LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY

Item No. 2
Mtg. Date September 20, 2016
Dept. Development Services

Item Title: **Short Term Concept for Connect Main Street Project from Broadway to Central Avenue and Professional Services Agreement with Michael Baker International for Construction Drawings of Short Term Concept**

Staff Contact: David De Vries, Development Services Director

Recommendation:

1. Accept the replacement of the short- and mid-term concepts with the proposed short-term concept – Broadway to Central Avenue;
2. Adopt a resolution (**Attachment B**) approving an agreement for professional services agreement with Michael Baker International for construction drawings of short-term concept.

Item Summary:

In 2014, the City received a SANDAG Smart Growth Incentive Program (SGIP) grant to fund the design and related studies for the Main Street Promenade Extension Planning Project (now named "Connect Main Street"). The project is an approximate two-mile-long corridor west of the Orange Line of the MTS trolley system that runs from Broadway to the south end of the City and includes walking and biking paths and park related activity areas. On August 4, 2015, the City Council accepted the proposed project concept; however, City Council members noted that the street closure on Main Street from Broadway to Central Ave. should not be considered as a part of a short or mid-term concepts. KTU+A (designer and project manager under contract) has developed an alternative short-term design for City Council consideration. As a part of a Housing-Related Parks Program (HRPP) grant, staff recommends that the revised short-term plan be fully designed and improved and that Michael Baker International prepare (prepared 30% construction drawings) the full construction drawings should the City Council accept the revised short-term design.

Fiscal Impact:

None; funded by SGIP and HRPP grant programs.

Environmental Review:

☒ Not subject to review
☐ Negative Declaration
☐ Categorical Exemption, Section
☐ Mitigated Negative Declaration

Public Information:

☒ None
☐ Newsletter article
☐ Notice to property owners within 300 ft.
☐ Notice published in local newspaper
☐ Neighborhood meeting

Attachments:

A. Staff Report
B. Resolution – Professional Services Agreement with Michael Baker International
C. Accepted short-, mid-, and long-term concepts - Broadway to Central Ave.
D. Proposed short-term concept - Broadway to Central Ave.

Attachment A

LEMON GROVE CITY COUNCIL
STAFF REPORT

Item No. _____

Mtg. Date September 20, 2016

Item Title: **Short Term Concept for Connect Main Street Project from Broadway to Central Avenue and Professional Services Agreement with Michael Baker International for Construction Drawings of Short Term Concept**

Staff Contact: David De Vries, Development Services Director

Background:

On January 10, 2014, the City received a Notice to Proceed for a SANDAG Smart Growth Incentive Program (SGIP) grant for $400,000. The grant funds a 30% design and related technical studies for the Main Street Promenade Extension Planning Project (now named "Connect Main Street"). The project area is an approximate two-mile-long corridor within the Main Street right-of-way and easement areas west of, and adjacent to, the Orange Line of the MTS San Diego Trolley system from Broadway to the south end of the City ending towards the end of San Altos Place. The project includes walking and biking paths and park related activity areas.

On January 21, 2014, the City Council selected citizen volunteers to participate as members of a working group. The Working Group originally consisted of five members and met for a year and a half.

On February 18, 2014, the City of Lemon Grove selected KTU+A (subcontractor is Michael Baker International) to design the project and provide associated deliverables.

After the March 2014 kick-off meeting, the consultant, working group and staff (team) coordinated numerous tasks including:

1. Conducting surveys, public workshops and an open house.
2. Generating videos and creating a website presence.
3. Preparing Technical Studies including:
    - Base map
    - Utility mapping
    - Real estate data and easements
    - Hazardous materials
    - Biological mapping
    - Cultural relevance
    - Drainage and flooding
    - Traffic counts
4. Analyzing data and interviewing stakeholders to understand opportunities and constraints for development of the linear park.
5. Preparing project alternatives and selecting a concept.

Attachment A

On September 16, 2014, City Council accepted the vision and goals for the project that are consistent with the SANDAG grant and are stated below:

Vision

The vision is to create a community corridor that supports active lifestyles and transportation choices by providing a safe, beautiful and sustainable linear parkway that connects people, places and activities for generations to come.

Goals

1. Provide mobility options that support active healthy lifestyles;
2. Create a sense of place;
3. Enhance the natural environment;
4. Improve safety and access for all ages;
5. Improve connections between neighborhoods and business; and
6. Respect property and improve property values.

On June 26, 2015, the City was awarded $364,500 in Housing-Related Parks Program (HRPP) grant funds. Of which, $279,500 has been earmarked for construction drawings and improvements within the Connect Main Street corridor.

On August 4, 2015, the City Council accepted the proposed project concept and directed staff to prepare a General Plan Amendment to incorporate the concept into the General Plan. The selected concept was generated from a series of alternatives and public outreach and measured against the adopted vision and goals. The concept plans include cross sections for each segment, thematic design districts, and themed amenities. Significant changes to the project site included themes throughout the corridor amongst six segments, street closures and one-way streets, trail and multi-use path concepts (design and location), amenities (picnic tables, shade structures, seating, trash receptacles, lighting, etc.), landscape improvements, creek restoration, park related activity areas (skate park, pump track, bouldering area, community gardens, dog parks, tot lot, exercise facilities, etc.), and park improvements at Civic Center Park. Public art is included throughout segments and in the form of gateway signs or monoliths, fence and wall art, and historic and natural art pieces and furnishings. Educational panels, similar to those in the existing Promenade, are also included and focus on mile- and date-markers, interpretive panels and kiosks. Staff requested that the City Council deliberate on lighting concepts (both street standards and pedestrian level) for the entire length of the park and provide direction to the consultant and staff. This can be accomplished as a part of the final design of each segment.

On July 19, 2016, the City Council accepted a concept alternative for the segment between San Pasqual Street and Massachusetts Avenue to eliminate conflicts with SDG&E facilities and Union Pacific property. The City Council also directed staff to prepare a General Plan Amendment creating a new Special Treatment Area for the Connect Main Street project. The General Plan Amendment will be reviewed for consideration at an upcoming City Council meeting.

Discussion:

Conceptual Design Short-Term – Broadway to Central Avenue

On August 4, 2015, the City Council accepted the proposed project concept for the Connect Main Street project. During the public hearing, City Council members expressed concerns about closing Main Street at Broadway while the existing businesses on the southwest corner of Broadway and Main Street remained. The accepted short-term concept (**Attachment C**) prohibits vehicular traffic northbound on Main Street to Broadway (buses only) and allows for no pedestrian

movements across Main Street on the south side of Broadway. The accepted mid-term concept (**Attachment C**) prohibits all vehicular traffic north- and southbound on Main Street to Broadway (bus stop is relocated) and allows for shopping center vehicular traffic southbound on Main Street. Since the short- and mid-term concepts restrict vehicular access on Broadway, staff coordinated with KTU+A to revise the short-term plan allowing for vehicular traffic patterns to remain as-is and enhancing crosswalks and sidewalks within the corridor. The revised short term-plan creates a pedestrian bulb-out at the southwest corner Broadway and Main Street and new accessible curb ramps and crosswalks and expanded sidewalks within the corridor. The sidewalks are proposed to be colored an earthen tone to reflect the early pioneer period. No significant changes are proposed to the long-term concept.

Staff is supportive of the revised concept provided appropriate costs for maintenance are accounted for as a part of the final design and implementation.

