AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

December 12, 2016
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey Street

The following information comprises the agenda for a regular meeting of the City Council; a joint meeting of the Banning City Council and the Banning City Council Sitting in Its Capacity of a Successor Agency and the Banning Housing Authority; and a scheduled meeting of the Banning Utility Authority.

Per City Council Resolution No. 2016-44 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

- Invocation – Father Bill Dunn, St. Stephen's Episcopal Church
- Pledge of Allegiance
- Roll Call – Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL, THE CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY, AND THE HOUSING AUTHORITY

II. CERTIFICATION OF ELECTIONS RESULTS

1. Consideration of Adopting Resolution 2016-117, Reciting the Facts of the Consolidated General Election Held in Said City on November 8, 2016 . . . . . **1**
   (Staff Report – Marie Calderon, City Clerk)

Recommended Motion: **That the City Council adopt Resolution 2016-117, Reciting the Facts of the Consolidated Presidential General Municipal Election Held in Said City on November 8, 2016 and Declaring the Result There of and Such Other Matters as provided by Law.**

III. PRESENTATION TO OUTGOING CITY COUNCIL MEMBER

- by Mayor Welch

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

IV. PRESENTATION TO OUTGOING MAYOR

- by City Manager

V. SWEARING IN OF CITY CLERK, CITY TREASURER AND COUNCIL MEMBERS

Swearing in of City Clerk – by John C. Cotti, Interim City Attorney
Swearing in of City Treasurer and City Council – by City Clerk

VI. REORGANIZATION OF CITY COUNCIL

1. City Council Reorganization **17**

Recommendation: **That the City Council choose one of its members as Mayor and another of its members as Mayor Pro Tem.**

RECESS COUNCIL MEETING – ***At this time please join the City Council for a small reception in the Large Conference Room.***

RECONVENE REGULAR CITY COUNCIL MEETING

VII. ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

- City Council Reports
- City Committee Reports
- Report by City Attorney
- Report by City Manager
    1. Discuss and Consider Setting a Date for a Special City Council Meeting – Workshop on the Brown Act, Roberts Rules of Order, and the Rules of Procedure **23**

Recommendation: **Discuss and consider setting a date for a Special City Council Meeting – Workshop. Suggested dates for the Special Meeting are Monday, January 30th; Tuesday, January 31st; Monday February 6th; or Tuesday, February 7th.**

VIII. PUBLIC COMMENTS/CORRESPONDENCE

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. 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 for future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE: Items received under this category may be received and filed or referred to staff for future research or a future agenda.

IX. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council wishes to remove an item for separate consideration.)

Motion: To approve Consent items 1 through 23
Items to be pulled ____, ____, ____, ____ discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Special Meeting – 08/23/16 *(Workshop)* **25**
2. Approval of Minutes – Special Meeting – 09/13/16 *(Workshop)* **45**
3. Approval of Minutes – Special Meeting – 09/27/16 *(Workshop)* **63**
4. Re-approval of Minutes – Special Meeting – 09/27/16 *(Closed)* **87**
5. Approval of Minutes – Special Meeting – 10/11/16 *(Workshop)* **89**
6. Approval of Minutes – Special Meeting – 10/25/16 . . . . . **103**
7. Approval of Minutes – Special Meeting – 10/25/16 *(Workshop)* **107**
8. Approval of Minutes – Special Meeting – 10/25/16 *(Interviews)*. **127**
9. Approval of Minutes – Special Meeting – 10/25/16 *(Closed)* **129**
10. Approval of Minutes – Regular Meeting – 10/25/16 . . . . . **131**
11. Approval of Minutes – Special Meeting – 11/07/16 *(Workshop)* **143**
12. Approval of Minutes – Special Meeting – 11/07/16 *(Closed)* **161**
13. Approval of Minutes – Regular Meeting – 11/07/16. . . . . **163**
14. Ordinance 1503 – 2nd Reading: An Ordinance of the City Council of the City of Banning, Repealing Chapter 8.16 of the Banning Municipal Code and Adopting The 2016 California Fire Code as it's Amended in this Ordinance for, 1) Regulating and Governing the Safeguard of Life and Property from Fire and Explosion Hazards [Arising from the Storage, Handling and Use of Hazardous Substances, Materials and Devices] and from Conditions Hazardous to Life or Property in the Occupancy of Buildings and Premises in the City of Banning, and 2) Providing for the Issuance of Permits and Collection of Fees Therefor **181**
15. Ordinance 1504 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 15.08 of the Banning Municipal Code by Adopting by Reference the Entirety of the Latest California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and International Property Maintenance Code, All as Relative to Construction Codes **195**
16. Receive and File the List of Contracts approved under the City Manager's signature authority of $25,000 or less. **203**
17. Resolution 2016-118: Acceptance of the 2016 State Homeland Security Program (SHSP) Grant through the Riverside Emergency Management Department in the amount of $33,500 for the purchase, installation, and reprogramming of three (3) Motorola APX7500 Multi-Band Vehicle Radios in the police department's mobile command center **207**
18. Accept the Right-of-Way Dedication from Sagemont-Banning, LLC for 6071 Joshua Palmer Way, APN: 419-120-026-5. . . . . **211**

