlights selected for the installation of Sprint small cell facilities are locations that will “repair” deficient areas that are part of the Sprint network.

2. That the proposed Facility will be a Stealth Facility and be aesthetically integrated into the design and landscaping of its site and surrounding land uses.

The proposed stealth facilities will be mounted on existing or replaced streetlights. The color of the sheathing and antenna extension to the top of the light pole will be identical to the concrete streetlight. A streetlight is a public service that does not require integration into the design and landscaping of its site or surrounding land use.

3. The proposed Facility has been evaluated in the context of the ultimate anticipated network of Facilities of both the applicant and other Commercial Mobile Service providers so as to reduce the number of Facilities needed to provide service to the City of Perris.

4. Since the proposed stealth facilities will be mounted on existing streetlights, and densification has been determined to be necessary, as shown by the Propagation Map prepared for each location. This new infrastructure includes activation of new 4G/5G frequency channels that will provide coverage and capacity to key areas of Perris that currently are lacking in adequate service.

5. The proposed facility has been located and designed for Colocation to the maximum extent possible.

Colocation is not possible on these facilities (streetlights) due to the lack of room on the pole for additional equipment beneath the stealth sheathing, or for more than one antenna at the top of the pole. These are mini-macro wireless facilities.
6. That the proposed Facility will comply with FCC regulations regarding interference with the reception or transmission of other Wireless Service signals within the City and surrounding community.

The applicant is required to submit a compliance report reviewed by a third party consulting firm which the report would be modeled as the worst case power density to document the Maximum Permissible Exposure (MPE) at this location. Overall, the report would need to demonstrate that the proposed tower is in compliance with FCC rules and regulations.

7. That the proposed Facility will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations.

The applicant has submitted a statement that Verizon will operate this facility in full compliance with the regulations and licensing requirements of the Federal Aviation Administration (FAA) and the California Public Utilities Commission.

8. That the public need for the use of the Facility has been documented.

The applicant has submitted coverage area maps showing the public need of the wireless facility. The document estimates current coverage and future coverage (after the installation) of the facility.

Section 5. For the foregoing reasons the Planning Commission hereby finds the proposed project exempt from CEQA, and approves Conditional Use Permit 17-05277 for the lease, installation and operation of stealth wireless facilities on existing and proposed replacement streetlights in four (4) locations within the City of Perris public right-of-way, based on the information and findings presented in the staff report and subject to the attached Conditions of Approval.

Section 6. The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 7. The Chairperson shall sign and the Secretary shall certify to the passage and adoption of this Resolution.

ADOPTED, SIGNED, and APPROVED this 20th day of June 2018.

[Signature]

CHAIRPERSON, PLANNING COMMISSION

ATTEST:

Secretary, Planning Commission
STATE OF CALIFORNIA
COUNTY OF RIVERSIDE
CITY OF PERRIS

I, Kenneth Phung, SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 18-14 was duly adopted by the Planning Commission of the City of Perris at a regular meeting of said Planning Commission on the 20th day of June 2018, and that it was so adopted by the following vote:

AYES: Arras, Hammond, Marin, McCarron, Shively
NOES:
ABSTAIN: Scott
ABSENT: Weir

________________________________________
Secretary, Planning Commission

Attachment: Exhibit A – Conditions of Approval
CITY OF PERRIS
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
CONDITIONS OF APPROVAL

Conditional Use Permit 17-05277 Planning Commission June 20, 2018

PROJECT: Conditional Use Permit No. 17-05277 is a proposal to lease, install and operate stealth small cell wireless facilities on existing or replaced streetlights in four (4) public right of way locations in the City of Perris: Walnut Ave. & Sherman Rd., Morgan St. & Bradley St., E. 5th St. & G St., and Ellis St. & Plaza Way. Applicant: Robert Schultz, Mobilitie, LLC.

General Requirements

1. Development Standards. The project shall conform to all requirements of the City of Perris Municipal Code Title 19 and Perris Valley Commerce Center Specific Plan.

2. City Ordinances and Business License. The subject business shall maintain compliance with all local and City Ordinances, including but not limited to an annual fire inspection and maintenance of a City business license.

3. CEQA Notice of Exemption. Within three (3) days of Planning Commission approval, the applicant shall submit a check to the City Planning Department, payable to “Riverside County Clerk-Recorder.” for a $50.00 check to file the notice exemption.


5. City Business License. The subject business shall maintain compliance with all local regulations, including City ordinances, including but not limited to an annual fire inspections and maintenance of a City business license.

6. Term of Approval. This approval shall be used within three (3) years of approval date; otherwise it shall become null and void and of no effect whatsoever. By use is meant the beginning of substantial construction contemplated by this approval within the three (3) year period which is thereafter diligently pursued to completion, or the beginning of substantial utilization contemplated by this approval.

7. Approved Plans. Development of the project, light pole elevations, colors and materials shall conform substantially to the approved set of plans, or as amended by these conditions. Any deviation shall require the appropriate review and approval by the Department of Development Services. Approved plans are labeled “Planning Commission June 20, 2018”. 

8. Expansion of Use. Any future wireless expansion or co-location shall require subsequent review and approval from the Planning Department.

9. Graffiti located on site shall be removed within 48 hours. The site shall be maintained in a graffiti-free state at all times.

EXHIBIT A
10. **Waste-Hauling.** The developer shall use only the City-approved waste hauler for all construction and other waste disposal.

11. **Conditions of Approval.** All Conditions of Approval shall be reproduced on the building plans, and cross-referenced for confirmation by Planning staff during building plan check.

12. **Indemnification.** The applicant shall indemnify, protect, defend, hold harmless, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees and agents, to attack, set aside, void, annul, or seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voters of the City, concerning CUP 17-05277. The City shall promptly notify the applicant of any claim, action, or proceeding for which indemnification is sought and shall further cooperate fully in the defense of the action.

**Project-Specific Conditions**

13. **Approved Locations.** The following locations are approved for the installation of Small Cell Facilities in compliance with these Conditions:

<table>
<thead>
<tr>
<th>No.</th>
<th>Location</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>N side of Walnut Ave, 500’ E of Sherman Rd.</td>
<td>City property is north side of Walnut Avenue only</td>
</tr>
<tr>
<td>2</td>
<td>Bradley Rd between Morgan St. &amp; Avalon Pkwy.</td>
<td>OK</td>
</tr>
<tr>
<td>4</td>
<td>S side of 5th St., approx. 100’ W of G St.</td>
<td>Wood pole owned by SCE – City may not purchase. If Mobility may contract directly with SCE &amp; wood pole shall be upgraded to concrete.</td>
</tr>
<tr>
<td>5</td>
<td>N side of Ellis St., approx. 50’ W of Plaza Way</td>
<td>OK</td>
</tr>
</tbody>
</table>

14. **Eligible Light Standards.** Only those light poles identified by the City as good candidates for mini-macro wireless facilities will be permitted.

15. **Wood Light Standards.** The installation of mini-macro wireless facilities on wooden light poles is prohibited.

16. **City of Perris Design Standard.** All proposed replacement light standards shall be concrete and conform to the City of Perris

17. **Stealth Mini-Macro Wireless Equipment.** All wireless equipment shall be hidden beneath the required sheathing to be mounted under the luminaire arm of the light standard, and the antennae shall mimic the light standard as it extends from the top of the pole. All devices
attached to the concrete light standard shall be painted to match

18. Accessory Equipment. Any and all equipment associated with the operation of the facility, including but not limited to transmission cables, shall be located in an underground vault.

19. Future Small Cell Facilities. All new locations require approval of a Conditional Use Permit (CUP).

20. Co-Location of Wireless Facilities. No collocation is proposed or permitted for the sites approved under CUP 17 05277.

21. Signage. No signage is permitted.

22. Master Network License Agreement Between the City of Perris and Mobilitie, LLC. The applicant shall agree to enter into this legal contract, which is being finalized between the two parties.

23. Encroachment Permit. Per the City Engineer, the applicant shall obtain an encroachment permit from the City Engineer's office.

24. Maintenance Agreement. The operator of a lawfully approved Telecommunication Facility shall, prior to issuance of building permits, enter into a "Maintenance and Facility Removal Agreement." This Agreement shall be in the form and manner approved by the City Attorney and shall be duly recorded in the office of the County Recorder. The minimum provisions of this agreement shall include maintenance of site landscaping, paint and surface.

25. Discontinued Use. The operator of a lawfully erected Facility, and the owner of the premises upon which it is located, shall within five (5) business days notify the Director of Planning and Economic Development and the Director of Public Works in writing in the event that use of the Facility is discontinued for any reason. For purposes of this paragraph, a discontinued use shall be permanent unless the Facility is likely to be operative and used within the immediately following ninety (90) day period. In the event that discontinued use is permanent, then the owner(s) and/or operator(s) shall promptly remove the Facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes. All such removal, repair and restoration shall be completed within ninety (90) days after the use is discontinued, and shall be performed in accordance with all applicable health and safety requirements.

26. Abandonment. A Facility that is discontinued, inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. An abandoned Facility shall be a nuisance, and subject to abatement for nuisances as specified in the Perris Municipal Code Chapter 19.85.

Construction Practices:
27. **Construction Practices.** To reduce potential and air quality nuisances, the following items shall be listed as "General Notes" on the construction drawings:

   a. Construction activity and equipment maintenance is limited to the hours between 7:00 a.m. and 7:00 p.m. Per Zoning Ordinance, Noise Control, Section 7.34.060, it is unlawful for any persons between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on a legal holiday, or on Sundays to erect, construct, demolish, excavate, alter or repair any building or structure in a manner as to create disturbing excessive or offensive noise. Construction activity shall not exceed 80 dBA in residential zones in the City.

   b. Stationary construction equipment that generates noise in excess of 65 dBA at the project boundaries must be shielded and located at least 100 feet from occupied residences. The equipment area with appropriate acoustic shielding shall be designated on building and grading plans. Equipment and shielding shall remain in the designated location throughout construction activities.

   c. Construction routes are limited to City of Perris designated truck routes.

   d. If applicable, water trucks or sprinkler systems shall be used during clearing, grading, earth moving, excavation, transportation of cut or fill materials and construction phases to prevent dust from leaving the site and to create a crust after each day’s activities cease. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.

   e. As applicable, a person(s) shall be designated to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. The name and telephone number of such persons shall be provided to the City.

   f. Project applicant shall provide construction site electrical hook-ups for electric hand tools such as saws, drills, and compressors, to eliminate the need for diesel powered electric generators or provide evidence that electrical hook ups at construction sites are not practical or prohibitively expensive.

**Prior to the Issuance of Building Permit**

28. **Construction Plans.** All Planning Division and Engineering Department Conditions of Approval shall be reproduced in full on construction drawings and grading plans, immediately following the cover sheet of such plans. Applicant shall annotate each Planning, Engineering Condition on the construction plans to indicate the manner by which each condition has been met (i.e., sheet and detail numbers).

**Prior to Building Permit Final**

29. **Clearance.** The applicant shall obtain clearance from the Planning Division verifying that all pertinent conditions of approval have been met.

*end conditions*
MEMORANDUM

TO: Diane Sbardellati, Associate Planner

FROM: Emily Stadnik, Senior Engineer

DATE: November 10, 2017

RE: Mobilitie – CUP 17-05209, CUP 17-05210, CUP 17-05211

We have completed our initial review of the above mentioned projects submitted October 30, 2017 and offer the following comments:

- Obtain prior approval from SCE for proposed service point of connection.
- Street light poles proposed to be replaced, shall be to current City standards for LS3, LED lights. Any existing LS1 lights within the City are in the process of acquisition with SCE, and will be retrofitted to LS3, LED standards.
- Each telecom facility will require a separate ROW Use Agreement between the applicant and the City of Perris. The ROW Use Agreement shall be approved by Council prior to permit issuance.
- Traffic control prepared by a registered traffic engineer shall be provided with each encroachment permit application for each proposed facility.
- Any existing poles that are relocated are subject to relocation approval from the City Engineering Department.

Please call if you have any questions or require additional information.
MEMORANDUM

Date: January 9, 2017
To: Nathan Perez, Project Planner
From: Michael Morales, CIP Manager

Subject: PR 16-05240- Conditions of Approval
          Preliminary Proposal to construct a 120' tall steel data pole within City right-of-way. The project is located west of the northwest corner of Ramona Expressway and Evans Road.

1. Land Lease Agreement and Light Pole License Agreement for Wireless Attachment. The developer shall provide, for review and approval by the City of Perris, a Land Lease Agreement, complete with terms and conditions of lease, monthly rent, legal plat map and legal description of land. In addition, the Developer shall provide a Light Pole License Agreement, acceptable to the City of Perris, complete with terms and restrictions for the use of light pole for wireless attachments, and other access and use rights.

2. Electrical Meter – Developer shall provide a separate electrical meter for the light pole. All electrical meters shall be located in locations that are easily accessible to maintenance staff while not visually obstructive in the street scene and away from street intersections. Show location of separate electrical utility meter intended to serve light pole.

3. Street/Off-Site Improvements. The applicant shall submit electrical construction plans accompanied by the appropriate filing fee to the City Engineering Department. Details of the LED street light and construction methods and materials shall meet both the City Engineer's Design Guidelines, and the additional requirements of the Engineering and Special Districts Division. Components shall include, but not be limited to:
   a. Street Lighting-Lighting shall meet the type, style, color and durability requirements, necessary for energy efficiency goals, maintenance and longevity of improvements of the City Engineer's Office. As determined by the City, new streetlights may be required to be deeded to City of Perris, and not SCE. Street lights deeded to City of Perris shall be constructed per LS-3 account billing standard, which shall include an individually metered pedestal for streetlights.
   b. Acceptance By Public Works/Special Districts- Lighting District facilities shall be installed and fully operational, and approved by final inspection by the City Engineer's Office. Prior to acceptance for maintenance of "Off-site" lighting facilities by the Public Works-Engineering and Administration Division/Special Districts, the developer shall contact the Public Works Special Districts Division at (951) 956-2120 to schedule the delivery of all required turn-over submittal items. Submit one large format photo-copy of lighting as-built plans. Prior to acceptance, coordinate turn-over information pertaining to Street Lights, and Electrical/SCE Service Meters with Shepherd and Staats, the City's Special Districts Consulting Firm at (760) 639-0124. (i.e. Provide electrical meter number, photo of pedestal, and coordinate "request for transfer of billing information" with SCE and City for all new service meters).
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Approval of a Change Order to the Contract awarded to Community Works Design Group for the preparation of plans and specifications for the San Jacinto River Trail not to exceed $18,345

REQUESTED ACTION: That the City Council approve a change order in the amount of $18,345 to Community Works Design Group for the preparation of plans and specifications for the San Jacinto River Trail

CONTACT: Darren Madkin, Assistant City Manager

BACKGROUND/DISCUSSION:
A contract for preparation of construction drawings and specifications for the San Jacinto River Trail project was awarded to Community Works Design Group (CWD) in September 2013 for a total of $48,335. The project is funded through Parks DIF and the HCF grant from the State of California Parks Department and the plans and specifications are now substantially completed. However, after an unseasonal rainy period in late summer 2015, the San Jacinto River swelled over constructed bio swales, causing significant ponding along the banks of the river. With the warm summer heat, the ponding areas became breeding grounds for swarms of mosquitoes that were overwhelming nearby neighborhoods. Riverside County Flood Control District, which manages the river infrastructure, KB Homes, and the City of Perris jointly developed a plan to restore the infiltration trenches that are designed to send effluent water on a course to the San Jacinto River. The plan called for the Storm Water Pollution Prevention Plan (SWPPP) approved infiltration trenches that were filled in with silt and other debris to be restored to their natural flow lines. The infiltration trenches cross directly over the path of travel for the trail and required the design of the trail to be altered to accommodate the trenches. The improvements to the infiltration trenches was completed and placed in service in 2016. The trenches were not accounted for in the original design of the trail, and consequently required the preparation of a new trail alignment so that the trail isn’t impeding the flow of water in the trenches. The additional work to redesign the trail was not in the scope of work for CWD and has resulted in the attached change order request in the amount of $18,345.

Staff recommends that the City Council approve a change order for the San Jacinto River Trail project totaling $18,345; for an additional term of twelve (12) months from the date of this report, for preparation of revised construction drawings and specifications for the San Jacinto River Trail project.

BUDGET (or FISCAL) IMPACT: Funding for the San Jacinto River Trail (CIP# P029) is included in the Fiscal Year 18-19 CIP budget. The project balance is $547,000. There are sufficient funds available in CIP# P029 to cover this contract amendment.

Reviewed by:
Director of Finance

Attachments: Proposed Change order from Community Works Design Group
Original contract with Community Works Design Group (2013)

Consent: X
WORK AUTHORIZATION

CLIENT: CITY OF PERRIS   DATE: October 16, 2018
101 N. ‘D’ Street   JOB NUMBER: 130936
Perris, CA 92570   AMENDMENT NO: 1
Attn: Darren Madkin

PROJECT: San Jacinto River Trail

SECTION A: Consultant agrees to perform the following professional services:

DESCRIPTION OF WORK: This letter confirms the conversation/agreement of 9/18/18 between Darren Madkin and COMMUNITY WORKS DESIGN GROUP wherein the Landscape Architect was instructed to perform the following work on the above described project:

Revise San Jacinto River Trail Plans, Specifications and Estimates (PS&E) to accommodate as-built drainage improvements intersecting the trail alignment and trailhead location; Participate in three (3) City and/or Outside Agency meetings.

SECTION B: COMPENSATION WILL BE:

1. Topographic Survey $9,800.00
2. Construction Documents $7,645.00
3. City / Agency Meetings $900.00
   TOTAL FEE $18,345.00

PAYMENT WILL BE:

_____ Upon Satisfactory Completion of Work

XXX Progressively as Work is Satisfactorily Done

_____ In Accordance with Contract

The parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions stated above which are incorporated hereinto and made part of this Agreement.

CLIENT:                      COMMUNITY WORKS DESIGN GROUP
BY: ______________________   BY: ______________________

DATE: _____________________   DATE: October 16, 2018

Please return signed copy to our office and keep one for your files.
CITY OF PERRIS

CONTRACT SERVICES AGREEMENT FOR

SAN JACINTO RIVER TRAIL PROJECT

This Contract Services Agreement ("Agreement"), is made and entered into this 1st day of September, 2013, by and between the City of Perris, a municipal corporation ("City"), and Community Works Design Group ("Consultant"). The term Consultant includes professionals performing in a consulting capacity. The parties hereto agree as follows:

1.0 SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, Consultant shall provide the work and services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference. Consultant warrants that all work or services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

1.2 Consultant's Proposal. The Scope of Services shall include the Consultant's proposal or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction.

1.4 Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, taxes, including applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement; and shall indemnify, defend and hold harmless City against any claim for such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work. By executing this Agreement, Consultant warrants that Consultant (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the work and services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement.

1.6 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to
the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Contract Sum or $25,000, whichever is less, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

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

1.8 Environmental Laws. Consultant shall comply with all applicable environmental laws, ordinances, codes and regulations of Federal, State, and local governments. Consultant shall also comply with all applicable mandatory standards and policies relating to energy efficiency.

2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of forty eight thousand three hundred thirty five dollars ($48,335) ("Contract Sum"), except as provided in Section 1.6. The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures approved by the Contract Officer in advance if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City.

Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

2.2 Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation, in any month in which Consultant wishes to receive payment, no
later than the first (1st) working day of such month, Consultant shall submit to the City, in a form approved by the City’s Director of Finance, an invoice for services rendered prior to the date of the invoice. Except as provided in Section 7.2, City shall pay Consultant for all expenses stated thereon which are approved by City pursuant to this Agreement generally within thirty (30) days, and no later than forty-five (45) days, from the submission of an invoice in an approved form.