Professional Services Agreement with Michael Baker for Construction Drawings

If the City Council accepts the revised short-term concept, then staff recommends that the $279,500 of awarded HRPP grant funds be used for full construction drawings and improvements of the revised short-term Connect Main Street project plan from Broadway to Central Avenue. Since Michael Baker International completed the 30% construction drawings for the Connect Main Street project, staff recommends that they prepare the full construction drawings for this segment. A request for proposal is not required since they prepared the 30% drawings and are exceedingly familiar with the project. The Municipal Code allows the City Manager to waive the requirements for solicitation of multiple proposals if only one individual or firm can provide the professional services. As such, the total contract proposal amount is $50,465. This includes design survey, final construction drawings, detailed construction scope and cost estimates for bidding, and detailed landscape, irrigation, lighting, and street amenity plans for the revised short-term concept. This is consistent with the City Council's direction to focus construction efforts within the Connect Main Street project area on basic pedestrian improvements first. Exhibit 1 of the Resolution approving the professional services contract (**Attachment B – Exhibit 1**) includes the full contract, budget and scope of work for completion by Michael Baker International with KTU+A as a subcontractor.

Conclusion:

Staff recommends that the City Council accept the replacement of the short- and mid-term concepts with the revised short-term concept (Broadway to Central Avenue); and adopt a resolution (**Attachment B**) approving an agreement for professional services with Michael Baker International for full construction drawings of the short--term concept .

Attachment B

RESOLUTION NO. 2016-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE APPROVING THE DESIGN CONTRACT FOR ENGINEERING AND LANDSCAPE ARCHITECTURE SERVICES FOR THE CONNECT MAIN STREET PHASE I IMPROVEMENT PROJECT

WHEREAS, on January 15, 2013, the City Council approved Resolution No. 2013-3158 authorizing the submittal of a grant application for the Main Street Promenade Extension Planning Project; and

WHEREAS, on January 10, 2014, the City received a SANDAG Smart Growth Incentive Program (SGIP) Grant for $400,000 to fund the 30% design and related technical studies for the Main Street Promenade Extension Planning Project, now named "Connect Main Street;" and

WHEREAS, on January 21, 2014, the City Council selected citizen volunteers to participate as members of a working group. The Working Group originally consisted of five members and met for a year and a half; and

WHEREAS, on February 18, 2014, the City of Lemon Grove selected KTU+A to design the project and provide associated deliverables; and

WHEREAS, on September 16, 2014, City Council accepted the vision and goals for the project that are consistent with the SANDAG SGIP Grant; and

WHEREAS, on June 26, 2015, the City was awarded $364,500 in Housing-Related Parks Program (HRPP) grant funds. Of which, $279,500 has been earmarked for construction drawings and improvements within the Connect Main Street corridor; and

WHEREAS, on August 4, 2015, the City Council accepted the proposed project concept for Connect Main Street and directed staff to prepare a General Plan Amendment to incorporate the concept into the General Plan; and

WHEREAS, the selected concept was generated from a series of alternatives and public outreach and measured against the adopted vision and goals. The concept plans include cross sections for each segment, thematic design districts, and themed amenities; and

WHEREAS, on July 19, 2016, the City Council accepted a concept alternative for the segment between San Pasqual Street and Massachusetts Avenue to eliminate conflicts with SDG&E facilities and Union Pacific property; and

WHEREAS, on August 25, 2016, a proposal for the design of the Connect Main Street Phase I Improvement Project (short-term plan from Broadway to Central Avenue) from Michael Baker International was received; and

WHEREAS, on September 12, 2016, the City Council accepted a revised short-term plan that replaced the August 4, 2015 accepted short- and mid-term plans for the segment between Broadway and Central Avenue to eliminate street closures from interim concept proposals and to enhance pedestrian mobility; and

Attachment B

WHEREAS, staff is to implement the Connect Main Street Project in conformance with the California Department of Housing and Community Development Housing Related Parks Program (HRPP) Grant requirements and deadlines; and

WHEREAS, Michael Baker International has special knowledge and expertise regarding the Connect Main Street Project based on their recent experience preparing the 30% construction drawings and related technical studies; and

WHEREAS, Michael Baker International will prepare the full construction drawings as a part of a Housing Related Parks Program (HRPP) grant for design and construction; and

WHEREAS, Michael Baker International has agreed to the attached professional agreement terms and scope of work as presented herein (**Exhibit I**); and

WHEREAS, staff believes that Michael Baker International has and will provide adequate assistance towards the preparation of a successful project; and

WHEREAS, staff finds it in the public interest to award the Connect Main Street Phase I Improvement Project to Michael Baker International; and

NOW, THEREFORE, BE IT RESOLVED that the City of Lemon Grove, California hereby:

1. Awards an agreement (**Exhibit 1**) to Michael Baker International for the full construction design of the Connect Main Street Phase I Improvement Project (Short-Term Plan from Broadway to Central Avenue); and
2. Sets the project design budget in an amount not to exceed $50,465.00; and
3. Authorizes the City Manager or her designee to execute agreement and manage said contract and all project documentation.

/ / / / /
/ / / / /

AGREEMENT FOR
PROFESSIONAL ENGINEERING AND LANDSCAPE ARCHITECTURE SERVICES FOR CONNECT MAIN STREET PHASE I IMPROVEMENTS BY AND BETWEEN THE CITY OF LEMON GROVE AND MICHAEL BAKER INTERNATIONAL

THIS AGREEMENT is approved and effective upon the date of the last signature, by and between the CITY OF LEMON GROVE, a municipal corporation (the "CITY"), and Michael Baker International (the "CONTRACTOR").

R E C I T A L S

WHEREAS, the CITY desires to employ a CONTRACTOR to provide professional engineering and landscape architecture services.

WHEREAS, the CITY has determined that the CONTRACTOR is a professional engineering firm (with professional landscape architecture subconsultants) and is qualified by experience, specific project knowledge, and ability to perform the Project Manager and supporting engineering and landscape architecture services desired by the CITY, and the CONTRACTOR is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONTRACTOR.** The CITY hereby agrees to engage the CONTRACTOR and the CONTRACTOR hereby agrees to perform the services hereinafter set forth in accordance with all terms and conditions contained herein.

The CONTRACTOR represents that all services required hereunder will be performed directly by the CONTRACTOR or under direct supervision of the CONTRACTOR.

2. **SCOPE OF SERVICES.** *The CONTRACTOR will prepare the full construction drawings as a part of a Housing Related Parks Program (HRPP) grant for of the construction of Connect Main Street Phase I Improvement Project (Short-Term Plan from Broadway to Central Avenue) and related engineering and landscape architecture services as further described in the attached Exhibit "A".*

The CONTRACTOR shall be responsible for providing services consistent with the budget and scope of work in Exhibit "A". The CONTRACTOR shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY and as referenced in Exhibit "A". The CONTRACTOR shall appear at meetings cited.

The CITY may unilaterally, or upon request from the CONTRACTOR, from time to time reduce or increase the Scope of Services to be performed by the CONTRACTOR under this Agreement. Upon doing so, the CITY and the CONTRACTOR agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

3. **PROJECT COORDINATION AND SUPERVISION.** *Tim Gabrielson, PE, City Engineer, is hereby designated as the Project Manager for the CITY and will monitor the progress and execution of this Agreement. The CONTRACTOR shall assign a single professional analyst to act as the Project Director, or Principal in Charge, to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONTRACTOR. Tim Thiele, PE, QSD, is hereby designated as the Project Director for the CONTRACTOR.*

4. **COMPENSATION AND PAYMENT.** *The compensation for the CONTRACTOR shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed the base amount of FIFTY THOUSAND FOUR*

HUNDRED SIXTY FIVE DOLLARS ($50,465.00), without prior written authorization from the City's Project Manager. Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A" as determined by and in the sole discretion of the CITY.