19. Resolution 2016-119, Approving the Five-Year (2018-2022) Airport Capital Improvement Plan (ACIP) and Direct Staff to Submit the ACIP to the Federal Aviation Administration (FAA) **223**
20. Authorize the Director of Electric Utility to sign the Notice of Completion for Project No. 2013-04 EL, City of Banning Hydroelectric Facility Rehabilitation. . . . **233**
21. Authorize the Director of Electric Utility to sign the Notice of Completion for Project No. 2014-01 EL, Sunset Grade Separation Phase 2 – Underground Electrical Substructures. **239**
22. Authorize the Director of Electric Utility to sign the Notice of Completion for Project No. 2014-02 EL, Downtown Underground Project Phase 3. . . . . **245**
23. Authorize the Director of Electric Utility to sign the Notice of Completion for Project No. 2015-01 EL, Lincoln St., Airport and City Yard Electrical Distribution Improvements **251**

- **Open Consent Items for Public Comments**
- **Make Motion**

X. PUBLIC HEARINGS

(The Mayor will ask for the staff report form the appropriate staff member. The City Council will comment, if necessary, on the item. The Mayor will open the public hearing for comments from the public. The Mayor will closed the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)

1. Review and Consider Adoption of Resolution 2016-80, Approving the Agreement for Transfer of the Sales Tax Sharing and Operating Agreement between the City of Banning and Dalia Auto Group, LLC and Khan Properties and Holdings, LLC, doing business as Diamond Hills Chevrolet Buick GMC as per Terms of Agreement Approved by Council at its October 25, 2016 Meeting *(continued from 11/7/16 Council Meeting)* **257**
   (Staff Report – Rochelle Clayton, ASD/Deputy City Manager)

Recommendation: **Adoption of Resolution 2016-80, Approving the Agreement for Transfer of the Sales Tax Sharing and Operating Agreement between the City of Banning and Dalia Auto Group, LLC and Khan Properties and Holdings, LLC, doing business as Diamond Hills Chevrolet Buick GMC as per Terms of Agreement approved by Council at its October 25, 2016 meeting.**

XI. REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2016-116, Awarding a Professional Services Agreement to Stantec Consulting Services, Inc. for the Design of the Reconstruction and Widening of Ramsey Street and Hathaway Street in the amount of $254,512 and approving a 10% Contingency **261**
   (Staff Report – Art Vela, Public Works Director)

Recommendations: **That the City Council: 1) adopt Resolution 2016-116, Awarding a Professional Services Agreement to Stantec Consulting Services, Inc. of Redlands, CA in the amount of $254,512 for the Design of the Reconstruction and Widening of Ramsey Street and Hathaway Street and approving a 10% contingency of $25,451 for a total project budget of $279,963; 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement; and 3) Authorizing the City Manager to execute the Professional Services Agreement with Stantec Consulting Services, Inc. of Redlands, CA in the amount of $254,512 and to approve change orders within the 10% contingency.**

2. Discuss and Consider Adopting Resolution 2016-120, Awarding a Construction Agreement for Project No. 2016-03, Street Improvements at Various Locations to All American Asphalt of Corona, CA in the amount of $944,900 and establishing a total project budget of $1,039,390 and reject all other bids **289**
(Staff Report – Art Vela, Public Works Director)