2.3 Availability of Funds. It is mutually understood between the parties that this Agreement is valid and enforceable only if sufficient funds are made available by the City Council of the City for the purposes of this Agreement. The availability of funding is affected by matters outside the City’s control, including other governmental entities. Accordingly, the City has the option to void the whole Agreement or to amend the Agreement to reflect unanticipated reduction in funding for any reason.

3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the “Schedule of Performance” attached hereto as Exhibit “D”, if any, and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall, within ten (10) days of the commencement of such delay, notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay and extend the time for performing the services for the period of the enforced delay when and if, in the judgment of the Contract Officer, such delay is justified. The Contract Officer’s determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused; Consultant’s sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Section 7.4 below, this Agreement shall continue in full force and effect until completion of the services no later than February 1, 2014.

4.0 COORDINATION OF WORK

4.1 Representative of Consultant. Tim Maloney is hereby designated as being the representative of Consultant authorized to act on its behalf with respect to the work or services specified herein and to make all decisions in connection therewith.
It is expressly understood that the experience, knowledge, capability and reputation of the representative was a substantial inducement for City to enter into this Agreement. Therefore, the representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the representative may not be replaced nor may his responsibilities be substantially reduced by Consultant without the express written approval of City.

4.2 Contract Officer. The City's City Manager is hereby designated as the representative of the City authorized to act in its behalf with respect to the work and services and to make all decisions in connection therewith ("Contract Officer"). It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. The City may designate another Contract Officer by providing written notice to Consultant.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred or assigned without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant taking all transfers into account on a cumulative basis. A prohibited transfer or assignment shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. Consultant shall perform all services required herein as an independent contractor of City and shall remain under only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

5.0 INSURANCE AND INDEMNIFICATION

5.1 Insurance. Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Commercial General Liability Insurance. A policy of commercial general liability insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to
limits. Limits shall be no less than $1,000,000.00 per occurrence for all covered losses and no less than $2,000,000.00 general aggregate.

(b) Workers' Compensation Insurance. A policy of workers' compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than $1,000,000.00 per accident for all covered losses.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than $1,000,000.00 per accident, combined single limit. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability or Error and Omissions Insurance. A policy of professional liability or errors and omissions insurance in an amount not less than $1,000,000.00 per claim with respect to loss arising from the actions of Consultant performing professional services hereunder on behalf of the City.

All of the above policies of insurance shall be primary insurance. The general liability policy shall name the City, its officers, employees and agents ("City Parties") as additional insureds and shall waive all rights of subrogation and contribution it may have against the City and the City's Parties and their respective insurers. All of said policies of insurance shall provide that said insurance may be not cancelled without providing thirty (30) days prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Consultant shall, prior to the cancellation or amendment date, submit new evidence of insurance in conformance with this Section 4.1 to the Contract Officer. No work or services under this Agreement shall commence until Consultant has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by City.

Consultant agrees that the provisions of this Section 4.1 shall not be construed as limiting in any way the extent to which Consultant may be held responsible for the payment of damages to any persons or property resulting from Consultant's activities or the activities of any person or persons for which Consultant is otherwise responsible.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City due to unique circumstances.
In the event that the Consultant is authorized to subcontract any portion of the work or services provided pursuant to this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to this Section 4.1.

5.2 Indemnification.

(a) Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City and the City's Parties from and against any and all losses, liabilities, damages, costs and expenses, including attorneys' fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees of subcontractors (or any entity or individual for which Consultant shall bear legal liability) in the performance of professional services under this Agreement.

(b) Indemnity for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City and City's Parties from and against any liability (including liability for claims, suits, actions, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, 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 Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

6.0 RECORDS AND REPORTS

6.1 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

6.2 Records. Consultant shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. All drawings, specifications, reports, records, documents and other materials prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of such documents and materials. Consultant may retain
copies of such documents for its own use and Consultant shall have an unrestricted right to use the concepts embodied therein. Any use of such completed documents by City for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant and the City shall indemnify the Consultant for all damages resulting therefrom. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7.0 ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Retention of Funds. Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.3 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.4 Termination Prior to Expiration of Term. Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the other party. Upon receipt of any notice of termination, Consultant shall immediately cease all work or services hereunder except such as may be specifically approved by the Contract Officer. Consultant shall be entitled to compensation for the reasonable value of the work product actually produced prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation and City shall be entitled to reimbursement for any compensation paid in excess of the services rendered.
7.5 Completion of Work After Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.6 Attorneys’ Fees. If either party to this Agreement is required to initiate or defend or make a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to reasonable attorneys’ fees, whether or not the matter proceeds to judgment, and to all other reasonable costs for investigating such action, taking depositions and discovery, including all other necessary costs the court allows which are incurred in such litigation.

8.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest; City. No officer or employee of the City shall have any financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is interested, in violation of any State statute or regulation.

8.3 Conflict of Interest; Consultant. Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement. Consultant shall comply with all conflict of interest laws and regulations including, without limitation, City’s Conflict of Interest Code which is on file in the City Clerk’s office. Accordingly, should the City Manager determine that Consultant will be performing a specialized or general service for the City and there is substantial likelihood that the Consultant’s work product will be presented, either written or orally, for the purpose of influencing a governmental decision, the Consultant and its officers, agents or employees, as applicable, shall be subject to the City's Conflict of Interest Code.

8.4 Covenant Against Discrimination. Consultant covenants that, by and for itself, its executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.
9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice or other communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, City of Perris, 101 North "D" Street, Perris, CA 92570, and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

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

9.3 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by an instrument in writing signed by both parties.

9.4 Severability. Should a portion of this Agreement be declared invalid or unenforceable by a judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON NEXT PAGE]
IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

ATTEST:
By: Nancy Salazar, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

By: Eric L. Dunn, City Attorney

"CITY"
CITY OF PERRIS
By: Daryl R. Busch, Mayor

"CONSULTANT"
Community Works Design Group

By: Signature

Print Name and Title

By: Signature

Print Name and Title

(Corporations require two signatures; one from each of the following: A. Chairman of Board, President, any Vice President; AND B. Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.)

[END OF SIGNATURES]
EXHIBIT "A"

SCOPE OF SERVICES
Per scope of services as provide and specified in the San Jacinto River Trail Project proposal prepared by Community Works Design Group, dated July 24, 2013, attached.
EXHIBIT "B"

SPECIAL REQUIREMENTS

[Insert or Attach]
EXHIBIT "C"

SCHEDULE OF COMPENSATION

City agrees to compensate Consultant for the services outlined in Exhibit “A” not to exceed the Contract Sum of forty eight thousand three hundred thirty five dollars ($48,335). The rates shall include all expenses incurred by Consultant in the performance of the required services. Consultant shall be paid within thirty (30) days after City’s receipt and approval of an invoice submitted by Consultant. Such Invoices shall be in a form approved by the City Manager.
EXHIBIT "D"

SCHEDULE OF PERFORMANCE

The Consultant shall provide the services as outlined in Exhibit "A", for a period of 5 months from the date of the Notice to Proceed.
CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YY) 9/16/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Risk Strategies Company
2040 Main Street, Suite 580
Irvine, CA 92614
Lic. #OF06675

INSURED
T.I. Maloney, Inc.
DBA: Community Works Design Group
4649 Brockton Ave.
Riverside, CA 92506

CONTACT NAME: Sherry Young
PHONE (A/C No. Ext): 949.242.9240
FAX (A/C No.): 949.596.0866
E-MAIL ADDRESS: syoung@risk-strategies.com

INSURERS AFFORDING COVERAGE

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<tr>
<td>INSURER B: Travelers Property Casualty Co. of CT</td>
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<td>INSURER C: Hanover Insurance Co.</td>
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<td>INSURER D:</td>
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<td>INSURER E:</td>
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COVERAGES

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Projects as on file with the insurer including, but not limited to, CDBG Landscape Improvements. The City of Perris, Riverside County CA, their agents officers & employees are named as additional insureds & primary/non-contributory clause applies to the general liability policy and a waiver of subrogation applies to the general liability & work comp policies-see attached endorsements.

CERTIFICATE HOLDER
City of Perris, Riverside County CA
Their officers agents & employees
C/O Mike Morales
101 N. "D" St.
Perris, CA 92570

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2010/05)
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED
(ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to WHO IS AN INSURED (Section II):

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

a. In the performance of your ongoing operations;
b. In connection with premises owned by or rented to you; or
c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

e. This insurance does not apply to the rendering of or failure to render any "professional services".

f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

1. The "bodily injury" or "property damage" for which coverage is sought occurs; and

2. The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily
injury” or “property damage” occurs, or the “personal injury” offense is committed.

D. The following definition is added to Definitions (Section V):

“Contract or agreement requiring insurance” means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the “bodily injury” and “property damage” occurs, and the “personal injury” is caused by an offense committed:

a. After you have entered into that contract or agreement;

b. While that part of the contract or agreement is in effect; and

c. Before the end of the policy period.
POLICY NUMBER: | UB7130Y750

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT – CALIFORNIA
(BLANKET WAIVER)

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.
You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.
The additional premium for this endorsement shall be 5.000% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

ANY PERSON OR ORGANIZATION WITH WHOM YOU AGREE IN WRITING TO WAIVE YOUR RIGHT TO RECOVER AGAINST THEM. YOU MUST AGREE TO THIS WAIVER PRIOR TO THE DATE OF LOSS

Job Description:

PROJECTS AS ON FILE WITH THE INSURED

Authorized Representative
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Check Register for September 2018

REQUESTED ACTION: Approve the City's Monthly Check Register for September 2018

CONTACT: Jennifer Erwin, Director of Finance

BACKGROUND/DISCUSSION:

The check register for the month of September 2018 is presented for City Council approval.

BUDGET (or FISCAL) IMPACT: None.

Reviewed by:

Darren Madkin, Assistant City Manager

Jennifer Erwin, Director of Finance

Consent Item: X
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CITY OF PERRIS
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September 30, 2018
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<td>METER TAPE &amp; INK CARTRIDGE</td>
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## CITY OF PERRIS
### CHECK REGISTER
#### September 30, 2018

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**TOTAL REGISTER**

$ 7,141,064.44
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date October 30, 2018

SUBJECT: Annexation of Parcel 2, Parcel Map 33587 to the City’s Landscape Maintenance District No. 1

REQUESTED ACTION:
Open and Close of Public Hearing, Open 1 Ballot and Adoption of 1 Resolution Ordering the Annexation of Parcel 2, Parcel Map 33587 to the City’s Landscape Maintenance District No. 1, Giving Final Approval to the Engineer’s Reports, and the Levying of the 2018-2019 Assessments

CONTACT: Habib Motlagh, City Engineer

BACKGROUND/DISCUSSION: Parcel 2, Parcel Map 33587 is a 4.10-acre industrial project under the ownership of Markham JP/ARA, LLC. The project is located on Markham Street, approximately 315 feet west of Perris Boulevard.

On August 28, 2018, resolutions were approved stating the City Council’s intention to annex this project into the City’s maintenance districts and set a Public Hearing for October 30, 2018.

BUDGET (or FISCAL) IMPACT: The proposed maximum annual assessment in the amount of $6,402.85 is subject to Standard Inflation Factors for labor, energy and water.

Reviewed by:
Assistant City Manager
Director of Finance
City Attorney

Attachments:
1. Location Map
2. Resolution Ordering the Annexation of Parcel 2, Parcel Map 33587 to LMD 1, Giving Final Approval to the Engineer’s Report, and the Levying of the 2018-2019 Assessments.

Public Hearing:
ANNEXATION OF PCL 2, PM 33587 TO BENEFIT ZONE 141 LANDSCAPE MAINTENANCE DISTRICT NO. 1

VICINITY MAP
NOT TO SCALE

4.01 - ACRE SITE

LMD 1

Contribution towards Indian Avenue and Perris Boulevard medians along the boundary of Parcel Map 33857

Markham Street parkways along the south boundary of Parcel 2, Parcel Map 33587

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<td>Landscaped Parkways</td>
<td>$5,182.40</td>
</tr>
<tr>
<td>Total Annual Assessments</td>
<td>$6,402.85</td>
</tr>
</tbody>
</table>

Standard Inflation Factors (SIF)
1) "Common Labor, Construction Cost Index", ENR
2) Southern California Edison rate increases
3) Eastern Municipal Water District rate increases
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL 2, PARCEL MAP 33587 TO BENEFIT ZONE 141, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California ("the City Council") did on the 28th day of August 2018, adopt its Resolution of Intention Number 5343 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Landscape Maintenance District Number 1 (the "District"), which Resolution of Intention Number 5343 was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Resolution of Intention on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5343, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.

NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5343, be done and made.
Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Landscape Maintenance District No. 1 and the annexation thereto, is 68-2652.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide landscape maintenance on those lands that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. That pursuant to Sections 22640 and 22641 of the Code, the City Clerk shall file a certified copy of the diagram and assessment with the Riverside County Auditor-Controller not later than the third Monday in August.

Section 5. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.

ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

Mayor, Michael M. Vargas

ATTEST:

_______________________
City Clerk, Nancy Salazar
STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) §
CITY OF PERRIS  )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ___ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
City Clerk, Nancy Salazar
SUBJECT: Annexation of Parcel Map 36678 to the City’s Maintenance Districts

REQUESTED ACTION:
Open and Close of Public Hearing, Open 6 Ballots and Adoption of 3 Resolutions Ordering the Annexation of Parcel Map 36678 to the City’s Maintenance Districts, Giving Final Approval to the Engineer’s Reports, and the Levy of the 2018-2019 Assessments

CONTACT: Habib Motlagh, City Engineer

BACKGROUND/DISCUSSION: Parcel Map 36678 is a 48.58-acre industrial project under the ownership of Mader Incorporated and CPT Perris Industrial, LLC. Patterson Avenue is located along the project’s west boundary, Nance Street is located parallel to and 300 feet above the project’s north boundary, excepting that portion of the north boundary along Washington Avenue. North Webster Avenue is located along the project’s east boundary and Markham Street is located along the project’s south boundary.

On August 28, 2018, resolutions were approved stating the City Council’s intention to annex this project into the City’s maintenance districts and set a Public Hearing for October 30, 2018. For tabulating the ballots for MD 84-1 and FCMD 1, CPT Perris Industrial, LLC represents 86.0% of the vote and Mader Incorporated represents the remaining 14.0% of the vote. Under LMD 1, CPT Perris Industrial, LLC represents 66.3% of the vote and Mader Incorporated represents the remaining 33.7% of the vote.

BUDGET (or FISCAL) IMPACT: The proposed maximum annual assessments are subject to Standard Inflation Factors for labor, energy and water. The current maximum annual assessments, by district, are as follows:

<table>
<thead>
<tr>
<th>Maintenance District</th>
<th>Maximum Annual Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance District No. 84-1 (streetlights &amp; traffic signals)</td>
<td>$7,314.55</td>
</tr>
<tr>
<td>Landscape Maintenance District</td>
<td>45,959.43</td>
</tr>
<tr>
<td>Flood Control Maintenance District 1</td>
<td>35,340.00</td>
</tr>
<tr>
<td>Total Maximum Annual Assessment</td>
<td>$88,613.98</td>
</tr>
</tbody>
</table>

Reviewed by:
Assistant City Manager
Director of Finance
City Attorney

Attachments:
1. Location Map
2. Resolution Ordering the Annexation of Parcel Map 36678 to MD 84-1, Giving Final Approval to the Engineer’s Report, and the Levy of the 2018-2019 Assessments.

Public Hearing:
ANNEXATION OF PM 36678 TO CITY OF PERRIS MAINTENANCE DISTRICT NO. 84-1, LANDSCAPE MAINTENANCE DISTRICT NO. 1, AND FLOOD CONTROL MAINTENANCE DISTRICT NO. 1

48.58 - ACRE SITE

MD 84-1

25 Street Lights (8 future construction)

Contributions toward traffic signals at the following intersections:
Harley Knox Boulevard and Patterson Avenue 10%
Markham Street and Patterson Avenue 10%
Markham Street and Webster Avenue 10%

LMD 1

Patterson Avenue parkways along the west boundary
Future Washington Avenue parkways along a portion of the north boundary
Future Webster Avenue parkways along the east boundary
Markham Street parkways along the south boundary

FCMD 1

Public flood control facilities that convey storm water flow to the Oleander Storm Drain Channel. City facilities include catch basins, 18-, 24- and 36-inch reinforced concrete pipes, and appurtenances. RCFE&WCD facilities include 42- and 48-inch reinforced concrete pipes, approximately 2,290 lineal feet of reinforced concrete box, and appurtenances.

Standard Inflation Factors (SIF)
1) "Common Labor, Construction Cost Index", ENR
2) Southern California Edison rate increases
3) Eastern Municipal Water District rate increases

MD 84-1 Assessments include SIF 1 and 2
LMD 1 and FCMD 1 Assessments include SIF 1, 2, and 3
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 36678 TO CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1, GIVING FINAL APPROVAL OF THE ENGINEER’S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California (“the City Council”) did on the 28th day of August 2018, adopt its Resolution of Intention Number 5350 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Maintenance District Number 84-1 (the “District”), which Resolution of Intention Number 5350 was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Resolution of Intention on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5350, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.

NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5350, be done and made.
Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Maintenance District No. 84-1 and the annexation thereto, is 68-2651.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide for the energy and maintenance of streetlights and traffic signals that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. That pursuant to Sections 22640 and 22641 of the Code, the City Clerk shall file a certified copy of the diagram and assessment with the Riverside County Auditor-Controller not later than the third Monday in August.

Section 5. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.

ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

Mayor, Michael M. Vargas

ATTEST:

City Clerk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  §
CITY OF PERRIS  

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ___ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

__________________________________________
City Clerk, Nancy Salazar
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 36678 TO BENEFIT ZONE 131, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California ("the City Council") did on the 28th day of August 2018, adopt its Resolution of Intention Number 5347 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Landscape Maintenance District Number 1 (the "District"), which Resolution of Intention Number 5347 was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Resolution of Intention on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5347, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.

NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5347, be done and made.
Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Landscape Maintenance District No. 1 and the annexation thereto, is 68-2652.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide landscape maintenance on those lands that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. That pursuant to Sections 22640 and 22641 of the Code, the City Clerk shall file a certified copy of the diagram and assessment with the Riverside County Auditor-Controller not later than the third Monday in August.

Section 5. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.

ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

Mayor, Michael M. Vargas

ATTEST:

__________________________
City Clerk, Nancy Salazar
STATE OF CALIFORNIA 
COUNTY OF RIVERSIDE §
CITY OF PERRIS 

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

___________________________
City Clerk, Nancy Salazar
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 36678 TO BENEFIT ZONE 94, CITY OF PERRIS FLOOD CONTROL MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER’S REPORT, AND LEEVING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California (“the City Council”) did on the 28th day of August 2018, adopt its Resolution of Intention Number 5344 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Flood Control Maintenance District Number 1 (the “District”), and which a Notice of Public Hearing was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Notice on file in the office of the City Clerk; and

WHEREAS, after the adoption of Resolution Number 5344, said Resolution was duly posted in the time, form and manner as required by law, shown by the Affidavit of Posting on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5344, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.
NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5344, be done and made.

Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Flood Control Maintenance District No. 1 and the annexation thereto, is 68-2657.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide flood control facility maintenance on those lands that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. Be it finally resolved that the method of assessment in the Engineer's Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.
ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

__________________________
Mayor, Michael M. Vargas

ATTEST:

__________________________
City Clerk, Nancy Salazar

STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) §
CITY OF PERRIS  )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

__________________________
City Clerk, Nancy Salazar
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date October 30, 2018

SUBJECT: Annexation of Parcel Map 35762 to the City’s Maintenance Districts

REQUESTED ACTION:
Open and Close of Public Hearing. Open 6 Ballots and Adoption of 3 Resolutions Ordering the Annexation of Parcel Map 35762 to the City’s Maintenance Districts, Giving Final Approval to the Engineer’s Reports, and the Levying of the 2018-2019 Assessments

CONTACT: Habib Motlagh, City Engineer

BACKGROUND/DISCUSSION: Parcel Map 35762 is a 2.81-acre commercial project under the ownership of Cahan Perris LLC and Quick Quack Development II, LLC. Case Road is located along the project’s north and west boundary, Interstate 215 is located along the project’s east boundary, and Ethanac Road is located along the project’s south boundary.

