

**AGENDA
SPECIAL CITY COUNCIL MEETING
CITY OF BANNING
BANNING, CALIFORNIA**

October 25, 2016
2:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

I. CALL TO ORDER

Roll Call - Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

II. PUBLIC COMMENTS – *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff or future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

III. REPORTS

1. Consideration and Approval of the Transfer of the Operating Covenant from Diamond Hills Auto Group, Inc. (Diamond Hills) to Dalia Auto Group, LLC (Dalia), Approval to Release the Tax-Sharing Payments in Arrears to Dalia, and Approval of the Amended and Restated Terms of Operating Covenant between the City of Banning (City) and Dalia.....1
(Staff Report – Rochelle Clayton, Deputy City Manager)
Recommendation: **Consideration and approval of the transfer of the Operating Covenant from Diamond Hills Auto Group, Inc. (Diamond Hills) to Dalia Auto Group, LLC (Dalia), approval to release the tax-sharing payments in arrears to Dalia, and approval of the Amended and Restated Terms of Operating Covenant between the City of Banning (City) and Dalia. If approved, staff will bring the full agreement to Council at its meeting on November 7, 2016 for final approval.**

IV. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Rochelle Clayton, Deputy City Manager

MEETING DATE: October 25, 2016

SUBJECT: Consideration and Approval of the Transfer of the Operating Covenant from Diamond Hills Auto Group, Inc. (Diamond Hills) to Dalia Auto Group, LLC (Dalia), Approval to Release the Tax-Sharing Payments in Arrears to Dalia, and Approval of the Amended and Restated Terms of Operating Covenant between the City of Banning (City) and Dalia.

RECOMMENDATION:

Consideration and approval of the transfer of the Operating Covenant from Diamond Hills Auto Group, Inc. (Diamond Hills) to Dalia Auto Group, LLC (Dalia), approval to release the tax-sharing payments in arrears to Dalia, and approval of the Amended and Restated Terms of Operating Covenant between the City of Banning (City) and Dalia. If approved, staff will bring the full agreement to Council at its meeting on November 7, 2016 for final approval.

JUSTIFICATION:

Dalia has made a formal request to amend the current operating covenant to be vested with the new ownership. Since assuming operations from Diamond Hills, Dalia has not received sales tax sharing payments provided for in the existing agreement. Dalia has made some improvements and developed an improvement plan that includes the following:

- Acquisition of freeway frontage property by Khan Properties and Holdings, LLC for visible signage from the freeway and visible auto inventory from the freeway, estimated to cost \$750,000
- Purchase of signage to be installed at the property acquired along I-10 freeway, estimated to cost \$700,000

- Renovations and upgrades of the existing facility, consistent with GM standards, estimated to cost from \$1,800,000 to \$2,000,000

The expansion is projected to cost from \$3.2M to \$3.5M and significantly increase sales volume and create more jobs. If Dalia is able to renovate the facility to meet GM standards and specifications, Dalia's profit on new vehicles will increase by \$400 per vehicle, which will also increase sales tax revenue.

While Dalia has improved sales since the purchase of Diamond Hills, the revenue increase is not sufficient to support capital improvements that will ultimately increase customers by way of freeway traffic and the ability to expand inventory and remain a source of long term revenue to the City through sales tax.

BACKGROUND:

On November 9, 2015, Diamond Hills Auto Group, Inc. sold and assigned its interests in the Property to the Dalia. In September 2015, the City was approached by representatives from the Dalia to notify the City that a sale was pending, secure a new business license and submit a sign permit.

Since the sale and transfer, the new operator has made significant changes to its operations, and include:

- Since November sales volume has increased and is on track to outperform last year's sales by 7-10% in both new and used inventory;
- Job creation: full time employee count is now up to 63 (existing agreement required 49); and
- Community involvement: Dalia differs in its approach to the local community by sponsoring local events (including Stagecoach Days) and partnering with employers on various cross-promotional opportunities throughout the Pass area.

OPTIONS:

1. Approve the transfer of the Operating Covenant from Diamond Hills to Dalia, release the tax-sharing payments in arrears to Dalia, and approve the Amended and Restated Terms of Operating Covenant between the City of Banning (City) and Dalia. If approved, staff will bring the full agreement to Council at its meeting on November 7, 2016 for final approval.
2. Do not approve and provide direction to staff.

