

Memorandum of Understanding

Between Fontana Water Company (“FWC”) and

Bloomington Recreation and Park District (“Park District”) for Ayala Park Relocation

Purpose and Scope:

1. The purpose of this Memorandum of Understanding (MOU) is to clearly identify the roles and responsibility of each party as they relate to assisting PARK DISTRICT’s relocation of Ayala Park (“Project”).
2. FWC has an ongoing conservation effort which involves informing and demonstrating water-efficient landscaping to its customers to help reduce irrigation water demand and runoff.
3. PARK DISTRICT is installing new irrigation fixtures and plant material as part of the Project as described in the attached Ayala Park Landscape and Irrigation Costs, which is attached here to and incorporated herein as Attachment I-B (the “Proposal”).
4. FWC has offered to fund the new irrigation fixtures and new plant material for the PARK DISTRICT’s relocation of Ayala Park in the amount stated in Attachment I-B of the Proposal in order to help PARK DISTRICT in its relocation of Ayala Park.
5. FWC and PARK DISTRICT have agreed, to work together and coordinate payment for the completed work of the new landscape and irrigation portion of the Project in the amount as set forth in the Proposal.

Understandings and Agreements:

1. FWC will participate in the Project by solely funding the work completed by the PARK DISTRICT’s contractors in the amount set forth in the Proposal.
2. PARK DISTRICT hereby agrees to allow representatives from FWC to enter onto the PARK DISTRICT’s property to conduct a “Final Inspection” of Ayala Park’s landscaping for the Project. FWC shall provide written notice to PARK DISTRICT requesting access for the Final Inspection at which time the parties shall identify a mutually convenient day and time to complete the Final Inspection. The parties agree that the landscaping and irrigation material are solely owned by Park District

3. PARK DISTRICT and FWC understand that the services performed by PARK DISTRICT's contractors are performed under PARK DISTRICT's exclusive direct supervision and control. The parties also acknowledge that PARK DISTRICT is an independent contractor and not an agent, representative or employee of FWC. PARK DISTRICT shall ensure all wages owed to any employee or worker providing services or work pursuant to this MOU are fully paid in accordance with all applicable laws and regulations regarding the work provided, including, but not limited to, the prevailing wage requirements as applicable.
4. This provision establishes mutual indemnification between and among the Parties. The PARK DISTRICT, and FWC ("the Indemnifying Party") hereby agree to release, defend, indemnify, protect, and hold harmless each other ("Indemnification Obligations") as well as their respective board members, officers and employees, directors, administrators, assigns, representatives, successors, and agents (each an "Indemnitee" and collectively the "Indemnitees") from and against any and all claims, demands, damages, debts, liabilities, obligations, contracts, contracts, causes of action, suits, and costs of whatever nature, character, or description, whether known or unknown, anticipated or unanticipated, asserted or established (collectively "Claims"), arising out of, in connection with, and/or relating to any and all acts or omissions of the Indemnifying Party and/or their agents, contractors, consultants, and employees. Each Party shall also obtain and maintain insurance coverage sufficient to address any cost or claim in which they are required to address pursuant to this indemnity provision and ensure all Parties are named as additional insured. PARK DISTRICT may comply with this requirement through its self—insurance. The parties hereby understand and agree that FWC's involvement in the Project is limited to providing funding as set forth herein. Therefore, FWC's Indemnification Obligations set forth herein shall be limited to FWC's funding and in no event shall FWC be liable or responsible for any action or omission otherwise related to the Property or the Project, except for any action taken by FWC to actively interfere or otherwise change the Project. Notwithstanding any other provision of this MOU, in no event shall FWC's Indemnification Obligations to PARK DISTRICT exceed, in the aggregate, the amount stated in Attachment I-B of the Proposal.
5. Any and all amendments must be made in writing and must be agreed to and executed by both parties before becoming effective.
6. The term of this MOU shall extend from the date of full execution until June 30, 2023.
7. This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party

providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU upon request.

Fontana Water Company:

Bloomington Recreation and Park District:

Robert J. DiPrimio (Date)
Fontana Water Company
Senior Vice President

Curt Hagman (Date)
Chairman
Board of Directors