On August 28, 2018, resolutions were approved stating the City Council’s intention to annex this project into the City’s maintenance districts and set a Public Hearing for October 30, 2018. For tabulating the ballots, Cahan Perris LLC represents 62.3% of the vote and Quick Quack Development II, LLC represents the remaining 37.7% of the vote.

BUDGET (or FISCAL) IMPACT: The proposed maximum annual assessments are subject to Standard Inflation Factors for labor, energy and water. The current maximum annual assessments, by district, are as follows:

<table>
<thead>
<tr>
<th>Maintenance District</th>
<th>Maximum Annual Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance District No. 84-1 (streetlights &amp; traffic</td>
<td>$546.20</td>
</tr>
<tr>
<td>signals)</td>
<td></td>
</tr>
<tr>
<td>Landscape Maintenance District</td>
<td></td>
</tr>
<tr>
<td>Landscased Parkways</td>
<td>5,659.64</td>
</tr>
<tr>
<td>Landscased Medians</td>
<td>656.65</td>
</tr>
<tr>
<td>Flood Control Maintenance District 1</td>
<td>2,359.36</td>
</tr>
<tr>
<td>Total Maximum Annual Assessment</td>
<td>$9,221.85</td>
</tr>
</tbody>
</table>

Reviewed by:
Assistant City Manager
Director of Finance
City Attorney

Attachments:
1. Location Map
2. Resolution Ordering the Annexation of Parcel Map 35762 to MD 84-1, Giving Final Approval to the Engineer’s Report, and the Levying of the 2018-2019 Assessments.
Resolution Ordering the Annexation of Parcel Map 35762 to FCMD 1, Giving Final Approval to the Engineer’s Report, and the Levying of the 2018-2019 Assessments.

Public Hearing:
ANNEXATION OF PM 35762 TO CITY OF PERRIS MAINTENANCE DISTRICT NO. 84-1, LANDSCAPE MAINTENANCE DISTRICT NO. 1, AND FLOOD CONTROL MAINTENANCE DISTRICT NO. 1

2.81 - ACRE SITE

MD 84-1

8 Street Lights

Contributions toward traffic signals at the following intersections: Ethanac Road and Case Road 15%

LMD 1

Case Road medians and parkways along the north-westerly boundary

FCMD 1

Public flood control facilities that convey storm water flow to a detention basin. Facilities include catch basins, 18- and 30-inch reinforced concrete pipes, a 7.6% contribution towards maintenance of the detention basin, and appurtenances.

<table>
<thead>
<tr>
<th>Facility</th>
<th>Annual Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Lights and Traffic Signals</td>
<td>$546.20</td>
</tr>
<tr>
<td>Landscaped Parkways</td>
<td>5,659.64</td>
</tr>
<tr>
<td>Landscaped Medians</td>
<td>656.65</td>
</tr>
<tr>
<td>Flood Control Facilities</td>
<td>2,359.36</td>
</tr>
<tr>
<td>Total Annual Assessments</td>
<td>$9,221.85</td>
</tr>
</tbody>
</table>

Standard Inflation Factors (SIF)
1) "Common Labor, Construction Cost Index", ENR
2) Southern California Edison rate increases
3) Eastern Municipal Water District rate increases

MD 84-1 Assessments include SIF 1 and 2
LMD 1 and FCMD 1 Assessments include SIF 1, 2, and 3

WILLDAN
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO CITY OF PERRIS MAINTENANCE DISTRICT NUMBER 84-1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California ("the City Council") did on the 28th day of August 2018, adopt its Resolution of Intention Number 5357 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Maintenance District Number 84-1 (the "District"), which Resolution of Intention Number 5357 was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Resolution of Intention on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5357, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.

NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5357, be done and made.
Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Maintenance District No. 84-1 and the annexation thereto, is 68-2651.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide for the energy and maintenance of streetlights and traffic signals that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved;

and

Section 4. That pursuant to Sections 22640 and 22641 of the Code, the City Clerk shall file a certified copy of the diagram and assessment with the Riverside County Auditor-Controller not later than the third Monday in August.

Section 5. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.

ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

ATTEST:

Mayor, Michael M. Vargas

City Clerk, Nancy Salazar
STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) §
CITY OF PERRIS  )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

________________________
City Clerk, Nancy Salazar
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO BENEFIT ZONE 139, CITY OF PERRIS LANDSCAPE MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California ("the City Council") did on the 28th day of August 2018, adopt its Resolution of Intention Number 5354 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Landscape Maintenance District Number 1 (the "District"), which Resolution of Intention Number 5354 was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Resolution of Intention on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5354, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.

NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5354, be done and made.
Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Landscape Maintenance District No. 1 and the annexation thereto, is 68-2652.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide landscape maintenance on those lands that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. That pursuant to Sections 22640 and 22641 of the Code, the City Clerk shall file a certified copy of the diagram and assessment with the Riverside County Auditor-Controller not later than the third Monday in August.

Section 5. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.

ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

Mayor, Michael M. Vargas

ATTEST:

___________________________
City Clerk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  §  
CITY OF PERRIS  

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
City Clerk, Nancy Salazar
RESOLUTION NUMBER

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE WORK IN CONNECTION WITH ANNEXATION OF PARCEL MAP 35762 TO BENEFIT ZONE 106, CITY OF PERRIS FLOOD CONTROL MAINTENANCE DISTRICT NUMBER 1, GIVING FINAL APPROVAL OF THE ENGINEER'S REPORT, AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2018-2019

WHEREAS, the City Council of the City of Perris, County of Riverside, California ("the City Council") did on the 28th day of August 2018, adopt its Resolution of Intention Number 5351 to order the therein described work in connection with the annexation and assessment procedures in the City of Perris Flood Control Maintenance District Number 1 (the "District"), and which a Notice of Public Hearing was duly and legally published in the time, form and manner as required by law, shown by the Affidavit of Publication of said Notice on file in the office of the City Clerk; and

WHEREAS, after the adoption of Resolution Number 5351, said Resolution was duly posted in the time, form and manner as required by law, shown by the Affidavit of Posting on file in the office of the City Clerk; and

WHEREAS, after the adoption thereof, notice of the adoption of the Resolution of Intention, a Notice of Public Hearing and an Assessment Ballot were duly mailed to all persons owning real property proposed to be assessed for the improvements described in said Resolution of Intention Number 5351, according to the names and addresses of such owners as the same appears on the last equalized assessment roll for taxes of the County of Riverside or more recent information available to the City of Perris, which said documents were duly mailed in the time, form, and manner as required by law, as appears from the Affidavit of Mailing on file in the office of the City Clerk; and

WHEREAS, said City Council having duly received and considered evidence, oral and documentary, concerning the jurisdiction facts in this proceedings and concerning the necessity for the contemplated work and the benefits to be derived therefrom and said City Council having now acquired jurisdiction to order the proposed maintenance work; and

WHEREAS, said City Council has determined that a majority protest does not exist.
NOW, THEREFORE, BE IT RESOLVED, ADOPTED, SIGNED and APPROVED by the City Council of the City of Perris, California, as follows:

Section 1. That the public interest and convenience requires the annexation to the district and levying assessments for maintenance, and said City Council hereby orders that the work, as set forth and described in said Resolution of Intention Number 5351, be done and made.

Section 2. Be it further resolved that:

A. The Riverside County assigned fund number for the Flood Control Maintenance District No. 1 and the annexation thereto, is 68-2657.

B. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 53750 et seq. of the State of California Government Code.

C. The assessments are in compliance with all laws pertaining to the levy of assessments in accordance with Section 22500 et seq. of the State of California Streets and Highways Code.

D. The assessments are levied without regard to the property value.

E. The purpose of the assessments is to provide flood control facility maintenance on those lands that will benefit the parcels being assessed.

Section 3. That the report filed by the Engineer is hereby finally approved; and

Section 4. Be it finally resolved that the method of assessment in the Engineer’s Report is hereby approved and the assessments for Fiscal Year 2018-2019 are hereby levied.
ADOPTED, SIGNED and APPROVED this 30th day of October 2018.

Mayor, Michael M. Vargas

ATTEST:

City Clerk, Nancy Salazar

STATE OF CALIFORNIA  )
COUNTY OF RIVERSIDE  ) §
CITY OF PERRIS  )

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number ____ was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of October 2018, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

City Clerk, Nancy Salazar
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Add New Municipal Code Ordinance: Chapter 5.38 Short Term Rentals


REQUESTED ACTION: Introduce first reading of Ordinance No. ____ to add Chapter 5.38 Short Term Rentals to the Municipal Code of the City of Perris

CONTACT: Jennifer Erwin, Director of Finance

BACKGROUND/DISCUSSION:
In an effort to welcome new and emerging businesses in the City of Perris, the ordinance presented for approval is an addition to the Perris Municipal Code and allows short term rentals to be licensed to do business in the City. Most short term rentals are now using the platform of VRBO, AirBNB, HomeAway, and FlipKey as the internet has made it easy for homeowners to offer an alternative to the traditional hotel and earn extra income. The City will collect a Transient Occupancy Tax (TOT) of 10% of gross receipts on each short term rental and the ordinance outlines the various requirements recommended by the City Council.

Staff recommends the City Council approve the ordinance as presented. A second reading will occur at the next regularly schedule City Council meeting.

BUDGET (or FISCAL) IMPACT: The City may receive additional TOT revenue in the future, but the full amount to be realized is not measurable at this time.

Reviewed by:
City Attorney
Assistant City Manager
Director of Finance

Attachments:
1. City of Perris Ordinance Adding Chapter 5.38 to the Municipal Code

Public Hearing
ORDINANCE NO. (next in order)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ADDING CHAPTER 5.38, "SHORT-TERM RENTALS," TO TITLE 5 OF THE PERRIS MUNICIPAL CODE

WHEREAS, the City of Perris (the "City"), pursuant to the police powers delegated to it by Section 7 of Article XI of the California Constitution, has the authority to enact laws which promote the public health, safety, morals and general welfare; and

WHEREAS, the City has the authority to declare what activities constitute a nuisance and eliminate or reduce the occurrence of such nuisance to protect the public peace, safety and general welfare; and

WHEREAS, the City anticipates a proliferation of short-term rentals in the coming years due to the City’s growing population and burgeoning tourism industry; and

WHEREAS, while the vast majority of short-term rental providers are good citizens of the City, there is a potential that short-term rental uses may harm the public peace, safety and general welfare by impacting the City’s neighborhoods; and

WHEREAS, in order to protect the public peace, safety and general welfare, the City Council desires to adopt this Ordinance for the purpose of providing reasonable regulations upon short-term rentals.

THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals Incorporated. The City Council finds the above recitals are true and correct and incorporated herein by this reference.

Section 2. CEQA. Based upon its own independent judgment and substantial evidence in the record of proceedings, the City Council finds and determines that, pursuant to CEQA Guidelines, Sections 15060(c)(2) and 15061(b)(3) the Ordinance is not subject to CEQA, because adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment nor will it have a significant effect upon the environment.

Section 3. New Chapter 5.38 added to Title 5. Chapter 5.38, "Short Term Rentals," is hereby added to Title 5, "Business Regulations and Licenses," of the Perris Municipal Code as follows:
“Chapter 5.38. – SHORT-TERM RENTALS

5.38.010 Purpose.

The purpose of this chapter is to require the owner or owners of a residential dwelling unit that is partly or wholly used as a short-term rental, as defined herein, to apply for and secure a short-term rental business license authorizing such use in the manner provided for by this chapter in order to safeguard the peace, safety and general welfare of the residents of Perris and their visitors and guests by eliminating excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking, and the accumulation of refuse which are directly related to short-term rentals.

5.38.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) “Agent” shall mean the representative, if any, designated by the owner in accordance with Section 5.38.040.

(b) “City Manager” shall mean the City Manager of the City of Perris or designee.

(c) “Director” shall mean the Director of Finance of the City of Perris or designee.

(d) “Displaced individual” shall mean any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement a short-term rental and who has been displaced from their home due to events for which an emergency has been proclaimed pursuant to the California Emergency Services Act (codified under Chapter 7 of Division 1 of Title 2 of the California Government Code).

(e) “Guest” shall be defined to mean transients, military personnel, and displaced individuals.

(f) “Military personnel” shall mean any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement a short-term rental and

(1) who is currently contracted, whether in their individual capacity or through an employer, with the United States government for the production of material or for the performance of services for any branch of the U.S. military, or

(2) who is a service member of the U.S. military, including, but not limited to active duty personnel and reservists.
(g) "Owner" shall mean the person(s) or entity(ies) that hold(s) legal and/or equitable title to the short-term rental.

(h) "Short-term rental" is defined as the rental of any structure or any portion of any structure for occupancy, dwelling, lodging or sleeping purposes for at least one (1) night, but no more than twenty-seven (27) consecutive calendar days in duration in a dwelling; apartment house; boardinghouse; roominghouse; and lodging house; multiple- or multi-family dwelling; mobile home; one-family dwelling; or single-room occupancy (as those terms are defined by Chapter 19.08 of Title 19 of this Municipal Code) that is

(1) located in a zoning district where residential uses are allowed, or

(2) located in a zoning district as a legal nonconforming use.

"Short-term rental" historically and continues to be included in the definition of "hotel" for purposes of collecting transient occupancy tax pursuant to Chapter 3.24 of Title 3 of this Municipal Code.

(i) "Short-term rental business license" or "business license" shall mean a license issued pursuant to this chapter.

(j) "Transient" means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of twenty-seven (27) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of twenty-seven (27) days has expired unless there is an agreement in writing between the operator and the guest providing for a longer period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

5.38.030 Short-term Rental Business License Required.

It shall be unlawful to own, establish, operate, or permit the establishment of a short-term rental within the City, other than as permitted by this chapter. Prior to owning, establishing, operating, or permitting the establishment of a short-term rental within the City, the owner shall obtain a short-term rental business license from the City under the terms and conditions set forth in this chapter. Short-term rental business licenses issued pursuant to this chapter shall automatically expire one year from the date of issuance. Short-term rental business license is not transferrable and any new ownership of a short-term rental shall require the new owner to obtain a short-term rental business license from the City.
5.38.040 Agents.

An owner may retain an agent or a representative to comply with the requirements of this chapter, including, without limitation, the filing of an application for a short-term rental business license that has been signed and notarized by the owner, the management of the short-term rental, and the compliance with the conditions to the short-term rental business license. The short-term rental business license shall be issued only to the owner of the short-term rental. The owner of the short-term rental is responsible for compliance with the provisions of this chapter and the failure of an owner’s agent to comply with this chapter shall be deemed non-compliance by the owner.

5.38.050 Application for Short-term Rental Business License.

The owner shall submit an application for a short-term rental business license to the director. The application for a short-term rental business license shall be upon forms provided by the City and shall contain the following information:

(a) The name, address and telephone number of the owner of the short-term rental for which the permit is to be issued.

(b) The name, address and telephone number of the agent, if any, of the owner of the short-term rental.

(c) The name, address and telephone number of a twenty-four (24) hour emergency contact located within a twenty-five (25) mile radius of the short-term rental that will be available to respond to issues at the short-term rental. If the name, address or telephone number of the twenty-four (24) hour emergency contact is changed at any time, the owner shall submit such updated information to the director.

(d) Evidence of a valid transient occupancy tax registration certificate issued by the City for the short-term rental pursuant to Chapter 3.24 of Title 3 of this Municipal Code.

(e) Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a short-term rental within the City, including, but not limited to, this chapter.

(f) Payment for any applicable fees.

(g) Such other information as the director deems reasonably necessary to administer this chapter.
5.38.060  Issuance of Short-term rental business license.

(a) Issuance of a short-term business license constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property.

(b) Upon receipt of a completed application and payment of the application fees, the director shall investigate the information contained in the application to determine whether the owner shall be issued the requested short-term rental business license based upon compliance with this chapter.

(c) The director shall grant the application for a short-term rental business license (subject to Sections 5.38.060(d) and 5.38.060(e)) upon findings that the application meets the requirements of this chapter, unless the director finds any of the following:

(1) The owner has made one or more false or misleading statements or omissions, either on the written application or during the application process.

(2) The owner has not satisfied each and every requirement of this chapter and Municipal Code.

(3) The owner is not in compliance with applicable state law.

(4) The owner has not paid the required fees established by resolution of the city council.

(d) Based upon the information set forth in the application and the director’s review, the director may impose additional reasonable terms and conditions on the use of the short-term rental regulatory permit in addition to those specified in this chapter to ensure the safe operation of the short-term rental, and to ensure the health, safety, and welfare of the residents and visitors of the City of Perris.

(e) The owner shall comply with all operational requirements for short-term rentals, as provided further in Section 5.38.080.

5.38.070  Renewal of Short-term Rental Business License; Expiration Date; Procedures.

(a) Short-term rental business license issued pursuant to this chapter shall automatically expire one year from the date of issuance.

(b) Renewal Procedures.
(1) A holder of a short-term rental business license may apply for a renewal of an existing permit no less than 60 days prior to the short-term rental business license's expiration date.

(2) Renewal applications shall comply with all of the requirements in this chapter that are applicable to new short-term rental business licenses, including but not limited to the processing requirements in Section 5.38.060.

(3) An application for renewal will only be accepted if it is also accompanied by the requisite fees as set by resolution of the city council.

(c) A short-term rental business license shall be immediately invalid upon expiration if the permit holder fails to file a timely renewal application pursuant to Section 5.38.070(b)(1) and paid the requisite fees.

5.38.080 Short-term Rental Operational Requirements.

All short-term rentals shall comply with the following operational requirements:

(a) The owner shall ensure that the short-term rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.

(b) The City may conduct inspections of the short term rental location as deemed necessary or prudent prior to subsequent renewals.

(c) Transients shall not be permitted to stay at the short-term rental unit for longer than twenty-seven (27) consecutive days. However, military personnel and displaced individuals may stay at the short-term rental for periods longer than twenty-seven (27) consecutive days.

(d) The owner shall provide to the guests a twenty-four (24) hour emergency contact located within a twenty-five (25) mile radius of the short-term rental that will be available to respond to issues at the short-term rental.

(e) The short-term rental shall comply with the applicable parking requirements under this Municipal Code.

(f) The short-term rental must have a visible house number easily seen from the street, day or night.

(g) The short-term rental is prohibited from having publicly visible advertisements or signs at the physical location of the dwelling.
(h) The short-term rental shall be used only for overnight lodging accommodations, and shall not be used for weddings, parties, bachelor/bachelorette parties, conferences or similar events.

(i) The primary guest of the short-term rental must be an adult eighteen (18) years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.

(j) Guest Log Required.

(1) The owner shall maintain a guest log, which log shall include the name, address and driver’s license number or a copy of the passport of the primary adult guest of the short-term rental. This log shall be maintained for a period of 2 years.

(2) If a guest is military personnel and is staying in the short-term rental for longer than twenty-seven (27) days, then the owner shall also request military order documentation evidencing that the guest is military personnel and shall include such documentation in the guest log.

(3) The owner shall require that same adult to sign a formal acknowledgment that he or she is legally responsible for compliance by all daytime occupants and guests of the short-term rental with the provisions of this chapter.

(4) The guest log, including any documentation attached thereto, shall be readily available upon request of any police officer or employee of the City authorized to enforce this chapter or State law.

(k) The owner shall require all guests to agree to a minimum stay of one (1) night.

(l) The maximum overnight occupancy of the short term rental shall be limited to two (2) persons per bedroom plus two (2) additional persons within the short-term rental. The director may, when unusual size, interior layout, parking or other physical characteristics are shown, approve a greater maximum number of overnight guests as part of a short-term rental business license application or renewal.