Recommendations: **That the City Council approve the following actions: 1) adopt Resolution 2016-120, Approving a Construction Agreement for Project No. 2016-03, Street Improvement at Various Locations to All American Asphalt of Corona, CA in the amount of $944,900 and a 10% contingency in the amount of $94,490 for a total project budget of $1,039,390 and rejecting all other bids; 2) Authorize the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-03, Street Improvements at Various Locations and to approve change orders within the 10% contingency; and 3) Authorize the City Manager to execute the Construction Agreement with All American Asphalt for Project No. 2016-03, Street Improvements at Various Locations.**

3. Discuss and Consider Adopting Resolution 2016-115: Authorizing the Police Department to lease vehicles through the National Auto Fleet Group **319**
(Staff Report – Alex Diaz, Police Chief)

Recommendation: **That the City Council adopt Resolution 2016-115, authorizing the Police Department to enter into a three (3) year lease agreement with Ford Credit for one (1) Police Interceptor unmarked sedan, one (1) Police Interceptor CSO sedan, and six (6) Police Interceptor Utility Patrol Explorers through the National Auto Fleet Group in an amount not to exceed $81,804 annually or $245,412 overall.**

4. Discuss and Consider Adopting Resolution 2016-121, Requesting approval of the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedmann and Girard for the Rancho San Gorgonio Specific Plan Development. **391**

(Staff Report – Brian Guillot, Community Development Director)

Recommendation: That the City Council adopt Resolution 2016-121, approving the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedmann and Girard for the Rancho San Gorgonio Specific Plan Development.

5. Discuss and Consider Municipal Code amendment to expressly prohibit all commercial marijuana land uses throughout the City as an urgency measure **417**

(Staff Report – Brian Guillot, Community Development Manager)

Recommendations:

1) After the City Attorney reads the title, adopt Urgency Ordinance No. 1505 amending Section 8.48 (Cultivation, Manufacture, or Sale of Drugs) and adding Chapter 5.34 ("Marijuana Cultivation") to regulate the cultivation of marijuana for personal use by creating Marijuana Cultivation Permit; amending Chapter 8.68 (Medical Marijuana Prohibited) to conform to state law;

2) Introduce on first reading non-urgency ordinance No. 1506, relating to the regulation of marijuana activities (including commercial delivery, dispensing and non-personal cultivation); and

3) Direct staff to schedule the second reading and adoption of non-urgency Ordinance No. 1506 for the January 24, 2017, regular City Council meeting.

A) Mayor asks the City Clerk to read the title of Urgency Ordinance 1505

An Urgency Ordinance of the City of Banning Amending Section 8.48.330 ("Cultivation, Manufacture, or Sales of Drugs") and Adding Chapter 5.34 ("Marijuana Cultivation") to Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to Regulate the Cultivation of Marijuana for Personal Use by Creating a Marijuana Cultivation Permit; and Declaring the Urgency Thereof.

Motion: I move to waive further reading of Urgency Ordinance 1505
(Requires a majority vote of the Council)

Motion: I move that Urgency Ordinance No. 1505 be adopted.

B) Mayor asks the City Clerk to read the title of Urgency Ordinance 1506

An Ordinance of the City of Banning Amending Section 8.48.330 ("Cultivation, Manufacture, or Sales of Drugs") to Conform to State Law; Adding Chapter 5.34 ("Marijuana Cultivation") to Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to Regulate the Cultivation of Marijuana for Personal Use by Creating a Marijuana Cultivation Permit; and Repealing Chapter 8.68 ("Medical marijuana Prohibited") of Title 8 (Health and Safety) of the Banning Municipal Code in Its Entirety to Promote Consistency with Proposed Chapter 5.34 and Efficiency of Regulation.

Motion: I move to waive further reading of Urgency Ordinance 1506
(Requires a majority vote of the Council)
Motion: I move that Ordinance No. 1506 pass its first reading.