The CONTRACTOR shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY and for furnishing of copies to the CITY, if requested.

5. **LENGTH OF AGREEMENT.** *This Agreement will last through June 30, 2017 or until all work has been completed by the CONTRACTOR and accepted by the CITY, whichever occurs first, unless an extension is otherwise mutually agreed upon and approved.*

6. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONTRACTOR for this Project, whether paper or electronic, shall become the property of the CITY for use with respect to this Project, and shall be turned over to the CITY upon completion of the Project, or any phase thereof, as contemplated by this Agreement. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the CONTRACTOR discharges the City of all of the City's payment obligations and liabilities under this agreement.

Contemporaneously with the transfer of documents, the CONTRACTOR hereby assigns to the CITY and CONTRACTOR thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this agreement, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONTRACTOR shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONTRACTOR agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium or method utilize the CONTRACTOR's written work product for the CITY's purposes, and the CONTRACTOR expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings or specifications prepared by the CONTRACTOR shall relieve the CONTRACTOR from liability under Section 14 but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

7. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners or joint ventures with one another. Neither the CONTRACTOR nor the CONTRACTOR'S employees are employees of the CITY and are not entitled to any of the rights, benefits, or privileges of the CITY's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONTRACTOR and the CONTRACTOR's employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONTRACTOR and its employees. Neither this Agreement nor any interest herein may be

assigned by the CONTRACTOR without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONTRACTOR from employing or hiring as many employees, or subcontractors, as the CONTRACTOR may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONTRACTOR with its subcontractor(s) shall require the subcontractor to adhere to the applicable terms of this Agreement.

8. **CONTROL.** Neither the CITY nor its officers, agents or employees shall have any control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees except as herein set forth, and the CONTRACTOR expressly agrees not to represent that the CONTRACTOR or the CONTRACTOR's agents, servants, or employees are in any manner agents, servants or employees of the CITY, it being understood that the CONTRACTOR, its agents, servants, and employees are as to the CITY wholly independent contractors and that the CONTRACTOR's obligations to the CITY are solely such as are prescribed by this Agreement.

9. **COMPLIANCE WITH APPLICABLE LAW.** The CONTRACTOR, in the performance of the services to be provided herein, shall comply with all applicable State and Federal statutes and regulations, and all applicable ordinances, rules and regulations of the CITY OF LEMON GROVE, whether now in force or subsequently enacted. The CONTRACTOR, and each of its subcontractors, shall obtain and maintain a current CITY OF LEMON GROVE business license prior to and during performance of any work pursuant to this Agreement.

10. **LICENSES, PERMITS, ETC.** The CONTRACTOR represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONTRACTOR represents and covenants that the CONTRACTOR shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONTRACTOR to practice its profession. Submittals Required with the Agreement. Failure of the CONTRACTOR to provide the following documentation with the executed agreement will cause delay in the agreement being executed by the City:

A. Insurance as specified in Section 15 of this agreement;
B. Taxpayer Identification Number (W-9) http://www.irs.gov/pub/irs-pdf/fw9.pdf;
C. IRS Letter of Non-Profit 501 (c) (3) (If Applicable);
D. City Business License;

11. **STANDARD OF CARE.**

A. The CONTRACTOR, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONTRACTOR'S trade or profession currently practicing under similar conditions and in similar locations. The CONTRACTOR shall take all special precautions necessary to protect the CONTRACTOR's employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this agreement, the CONTRACTOR warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONTRACTOR's professional performance or the furnishing of materials or services relating thereto.

C. The CONTRACTOR is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONTRACTOR has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the

CONTRACTOR has notified the CITY otherwise, the CONTRACTOR warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONTRACTOR to use due diligence under this sub-paragraph will render the CONTRACTOR liable to the CITY for any increased costs that result from the CITY's later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

D. City's Right to Terminate for Default. If the CONTRACTOR fails to perform or adequately perform any obligation required by this agreement, the CONTRACTOR's failure constitutes a Default. If the CONTRACTOR fails to satisfactorily cure a Default within ten (10) calendar days of receiving a written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the CONTRACTOR, and any person claiming any rights by or through the CONTRACTOR under this Agreement. The rights and remedies of the City enumerated in this paragraph are cumulative and shall not limit the City's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or enacted or established at a later date, that may be available to the City against the CONTRACTOR.

12. **NON-DISCRIMINATION PROVISIONS.** The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONTRACTOR will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

13. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONTRACTOR certain confidential information to enable the CONTRACTOR to effectively perform the services to be provided herein. The CONTRACTOR shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONTRACTOR shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 13, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONTRACTOR, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONTRACTOR without any obligation of confidentiality; (iv) has been or is hereafter rightfully disclosed to the CONTRACTOR by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party; or (v) is disclosed according to law or court order.

The CONTRACTOR shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONTRACTOR shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONTRACTOR shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 14.

14. **INDEMNIFICATION AND HOLD HARMLESS.** The CONTRACTOR shall indemnify, defend, and hold harmless the CITY, and its officers, officials, agents and employees from any and all claims, demands, costs or liability that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, agents, and subcontractors in the performance of services under this Agreement. CONTRACTOR's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONTRACTOR's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The CITY AND CONTRACTOR expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

15. **INSURANCE.** The CONTRACTOR, at its sole cost and expense, shall purchase and maintain, and shall require its subcontractors, when applicable, to purchase and maintain throughout the term of this agreement, the following insurance policies:

☒ A. If checked, Professional Liability Insurance (errors and omissions) with minimum limits of $1,000,000 per occurrence.

B. Automobile insurance covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of $1,000,000 combined single limit per accident. Such automobile insurance shall include hired and non-owned vehicles.

C. Comprehensive general liability insurance, with minimum limits of $1,000,000 combined single limit per occurrence, covering all personal injury, bodily injury and property damage arising out of its operation under this Agreement. Contractual liability shall include coverage of tort liability of another party to pay for bodily injury or property damage to a third person or organization. Contractual liability limitation endorsement is not acceptable.

D. Workers' compensation insurance covering all of CONTRACTOR's employees. The CONTRACTOR shall comply with all of the provisions of the Worker's Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar state or Federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, and employees from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONTRACTOR under this Agreement. That policy shall provide a minimum of $1,000,000 of employer's liability coverage, and the CONTRACTOR shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY of cancellation or material change.

F. If any required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONTRACTOR shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement.

G. Any aggregate insurance limits must apply solely to this Agreement.

H. Insurance shall be written with only California admitted companies which hold a current policy holder's alphabetic and financial size category rating of not less than A VIII

according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the CITY.

I. Deductibles. All deductibles on any policy shall be the responsibility of the CONTRACTOR.

J. **Specific Provisions Required**. Each policy required under this section shall expressly provide, and an endorsement shall be submitted to the City, that:

1. Said policies, except for the professional liability and worker's compensation policies, shall name the CITY and its officers, agents and employees as additional insureds. The CITY's Additional Insured status must be reflected on additional insured endorsement form CG 2012, or equivalent, which shall be submitted to the CITY.

2. The Policies cannot be canceled, non-renewed or materially changed except after thirty (30) calendar days prior written notice by the CONTRACTOR to the CITY by certified mail, as reflected in an endorsement which shall be submitted to the CITY except for non-payment of premium, in which case ten (10) days' notice will be provided.

3. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY. If the CONTRACTOR does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

4. The CONTRACTOR may obtain additional insurance not required by this Agreement.

16. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all reasonable costs and expenses of suit, including reasonable attorneys' fees.

17. **MEDIATION/ARBITRATION.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mutual negotiation between the principles, and failing that through nonbinding mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA"). The costs of mediation shall be borne equally by the parties.

If a third part dispute or litigation, or both, arises out of, or relates in any way to the services provided under this Agreement, upon the City's request, the CONTRACTOR, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The CONTRACTORs assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

18. **TERMINATION.** A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 30-day's written notice to the CONTRACTOR. During said 30-day period the CONTRACTOR shall perform all services in accordance with this Agreement. The CONTRACTOR may terminate this agreement upon thirty (30) days prior notice in the event of a continuing and material breach by the City of its obligations under this Agreement including but not limited to payment of invoices.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement that is not cured to the City's satisfaction within a ten (10) day prior cure period, or material misrepresentation by the CONTRACTOR in connection

with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONTRACTOR as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONTRACTOR, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONTRACTOR's breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 6.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONTRACTOR; (2) a reorganization of the CONTRACTOR for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONTRACTOR.

F. The termination of the services shall be effective upon receipt of the notice by the CONTRACTOR.

19. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To the CITY: *Tim Gabrielson, City Engineer*
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945-1701

To the CONTRACTOR: *Tim Thiele, Vice President*
Michael Baker International
5050 Avenida Encinitas, Suite 260
Carlsbad, CA 92008

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

20. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONTRACTOR shall not perform services of any kind for any

person or entity whose interests conflict in any way with those of the CITY OF LEMON GROVE. The CONTRACTOR also agrees not to specify any product, treatment, process or material for the project in which the CONTRACTOR has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONTRACTOR shall at all times comply with the terms of the Political Reform Act and the Lemon Grove Conflict of Interest Code. The CONTRACTOR shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONTRACTOR has a financial interest as defined in Government Code Section 87103. The CONTRACTOR represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If the CONTRACTOR violates any conflict of interest laws or any of these provisions in this section, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Contractor to liability to the CITY for attorney fees and all damages sustained as a result of the violation.

☒ If checked, the CONTRACTOR shall comply with all of the reporting requirements of the Political Reform Act and the CITY OF LEMON GROVE Conflict of Interest Code. Specifically, the CONTRACTOR shall:

1. Go to www.fppc.ca.gov
2. Download the Form 700: Statement of Economic Interests
3. Completely fill out the form
4. Submit the form to the Public Works Department with the signed contracts.

The CONTRACTOR shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Paragraph 21 by the CONTRACTOR.

21. **MISCELLANEOUS PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

I. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

J. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

K. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

L. Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

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

CITY OF LEMON GROVE

Date: _____

By: _____
Lydia Romero
City Manager

MICHAEL BAKER INTERNATIONAL
(Corporation – signatures of two corporate officers)
(Partnership – one signature)
(Sole proprietorship – one signature)

Date: _____

By: _____
(Name)

_____
(Title)

APPROVED AS TO FORM

Date: _____

By: _____
James P. Lough
City Attorney

Date: _____

By: _____
(Name)

_____
(Title)

Michael Baker INTERNATIONAL

Exhibit A

Main Street Promenade Phase II – Segment 1

Consultant Manager:	Tim Thiele, Michael Baker International
City of Lemon Grove Manager:	Tim Gabrielson, Rick Engineering
Duration:	3 months
Total Contract Value:	$45,965 ($50,465 w/ options)

Project Understanding

The intent of this work is to provide plans, specifications and estimate for improvements to the west side of Main Street from Broadway to Central Avenue. The improvements will consist of walkways, pedestrian ramps, curb & gutter repairs and improvements, hardscape and landscape treatments, lighting and signage designs.

Scope of Services

Task 1: Field Survey (Optional Task)

Consultant will perform a topographic survey on Main Street which will include the following:

- Establish horizontal and vertical control using appropriate benchmarks.
- Obtain information for edge conditions at limits of work where new improvements will meet existing.
- Obtain miscellaneous utility information such as invert elevations, pole locations and locations of other surface facilities within the project footprint.
- Detailed driveway topography at each property.
- Boundary survey to define existing right-of-way.

Deliverables
Topographic Base Map

Task 2: Street Improvement Plans

Consultant will prepare demolition and improvement plans for the addition of a walkways, curb, and gutter along the north side of Main Street from Broadway to City Hall. The plans will be prepared at a scale of one-inch equals twenty feet (1”=20’) with accompanying profiles. Submittals of the improvement plans will be made at 65%, 90%, and Final. Improvement plans will indicate all surface improvements including, but not limited to curb, gutter, walkway, pedestrian ramps, driveways, pavement, utility relocations, curb returns, and grading. Plan submittals shall consist of fourteen 24” x 36” sheets.

Deliverables
PS&E submittals at 65%, 90% and Final milestones

Michael Baker INTERNATIONAL

Exhibit A

Task 3: Opinion of Probable Construction Costs & Specifications

Consultant will provide an opinion of probable construction costs in Microsoft Excel format that will include bid item description, bid unit, bid quantity, unit price, and total price for each bid item. The spreadsheet item description will correspond with the Bid Schedule item description to be used when advertising the project for construction bids. The opinion of probable construction costs will be submitted at 65%, 90%, and Final. As part of this task, Consultant will edit Parts 1, 2 and 3 of the Supplemental Provisions to the "Greenbook". It is assumed the City will provide and prepare the Notice Inviting Bids and the Bidder's Instructions for the Specifications Documents.

Deliverables
The opinion of probable construction costs and project specifications

Task 4: Landscape Architecture (KTU+A)

4.1 *Prepare landscape and natural storm water treatment plans*
Draft demolition plan to show plant material and hardscape features on the project site to be removed. Work with the Civil to determine opportunities for capture of storm water runoff in parkway strips. Create construction drawings indicating the placement and species of trees and any shrubs, groundcover, landscape surfacing and/or elements used in the project. Generate irrigation plans indicating mainline, lateral, and dripline placement as well as the location and types of irrigation equipment to be used. Prepare MAWA calculations and scheduling for the irrigation system.

4.2 *Prepare interpretive signage*
Research and design graphics for interpretive signs. Create plan specifying size, location, and types of interpretive signs and provide materials and finishes of sign elements.

4.3 *Prepare lighting plan and streetscape materials*
Create plan indicating placement and type of lighting products and other streetscape elements such as bollards, seating, trash receptacles or bike racks. Specify materials and finishes of lighting and streetscape elements.

4.4 *Update overall costs*
Perform plant, irrigation, and proposed streetscape element unit and square footage counts and prepare a cost estimate for the landscape portion of the project.

4.5 *Quality control and submit 65% package*
Senior Planner and Landscape Architect to plan check drawings and supervise corrections of any errors and/or omissions on the plans.

Deliverables:
Project planning base map, concept plans and material exhibits on proposed choices
Construction drawings at 65%, 90% and Final

Michael Baker INTERNATIONAL

Exhibit A

Task 5: Meetings, Coordination and Project Management

Consultant shall meet with and coordinate items related to the scope of work with the City, and design team members through design process. This task is based on an estimate of 12 hours of meetings and coordination. Consultant shall provide monthly progress reports including a description of work complete, a description of work remaining, and a summary of expenditures to day

Deliverables
Meeting minutes.
Monthly progress reports that will be submitted with each monthly invoice.