(m) The maximum number of vehicles allowed at the short term rental shall be limited to one (1) vehicle per one (1) bedroom unit or two (2) vehicles maximum with two (2) or more bedrooms within the short term rental. The director may, when unusual size, parking or other physical characteristics are shown, approve a greater maximum number of vehicles as part of a short-term rental business license application or renewal. The owner must make a sufficient number of parking spaces accessible to tenants to accommodate the maximum number of vehicles allowed.
(n) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler and between the hours of 9:00pm the day before and 8:00am the day after the scheduled trash collection days. The owner of the short-term rental shall provide sufficient trash collection containers and service to meet the demand of guests.

(o) Each lease or rental agreement for a short-term rental shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the short-term rental:

(1) The maximum number of guests that are permitted and notification that failure to conform to the maximum occupancy is a violation of this chapter.

(2) The number of parking spaces provided and, if not adjacent to the short-term rental, the location of assigned parking and maximum number of vehicles that are permitted.

(3) The trash pick-up day(s) and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property.

(4) Notification that the guest may be cited or fined by the City and/or immediately evicted by the owner for violating any and all applicable laws.

(5) The name of the managing agency, agent, rental manager, local contact person or owner of the unit, and a telephone number at which that party may be reached at all times and 9-1-1 Emergency information.

(6) Summary of applicable Homeowners Association Conditions, Covenants and Restrictions (CC&Rs) and bylaws, including pool location and hours.

(p) The owner shall ensure that the guests and daytime occupants of the short-term rental do not violate provisions of this Municipal Code or any State Law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol, or the use of illegal drugs. Owners are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the guest(s), calling for law enforcement services, or City code enforcement officers, evicting the guest(s), or any other action necessary to immediately abate the disturbance.

(q) The owner shall, upon notification that guests of his or her short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of this Municipal Code or State Law pertaining to, but not limited to, noise, disorderly conduct, overcrowding to take
action to prevent a recurrence of such conduct by those guests or guests within twenty-four (24) hours.

(r) The owner shall collect and remit transient occupancy tax as required by Chapter 3.24 of Title 3 of this Municipal Code, and shall make such arrangements with the City's Finance Department as may be required to facilitate the remittance of such collected taxes to the City.

(s) The owner shall indemnify, defend and hold harmless the city, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability or harm arising from or in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the short-term rental; and, to reimburse the city for any costs and attorney's fees that the city may be required to pay as a result of such action. The city may, at its sole discretion, participate at its own expense in the defense of any such action.

5.38.090 Suspension and revocation.

(a) The director or City Manager's designee is authorized to suspend and/or revoke a short-term rental business license issued pursuant to this chapter upon the determination by the Code Enforcement Department of the City through written findings of a failure to comply with any provision of this chapter, any permit condition, or any agreement or covenant as required pursuant to this chapter.

(b) The director may suspend or revoke a short-term rental business license if any of the following occur:

(1) The director determines that the short-term rental has failed to comply with any aspect of this chapter, any permit condition, or any agreement or covenant as required pursuant to this chapter; or

(2) Ownership is changed without securing a new short-term rental business license; or

(3) The short-term rental fails to maintain required guest logs and records pursuant to Section 5.38.080; or

(4) The short-term rental fails to allow inspection of the guest logs and records pursuant to Section 5.38.080.

(c) The director shall notify the owner of any suspension or revocation at the last known address for the owner. Such notice shall be provided at least 30 days prior to the effective date of any suspension or revocation; however, such suspension or revocation shall not affect the stay of any guest that was booked prior to the date of the suspension or revocation of the short-term rental.
5.38.100 Violations/Penalties.

(a) Any violation of the provisions of this chapter, at the discretion of the city prosecutor, is punishable as a misdemeanor or an infraction pursuant to Chapter 1.16 of Title 1 of this Municipal Code, except for as preempted by state law; and, any violation of the provisions of this chapter is subject to administrative citation, at the discretion of the city, pursuant to Chapter 1.18 of Title 1 of this Municipal Code.

(b) Public nuisance abatement.

(1) Any short-term rental that is conducted in violation of any provisions of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the applicable procedures set forth in Title 7 of this Municipal Code or in any other manner provided by law for the abatement of public nuisances.

(2) All costs to abate such public nuisance, including attorneys’ fees and court costs, shall be paid by the person causing the nuisance, including the short-term rental licensee and the property owner where the nuisance is occurring.

(c) The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude city from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.

(d) Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

5.38.110 Permits and Fees Not Exclusive.

Permits and fees required by this chapter shall be in addition to any license, permit or fee required under any other chapter of this Municipal Code. The issuance of any permit pursuant to this chapter shall not relieve the owner of the obligation to comply with all other provisions of this Municipal Code pertaining to the use and occupancy of the short-term rental or the property on which it is located.

5.38.120 Appeals.

The applicant for a short-term rental permit under this chapter may appeal a decision made by the director that the applicant failed to meet all of the conditions set forth in this Municipal Code.

(a) If the appellant wishes to appeal a decision to the City Council, the appellant must file a written appeal with the Perris City Clerk within ten calendar
days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, shall state the reasons for the appeal, and shall include any evidence in support of the appeal which the applicant seeks to be considered by the City Council.

(b) Notice of the time and place of an appeal hearing shall be providing to the appellant within 30 of receipt by the Perris City Clerk of the written appeal.

(c) The appeal hearing shall be held within 60 days of the filing of the written appeal with the Perris City Clerk, unless the 60 day time limit is waived by the appellant, or unless the City Council continues the appeal hearing date for good cause and upon written notification to the appellant.

(d) The City Council shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final unless appealed as provided for below.

5.38.130 Service of notices.

All notices required by this chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed (if to an applicant, a short-term rental, or an appellant) to the applicant or short-term rental at the mailing address identified in its application, the last updated address on file with the director's office, or the mailing address on the appeal form; or, the date upon which personal service of the notice is provided to a responsible party.

5.38.140 Amortization and Amnesty Period.

Owners of short-term rentals shall apply for a short-term rental business license pursuant to this chapter by no later than January 31, 2019. Owners of short-term rentals who, prior to the effective date of the ordinance codified in this chapter, failed to obtain a transient occupancy registration certificate pursuant to Chapter 3.24 of Title 3 of this Municipal Code, may do so without penalty notwithstanding the provisions of Chapter 3.24 of Title 3 of this Municipal Code, if an application for the certificate is filed by January 31, 2019.

5.38.150 Fees.

An application fee set by resolution of the city council shall be required for formal processing of every application made under this chapter. The city council is further authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon short-term rentals.
5.38.160 Administration.

Further rules, regulations, procedures and standards for the administration and implementation of this chapter may be adopted from time to time either by resolution or ordinance from the city council, by the director (upon authorization by resolution from the city council), or as further provided by this chapter.

5.38.170 Severability.

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this chapter 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 chapter. The city council hereby declares that it would have adopted this chapter and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional."

Section 4. Effective Date. This Ordinance shall take effect 30 days after its adoption.

Section 5. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and APPROVED this ___ day of ________, 2018.

__________________________________________
Mayor, Michael M. Vargas

ATTEST:

__________________________________________
City Clerk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS  

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number _____ was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the ___ day of ________, 2018, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:

______________________________
City Clerk, Nancy Salazar
CITY COUNCIL / PERRIS JOINT POWERS AUTHORITY
AGENDA SUBMITTAL

Meeting Date          October 30, 2018

SUBJECT: Financing and issuance of bonds associated with Improvement Area No. 3 CFD No. 2014-1 (Avelina) to fund public fees for public improvements

The District is generally bounded by Orange Avenue to the North, Sunset to the South and Evans to the East.

REQUESTED ACTION: That the City of Perris and the Perris Joint Powers Authority adopt the following resolutions, respectively:

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING FOR THE CITY AND IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, AUTHORIZING THE ISSUANCE OF BONDED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $5,000,000 ON BEHALF OF ITS IMPROVEMENT AREA NO. 3 TO FINANCE PUBLIC FACILITIES, PERMITTING THE PURCHASE OF SUCH BONDS BY THE PERRIS JOINT POWERS AUTHORITY, AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THERewith

2. A RESOLUTION OF THE PERRIS JOINT POWERS AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED $5,000,000 OF ITS PERRIS JOINT POWERS AUTHORITY LOCAL AGENCY REVENUE BONDS (IA3-CFD NO. 2014-1 (AVELINA)), 2018 SERIES A TO PURCHASE LOCAL OBLIGATION BONDS ISSUED BY COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, ON BEHALF OF IMPROVEMENT AREA NO. 3, UPON CERTAIN TERMS AND CONDITIONS, AND APPROVING CERTAIN DOCUMENTS AND OTHER ITEMS RELATING THERETO

CONTACT: Jennifer Erwin, Finance Director

BACKGROUND/DISCUSSION:

1. Formation of the District

Community Facilities District No. 2014-1 (Avelina) of the City of Perris (the "District") was formed on January 13, 2015, pursuant to Resolution No. 4798, after which an election was held pursuant to the Mello-Roos Community Facilities Act of 1982 allowing for special taxes in each of three improvement
areas, numbered Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3. At the election, the Landowners of the District approved the levy of a special tax pursuant to a rate and method of apportionment (the "RMA") at the election and the issuance of bonded indebtedness for each improvement area. According to the election, the District is authorized to issue $5,000,000 in bonds in each improvement area. The current financing concerns Improvement Area No. 3.

Improvement Area No. 3 is located on the southwest corner of Evans Road and Citrus Avenue and is bordered by Sunset Avenue to the south and Evans Road to the east. Improvement Area No. 3 contains approximately 31 net developable acres. The proposed development within Improvement Area No. 3 by the Developer (Centex Homes) consists of 180 single family homes. As of October 1, 2018, within Improvement Area No. 3, the Developer had completed and conveyed 112 homes to individual homeowners. As of such date, the Developer owned 8 completed homes, 6 of which were in escrow to be conveyed to an individual homeowner. In addition, the Developer owns 27 homes under construction and 33 finished lots. All building permits have been issued for the planned homes within Improvement Area No. 3 and all 180 lots will be classified as Developed Property for the Fiscal Year 2019-20 Special Tax levy. All the backbone infrastructure necessary to complete development within Improvement Area No. 3 is complete.

The assessed value of the taxable property in the District within Improvement Area No. 3 is $28,460,761 based on the County rolls as of January 1, 2018 - providing for a value to lien ratio (including all direct and overlapping general obligation debt) of 5.16:1, assuming a $5,000,000 principal, which is more than required pursuant to the City's policies or the Act, as defined below.

2. The Special Tax Bonds and Perris Joint Powers Authority Bonds

The City is issuing the District Bonds in order to fund capital fees related to the District, including TUMF and EMWD Fees. The City Council, acting as the legislative body of the District, will authorize the delivery of its Community Facilities District No. 2014-1 (Avelina) of the City of Perris Special Tax Bonds, 2018 Series (the "District Bonds") in a principal amount not to exceed $5,000,000. The City has entered into agreements with the Developer to repay advances/loans for fees to the property owner and/or to pay fees from the proceeds of the Bonds.

The District Bonds will be secured by special taxes levied within Improvement Area No. 3 of the District, pursuant to the RMA. Taxes will be levied at the Assigned Special Tax under the RMA as approved by the landowner voters in the District which would generally be the maximum special tax which may be levied (allowing for a 2% increase each year) unless there is also a need for back up special tax pursuant to the RMA approved for the District. The Maximum Special Tax is the amount that was used in sizing
the bond issue to keep in line with the City's policy of a not to exceed total rate of 2% on the homes. The effective tax rate based on the Maximum Special Tax is approximately 1.87% based on the median size home within Improvement Area No. 3. The taxes for Fiscal Year 2019-20 are shown below and the Maximum Special Tax will increase by 2% per year.

### TABLE 1
COMMUNITY FACILITIES DISTRICT NO. 2014-1 (VELINA)
IMPROVEMENT AREA 3
ESTIMATED FISCAL YEAR 2019-20 SPECIAL TAX LEVY

<table>
<thead>
<tr>
<th>Land Use Classification</th>
<th>Residential Floor Area (Square Feet)</th>
<th>Maximum Special Tax Per Unit</th>
<th>Estimated Fiscal Year 2019-20 Special Tax Levied Per Unit</th>
<th>Parcels/Units</th>
<th>Aggregate Estimated Fiscal Year 2019-20 Special Tax Levy</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - Residential</td>
<td>Greater than 3,150 sq. ft.</td>
<td>$1,852</td>
<td>$1,852</td>
<td>44</td>
<td>$81,490</td>
<td>29.95%</td>
</tr>
<tr>
<td>3 - Residential</td>
<td>2,751 to 2,950 sq. ft.</td>
<td>$1,608</td>
<td>$1,608</td>
<td>27</td>
<td>$43,429</td>
<td>15.96%</td>
</tr>
<tr>
<td>4 - Residential</td>
<td>2,551 to 2,750 sq. ft.</td>
<td>$1,482</td>
<td>$1,482</td>
<td>32</td>
<td>$47,419</td>
<td>17.43%</td>
</tr>
<tr>
<td>5 - Residential</td>
<td>2,351 to 2,550 sq. ft.</td>
<td>$1,414</td>
<td>$1,414</td>
<td>35</td>
<td>$49,478</td>
<td>18.18%</td>
</tr>
<tr>
<td>7 - Residential</td>
<td>1,951 to 2,150 sq. ft.</td>
<td>$1,197</td>
<td>$1,197</td>
<td>42</td>
<td>$50,281</td>
<td>18.48%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>180</td>
<td>$272,097</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

(1) Based on the Maximum Special Tax rate for Developed Property for Fiscal Year 2019-20.
(2) Fiscal Year 2018-19 estimated Special Tax Revenues is equal to 100% of the Maximum Special Tax rates levied on all 180 parcels of Developed Property.


The District Bonds will be sold to the Perris Joint Powers Authority (the "Authority"). The City is holding a public hearing regarding the public benefits associated with the Authority issuing its bonds, including using parties familiar with the City, requesting proposals for underwriter services and saving costs associated with the financing.

The Authority proposes to issue its Local Agency Revenue Bonds (IA 3-CFD No. 2014-1 (Avelina)), 2018 Series A, in an aggregate principal amount not to exceed $5,000,000 (the "Authority Bonds"). The Authority will use the proceeds of the Authority Bonds to purchase the District Bonds, pay certain costs of issuance and fund reserve funds in connection with the issuance. The costs of issuance will be around $223,000 for the Authority Bonds and the District Bonds. Approximately $385,000 will fund a reserve fund and $4,350,000 will fund reimbursement to the developer or the payment of fees.

Adoption of the attached resolutions will authorize (a) the issuance of the District Bonds in a principal amount not to exceed $5,000,000, and (b) the issuance of the Authority Bonds in a principal amount not to exceed $5,000,000. The resolutions will also authorize the execution and delivery of the documents described below.
The financing meets (or will meet by the time of issuance unless waived by the City) all City policies and procedures with respect to financing public improvements and certain public capital fees in connection with land development under the Mello-Roos Community Facilities Act of 1982 (constituting 53311 et seq. of the California Government Code) (the "Act"). The Resolution waives any conditions which are not met.

3. The Documents for the Financing.

Each document required for the financing will be executed or entered into pursuant to the resolutions. The attached resolutions authorize the officers of the City and the Authority to execute or enter into these documents and other agreements and certificates needed to accomplish the purposes of the financing. All of the documents are or will be on file with the City Clerk and Secretary of the Authority.

The following documents must be executed in order to complete the financing:

**Fiscal Agent Agreement:** The District Bonds will be issued pursuant to a Fiscal Agent Agreement between the District and U.S. Bank National Association as fiscal agent. The Fiscal Agent Agreement describes the terms of the District Bonds, as well as provisions relating to the redemption, prepayment, defeasance, default and amendment of or to the District Bonds, including conditions under which delinquent property owners will be subject to foreclosure.

**Local Obligation Bond Purchase Contract:** The District Bonds will be sold to the Authority pursuant to the terms of the Commitment Agreement and Purchase Contract for Purchase and Sale of Local Obligation Bonds by and between the District and the Authority.

**Indenture:** The Authority Bonds will be issued pursuant to an Indenture of Trust, by and between the Authority and U.S. Bank National Association, as trustee. The Indenture will describe the terms of the Authority Bonds, redemption provisions, defeasance provisions and security provisions. The security for the Authority Bonds will be the District Bond payments and certain funds and moneys described in the Indenture.

**Authority Purchase Contract:** The Authority bonds will be sold to Brandis Tallman, LLC (the “Underwriter”) pursuant to the terms of a Bond Purchase Agreement among the Authority and the Underwriter. The parameters set forth in the Resolution for the Sale included a not-to-exceed true interest cost of 5.5% and a not-to-exceed Underwriter’s discount of 1.00%.

**Preliminary Official Statement:** The Authority Bonds will also be sold through distribution of the Preliminary Official Statement and the Official Statement to investors. The Official Statement describes the bonds, the
relative risks associated with the purchase and other necessary information pertinent to investors. This includes representations related to the security and finances of the City.

The Authority and the District are required to review the Official Statement and make sure it provides to bondholders all material information relevant to the Bonds and does not omit anything relevant to a bondholders decision to purchase the bonds. The Preliminary Official Statement is included with this report. Material found within the official statement is subject to Rule 15c2-12 of the Securities Exchange Act of 1934 and other laws regulating material misstatements and omissions.

Continuing Disclosure Agreement: The District will enter into a continuing disclosure agreement for the purpose of complying with continuing disclosure obligations under Rule 15c2-12 of the Securities Exchange Act of 1934. Wildan Financial Services will serve as Dissemination-Agent thereunder.

Senate Bill 450 Analysis

Per the requirements of SB 450, the proposed Bonds with the Underwriter will be in the amount of $5,000,000 for a term of 30 years at a true interest cost of 4.30%, netting $4,350,000 to be deposited into the Project Fund, $385,000 to be deposited into the Debt Service Reserve Fund and $223,000 to be deposited into the Cost of Issuance Fund. The deposit to the Costs of Issuance Fund includes the Underwriter’s Discount. The average annual payment will be approximately $307,970 and the maximum annual debt service amount is $406,580. The total payment including all debt service payments and projected fees and charges paid to third parties to the final maturity of the Bonds in 2049 is estimated at $9,471,860. These amounts are good faith estimates based on market conditions as of October 5, 2018 provided by the Underwriter and the actual amounts locked in at pricing may vary.

BUDGET (or FISCAL) IMPACT:

None. Costs will be paid from special taxes or from the proceeds of the bonds.