RECESS CITY COUNCIL MEETING AND CALL TO ORDER A SCHEDULE MEETING OF THE BANNING UTILITY AUTHORITY

BANNING UTILITY AUTHORITY

Roll Call: Boardmembers Andrade, Franklin, Moyer, Peterson, Welch

CONSENT ITEMS

1. Resolution 2016-21UA, Approving an Agreement in the amount of $57,533 with Cla-Val for the Servicing of the City's Cla-Val Water Valves **449**

- **Open Consent Items for Public Comments**
- **Make Motion**

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2016-19 UA, Awarding a Professional Services Agreement to Carollo Engineering, Inc. of Costa Mesa, CA for the Integrated Master Plan for Water, Wastewater, and Recycled Water System in the amount of $392,131 and include a 10% Contingency for a total project budget of $431,344. . . . . **461**
(Staff Report – Art Vela, Public Works Director)

Recommendation: **The Banning Utility Authority: 1) adopt Resolution 2016-19 UA, Approving a Professional Services Agreement with Carollo Engineers, Inc. of Costa Mesa, CA in an amount not to exceed $392,131 and include a 10% contingency for a total project budget of $431,344; 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the project and to approve change orders within the 10% contingency; and 3) Authorizing the City Manager or his designee to execute the Professional Services Agreement with Carollo Engineers, Inc.**

2. Discuss and Consider Adopting Resolution 2016-20 UA, Awarding a Construction Agreement for Anaerobic Digester Dome Seal Repair and Clearing of Digester to Pipe and Plant Solutions, Inc. of Oakland, CA in the amount of $181,760 and include a 10% contingency for a total project budget of $206,536 and reject all other bids **585**

(Staff Report – Art Vela, Public Works Director)

Recommendations: **that the Banning Utility Authority: 1) adopt Resolution 2016-20, Approving a Construction Agreement for Anaerobic Digester Dome Seal Repair and Cleaning of Digesters to Pipe and Plant Solutions, Inc. of Oakland, CA in the amount of $187,760 and a 10% contingency in the amount of $18,776 to cover unforeseen conditions and reject all other bids; 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Anaerobic Digester Dome Seal Repair and Cleaning of Digesters and to approve change orders within the 10% contingency; and 3) Authorizing the City Manager or his designee to execute the Construction Agreement with Pipe and Plant Solutions, Inc. for Anaerobic Digester Dome Seal Repair and Cleaning of Digesters.**

3. Discuss and Consider Adopting Resolution 2016-18 UA, Approving an Amendment to the Contract with Willdan Financial Services for the Services for Water, Wastewater and Reclaimed Water Rate Study in the Amount of $31,765, Authorize the City Manager to Execute the Amendment, and Authorize the Administrative Services Director to Make the Necessary Budget Adjustments, Appropriations and Transfers **601**
(Staff Report – Art Vela, Public Works Director)

Recommendations: **1) Adopt Resolution 2016-18 UA, Approving an Amendment to the Contract with Willdan Financial Services in the amount of $31,765 for the Water, Wastewater and Reclaimed Water Rate Study approved in October 2013 and delayed due to newly adopted regulations in July 2014 by California on Chromium-6; 2) Authorize the City Manager to execute the Amendment; and 3) Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers.**

BANNING FINANCING AUTHORITIY (BFA) - no meeting.

Adjourn scheduled meeting and reconvene regular City Council Meeting.

XII. ITEMS FOR FUTURE AGENDAS

New items –

Pending Items – City Council

1. Annual Report by Southern California Gas Company
2. General Plan – allow for people to have gardens on their property
3. Consideration of the Annual Disaster Survival Expo as a City signature event.
4. Join other agencies to challenge the State in regard to Chromium-6 water issue.

(Note: Dates attached to pending items are the dates anticipated when it will be on an agenda. The item(s) will be Removed when completed).

XIII. CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9 (d)(2) – Banning Library District challenge to the City's approval of the Rancho San Gorgonio Project.