Schedule

Design work is anticipated to start in September 2016 and to last for approximately three (3) months. Major submittal milestones are as follows:

Deliverable	Submittal	City Review Period
Assumed City NTP 9/21/2016		
65% Submittal	10/12/16	10/13/16-10/19/16
90% Submittal	11/2/16	11/3/16-11/9/16
Final Design	11/16/16	11/17/16 Ready to Bid

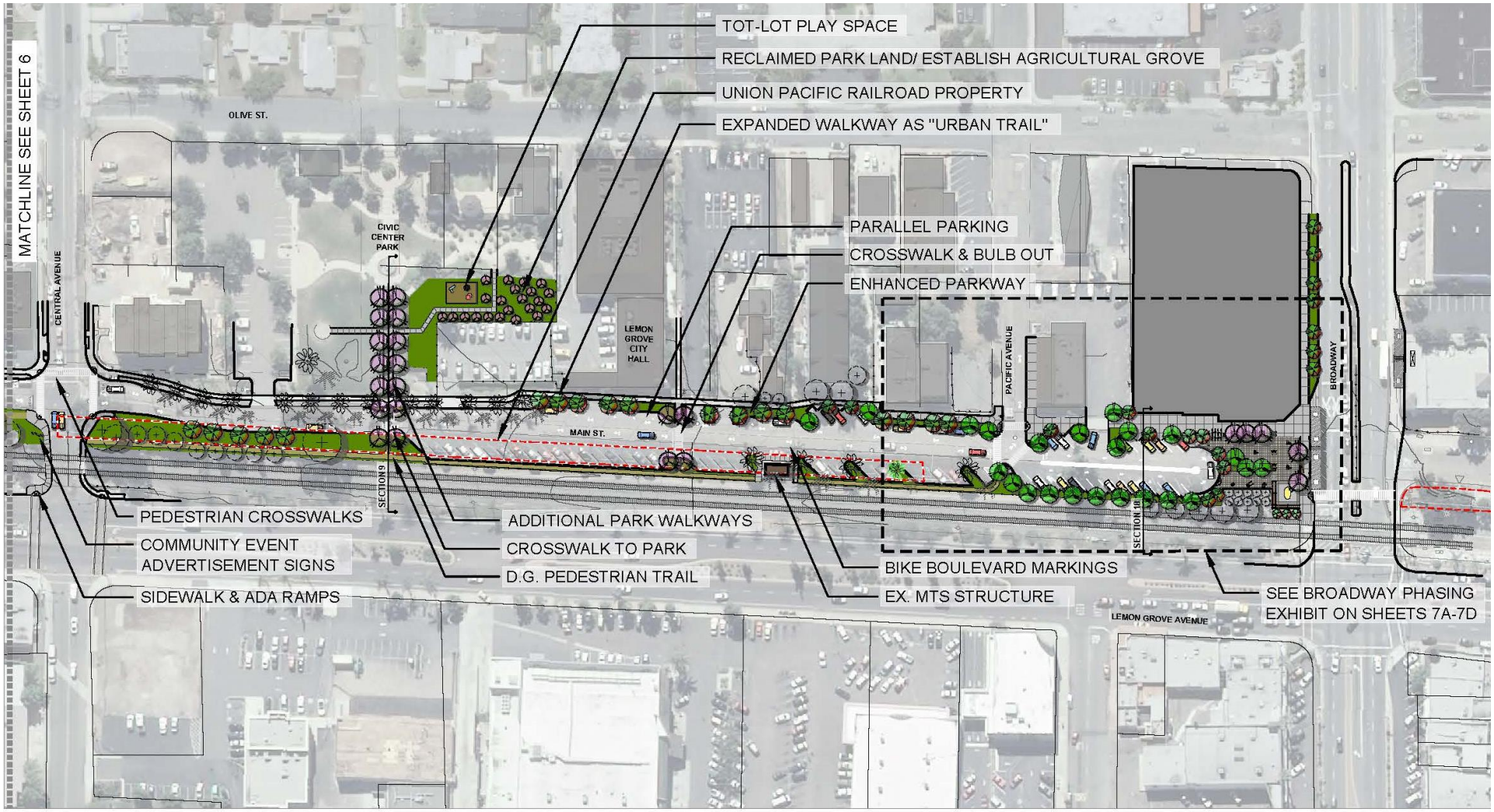
Compensation Summary

Client agrees to compensate Michael Baker International for services indicated below:
Monthly on a percentage of completion basis for fees as indicated below.

FINAL ENGINEERING

Task 2	Street Improvement Plans	23,805
Task 3	Cost Estimate and Specifications	3,810
Task 4	Landscape Architecture (KTU+A)	14,700
Task 5	Meetings, Coordination and Project Management	3,200
Task 6	Reimbursables	450
	TOTAL	**$ 45,965**
Task 1	Field Survey	$ 4,500
	TOTAL all TASKS including OPTIONAL Task 1	**$ 50,465**

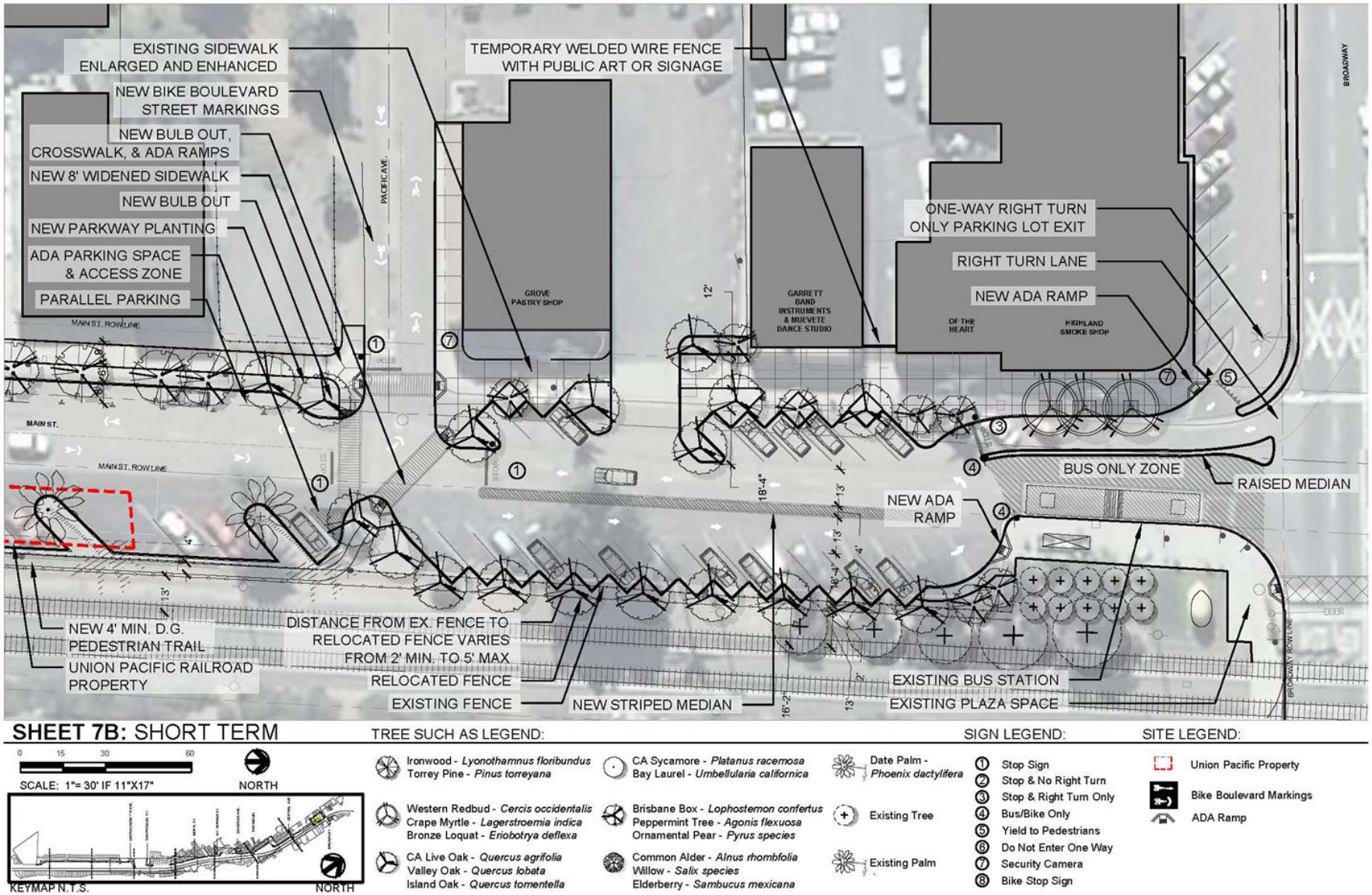
8-4-15 Accepted Expanded Plan View - Broadway to Central Segment