Reviewed by:
City Attorney

Assistant Finance Director

Attachments: Two Resolutions, Preliminary Official Statement, Binder Containing all Documents on File with City Clerk and Made Part of the Record, including:
1. Commitment Agreement and Purchase Contract for Purchase and Sale of Local Obligation Bonds, by and between the District and the Authority
2. Fiscal Agent Agreement, by and between the Fiscal Agent and the District
3. Indenture of Trust, by and between the Authority and Trustee
4. Bond Purchase Contract, by and between the Authority and the Underwriter
5. Continuing Disclosure Agreement (attached as exhibit to Official Statement)

Consent:
Public Hearing: √
Business Item:
Other:
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING FOR THE CITY AND IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, AUTHORIZING THE ISSUANCE OF BONDED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $5,000,000, ON BEHALF OF ITS IMPROVEMENT AREA NO. 3, TO FINANCE PUBLIC FACILITIES, PERMITTING THE PURCHASE OF SUCH BONDS BY THE PERRIS JOINT POWERS AUTHORITY, AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City Council (the “City Council”) of the City of Perris (the “City”), located in Riverside County, California (hereinafter sometimes referred to as the “legislative body of the District”) has, pursuant to its Resolution No. 4779 (the “Resolution of Intention”) adopted on October 14, 2014, as supplemented by Resolution No. 4781, adopted October 28, 2014, and Resolution No. 4798 (the “Resolution of Formation”) adopted on January 13, 2015, heretofore undertaken proceedings and declared the necessity of Community Facilities District No. 2014-1 (Avelina) of the City of Perris (the “District”) to issue bonds pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, pursuant to its Resolution of Formation, Resolution of Intention, and Resolution Nos. 4799 and 4800 (collectively the “Resolutions”), adopted by the legislative body of the District on January 13, 2015, a certain bond proposition was submitted to the qualified electors within the District, and was approved by more than two-thirds of the votes cast at the election held on January 13, 2015, in addition to the levy of a special tax (the “Special Tax”) within each Improvement Area of the District in accordance with a rate and method of apportionment for each Improvement Area, including Improvement Area No. 3 (the “RMA”); and

WHEREAS, based upon Resolutions adopted by the legislative body of the District and the election, the District is authorized to issue bonds, pursuant to the Act, in an aggregate principal amount not to exceed $5,000,000 for Improvement Area No. 3; and

WHEREAS, the City and the Housing Authority of the City of Perris, entered into a Joint Exercise of Powers Agreement, created under the Joint Exercise of Powers Act (Sections 6500 et seq. of the California Government Code) (the “Bond Law”), dated as of March 26, 2013, thereby forming the Perris Joint Powers Authority (the “Authority”) to assist the City and the Housing Authority of the City in their respective financings; and
WHEREAS, the City Council has heretofore undertaken proceedings and declared the necessity of the District to issue bonds pursuant to the terms and provisions of the Act, and desires to issue bonds at this time under the Act, with the assistance of the Authority, for the purpose of providing financing for the acquisition and construction of public facilities and public capital fees associated with the District, which the District is authorized to finance; and

WHEREAS, the District desires to accomplish the financing of certain public capital improvements through the issuance of bonds in an aggregate principal amount not to exceed $5,000,000 designated as the “Improvement Area No. 3 of Community Facilities District No. 2014-1 (Avelina) of the City of Perris Special Tax Bonds, 2018 Series” (the “District Bonds”); and

WHEREAS, in order to raise the funds to purchase the District Bonds, the Authority will issue its Perris Joint Powers Authority Local Agency Revenue Bonds (IA 3-CFD No. 2014-1 (Avelina)), 2018 Series A (the “Authority Bonds”) pursuant to the Bond Law, and use the proceeds thereof to purchase the District Bonds from the District, to pay certain costs of issuance and/or fund a reserve fund and other funds in connection therewith; and

WHEREAS, the legislative body of the District has determined in accordance with Government Code Sections 53360.4 and other applicable laws that a negotiated sale of the District Bonds to the Authority in accordance with the terms of the Commitment Agreement and Purchase Contract for Purchase and Sale of Local Obligation Bonds to be entered into by the District and the Authority (the “Local Obligation Bond Purchase Contract”), a form of which is on file with the City Clerk, will result in a lower overall cost to the District; and

WHEREAS, the Authority will sell the Authority Bonds to Brandis Tallman LLC (the “Underwriter”) pursuant to the terms of the Bond Purchase Agreement, by and among the Authority and the Underwriter (the “Authority Purchase Contract”), a form of which is on file with the City Clerk; and

WHEREAS, in order to effect the issuance of the District Bonds by the District and the Authority Bonds, the legislative body of the District desires to approve the form of a Preliminary Official Statement for the Authority Bonds related to the District Bonds and to approve the form of and authorize the execution and delivery of a fiscal agent agreement, by and between the District and U.S. Bank National Association, as Fiscal Agent (the “Fiscal Agent Agreement”), with respect to the issuance of the District Bonds, forms of which are on file with the City Clerk; and

WHEREAS, the District further desires to approve the forms and authorize the execution and delivery of the Local Obligation Bond Purchase Contract, the Authority Purchase Contract, a Continuing Disclosure Agreement (as hereinafter defined), and certain other agreements related thereto, the forms of which are on file with the City Clerk; and

WHEREAS, the legislative body of the District has determined that it is prudent in the management of its fiscal affairs to issue the District Bonds, that it will accomplish a public purpose; and
WHEREAS, in accordance with Government Code Section 6586.5, the City has published notice of a public hearing in a newspaper of general circulation and on the date hereof held a public hearing concerning the financing of the capital improvements described herein through the issuance of the Authority Bonds as required by Government Code Section 6586.5(a)(2); and

WHEREAS, the value of the real property in Improvement Area No. 3 of the District subject to the special tax to pay debt service on the District Bonds is more than three times the principal amount of the District Bonds (based on assessed values on the records of the County of Riverside) and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act or a special assessment levied on property within the improvement Area No. 3 of the District, which fact is required as a precondition to the issuance of the District Bonds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Perris, acting for itself and as the legislative body of Community Facilities District No. 2014-1 (Avelina) of the City of Perris, does hereby resolve, determine and order as follows:

Section 1. Each of the above recitals is true and correct and is adopted by the legislative body of the District.

Section 2. The District is authorized pursuant to the Act to issue the District Bonds for the purpose of financing capital improvements and public facilities in the District.

Section 3. The issuance of the District Bonds in a principal amount not to exceed $5,000,000 is hereby authorized with the exact principal amount to be determined by the official signing of the Local Obligation Bond Purchase Contract for the District Bonds in accordance with Section 7 below. The legislative body of the District hereby determines that it is prudent in the management of its fiscal affairs and a public purpose to issue the District Bonds. The District Bonds shall mature on the dates and pay interest at the rates set forth in the Local Obligation Bond Purchase Contract to be executed on behalf of the District in accordance with Section 7 hereof.

Section 4. The form of the Fiscal Agent Agreement, a copy of which is on file with the City Clerk, be and is hereby approved in substantially the form thereof with such changes as may be approved by the Mayor, City Manager, Assistant City Manager or Finance Director (each, an "Authorized Officer"), said Authorized Officer’s execution thereof to constitute conclusive evidence of said Authorized Officer’s approval of all such changes, and each of said Authorized Officers be and is hereby authorized, together or alone to execute and deliver said Fiscal Agent Agreement. The City Clerk or a duly authorized Deputy or Assistant City Clerk (the "City Clerk") is hereby authorized to attest to said Authorized Officer’s signature.

Section 5. The District Bonds shall be executed on behalf of the District by the manual or facsimile signature of the Mayor of the City, acting as the legislative body of the District, and attested with the manual or facsimile signature of the City Clerk. U.S. Bank National Association is hereby appointed to act as Fiscal Agent for the District Bonds.

Section 6. The covenants set forth in the Fiscal Agent Agreement to be executed in accordance with Section 4 above are hereby approved, shall be deemed to be covenants of the legislative body of the District, and shall be complied with by the District and its officers.
Section 7. The form of the Local Obligation Bond Purchase Contract and the Authority Purchase Contract relating to the purchase of the District Bonds by the Authority and relating to the purchase of the Authority Bonds by the Underwriter, respectively, copies of which are on file with the City Clerk, be and are hereby approved in the forms thereof, or with such changes as may be approved by an Authorized Officer, said Authorized Officer's execution thereof to constitute conclusive evidence of said officer's approval of all such changes, and each Authorized Officer be and is hereby authorized, together or alone, to execute and deliver said agreement or agreements to which the District is a party and to insert in each of the aforesaid Agreements the dollar amount which reflects the provisions of said purchase contracts; provided, however, that the true interest cost with respect to the Authority Bonds shall not exceed 5.5% and the Underwriter's discount shall not exceed 1% of the principal amount of the Authority Bonds thereof, excluding any original issue discount on the Authority Bonds and the purchase price of the District Bonds shall not exceed any amount prohibited by the Bond Law or the Act.

Section 8. The form of the Continuing Disclosure Agreement executed and delivered by the District and Willdan Financial Services, as Dissemination Agent thereunder, a copy of which is on file with the City Clerk (the "Continuing Disclosure Agreement"), be and is hereby approved in substantially the form thereof or with such changes as may be approved by an Authorized Officer, said Authorized Officer's execution thereof to constitute conclusive evidence of said Authorized Officer's approval of all such changes, and each Authorized Officer be and is hereby authorized, together or alone, to execute and deliver said Agreement.

Section 9. The form of the Preliminary Official Statement presented at this meeting and on file with the City Clerk is hereby approved, and the Underwriter is hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the Authority Bonds. Each Authorized Officer is authorized to make such additions thereto and changes therein as are determined necessary by the such Authorized Officer to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), including, but not limited to, such additions and changes as are necessary to make all information set forth therein accurate and not misleading. Each Authorized Officer is authorized to deem final the Preliminary Official Statement as of its date for the purpose of Rule 15c2-12. The final Official Statement shall be submitted to an Authorized Officer for approval.

Section 10. In accordance with the requirements of Section 53345.8 of the Act, the legislative body of the District hereby determines that the value of the real property within the District subject to the respective special taxes to pay debt service on the District Bonds is not less than three times the principal amount of the respective District Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act or a special assessment levied on property within Improvement Area No. 3 of the District. This determination is based on the assessed values of the property on the records of the County of Riverside.

Section 11. The City Council approves of the financing and hereby finds that significant public benefits exist in undertaking the financing in accordance with the criteria set forth in Government Code Section 6586.

Section 12. All conditions precedent to the financing pursuant to the City's policies relating to Mello-Roos Districts have been met or are hereby waived.
Section 13. Each Authorized Officer and the other officers and staff of the City and the District responsible for the fiscal affairs of the District are hereby authorized and directed to take any actions and execute and deliver any and all documents and certificates as are necessary to accomplish the issuance, sale and delivery of the District Bonds and to consummate the transactions contemplated by each aforesaid Agreement. In the event that the Mayor is unavailable to sign any document authorized for execution herein, any Authorized Officer may sign such document. Any document authorized herein to be signed by the City Clerk may be signed by a duly appointed deputy or assistant city clerk.

Section 14. This resolution shall take effect and be enforceable immediately upon its adoption.
ADOPTED, SIGNED and APPROVED this 30th day of October, 2018.

______________________________
MAYOR OF THE CITY OF PERRIS

Attest:

______________________________
CITY CLERK OF THE CITY OF PERRIS
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS

I, Nancy Salazar, City Clerk of the City of Perris, do hereby certify that the foregoing Resolution Number ______ was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 30th day of October, 2018, and that it was so adopted by the following vote:

AYES: 
NOES: 
ABSENT: 
ABSTAIN: 

By: ____________________________________________

CITY CLERK
RESOLUTION NO.______

A RESOLUTION OF THE PERRIS JOINT POWERS AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED $5,000,000 OF ITS PERRIS JOINT POWERS AUTHORITY LOCAL AGENCY REVENUE BONDS (LA 3-CFD NO. 2014-1 (AVELINA)), 2018 SERIES A TO PURCHASE LOCAL OBLIGATION BONDS ISSUED BY COMMUNITY FACILITIES DISTRICT NO. 2014-1 (AVELINA) OF THE CITY OF PERRIS, ON BEHALF OF IMPROVEMENT AREA NO. 3, UPON CERTAIN TERMS AND CONDITIONS, AND APPROVING CERTAIN DOCUMENTS AND OTHER ITEMS RELATING THERETO.

WHEREAS, the City of Perris (the "City"), located in Riverside County, California, and the Housing Authority of the City of Perris (the "Housing Authority"), have entered into a Joint Exercise of Powers Agreement, dated March 26, 2013 (the "Agreement"), creating the Perris Joint Powers Authority (the "Authority"), pursuant to Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Bond Law"); and

WHEREAS, pursuant to Article 4 of the Bond Law and the Agreement, the Authority is authorized to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations of, or for the purpose of making loans to, the City, the Housing Authority, and any associate member, and such other powers as may be provided under the Bond Law; and

WHEREAS, pursuant to Article 4 of the Bond Law and the Agreement, the Authority finds that it is necessary, appropriate, in the public interest, and in furtherance of the purposes of Article 4 of the Bond Law, to issue bonds and use the proceeds of the bonds to purchase bonds issued by the City on behalf of the District, as defined herein; and

WHEREAS, pursuant to the Bond Law and the Agreement, the Authority is further authorized to sell its bonds to public or private purchasers at public or negotiated sales; and

WHEREAS, the City Council (the "City Council") of the City, located in Riverside County, California (hereinafter sometimes referred to as the "legislative body of the District") has, pursuant to its Resolution No. 4779 (the "Resolution of Intention") adopted on October 14, 2014, as supplemented by Resolution No. 4781, adopted October 28, 2014, and Resolution No. 4798 (the "Resolution of Formation") adopted on January 13, 2015, heretofore undertaken proceedings and declared the necessity of Community Facilities District No. 2014-1 (Avila) of the City of Perris (the "District") to issue bonds pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act"); and
WHEREAS, pursuant to its Resolution of Formation, Resolution of Intention, and Resolution Nos. 4799 and 4800 (collectively the “Resolutions”), adopted by the legislative body of the District on January 13, 2015, a certain bond proposition was submitted to the qualified electors within the District, and was approved by more than two-thirds of the votes cast at the election held on January 13, 2015, in addition to the levy of a special tax (the “Special Tax”) within each Improvement Area of the District in accordance with a rate and method of apportionment for each Improvement Area, including Improvement Area No. 3 (the “RMA”); and

WHEREAS, based upon Resolutions adopted by the legislative body of the District and the election, the District is authorized to issue bonds, pursuant to the Act, in an aggregate principal amount not to exceed $5,000,000 for Improvement Area No. 3; and

WHEREAS, the City Council has heretofore undertaken proceedings and declared the necessity of the District to issue bonds pursuant to the terms and provisions of the Act, and desires to issue bonds at this time under the Act, with the assistance of the Authority, for the purpose of providing financing for the acquisition and construction of public facilities and public capital fees associated with the District, which the District is authorized to finance; and

WHEREAS, the District desires to accomplish the financing of certain public capital improvements through the issuance of bonds in an aggregate principal amount not to exceed $5,000,000 designated as the “Improvement Area No. 3 of Community Facilities District No. 2014-1 (Avelina) of the City of Perris Special Tax Bonds, 2018 Series” (the “District Bonds”); and

WHEREAS, the legislative body of the District has determined in accordance with Government Code Sections 53360.4, and other applicable laws that a negotiated sale of the District Bonds to the Authority in accordance with the terms of a Commitment Agreement and Purchase Contract for Purchase and Sale of Local Obligation Bonds to be entered into by the District and the Authority (the “Local Obligation Bond Purchase Contract”), a form of which is on file with the City Clerk, will result in a lower overall cost to the District than a public sale of the District Bonds; and

WHEREAS, in order to raise the funds to purchase the District Bonds, the Authority will issue its Perris Joint Powers Authority Local Agency Revenue Bonds (IA 3-CFD No. 2014-1 (Avelina)), 2018 Series A (the “Authority Bonds”) pursuant to the Bond Law, and use the proceeds thereof to purchase the District Bonds from the District, to pay certain costs of issuance and fund a reserve fund and other funds in connection therewith; and

WHEREAS, the Authority desires to enter into an Indenture of Trust (the “Indenture”), by and between the Authority and U.S. Bank National Association, as Trustee (the “Trustee”), with respect to the issuance of the Authority Bonds and for the purpose of describing the terms, redemption provisions, defeasance provisions and security provisions of the Authority Bonds, and such other terms that are in the public interest to provide security and prevent defaults; and

WHEREAS, the Authority desires to purchase the District Bonds with the proceeds received from the Authority’s concurrent sale of the Authority Bonds to Brandis Tallman LLC (the “Underwriter”) pursuant to the Bond Purchase Agreement to be entered into by and among the Authority and the Underwriter (the “Authority Purchase Contract”), and
WHEREAS, the District has caused a Preliminary Official Statement relating to the Authority Bonds (the “Preliminary Official Statement”) to be submitted to the Authority for approval for distribution to prospective purchasers of the Authority Bonds; and

WHEREAS, the District has held a public hearing in accordance with Government Code Section 6586.5 following which it has determined that the financing of the capital improvements described herein through the issuance of the Authority Bonds by the Authority will provide significant public benefits for the City and the District and its citizens of the type described in Government Code Section 6586(a).

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the Perris Joint Powers Authority, as follows:

Section 1. Each of the above recitals is true and correct and is adopted by the Authority.

Section 2. The Authority is authorized pursuant to Article 4 of the Bond Law to issue the Authority Bonds for the purpose of purchasing the District Bonds.

Section 3. The issuance of the Authority Bonds in a principal amount not to exceed $5,000,000 is hereby authorized, with the exact principal amount to be determined by the official signing of the Authority Purchase Contract for the Authority Bonds in accordance with Section 7 below. The Authority hereby determines that it is prudent in the management of its fiscal affairs to issue the Authority Bonds and hereby finds significant public benefits will result in accordance with the criteria set forth in Government Code Section 6586. The Authority Bonds shall mature on the dates and pay interest at the rates set forth in the Indenture and the Authority Purchase Contract to be executed on behalf of the Authority in accordance with Section 7 hereof. The Authority Bonds shall be sold at the time and in the manner provided in the Authority Purchase Contract.

Section 4. The proposed form of the Indenture, between the Authority and the Trustee, on file with the Secretary of the Authority is hereby approved. The Chairperson, the Executive Director, the Assistant Executive Director, and Treasurer of the Authority (each an “Authorized Officer”) are hereby each authorized and directed, for and in the name and on behalf of the Authority, to issue the Authority Bonds, subject to the terms and conditions of the Indenture, and to execute and deliver the Indenture in substantially the form hereof or with such changes as may be approved by the Authorized Officer, said Authorized Officer’s execution thereof to constitute conclusive evidence of said Authorized Officer’s approval of all such changes.

Section 5. The Authority Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of an Authorized Officer and the manual or facsimile signature of the Secretary or a duly authorized Deputy or Assistant Secretary of the Authority. U.S. Bank National Association is hereby appointed to act as Trustee for the Authority Bonds.

Section 6. The proposed form of the Local Obligation Bond Purchase Contract on file with the Secretary of the Authority is hereby approved. Each Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to purchase the District Bonds from the District with the proceeds of the Authority Bonds, subject to the terms and
conditions of the Local Obligation Bond Purchase Contract, and to execute and deliver the Local Obligation Bond Purchase Contract to the District. Approval of any additions or changes in such form shall be conclusively evidenced by such execution and delivery of the Local Obligation Bond Purchase Contract. The Authority shall purchase the District Bonds simultaneously with the issuance of the Authority Bonds.

Section 7. The proposed form of the Authority Purchase Contract on file with the Secretary of the Authority is hereby approved. Each Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to purchase the District Bonds from the District with the proceeds of the Authority Bonds and to accept the offer of the Underwriter to purchase the Authority Bonds from the Authority, subject to the terms and conditions of the Authority Purchase Contract, and to execute and deliver the Authority Purchase Contract to the District and the Underwriter; provided, however, that the true interest cost with respect to the Authority Bonds shall not exceed 5.5% and the Underwriter’s Discount shall not exceed 1% of the principal amount of the Authority Bonds thereof, excluding any original issue discount or premium on the Authority Bonds. Approval of any additions or changes in such form shall be conclusively evidenced by such execution and delivery of the Authority Purchase Contract.

Section 8. The Preliminary Official Statement presented at this meeting and on file with the Secretary is hereby approved, and the Underwriter is hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the Authority Bonds. Each Authorized Officer is authorized to make such additions thereto and changes therein as are determined necessary by the such Authorized Officer to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2 12 of the Securities and Exchange Commission (“Rule 15c2-12”), including, but not limited to, such additions and changes as are necessary to make all information set forth therein accurate and not misleading. Each the Authorized Officer is authorized to deem final the Preliminary Official Statement as of its date for the purpose of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The final Official Statement shall be submitted to the Chairperson or Executive Director for approval.

Section 9. The Chairperson, Vice Chairperson, Treasurer and Executive Director of the Authority and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, certificates related to tax exemption, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance of the Authority Bonds and the sale, issuance and delivery of the District Bonds to the Authority and Underwriter pursuant to the Authority Purchase Contract approved herein.