FISCAL IMPACT:


No fiscal impact to the budget. The existing operating covenant reimburses the dealership operator based upon sales tax revenue and has been factored into budgetary revenue projections. City is approximately \$100,000 in arrears for quarterly payments to the dealership.

If approved, the cost of renovations, not to exceed \$3.2M will be paid to Dalia over an estimated 15 years, will be factored into the annual budget.

ATTACHMENTS:

1. Tentative Agreement for a Transfer of Operating Covenant and the Amended and Restated Terms of the Operating Covenant.

Reviewed and Approved by:



Michael Rock
City Manager

Prepared by:



Rochelle Clayton
Deputy City Manager/
Administrative Services Director

ATTACHMENT 1

**TENTATIVE AGREEMENT FOR A TRANSFER OF OPERATING COVENANT AND
THE AMENDED AND RESTATED TERMS OF THE OPERATING COVENANT**

**Between
The City of Banning and
Dalia Auto Group, LLC**

October 25, 2016

1. Transfer of Agreement for Operating Covenant, providing for an economic subsidy in the form of sharing of sales tax revenue, from Diamond Hills Auto Group to Dalia Auto Group, LLC, doing business as Diamond Hills Chevrolet Buick GMC and Khan Properties and Holdings, LLC.
2. The Amended and Restated Agreement for Operating Covenant is entered into between the City of Banning (City) and Dalia Auto Group, LLC and Khan Properties and Holdings, LLC (Dalia), whereby the City agrees to pay Dalia a portion of the sales tax revenue as a subsidy for renovations, improvements and expansion to the auto dealership.
3. The City will pay Dalia a percentage of the sales tax revenue as an economic subsidy for renovations, improvements and expansion at a rate of 85% over the first \$150,000 annually in the form of quarterly payments, provided that Dalia maintains its obligations under this agreement.
4. City and Dalia obligations are defined as follows:

Dalia and Khan Properties OBLIGATIONS:

- A. Provide and operating covenant to operate a Chevrolet Buick GMC dealership at its current location or in the City of Banning for a period of fifteen (15) years.
- B. Make improvements and renovations to the existing dealership, acquire property along the freeway, and install a freeway frontage sign. An expansion of the dealership will be applicable to the economic subsidy for improvements, up to the maximum of \$3,200,000.
- C. Provide the option to the City to display a message on the freeway frontage sign, including but not limited to "Welcome to Banning."
- D. Provide the City with documentation of soft and hard costs of all improvements, renovations and acquisitions, including a report of progress on an annual basis at the anniversary of the agreement.

City OBLIGATIONS:

- A. City to pay Dalia a portion of the sales tax revenue as an economic subsidy for renovations, improvements, acquisitions, and expansion to the auto

dealership, in an amount not to exceed \$3,200,000 at a rate of 85% over the first \$150,000 annually in the form of quarterly payments, provided that Dalia maintains its obligations under this agreement and completes the renovations, improvements, acquisition and possible expansion. The City shall keep 100% of the first \$37,500 each quarter, and any sales tax revenue above \$37,500 shall be split with 15% to the City and 85% to Dalia until the total cost of renovations, improvements, acquisitions, and expansion has been recovered by Dalia.

- B. Upon recovery of the cost of renovations, improvements, acquisitions, and expansion, the City shall pay Dalia a portion of the sales tax revenue at a rate of 50% over the first \$200,000 annually in the form of quarterly payments, provided that Dalia remains in operation at its current location or within the City of Banning. The City shall keep 100% of the first \$50,000 each quarter, and any sales tax revenue above \$50,000 shall be split with 50% to the City and 50% to Dalia.
- C. If Dalia does not show adequate documentation to the City of renovations, improvements, acquisitions, and expansion, the economic subsidy shall convert to the terms at set forth in item B under City Obligations.

- 5. The term of this Agreement shall remain in effect for fifteen years at the economic subsidy rate of 85% of sales tax revenue to Dalia over the first \$150,000, or until Dalia has recovered their costs for renovations, improvements, acquisitions, and expansion. If they recover the costs for renovations, improvements, acquisitions, and expansion, or do not complete the renovations, improvements, acquisitions, and expansion the rate shall convert to 50% of sales tax revenue to Dalia over the first \$200,000.

CITY OF BANNING

Dalia Auto Group, LLC

Michael Rock, City Manager

Alam Khan

Khan Properties and Holdings, LLC

Alam Khan