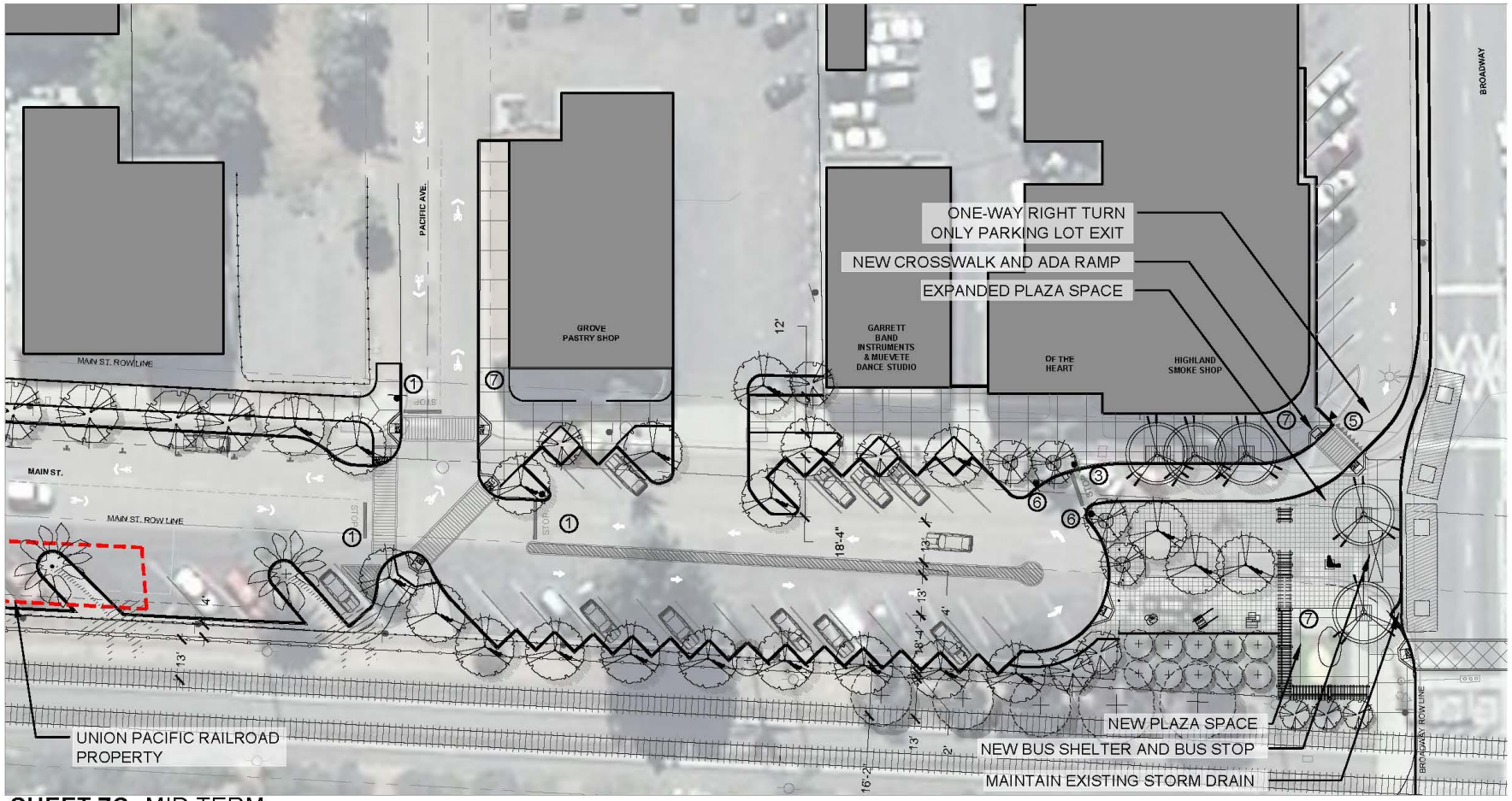
SHEET 7: PLAN VIEW TREE SUCH AS LEGEND: SIGN LEGEND: SITE LEGEND:

Attachment C

8-4-15 Accepted Short-Term Plan - Broadway to Central Segment



8-4-15 Accepted Mid-Term Plan - Broadway to Central Segment

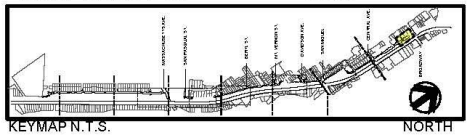


SHEET 7C: MID TERM

0 15 30 60

SCALE: 1"= 30' IF 11"X17"

NORTH



KEYMAP N.T.S.

NORTH

TREE SUCH AS LEGEND:

- Ironwood - *Lyonothamnus floribundus*
  Torrey Pine - *Pinus torreyana*
- Western Redbud - *Cercis occidentalis*
  Crape Myrtle - *Lagerstroemia indica*
  Bronze Loquat - *Eriobotrya deflexa*
- CA Live Oak - *Quercus agrifolia*
  Valley Oak - *Quercus lobata*
  Island Oak - *Quercus tomentella*
- CA Sycamore - *Platanus racemosa*
  Bay Laurel - *Umbellularia californica*
- Brisbane Box - *Lophostemon confertus*
  Peppermint Tree - *Agonis flexuosa*
  Ornamental Pear - *Pyrus species*
- Common Alder - *Alnus rhombfolia*
  Willow - *Salix species*
  Elderberry - *Sambucus mexicana*
- Date Palm - *Phoenix dactylifera*
- Existing Tree
- Existing Palm

SIGN LEGEND:

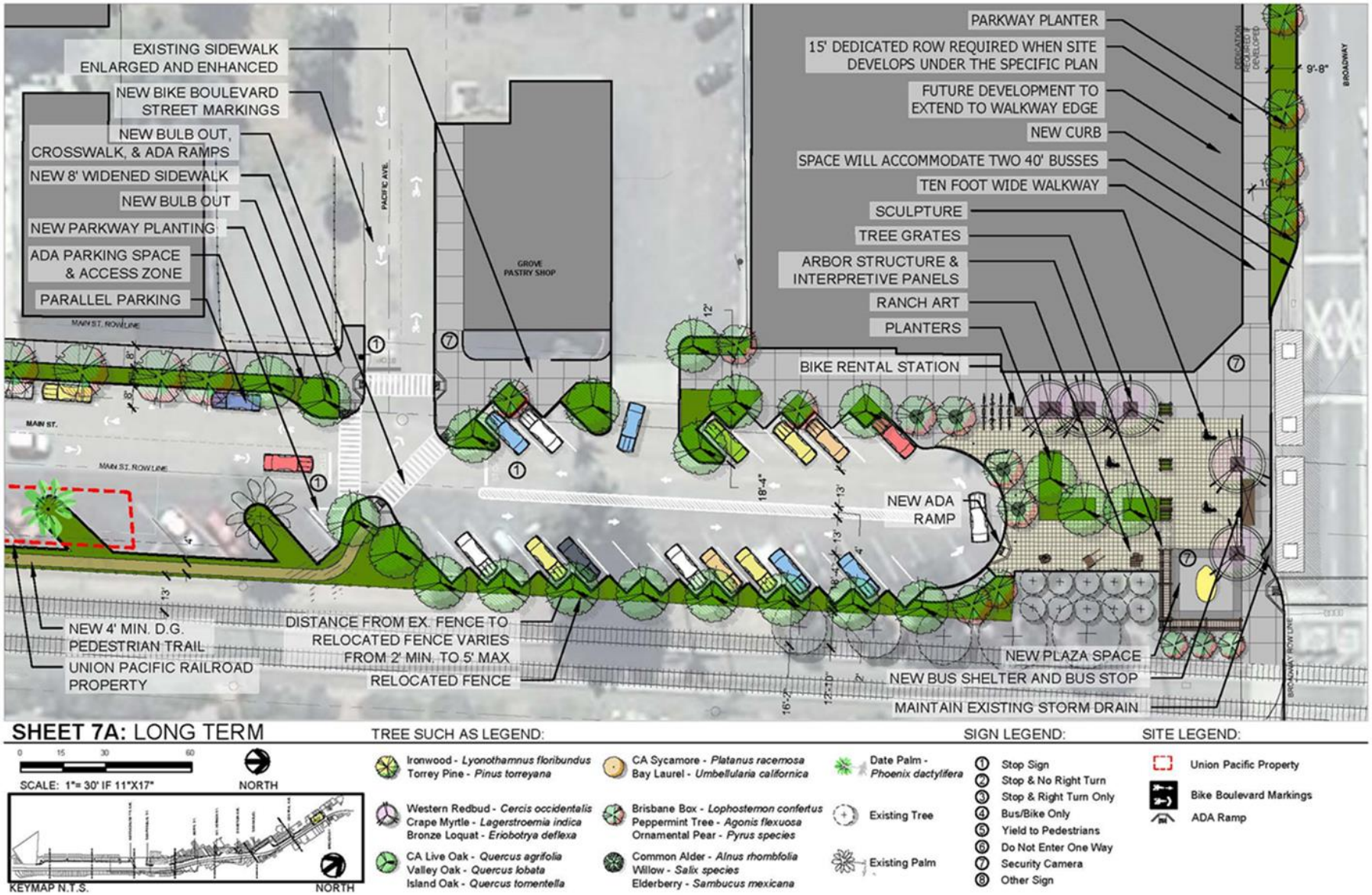
1. Stop Sign
2. Stop & No Right Turn
3. Stop & Right Turn Only
4. Bus/Bike Only
5. Yield to Pedestrians
6. Do Not Enter One Way
7. Security Camera
8. Other Sign

SITE LEGEND:

- Union Pacific Property
- Bike Boulevard Markings
- ADA Ramp

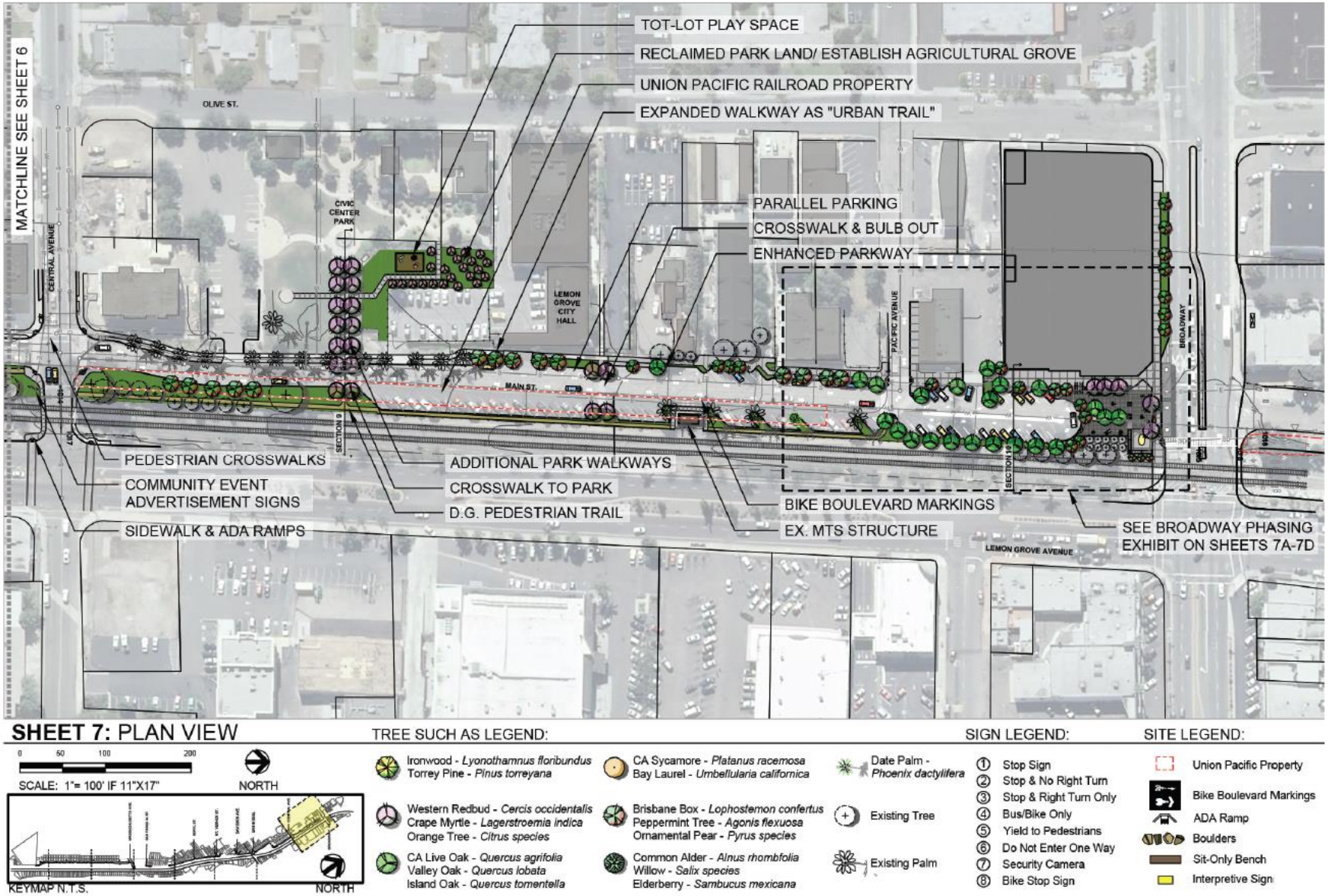
Attachment C

8-4-15 Accepted Long-Term Plan - Broadway to Central Segment



Attachment D

Proposed Expanded Plan View - Broadway to Central Segment



SHEET 7: PLAN VIEW

0 50 100 200

SCALE: 1"= 100' IF 11"X17"

NORTH

KEYMAP N.T.S.