Section 10. This resolution shall take effect from and after the date of approval and adoption thereof.
PASSED, APPROVED AND ADOPTED at a regular meeting of the Perris Joint Powers Authority on this 30th day of October, 2018.

CHAIRPERSON OF THE PERRIS JOINT POWERS AUTHORITY

ATTEST:

SECRETARY OF THE PERRIS JOINT POWERS AUTHORITY
STATE OF CALIFORNIA       )
COUNTY OF RIVERSIDE      ) ss.
PERRIS JOINT POWERS AUTHORITY )

I, Nancy Salazar, Secretary of the Perris Joint Powers Authority, hereby certify that Resolution Number _____ was adopted by the Perris Joint Powers Authority at a regular meeting held on the 30th day of October, 2018, and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

By: ________________________________
    SECRETARY
CITY COUNCIL SPECIAL MEETING
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Authorization to participate in a Community Choice Aggregation Program

REQUESTED ACTION: Adopt Ordinance No. (next in order) authorizing the implementation of Community Choice Aggregation Program

CONTACT: Clara Miramontes, Assistant City Manager

BACKGROUND/DISCUSSION:

At the June 12, 2018 City Council meeting, the City Council adopted a resolution and entered into a Western Community Energy WCE Joint Powers agreement for participation in the Community Choice Aggregation (CCA) Program. The member agencies are also required to adopt an Ordinance authorizing the implementation of a CCA. A CCA allows a local government to purchase power on behalf of its community, while utilizing the delivery system of the investor owned utility, in this region’s case Southern California Edison (SCE). A CCA provides a choice for the community which it does not currently have. In this instance, getting power from SCE under the rates SCE offers is the only option. Under a CCA, residents and businesses have the ability to choose from new rates and power sources (that are often more renewable and at reduced cost) offered by the CCA, or they can choose to stay with SCE. The City, by participating in a CCA, will allow its businesses and residents to voluntarily make those choices.

By joining the WCE, the City is allowing the Agency to move forward in further examining the true savings amounts based on accurate data and not based on current assumptions, and to launch sooner (2020) rather than later (2021) if elected officials desire to do so. Joining WCE does not lock the City into implementation. It simply provides for a potential launch in 2020 should the WCE Governing Board make a determination. In order to submit the Implementation Plan, jurisdictions must join the JPA so that its consultants can develop a cost / environmental savings report to the WCE Governing Board in September. The savings report will indicate whether or not it is favorable for WCE to move forward. If favorable, WCE would prepare its Implementation Plan for a 30 day public review prior to submitting to the CPUC. If it is not favorable, all works would stop.

RECOMMENDATION:

Staff recommends that the City Council adopt an ordinance, authorizing implementation of a CCA program.

BUDGET (or FISCAL) IMPACT:

Cost for staff preparation of this item has been budgeted in the 2018-2019 General Fund.

Prepared by: Clara Miramontes, Assistant City Manager

City Attorney: Eric Dunn
Assistant City Manager: Darren Madkin
Director of Finance: Jennifer Erwin

Public Hearing: October 30, 2018

Attachments: Ordinance
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PERRIS
AUTHORIZING THE IMPLEMENTATION OF A
COMMUNITY CHOICE AGGREGATION PROGRAM

The City Council of the City of Perris does ordain as follows:

Section 1. Findings.

1. The City of Perris has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement over the provisions of electric services and promoting competitive retail choice.

2. Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2 et seq.; hereinafter referred to as the “Act”) authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (“CCA”)

3. The Act expressly authorizes participation in a CCA program through a joint powers agency, and to this end, the Western Riverside Council of Governments has been evaluating a CCA program for certain portions of the County and the cities and towns within it.

4. Through Docket No. R.03-10-003, the California Public Utilities Commission (“Commission”) has issued various decisions and rulings addressing the implementation of CCA programs, including establishing a procedure by which the Commission will review implementation plans, which are required to be submitted under the Act as the means of describing the CCA program and ensuring compliance with the Act.

5. The City along with representatives of the Western Riverside Council of Governments have elected to form a joint powers agency known as Western Community Energy (“Authority”) that would specify the terms and conditions by which participants may participate as a group in energy programs, including, but not limited to, the implementation of a CCA program with the following benefits:

a. Providing customers a choice of power providers;

b. Increasing local control over energy rates and other energy-related matters;
c. Providing electric rates that are competitive with those provided by the incumbent utility;
d. Improving the local economy by increasing local and regional renewable generation capacity and energy conservation and efficiency projects and programs;
e. Increasing regional energy self-sufficiency; and
f. Reducing greenhouse gas emissions arising from electricity use in the City.

6. The Joint Powers Agreement creating the Authority will govern and operate the CCA program on behalf of its member jurisdictions. The City may participate in the Authority by adoption of a resolution approving the execution of the Joint Powers Agreement and adoption of a CCA ordinance required by Public Utilities Code section 366.2(c)(12). The City's participation in the Authority will include membership on the Board of Directors of the Authority as provided in the Joint Powers Agreement.

7. The Authority will enter into agreements with electric power suppliers and other services providers and, based on these agreements, the Authority plans to provide power to residents and businesses at rates that are competitive with those of the incumbent utility. Once the Commission approves the implementation plan prepared by the Authority, the Authority may provide service to customers within the City and those cities that choose to participate in the Authority.

8. Under Public Utilities Code section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who desire to continue to receive service from the incumbent utility will be able to do so at any time.

9. On October 30, 2018, the City Council held a public hearing at which time interested persons had an opportunity to testify either in support or in opposition to implementation of the CCA program within the City.

10. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it is merely the formation of an organization. 14 Cal. Code Regs. § 15378(a). The ordinance is also exempt from CEQA because it is an organizational or administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. § 15378(b)(5). The ordinance is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. § 15320. Further, the ordinance is exempt from CEQA because there is no possibility that the ordinance or its implementation,
which would only result in the formation of a governmental organization, would have a significant negative effect on the environment. 14 Cal. Code
Regs. § 15061(b)(3). The [INSERT TITLE OF CITY OFFICIAL] shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

Section 2. Authorization to Implement a Community Choice Aggregation Program. Based upon the foregoing, and in order to provide businesses and residents within the City with a choice of power providers, the City hereby elects to implement a community choice aggregation program within the jurisdiction of the City by participating in the CCA program of the Authority, as described in the Joint Powers Agreement.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held for any reason to be invalid or unconstitutional by a 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, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 4. Effective Date. This Ordinance shall take effect 30 days after its adoption.

Section 5. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and APPROVED this 30th day of October, 2018.

Mayor, Michael M. Vargas

ATTEST:

City Clerk, Nancy Salazar
STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE  
CITY OF PERRIS  

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number _____ was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 30th day of October, 2018, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:

City Clerk, Nancy Salazar
CITY COUNCIL
AGENDA SUBMITTAL

Meeting Date: October 30, 2018

SUBJECT: Annexation of Assessors Parcel Numbers 302-170-015; 302-160-028; 302-160-026; and 302-150-028; to the Citywide Trails Community Facilities District (Public Services District)

REQUESTED ACTION: Give final approval to the CFD report. Open a Public Hearing to conduct the first reading of an Ordinance authorizing levying of the proposed 2018-2019 CFD assessments. Open the ballot, and consider adoption of the following resolutions:

a.) calling a special election;
b.) declaring the results of the election; and if the ballot is marked yes
c.) authorizing the formation of Community Facilities District No. 2018-02 (“CFD”) including ordering the annexation of assessors parcel numbers 302-170-015; 302-160-028; 302-160-026; 302-150-028 to the CFD

CONTACT: Darren Madkin, Assistant City Manager

BACKGROUND/DISCUSSION:

Maintenance of the Perris Valley Trail, which recently opened to the general public, is currently funded through the City’s general fund. A Trails Community Facilities District (“CFD”) can be used to fund trail maintenance, saving general fund resources for other needed purposes. The proposed Trails maintenance CFD is being formed to benefit the citywide trail system and includes funding to finance all related maintenance, administrative, and utility (water and electricity) costs and expenses of the cities trail system. The district will also fund reserves for replacement of vehicles, equipment and facilities. It is anticipated that additional properties will be annexed to CFD No. 2018-02, and the formation of this district will facilitate these future annexations.

On September 25, 2018, the City Council adopted a resolution of intention to establish the Citywide Community Facilities District (“CFD”) No. 2018-02; and future annexation area to fund trail maintenance. The resolution stated the City Council’s intention to annex assessors parcel numbers 302-170-015; 302-160-028; 302-160-026; 302-150-028 in the City’s trails maintenance district and set a public hearing for October 30, 2018. For tabulating the ballots for CFD 2018-02, IDI Logistics represents 100% of the vote.

BUDGET (or FISCAL) IMPACT: The maximum special tax rate is $18.47 per one thousand square feet of floor area. On each July 1, commencing on July 1, 2019, the maximum special tax for taxable property shall be increased annually by the greater of the change in the Consumer Price Index during the twelve (12) months prior to December of the previous fiscal year, or two percent (2%).

Reviewed by:
City Attorney
Finance Director
Attachments: Location map
Community Facilities District Report
Resolution(s): Calling a special election; Declaring results of the election;
Authorizing the formation of CFD 2018-02
Ordinance levying special taxes

Public Hearing: X
PROPOSED BOUNDARIES OF
CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2018-02
(PUBLIC SERVICES DISTRICT)
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

LEGEND

Proposed Boundaries of City of Perris Community Facilities District No. 2018-02 (Public Services District), County of Riverside, California

Assessor Parcel Line

Future Annexation Area

Reference is hereby made to the Assessor maps of the County of Riverside for a description of the lines and dimensions of these parcels.

The CFD Future Annexation Area is co-terminous with the City of Perris boundary as of January 1, 2018.

Assessor Parcels within City of Perris Community Facilities District No. 2018-02 (Public Services District):
302-170-015
302-160-028
302-160-026
302-150-028

Prepared by David Toussig & Associates, Inc.

(1) Filed in the office of the Clerk of the City of Perris this ______ day of ________, 2018.

Nancy Salazar, Clerk of the City of Perris, California

(2) I hereby certify that the within map showing the proposed boundaries of City of Perris Community Facilities District No. 2018-02 (Public Services District), County of Riverside, State of California, was approved by the City Council of the City of Perris at a regular meeting thereof, held on this ______ day of ________, 2018, by its Resolution No. ____________

Nancy Salazar, Clerk of the City of Perris, California

(3) Filed this ______ day of ________, 2018, at the hour of ______ o'clock _____m, in Book __________ of Maps of Assessment and Community Facilities Districts at Page __________ and as Instrument No. __________ in the office of the County Recorder in the County of Riverside, State of California.

Peter Aldana
Assessor-County Clerk-Recorder,
County of Riverside
By __________
Deputy

Fee __________

Exempt recording requested, per CA Government Code §6103
COMMUNITY FACILITIES
DISTRICT REPORT

City of Perris
Community Facilities District
No. 2018-02
(Public Services District)

October 16, 2018
COMMUNITY FACILITIES DISTRICT REPORT
MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT
NO. 2018-02
(PUBLIC SERVICES DISTRICT)

Prepared for
CITY OF PERRIS
101 N. D Street
Perris, CA 92570

Prepared by
DAVID TAUSSIG & ASSOCIATES, INC.
5000 Birch Street, Suite 6000
Newport Beach, CA 92660
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## ATTACHMENTS

- **Attachment A**  Rate and Method of Apportionment
- **Attachment B**  Boundary Map
1. INTRODUCTION

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the “Act”), the Council of the City of Perris (“City Council”) is authorized to establish a community facilities district and to act as its legislative body; and

WHEREAS, this City Council, having received petitions from the owners of not less than 10% of the area of land proposed to be included in the proposed community facilities district, now desires to proceed with the establishment of such community facilities district to finance costs of certain public services and public facilities required to meet the demands of development of lands in the City; and

WHEREAS, the City Manager (or deputy or designee thereof) is hereby directed to study the proposed Services and Facilities and to make, or cause to be made, and file with the City Clerk, a report in writing (the “CFD Report”), which shall be a part of the record of the public hearing hereinafter specified and which shall present the following:

(a) A description of the Services and Facilities that will be required to adequately meet the needs of the CFD.

(b) An estimate of the fair and reasonable cost of the Services and Facilities and incidental expenses in connection therewith, and all other related costs.

NOW, THEREFORE, David Taussig & Associates, Inc. does hereby submit the Report.
II. PROJECT DESCRIPTION

CFD No. 2018-02 (Public Services District) encompasses approximately 82.81 gross acres of land in the City of Perris located, directly south of East Oleander Ave and west of Evans Road.

CFD No. 2018-02 (Public Services District) is currently comprised of property described above, that will consist of approximately 82.81 acres and permit the development of approximately 2 million non-residential square feet. A Future Annexable Area has also been identified for CFD No. 2018-02 (Public Services District), within which future residential and non-residential property will be able to annex into the CFD on a parcel by parcel basis.

A map showing this territory is provided as Appendix B of this Report.
III. DESCRIPTION AND ESTIMATED COSTS OF ELIGIBLE SERVICES

A community facilities district may provide for financing of certain public services which are necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the community facilities district.

A. Description of Eligible Services

1. Public Street Lighting: The street lighting improvements to be maintained may include, but are not limited to, electrical energy, lighting fixtures, poles, meters, conduits, electrical cable and associated appurtenant facilities associated with: (i) All public street lighting within CFD No. 2018-02; and (ii) Public street lighting, traffic signals and other public lighting facilities on the streets surrounding or adjacent to the development and other public areas associated or necessary for development of properties within CFD No. 2018-02.

2. Landscape, Park, Trails, and Recreation Improvements: The landscaping improvements may include, but are not limited to, all landscaping material and facilities within CFD No. 2018-02. These improvements include turf, ground cover, shrubs, trees, plants, irrigation and drainage systems, ornamental lighting structures, electricity, repair/replacement & inspection, and associated appurtenant facilities located within the streetscape (parkway and slope perimeter landscaping) surrounding the development.

The parks, open space areas, trails and recreation facilities to be operated, maintained and serviced may include, but are not limited to, the maintenance and care of all landscaping and facilities within park and open space areas facilities that service CFD No. 2018-02 but may not be included within the boundaries of CFD No. 2018-02. This includes trees, plant material, sod, irrigation systems, sidewalks, drainage facilities, weed control and other abatements, signs, monuments, and associated appurtenant facilities.

B. Estimated Costs of Eligible Services

CFD No. 2018-02 is expected to finance the annual costs to provide the services described in Section A, above. The Special Taxes within CFD No. 2018-02 have been established to pay for these additional services up to approximately $18.47 per 1,000 square feet of Floor Area (as defined in the Rate and Method of Apportionment, also known as the “RMA”) per year. This amount shall be increased based on the percentage change in the Consumer Price Index, with a minimum annual increase of two percent (2%) per Fiscal Year starting July 1, 2019.
IV. RATE AND METHOD OF APPORTIONMENT

All of the property located within CFD No. 2018-02, unless exempted by law or by the Rate and Method of Apportionment, shall be taxed for the purpose of providing necessary facilities and services to serve CFD No. 2018-02. Pursuant to Section 53325.3 of the Act, the tax imposed “is a special tax and not a special assessment, and there is no requirement that the tax be apportioned on the basis of benefit to any property.” The special tax “may be based on benefit received by parcels of real property, the costs of making facilities or authorized services available to each parcel or other reasonable basis as determined by the legislative body,” although the special tax may not be apportioned on an ad valorem basis pursuant to Article XIII A of the California Constitution.

As shown in Attachment A, the adopted Rate and Method of Apportionment provides information sufficient to allow each property owner within such community facilities district to estimate the maximum annual Special Tax he or she will be required to pay. Sections A through C below, provide additional information on the Rate and Method of Apportionment for CFD No. 2018-02.

A. Explanation for Special Tax Apportionment

When a community facilities district is formed, a special tax may be levied on each parcel of taxable property within the community facilities district to pay for authorized services and other related expenses incurred by CFD No. 2018-02. This special tax must be apportioned in a reasonable manner; however, the tax may not be apportioned on an ad valorem basis.

Based on the types of public services that are proposed for CFD No. 2018-02 and the factors described above, the Special Taxes assigned to Developed Properties are generally proportionate to the relative benefits received by them, which are assumed to be approximately equal for each square foot of floor area, and accordingly, the Special Taxes in CFD No. 2018-02 can be considered fair and reasonable.

B. Maximum Special Tax

Table 1 of Attachment A lists the Fiscal Year 2018-2019 Maximum Special Tax that may be levied against Developed Property within CFD No. 2018-02 to fund the Special Tax Requirement. On each July 1, commencing on July 1, 2019, the Maximum Special Tax for Developed Property shall be increased based on the percentage change in the Consumer Price Index, with a minimum annual increase of two percent (2%) per Fiscal Year.

C. Accuracy of Information

In order to establish the Special Taxes for CFD No. 2018-02 as set forth in the Rate and Method of Apportionment, David Taussig and Associates, Inc. has relied on information including, but not limited to absorption, land-use types, building square footage, and net taxable acreage which were provided to David Taussig and Associates, Inc., by others. David Taussig and Associates, Inc. has not independently verified such data and disclaims responsibility for the impact of inaccurate data provided by others, if any, on the Rate and Method of Apportionment for CFD No. 2018-02, including the inability to meet the financial obligations of CFD No. 2018-02.
V. BOUNDARIES OF COMMUNITY FACILITIES DISTRICT

The boundaries of CFD No. 2018-02 include all land on which the Special Taxes may be levied. A reduced scale map showing the boundaries of CFD No. 2018-02 is provided as Attachment B. A full-scale map is on file with the City Clerk of the City of Perris and was recorded with the County Recorder of the County of Riverside in Book ___ of Maps of Assessment and Community Facilities Districts at Page ___.

VI. GENERAL TERMS AND CONDITIONS

A. **Substitution of Facilities and Services**

The descriptions of the facilities and services, as set forth herein, are general in their nature. The City of Perris will determine the final nature, location, and costs of facilities and services upon the preparation of final plans and specifications. The final plans may show substitutes, in lieu of modifications to the proposed work in order to accomplish the work of improvement, and any such substitution shall not be a change or modification in the proceedings as long as the facilities and services provide a service substantially similar to that as set forth in this Report.

B. **Appeals**

Pursuant to the Rate and Method of Apportionment, any landowner or resident who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error may submit a written appeal to CFD No. 2018-02. The CFD Administrator shall review the appeal, and if necessary, the amount of the Special Tax levied shall be appropriately modified.
ATTACHMENT A

CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT
NO. 2018-02
(PUBLIC SERVICES DISTRICT)

RATE AND METHOD OF APPORTIONMENT
RATE AND METHOD OF APPORTIONMENT FOR
CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2018-02
(PUBLIC SERVICES DISTRICT)
CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

A Special Tax as hereinafter defined shall be levied on all Assessor’s Parcels of Taxable Property in City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California ("CFD No. 2018-02") and collected each Fiscal Year commencing in Fiscal Year 2018-19, in an amount determined by the City Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2018-02, unless exempted by law or by the provisions hereof, shall be taxed for these purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:


“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2018-02: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2018-02, or any designee thereof of complying with CFD No. 2018-02 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 2018-02, 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. 2018-02 for any other administrative purposes of CFD No. 2018-02, including attorney’s fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

“Authorized Services” means those services eligible to be funded by CFD No. 2018-02, as defined in the Resolution of Formation and authorized to be financed by CFD No. 2018-02 pursuant to Section 53313 and Section 53313.5 of the Act. CFD No. 2018-02 shall finance Authorized Services only to the extent that they are in addition to those provided...
in the territory of CFD No. 2018-02 before the CFD was created and such Authorized Services may not supplant services already available within CFD No. 2018-02 when the CFD was created.

"Building Permit" means a permit issued by the City or other governmental agency for the construction of a residential or non-residential building on an Assessor’s Parcel.