NORTH

TREE SUCH AS LEGEND:

- Ironwood - *Lyonothamnus floribundus*
- Torrey Pine - *Pinus torreyana*
- CA Sycamore - *Platanus racemosa*
- Bay Laurel - *Umbellularia californica*
- Date Palm - *Phoenix dactylifera*
- Western Redbud - *Cercis occidentalis*
- Crape Myrtle - *Lagerstroemia indica*
- Orange Tree - *Citrus species*
- Brisbane Box - *Lophostemon confertus*
- Peppermint Tree - *Agonis flexuosa*
- Ornamental Pear - *Pyrus species*
- Existing Tree
- CA Live Oak - *Quercus agrifolia*
- Valley Oak - *Quercus lobata*
- Island Oak - *Quercus tomentella*
- Common Alder - *Alnus rhombfolia*
- Willow - *Salix species*
- Elderberry - *Sambucus mexicana*
- Existing Palm

SIGN LEGEND:

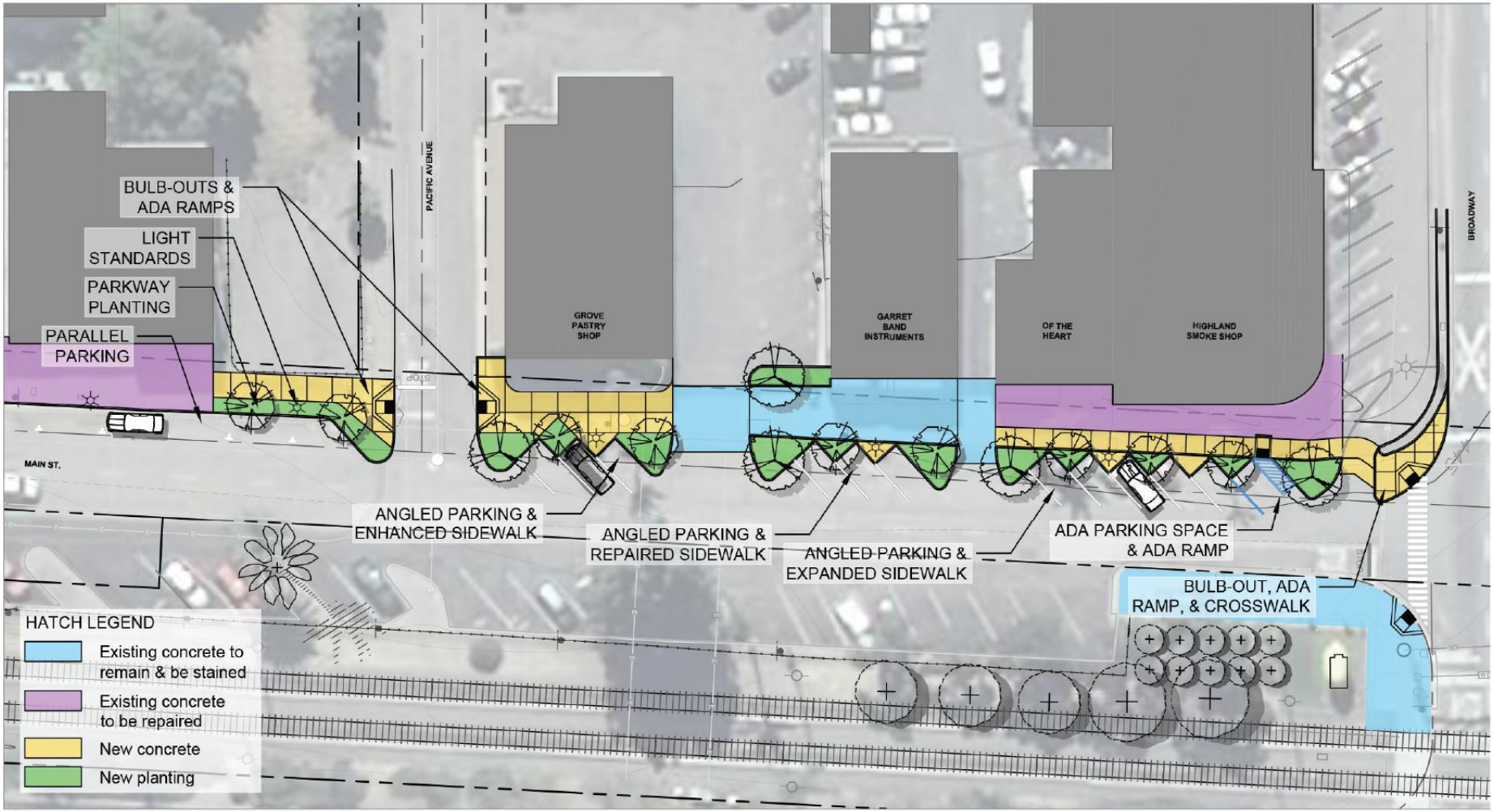
1. Stop Sign
2. Stop & No Right Turn
3. Stop & Right Turn Only
4. Bus/Bike Only
5. Yield to Pedestrians
6. Do Not Enter One Way
7. Security Camera
8. Bike Stop Sign

SITE LEGEND:

- Union Pacific Property
- Bike Boulevard Markings
- ADA Ramp
- Boulders
- Sit-Only Bench
- Interpretive Sign

Attachment D

Proposed Short-Term Plan - Broadway to Central Segment

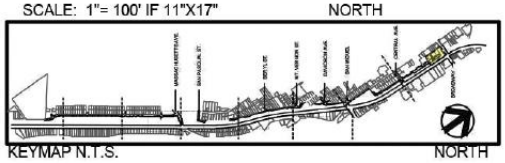


SHEET 7B: SHORT TERM - Alt. 2

0 50 100 200

SCALE: 1"= 100' IF 11"X17"

NORTH



KEYMAP N.T.S.

NORTH

TREE SUCH AS LEGEND:

- Ironwood - *Lyonothamnus floribundus*
- Torrey Pine - *Pinus torreyana*
- Western Redbud - *Cercis occidentalis*
- Crape Myrtle - *Lagerstroemia indica*
- Orange Tree - *Citrus species*
- CA Live Oak - *Quercus agrifolia*
- Valley Oak - *Quercus lobata*
- Island Oak - *Quercus tomentella*
- CA Sycamore - *Platanus racemosa*
- Bay Laurel - *Umbellularia californica*
- Brisbane Box - *Lophostemon confertus*
- Peppermint Tree - *Agonis flexuosa*
- Ornamental Pear - *Pyrus species*
- Common Alder - *Alnus rhombfolia*
- Willow - *Salix species*
- Elderberry - *Sambucus mexicana*
- Date Palm - *Phoenix dactylifera*
- Existing Tree
- Existing Palm

SIGN LEGEND:

1. Stop Sign
2. Stop & No Right Turn
3. Stop & Right Turn Only
4. Bus/Bike Only
5. Yield to Pedestrians
6. Do Not Enter One Way
7. Security Camera
8. Bike Stop Sign

SITE LEGEND:

- Union Pacific Property
- Bike Boulevard Markings
- ADA Ramp
- Boulders
- Sit-Only Bench
- Interpretive Sign