"CFD Administrator" means an official of CFD No. 2018-02, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2018-02" means City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California.

"City" means the City of Perris, California.

"City Council" means the City Council of the City.

"Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All items in Los Angeles-Riverside-Orange County, CA, all urban consumers, not seasonally adjusted” index (Series Id: CUUR421SA0), measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index.

"County" means the County of Riverside.

"Developed Property" means, for each Fiscal Year, all Assessor’s Parcels for which a Building Permit was issued after January 1, 2017 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Floor Area" means the total building square footage of non-residential building(s) or the non-residential portion of a building with both residential and non-residential areas located on an Assessor’s Parcel of Taxable Property, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two (2) sides. The determination of Floor Area shall be made by reference to the Building Permit(s) issued for such Assessor’s Parcel and/or to the appropriate records kept by the City’s Building Division, as reasonably determined by the CFD Administrator.

"Industrial Zone(s)" means zoning designation identified in the Chapter 19.44 of the City’s Zoning Ordinance (as amended by the City from time to time).
“Maximum Special Tax” means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor’s Parcel.

“Non-Residential Property” means any and each Assessor’s Parcel of Developed Property for which a Building Permit permitting the construction of one or more non-residential units or facilities, has been issued by the City or some other governmental agency.

“Property Owner Association Property” means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, not including any such property that is located directly under a residential or non-residential structure.

“Proportionately” means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property.

“Public Property” means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to the Federal government, the State, the City, or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2018-02 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Rate and Method of Apportionment” or “RMA” means this Rate and Method of Apportionment of Special Tax.

“Resolution of Formation” means the resolution forming CFD No. 2018-02.

“Special Tax” or “Special Taxes” means the special tax or special taxes to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means that amount to be collected in any Fiscal Year for CFD No. 2018-02 to pay for certain costs as required to meet the needs of CFD No. 2018-02 in that Fiscal Year. The costs to be covered shall be the direct costs for (i) Authorized Services, including the establishment of reserves for future costs of Authorized Services, (ii) Administrative Expenses, and (iii) an amount to cover anticipated delinquencies for the payment of the Special Tax, based on the delinquency rate for the preceding Fiscal Year; less (iv) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator. Under no circumstances shall the Special Tax Requirement include debt service payments for debt financings by CFD No. 2018-02.

“State” means the State of California.
"Taxable Property" means an Assessor’s Parcel of Non-Residential Property (i) for which a Building Permit has been issued permitting the construction of one or more land uses allowed in an Industrial Zone, and (ii) that is not exempt from the Special Tax pursuant to law or Section E below.

"Non-Taxable Property" means, for each Fiscal Year, all property not classified as Taxable Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor’s Parcels within CFD No. 2018-02 shall be classified by the CFD Administrator as Taxable Property or Non-Taxable Property, and shall be subject to annual Special Taxes in accordance with this Rate and Method of Apportionment as determined by the CFD Administrator pursuant to Sections C and D below. The CFD Administrator’s allocation of property to each type of Land Use Class shall be conclusive and binding. However, only Taxable Property shall be subject to annual Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Taxable Property

   a. Maximum Special Tax

   The Maximum Special Tax for Fiscal Year 2018-19 for Taxable Property is shown below in Table 1.

   **TABLE 1**

<table>
<thead>
<tr>
<th>Maximum Special Taxes For Fiscal Year 2018-19 Community Facilities District No. 2018-02</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Class</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>1</td>
</tr>
</tbody>
</table>

   b. Multiple Land Use Classes
In some instances, an Assessor's Parcel of Taxable Property may contain more than one Land Use Class. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land Use Classes located on that Assessor's Parcel.

c. **Increase in the Maximum Special Tax**

On each July 1, commencing on July 1, 2019, the Maximum Special Tax for Taxable Property shall be increased annually by the greater of the change in the Consumer Price Index during the twelve (12) months prior to December of the previous Fiscal Year, or two percent (2.00%).

2. **Non-Taxable Property**

No Special Taxes shall be levied on Non-Taxable Property.

D. **METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2018-19 and for each following Fiscal Year, the City Council shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Taxable Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. **EXEMPTIONS**

No Special Tax shall be levied on Non-Taxable Property, Property Owner Association Property, or Public Property. However, should an Assessor's Parcel no longer be classified as Non-Taxable Property, Property Owner Association Property, or Public Property, such Assessor's Parcel shall, upon each reclassification, no longer be exempt from Special Taxes.

F. **APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the City Council.
by filing a written notice of appeal with the clerk of the City, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant’s disagreement with the CFD Administrator’s determination. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

The City may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the City will be final and binding as to all persons.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary or otherwise advisable to meet its financial obligations for CFD No. 2018-02, and may covenant to foreclose and may actually foreclose on delinquent Assessor’s Parcels as permitted by the Act.

H. FUTURE ANNEXATIONS

It is anticipated that additional properties will be annexed to CFD No. 2018-02 from time to time. As each annexation is proposed, an analysis may be prepared to determine the annual cost for providing Authorized Services to such parcels. Based on this analysis, any parcels to be annexed, pursuant to California Government Code Section 53339 et seq. will be assigned the approximate Maximum Special Tax rates when annexed and included in Exhibit A.

I. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for Authorized Services as determined at the discretion of the City.
EXHIBIT A

IDENTIFICATION OF FUTURE ANNEXATIONS
ATTACHMENT B

CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT
NO. 2018-02
(PUBLIC SERVICES DISTRICT)

BOUNDARY MAP
STATE OF CALIFORNIA
COUNTY OF RIVERSIDE
(PUBLIC SERVICES DISTRICT)
COMMUNITY FACILITIES DISTRICT NO. 2018-02
CITY OF RIVERS
PROPOSED BOUNDARIES OF
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, CALLING A SPECIAL ELECTION FOR THE PURPOSE OF APPROVING A SPECIAL TAX IN THE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) AND ESTABLISHMENT OF AN APPROPRIATIONS LIMIT

WHEREAS, on September 25, 2018, this City Council adopted Resolution No. 5366 entitled “A Resolution Of The City Council Of The City Of Perris, Intention To Establish A Community Facilities District And Future Annexation Area, Community Facilities District No. 2018-02 (PUBLIC SERVICES DISTRICT)” (the “Resolution of Formation”), ordering the formation of City of Perris Community Facilities District No. 2018-02 (Public Services District) (the “CFD”), authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD; and

WHEREAS, a copy of the Resolution of Formation is on file with the City Clerk and incorporated herein by reference;

WHEREAS, pursuant to the Resolution of Formation, the proposition of the levy of a special tax within the CFD shall be submitted to the qualified electors of CFD at a special election as required by the Act; and

NOW, THEREFORE, the City Council for the City of Perris hereby finds, determines, resolves, and orders as follows:

1. Pursuant to the Act, the proposition to levy special taxes on property within the CFD in accordance with the rate and method of apportionment of special tax specified in the Resolution of Formation (“Proposition”) shall be submitted to the qualified electors of the CFD. The form of the Proposition is attached as Exhibit “A.”

2. This City Council hereby finds that fewer than 12 persons have been registered to vote within the territory of the CFD for each of the ninety (90) days preceding the close of the public hearing heretofore conducted and concluded by this City Council for the purposes of these proceedings. Accordingly, pursuant to the Act, this City Council finds that for purposes of these proceedings the qualified electors are the landowners within the CFD and that the vote shall be by said landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in the CFD as of the close of said public hearing.

3. This City Council hereby calls a special election to consider the Proposition, which election shall be held in the City Council chambers immediately following adoption of this Resolution. The City Clerk (the Clerk) is hereby designated as the official to conduct said election. It is hereby acknowledged that the Clerk has on file the Resolution of Formation, a certified map of the proposed boundaries of the CFD, and a sufficient description to allow the Clerk to determine the boundaries of the CFD. The voted ballots shall be returned to the Clerk immediately following the adoption of this Resolution.
4. This City Council hereby further finds that a provision of Section 53326 of the Act requiring a minimum of 90 days following the adoption of the Resolution of Formation to elapse before said special election is for the protection of the qualified electors of the CFD. A written waiver executed by all of the qualified electors of the CFD approving a shortening of the time for said special election to expedite the process of formation of the CFD and waiving any requirements for analysis and arguments in connection with the election has been received. Accordingly, this City Council finds and determines that said qualified electors have been fully apprised of and have agreed to the shortened time for the election and waiver of analysis and arguments and have thereby been fully protected in these proceedings. This City Council also finds and determines that the Clerk has concurred in the shortened time for the election.

5. Pursuant to the Act, the election shall be conducted by hand-delivered ballot.

6. This City Council acknowledges that the Clerk has caused to be delivered to each of the qualified electors of the CFD a ballot in the form set forth in Exhibit "A" hereto. Each ballot indicates the number of votes to be cast by the respective landowner to which it pertains. Each ballot was accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot was enclosed with the ballot, had the return postage prepaid, and contained the following: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote and is the person whose name appears on the envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing official. Analysis and arguments and publication of notice of the election with respect to the ballot measures are hereby waived, as provided in Section 53327 of the Act.

7. The Clerk shall accept the ballots of the qualified electors in the meeting room of the Council Chambers upon and prior to the adoption of this Resolution, whether said ballots be personally delivered or received by mail. The Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

8. The Clerk is hereby directed to cause to have published in a newspaper of general circulation circulating within the CFD a copy of this Resolution, as soon as possible after the date of adoption of this Resolution.

**Section 13.** This Resolution shall go into effect immediately upon its adoption.

**Section 14.** The City Clerk shall certify to the passage and adoption hereof.
ADOPTED, SIGNED, and APPROVED this 25th day of September, 2018.

Mayor, Michael Vargas

ATTEST:

City Clerk, Nancy Salazar
EXHIBIT “A”
OFFICIAL BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2018-2 (PUBLIC SERVICES DISTRICT) OF THE
CITY OF PERRIS ANNEXATION NO. 1

SPECIAL TAX AND APPROPRIATIONS LIMIT ELECTION

October 30, 2018

To vote, mark a cross (+) in the voting square after the word “YES” or after the word, “NO.” All marks otherwise made are forbidden.

This ballot is provided to IDI LOGISTICS, as owner or authorized representative of the owners of 82.81 acres of land (constituting all of the property) within Community Facilities District No. 2018-2 (Public Services District) of the City of Perris, Annexation No. 1 (the “Property”) and represents 1 of the votes required for annexation.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Perris at 101 North “D” Street, Perris, California 92570.

PROPOSITION A: Shall the Property be annexed and shall a Special Tax be levied within Community Facilities District No. 2018-2 (Public Services District) of the City of Perris, Annexation No. 1 to pay for the provision of all related administrative costs and expenses, necessary utility (water and electricity) costs, and related reserves for replacement of vehicles, equipment and facilities, including the costs incurred to determine, levy and collect the special taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the charges imposed by the County for the levy and collection of the special taxes on the property tax rolls, preparation of required reports, any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years, to reimburse the City or any third parties for actual costs advanced that are related to the formation of the CFD, any amounts needed for operating reserves and capital reserves, and any other costs incurred in the administration of the CFD by the City, as authorized in the Resolution calling the election adopted on September 25, 2018, and the Resolution

YES □

NO □
of Intention referred to therein; and shall an appropriations limit be established for Community Facilities District No. 2018-2 (Public Services District) of the City of Perris Annexation No. 1 pursuant to Article XIIIB of the California Constitution, said appropriations limit to be equal to the amount of all proceeds of the special tax collected annually, as adjusted for changes in the cost of living and changes in population?

Signed this 30th day of October, 2018

IDI LOGISTICS

By: IDI LOGISTICS

By: __________________________________________
   Name: Stephen Hollis
   Its: Vice President, Construction

Property Owned in Proposed Annexation to CFD
Assessor’s Parcel Number(s): APN 302-170-015
302-160-028, 302-160-026, 302-150-028

[Signature Page to Ballot for Annexation No. 1 to Community Facilities District No. 2018-2 (Public Services District) of the City of Perris]
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THE RESULTS OF A SPECIAL ELECTION HELD IN THE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) AND DIRECTING RECORDING OF A NOTICE OF SPECIAL TAX LIEN

WHEREAS, in proceedings heretofore conducted by this City Council pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Section 53311, et seq., of the California Government Code (the Act), this City Council on September 25, 2018 adopted Resolution No. 5366 entitled “A Resolution of the City Council of the City of Perris, intention to establish a community facilities district and future annexation area, Community Facilities District No. 2018-02 (public services district),” calling a special election of the qualified electors within the City of Perris Community Facilities District No. 2018-02 (Public Services District) (the “CFD”); and

WHEREAS, pursuant to the terms of said resolution, which are by this reference incorporated herein, said special election was held on this date, and the City Clerk (the Clerk) has on file a Canvass and Statement of Results of Election, a copy of which is attached hereto as Exhibit "A" (the Canvass); and

WHEREAS, this City Council has reviewed said Canvass and hereby approves it.

NOW, THEREFORE, the City Council of the City of Perris hereby finds, determines, resolves, and orders as follows:

1. The questions presented at said special election were the levy of a special tax within the CFD to be levied in accordance with the rate and method of apportionment heretofore approved by the City Council by Resolution No. 5366 adopted September 25, 2018, entitled “A Resolution of the City Council of the City of Perris, intention to establish a community facilities district and future annexation area, Community Facilities District No. 2018-02 (public services district)” and the approval of an annual appropriations limit as specified in said resolution.

2. Pursuant to said Canvass on file with the Clerk, the issues presented at said special election were approved by the qualified electors of the CFD by more than two-thirds (2/3) of the votes cast at said special election.

3. Pursuant to said voter approval, the CFD is hereby declared to be fully formed with the authority to levy special taxes as heretofore provided in these proceedings and in the Act.

4. It is hereby found that all prior proceedings and actions taken by this City Council with respect to the CFD, were valid and in conformity with the Act.
Section 12. The City Manager of the City is hereby authorized and directed to take such further actions and execute such additional documents as may be necessary to implement and effect this Resolution on behalf of the City.

Section 13. This Resolution shall go into effect immediately upon its adoption.

Section 14. The City Clerk shall certify to the passage and adoption hereof.

ADOPTED, SIGNED, and APPROVED this 30th day of October, 2018.

Mayor, Michael Vargas

ATTEST:

City Clerk, Nancy Salazar
EXHIBIT A

CANVASS AND STATEMENT OF RESULTS OF ELECTION
CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT)

CITY OF PERRIS
Community Facilities District No. 2018-02
(Public Services District)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on __________, 2018, I canvassed the returns of the election held on __________, 2018, in City of Perris Community Facilities District No. 2018-02 (Public Services District) (the "CFD"), and the total number of ballots cast in said CFD and the total number of votes cast for and against the measure are as follows, and the totals as shown for and against the measure are full, true and correct.

<table>
<thead>
<tr>
<th>City of Perris Community Facilities District No. 2018-02 (Public Services District) Special Tax Election 2018</th>
<th>Qualified Landowner Vote</th>
<th>Vote Cast</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

BALLOT MEASURE: Shall the Property be annexed and shall a Special Tax be levied within Community Facilities District No. 2018-2 (Public Services District) of the City of Perris, Annexation No. 1 to pay for the provision of all related administrative costs and expenses, necessary utility (water and electricity) costs, and related reserves for replacement of vehicles, equipment and facilities, including the costs incurred to determine, levy and collect the special taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the charges imposed by the County for the levy and collection of the special taxes on the property tax rolls, preparation of required reports, any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years, to reimburse the City or any third parties for actual costs advanced that are related to the formation of the CFD, any amounts needed for operating reserves and capital reserves, and any other costs incurred in the administration of the CFD by the City, as authorized in the Resolution calling the election adopted on September 25, 2018, and the Resolution of Intention referred to therein; and shall an appropriations limit be established for Community Facilities District No. 2018-2 (Public Services District) of the City of Perris Annexation No. 1 pursuant to Article XIIIB of the California Constitution, said appropriations limit to be equal to the amount of all proceeds of the special tax collected annually, as adjusted for changes in the cost of living and changes in population?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS ___ day of ___, 2018.

______________________________
Nancy Salazar, City Clerk
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AUTHORIZING FORMATION OF CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) AND THE LEVY OF A SPECIAL TAX THEREIN

WHEREAS, on September 25, 2018, this City Council adopted a resolution (No. 5366) entitled “A Resolution Of The City Council Of The City Of Perris, Intention To Establish A Community Facilities District And Future Annexation Area, Community Facilities District No. 2018-02 (PUBLIC SERVICES DISTRICT)” (the “Resolution of Intention”), stating its intention to form the “City of Perris Community Facilities District No. 2018-02 (Public Services District)” (the “CFD”) under the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the “Act”); and

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the public services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the public services, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on this date, this City Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD; and

WHEREAS, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the public services to be provided, and the levy of such special tax were heard and a full and fair hearing was held; and

WHEREAS, at the hearing evidence was presented to this City Council on such matters before it, including a special report (the “CFD Report”) as to the public services to be provided through the CFD and the estimated costs thereof, a copy of which is on file with the City Clerk, and this City Council at the conclusion of said hearing is fully advised in the premises; and

WHEREAS, written protests have not been filed with the City Clerk against the formation of the CFD, the furnishing of specified types of public services, or the rate and method of apportionment of the special taxes by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes;

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

Section 1. Recitals. The foregoing recitals are true and correct.
Section 2. No Majority Protest. The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.

Section 3. Prior Proceedings Valid. All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.

Section 4. Local Goal and Policies. The City Council has approved local goals and policies for community facilities districts of the City (Goals and Policies), and this City Council hereby finds and determines that the CFD is in conformity with said Goals and Policies.

Section 5. Name of CFD. The community facilities district designated "City of Perris Community Facilities District No. 2018-02 (Public Service District)", is hereby established pursuant to the Act.

Section 6. Boundaries of CFD. The boundaries of the CFD as set forth in the map of the CFD heretofore recorded in the Riverside County Recorder's Office on __________, 2018, at __:__ a.m., in Book ___ of Maps of Assessment and Community Facilities Districts at Page __, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.

Section 7. Description of Services and Facilities. The type of public services (the "Services") proposed to be financed by the CFD, pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein.

Section 8. Special Tax.

a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as may be prescribed by this City Council.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein.

c. In no circumstances shall the special tax levied against any parcel used for private residential purposes (as defined in the Act), if any, be increased as a consequence of delinquency of default by the owner of any other parcel or parcels with the CFD by more than 10 percent.

Section 9. Responsible Official. The Director of Finance, 101 N. D Street, Perris, CA 92570, telephone number (951) 943-4610, is the officer of the City who will be responsible
for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the Special Tax.

Section 10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the City ceases.

Section 11. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at $18.47 per thousand square feet of floor area, and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the Constitution.

Section 12. Election. Pursuant to the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this City Council. All of the approvals, consents, and authorizations provided in this Resolution shall be contingent upon the unanimous approval by the qualified electors of the CFD, of the levy of the special tax and the establishment of the appropriations limit specified in Section 10. If, and to the extent, the levy of the special and the establishment of the appropriations limit are not unanimously approved by all qualified electors, the approvals, consents, and authorizations set forth herein shall become null and void ab initio.

Section 13. This Resolution shall go into effect immediately upon its adoption.

Section 14. The City Clerk shall certify to the passage and adoption hereof.

ADOPTED, SIGNED, and APPROVED this 30th day of October, 2018.

Mayor, Michael Vargas

ATTEST:

City Clerk, Nancy Salazar
EXHIBIT A

CITY OF PERRIS
Community Facilities District No. 2018-02
(Public Services District)

DESCRIPTION OF AUTHORIZED SERVICES

Authorized Services

The services authorized to be funded by the CFD and paid by the special taxes levied within the CFD (the “Services”) are described below. For purposes of the CFD, the Services shall incorporate and have the meaning given to the term “services” in section 53313 of the Mello-Roos Community Facilities Act of 1982.

Additional Authorized Expenses

In addition, the following costs are authorized to be funded by the special taxes levied within the CFD:

(a) Administrative expenses including the costs incurred to determine, levy and collect the special taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the charges imposed by the County for the levy and collection of the special taxes on the property tax rolls, preparation of required reports, and any other costs incurred in the administration of the CFD by the City.

(b) Any amounts needed for operating reserves and capital reserves.

(c) Any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years.

(d) To reimburse the City or any third parties for actual costs advanced that are related to the formation of the CFD.
EXHIBIT B

CITY OF PERRIS
Community Facilities District No. 2018-02
(Public Services District)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
RATE AND METHOD OF APPORTIONMENT FOR
CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2018-02
(PUBLIC SERVICES DISTRICT)
CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California ("CFD No. 2018-02") and collected each Fiscal Year commencing in Fiscal Year 2018-19, in an amount determined by the City Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2018-02, unless exempted by law or by the provisions hereof, shall be taxed for these purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:


"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2018-02: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2018-02, or any designee thereof of complying with CFD No. 2018-02 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 2018-02, 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. 2018-02 for any other administrative purposes of CFD No. 2018-02, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

"Authorized Services" means those services eligible to be funded by CFD No. 2018-02, as defined in the Resolution of Formation and authorized to be financed by CFD No. 2018-02 pursuant to Section 53313 and Section 53313.5 of the Act. CFD No. 2018-02 shall finance Authorized Services only to the extent that they are in addition to those provided
in the territory of CFD No. 2018-02 before the CFD was created and such Authorized Services may not supplant services already available within CFD No. 2018-02 when the CFD was created.

“Building Permit" means a permit issued by the City or other governmental agency for the construction of a residential or non-residential building on an Assessor's Parcel.

“CFD Administrator” means an official of CFD No. 2018-02, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. 2018-02” means City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California.

“City” means the City of Perris, California.

“City Council” means the City Council of the City.

“Consumer Price Index” means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All items in Los Angeles-Riverside-Orange County, CA, all urban consumers, not seasonally adjusted” index (Series Id: CUURA421SA0), measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index.

“County” means the County of Riverside.

“Developed Property” means, for each Fiscal Year, all Assessor’s Parcels for which a Building Permit was issued after January 1, 2017 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Floor Area” means the total building square footage of non-residential building(s) or the non-residential portion of a building with both residential and non-residential areas located on an Assessor’s Parcel of Taxable Property, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two (2) sides. The determination of Floor Area shall be made by reference to the Building Permit(s) issued for such Assessor’s Parcel and/or to the appropriate records kept by the City’s Building Division, as reasonably determined by the CFD Administrator.

“Industrial Zone(s)” means zoning designation identified in the Chapter 19.44 of the City’s Zoning Ordinance (as amended by the City from time to time).
“Maximum Special Tax” means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor’s Parcel.

“Non-Residential Property” means any and each Assessor’s Parcel of Developed Property for which a Building Permit permitting the construction of one or more non-residential units or facilities, has been issued by the City or some other governmental agency.

“Property Owner Association Property” means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, not including any such property that is located directly under a residential or non-residential structure.

“Proportionately” means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property.

“Public Property” means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to the Federal government, the State, the City, or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2018-02 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Rate and Method of Apportionment” or “RMA” means this Rate and Method of Apportionment of Special Tax.

“Resolution of Formation” means the resolution forming CFD No. 2018-02.

“Special Tax” or “Special Taxes” means the special tax or special taxes to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means that amount to be collected in any Fiscal Year for CFD No. 2018-02 to pay for certain costs as required to meet the needs of CFD No. 2018-02 in that Fiscal Year. The costs to be covered shall be the direct costs for (i) Authorized Services, including the establishment of reserves for future costs of Authorized Services, (ii) Administrative Expenses, and (iii) an amount to cover anticipated delinquencies for the payment of the Special Tax, based on the delinquency rate for the preceding Fiscal Year; less (iv) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator. Under no circumstances shall the Special Tax Requirement include debt service payments for debt financings by CFD No. 2018-02.

“State” means the State of California.
"Taxable Property" means an Assessor's Parcel of Non-Residential Property (i) for which a Building Permit has been issued permitting the construction of one or more land uses allowed in an Industrial Zone, and (ii) that is not exempt from the Special Tax pursuant to law or Section E below.

"Non-Taxable Property" means, for each Fiscal Year, all property not classified as Taxable Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels within CFD No. 2018-02 shall be classified by the CFD Administrator as Taxable Property or Non-Taxable Property, and shall be subject to annual Special Taxes in accordance with this Rate and Method of Apportionment as determined by the CFD Administrator pursuant to Sections C and D below. The CFD Administrator's allocation of property to each type of Land Use Class shall be conclusive and binding. However, only Taxable Property shall be subject to annual Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Taxable Property
   a. Maximum Special Tax

   The Maximum Special Tax for Fiscal Year 2018-19 for Taxable Property is shown below in Table 1.

   **TABLE 1**
   
   Maximum Special Taxes  
   For Fiscal Year 2018-19  
   Community Facilities District No. 2018-02

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Land Use</th>
<th>Fiscal Year 2018-2019 Maximum Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Taxable Property</td>
<td>$18.47 per Thousand Square Feet of Floor Area</td>
</tr>
</tbody>
</table>

   b. Multiple Land Use Classes
In some instances, an Assessor's Parcel of Taxable Property may contain more than one Land Use Class. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land Use Classes located on that Assessor's Parcel.

c. **Increase in the Maximum Special Tax**

On each July 1, commencing on July 1, 2019, the Maximum Special Tax for Taxable Property shall be increased annually by the greater of the change in the Consumer Price Index during the twelve (12) months prior to December of the previous Fiscal Year, or two percent (2.00%).

2. **Non-Taxable Property**

No Special Taxes shall be levied on Non-Taxable Property.

D. **METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2018-19 and for each following Fiscal Year, the City Council shall levy the annual Special Tax Proportionately for each Assessor’s Parcel of Taxable Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. **EXEMPTIONS**

No Special Tax shall be levied on Non-Taxable Property, Property Owner Association Property, or Public Property. However, should an Assessor’s Parcel no longer be classified as Non-Taxable Property, Property Owner Association Property, or Public Property, such Assessor’s Parcel shall, upon each reclassification, no longer be exempt from Special Taxes.

F. **APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant’s property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the City Council.
by filing a written notice of appeal with the clerk of the City, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant’s disagreement with the CFD Administrator’s determination. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

The City may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the City will be final and binding as to all persons.

G. **MANNER OF COLLECTION**

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the City may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary or otherwise advisable to meet its financial obligations for CFD No. 2018-02, and may covenant to foreclose and may actually foreclose on delinquent Assessor’s Parcels as permitted by the Act.

H. **FUTURE ANNEXATIONS**

It is anticipated that additional properties will be annexed to CFD No. 2018-02 from time to time. As each annexation is proposed, an analysis may be prepared to determine the annual cost for providing Authorized Services to such parcels. Based on this analysis, any parcels to be annexed, pursuant to California Government Code Section 53339 *et seq.* will be assigned the approximate Maximum Special Tax rates when annexed and included in Exhibit A.

I. **TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for Authorized Services as determined at the discretion of the City.
EXHIBIT A

IDENTIFICATION OF FUTURE ANNEXATIONS
ORDINANCE NO.____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF THE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT) LEVYING SPECIAL TAXES WITHIN THE CITYWIDE CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2018-02 (PUBLIC SERVICES DISTRICT)

WHEREAS, on September 25, 2018, this City Council adopted a resolution (No. 5366) entitled “A Resolution Of The City Council Of The City Of Perris, Intention To Establish A Community Facilities District And Future Annexation Area, Community Facilities District No. 2018-02 (Public Services District) (the “CFD”) under the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the “Act”); and

WHEREAS, notice was published as required by the Act relative to the intention of this City Council to form the CFD and to provide for the Services; and

WHEREAS, this City Council held a noticed public hearing as required by the Act relative to the determination to proceed with the formation of Community Facilities District No. 2018-02 regarding the rate and method of apportionment of the special tax to be levied within the boundaries of the CFD to finance the costs of Services; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of said special taxes were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held; and

WHEREAS, subsequent to said public hearing the Board adopted its resolutions entitled “A Resolution of the City Council of the City of Tustin Authorizing Formation of City of Tustin Community Facilities District No. 2018-01 (Public Services), Designating Improvement Area No. 1 Therein, and Authorizing the Levy of a Special Tax Therein (the “Resolution of Formation”), and “A Resolution of the City Council Of The City of Tustin, California, Calling A Special Election for the Purpose Of Approving A Special Tax in Improvement Area No. 1 of the City of Tustin Community Facilities District No. 2018-01 (Public Services) and Establishment of an Appropriations Limit,” which resolutions established the CFD and the Improvement Area of the CFD, authorized the levy of special tax within the Improvement Area of the CFD and called an election within the Improvement Area of the CFD on the propositions of levying a special tax and establishing an appropriations limit within the Improvement Area of the CFD; and

WHEREAS, an election was held within the boundaries of the CFD in which the eligible landowner electors approved said propositions by more than the two-thirds vote required by the Act.
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES ORDAIN, AS FOLLOWS:

Section 1. Recitals. The City Council of the City of Perris finds that the above recitals are true and correct and are incorporated herein by reference.

Section 2. Levy of Special Tax. By the passage of this Ordinance, the City Council authorizes and levies special taxes within the CFD pursuant to Sections 53328 and 53340 of the Act, at the rates and in accordance with the method of apportionment set forth in Exhibit A (the "Rate & Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2018-2019 and in each fiscal year thereafter as provided in the Rate and Method of Apportionment.

Section 3. Annual Levy. The legislative body of the CFD and Improvement Area therein is hereby authorized each year, by resolution adopted pursuant to Government Code Section 53340, to determine the specific special tax rate and amount to be levied for the then-current or future tax years, except that the special tax rate to be levied shall not exceed the maximum rate set forth in the Rate & Method of Apportionment.

Section 4. Property Exempt From Tax. Subject to California Government Code Sections 53317.3 and 53317.5, properties or entities of the state, federal or local governments shall be exempt from any levy of the special taxes, to the extent set forth in the Rate & Method of Apportionment. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Rate & Method of Apportionment.

Section 5. Taxable Property. No other properties or entities are exempt from the authorized special tax unless the properties or entities are expressly exempted in the Rate & Method of Apportionment.

Section 6. Use of Proceeds. All Special Tax proceeds shall be used as provided for in the Act and the Resolution of Formation. The Special Tax shall be levied only for so long as needed for the purposes described in the Resolution of Formation.

Section 7. Manner of Collection. The Special Tax shall be collected in the same manner as ordinary ad valorem property taxes and shall be subject to the same penalties and the same procedure, sale and lien priority in cases of delinquency as provided for ad valorem taxes; provided, however, that the Improvement Area of the CFD may collect the Special Tax at a different time or in a different manner if necessary to meet its financial obligations.

Section 8. Inconsistency. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinances, resolutions, rules or regulations governing the same subject, the terms and provisions of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, resolutions, rules or regulations are hereby repealed as of the effective date of this Ordinance.
Section 9. Invalidity. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, no other provision of this Ordinance shall be affected thereby.

Section 10. Publication of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest this Ordinance and cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the City.

Certification.
The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Perris and shall cause a summary of this Ordinance to be published or posted in accordance with applicable law.

Effective Date.
This Ordinance shall take effect thirty (30) days after its passage.

PASSED, APPROVED, AND ADOPTED as an ORDINANCE this 30th day of October, 2018

Mayor, Michael M. Vargas

ATTEST

City Clerk, Nancy Salazar
EXHIBIT A

CITY OF PERRIS
Community Facilities District No. 2018-02
(Public Services District)

Rate and Method of Apportionment
RATE AND METHOD OF APPORTIONMENT FOR
CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2018-02
(PUBLIC SERVICES DISTRICT)
CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

A Special Tax as hereinafter defined shall be levied on all Assessor’s Parcels of Taxable Property in City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California (“CFD No. 2018-02”) and collected each Fiscal Year commencing in Fiscal Year 2018-19, in an amount determined by the City Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2018-02, unless exempted by law or by the provisions hereof, shall be taxed for these purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:


“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2018-02: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2018-02, or any designee thereof of complying with CFD No. 2018-02 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 2018-02, 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. 2018-02 for any other administrative purposes of CFD No. 2018-02, including attorney’s fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

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in the territory of CFD No. 2018-02 before the CFD was created and such Authorized Services may not supplant services already available within CFD No. 2018-02 when the CFD was created.

“Building Permit” means a permit issued by the City or other governmental agency for the construction of a residential or non-residential building on an Assessor’s Parcel.

“CFD Administrator” means an official of CFD No. 2018-02, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. 2018-02” means City of Perris Community Facilities District No. 2018-02 (Public Services District), City of Perris, County of Riverside, State of California.

“City” means the City of Perris, California.

“City Council” means the City Council of the City.

“Consumer Price Index” means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All items in Los Angeles-Riverside-Orange County, CA, all urban consumers, not seasonally adjusted” index (Series Id: CUURA421SA0), measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index.

“County” means the County of Riverside.

“Developed Property” means, for each Fiscal Year, all Assessor’s Parcels for which a Building Permit was issued after January 1, 2017 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Floor Area” means the total building square footage of non-residential building(s) or the non-residential portion of a building with both residential and non-residential areas located on an Assessor’s Parcel of Taxable Property, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two (2) sides. The determination of Floor Area shall be made by reference to the Building Permit(s) issued for such Assessor’s Parcel and/or to the appropriate records kept by the City’s Building Division, as reasonably determined by the CFD Administrator.

“Industrial Zone(s)” means zoning designation identified in the Chapter 19.44 of the City’s Zoning Ordinance (as amended by the City from time to time).
“Maximum Special Tax” means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor’s Parcel.

“Non-Residential Property” means any and each Assessor’s Parcel of Developed Property for which a Building Permit permitting the construction of one or more non-residential units or facilities, has been issued by the City or some other governmental agency.

“Property Owner Association Property” means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, not including any such property that is located directly under a residential or non-residential structure.

“Proportionately” means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property.

“Public Property” means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2018-02 that is owned by or irrevocably offered for dedication to the Federal government, the State, the City, or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2018-02 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“Rate and Method of Apportionment” or “RMA” means this Rate and Method of Apportionment of Special Tax.

“Resolution of Formation” means the resolution forming CFD No. 2018-02.

“Special Tax” or “Special Taxes” means the special tax or special taxes to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means that amount to be collected in any Fiscal Year for CFD No. 2018-02 to pay for certain costs as required to meet the needs of CFD No. 2018-02 in that Fiscal Year. The costs to be covered shall be the direct costs for (i) Authorized Services, including the establishment of reserves for future costs of Authorized Services, (ii) Administrative Expenses, and (iii) an amount to cover anticipated delinquencies for the payment of the Special Tax, based on the delinquency rate for the preceding Fiscal Year; less (iv) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator. Under no circumstances shall the Special Tax Requirement include debt service payments for debt financings by CFD No. 2018-02.

“State” means the State of California.
“Taxable Property” means an Assessor’s Parcel of Non-Residential Property (i) for which a Building Permit has been issued permitting the construction of one or more land uses allowed in an Industrial Zone, and (ii) that is not exempt from the Special Tax pursuant to law or Section E below.

“Non-Taxable Property” means, for each Fiscal Year, all property not classified as Taxable Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor’s Parcels within CFD No. 2018-02 shall be classified by the CFD Administrator as Taxable Property or Non-Taxable Property, and shall be subject to annual Special Taxes in accordance with this Rate and Method of Apportionment as determined by the CFD Administrator pursuant to Sections C and D below. The CFD Administrator’s allocation of property to each type of Land Use Class shall be conclusive and binding. However, only Taxable Property shall be subject to annual Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Taxable Property
   a. Maximum Special Tax

   The Maximum Special Tax for Fiscal Year 2018-19 for Taxable Property is shown below in Table 1.

   **TABLE 1**
   Maximum Special Taxes
   For Fiscal Year 2018-19
   Community Facilities District No. 2018-02

<table>
<thead>
<tr>
<th>Land Use Class</th>
<th>Land Use</th>
<th>Fiscal Year 2018-2019 Maximum Special Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Taxable Property</td>
<td>$18.47 per Thousand Square Feet of Floor Area</td>
</tr>
</tbody>
</table>

   b. Multiple Land Use Classes
In some instances, an Assessor's Parcel of Taxable Property may contain more than one Land Use Class. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land Use Classes located on that Assessor's Parcel.

c. **Increase in the Maximum Special Tax**

On each July 1, commencing on July 1, 2019, the Maximum Special Tax for Taxable Property shall be increased annually by the greater of the change in the Consumer Price Index during the twelve (12) months prior to December of the previous Fiscal Year, or two percent (2.00%).

2. **Non-Taxable Property**

No Special Taxes shall be levied on Non-Taxable Property.

D. **METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2018-19 and for each following Fiscal Year, the City Council shall levy the annual Special Tax Proportionately for each Assessor’s Parcel of Taxable Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. **EXEMPTIONS**

No Special Tax shall be levied on Non-Taxable Property, Property Owner Association Property, or Public Property. However, should an Assessor’s Parcel no longer be classified as Non-Taxable Property, Property Owner Association Property, or Public Property, such Assessor’s Parcel shall, upon each reclassification, no longer be exempt from Special Taxes.

F. **APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant’s property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the City Council.
by filing a written notice of appeal with the clerk of the City, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant’s disagreement with the CFD Administrator’s determination. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

The City may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the City will be final and binding as to all persons.

G. **MANNER OF COLLECTION**

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the City may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary or otherwise advisable to meet its financial obligations for CFD No. 2018-02, and may covenant to foreclose and may actually foreclose on delinquent Assessor’s Parcels as permitted by the Act.

H. **FUTURE ANNEXATIONS**

It is anticipated that additional properties will be annexed to CFD No. 2018-02 from time to time. As each annexation is proposed, an analysis may be prepared to determine the annual cost for providing Authorized Services to such parcels. Based on this analysis, any parcels to be annexed, pursuant to California Government Code Section 53339 *et seq.* will be assigned the approximate Maximum Special Tax rates when annexed and included in Exhibit A.

I. **TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for Authorized Services as determined at the discretion of the City.
EXHIBIT A

IDENTIFICATION OF FUTURE ANNEXATIONS
PROPOSED BOUNDARIES OF
CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2018-02
(PUBLIC SERVICES DISTRICT)
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

LEGEND

Proposed Boundaries of City of Perris Community Facilities District No. 2018-02 (Public Services District), County of Riverside, California
Assessor Parcel Line
Future Annexation Area

Reference is hereby made to the Assessor maps of the County of Riverside for a description of the lines and dimensions of these parcels.

The CFD Future Annexation Area is co-terminous with the City of Perris boundary as of January 1, 2018.

Assessor Parcels within City of Perris Community Facilities District No. 2018-02 (Public Services District):
302-170-015
302-160-026
302-150-026
302-170-028

Prepared by David Toussing & Associates, Inc.

(1) Filed in the office of the Clerk of the City of Perris this ______ day of _______, 2018.

______________
Nancy Salazar, Clerk of the City of Perris, California

(2) I hereby certify that the within map showing the proposed boundaries of City of Perris Community Facilities District No. 2018-02 (Public Services District), County of Riverside, State of California, was approved by the City Council of the City of Perris at a regular meeting thereof, held on this ______ day of _______, 2018, by its Resolution No. ______

______________
Nancy Salazar, Clerk of the City of Perris, California

(3) Filed this ______ day of _______, 2018, at the hour of _____ o'clock, _____ m, in Book ______ of Maps of Assessment and Community Facilities Districts at Page ______ and as Instrument No. ______ in the office of the County Recorder in the County of Riverside, State of California.

Peter Aldana
Assessor-County Clerk-Recorder, County of Riverside
By ______ Deputy

Exempt recording requested, per CA Government Code §6103
Verbal Presentation