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to Government Code Section 54956.9 (d) (1): *SoCal Environmental Justice Alliance v. City of Banning, et al.:* Riverside Superior Court Case No. RIC1214264

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Initiation of litigation pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9: (1 potential case) (Vanir)

4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Initiation of litigation pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9: (Banning Business Center)

XIII. 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.

NOTICE: Any member of the public may address this meeting of the Mayor and City 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]

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CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Marie A. Calderon, City Clerk**

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-117, Reciting the Facts of the Consolidated Presidential General Election Held in Said City on November 8, 2016.**

RECOMMENDATION:

That the City Council adopt Resolution 2016-117, Reciting the Facts of the Consolidated Presidential General Election Held in Said City on November 8, 2016 and Declaring the Result Thereof and Such Other Matters as Provided by law.

JUSTIFICATION:

The Elections Code requires the City Council to adopt a resolution reciting the facts of the election and declare the results no later than the next regularly scheduled city council meeting following the presentation of the canvass of the returns. The County of Riverside Registrar of Voters conducted the election at the City's request and has completed a canvass of the votes and provided certification of those results which is included as Exhibit "A" to the resolution.

BACKGROUND:

At the June 28, 2016 Council meeting, the City Council adopted Resolution 2016-53 calling and giving notice of a General Municipal Election to be held on Tuesday, November 8, 2106 for the election of Members of the City Council by District 1, 2 and 3 for a full four (4) year term, and for the election at-large of the City Clerk and the City Treasurer for a full four (4) year term.

OPTIONS:

This is a legal requirement, there are no options to the recommended action.

FISCAL IMPACT:

The estimated cost from the Registrar of Voters to conduct the election was no more than $40,000. The County Election Services Account No. 001-1500-412.33-71 has $40,750. The invoice is expected after the first of the year.

ATTACHMENTS:

1) Resolution 2016-117 – Reciting the Fact of the Election
2) Exhibit "A" – Certification of 2016 Election Results from the Registrar of Voters

Approved by:

Michael Rock
City Manager

ATTACHMENT 1
Resolution 2016-117

RESOLUTION NO. 2016-117

EXHIBIT "A"

RESOLUTION 2016-117

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, RECITING THE FACTS OF THE CONSOLIDATED PRESIDENTIAL GENERAL ELECTION HELD IN SAID CITY ON NOVEMBER 8, 2016 DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

WHEREAS, a Consolidated Presidential General Election was held and conducted in the City of Banning, California, on Tuesday, November 8, 2016, as required by law; and

WHEREAS, the City Clerk has been informed by the Registrar of Voters of the County of Riverside that notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution 2016-53 adopted June 28, 2016, the Registrar of Voters of the County of Riverside canvassed the returns of said election and certified the results to this City Council; said results are received and attached and incorporated herein as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the whole number of votes cast in said City (except vote by mail ballots) was 7,604.

That the whole number of votes by mail ballots cast in said City was 2,966, making a total of 10,570 votes cast in said City.

SECTION 2. That the names of persons voted for the election for Members of the City Council are as follows:

DISTRICT 1	Daniela Andrade
DISTRICT 2	Don M. Peterson
DISTRICT 3	Art Welch Ed Miller

That the names of persons voted for the election for City Treasurer of said City is as follows:

John C. McQuown

That the name of person voted for the election for City Clerk of said City is as follows:

Marie A. "Toni" Calderon

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of such persons above named for the respective offices for which said persons were candidates were as listed in Exhibit "A" attached.

SECTION 4. The City Council does declare and determine that:

Daniela Andrade was elected as the District 1 Council Member for the City of Banning for the full term of four years;

Don M. Peterson was elected as the District 2 Council Member for the City of Banning for the full term of four years;

Art Welch was elected as the District 3 Council Member for the City of Banning for the full term of four years;

John C. McQuown was elected as City Treasurer for the full term of four years; and

Marie A "Toni" Calderon was elected as City Clerk for the full term of four years.

SECTION 5. The City Clerk shall enter on the records of the City Council of the City of Banning a statement of the result of said election, showing: (1) The whole number of votes cast in the City; (2) The names of the persons voted for; (3) For what office each person was voted for: (4) The number of votes given at each precinct to each person; (5) The number of votes given in the city to each person.

SECTION 6. That the City Clerk shall immediately sign and deliver to each of the persons elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2016.

_____

Mayor

City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Resolution No. 2016-117 was as duly adopted by the City Council of the City of Banning at a regular meeting thereof, held on the 12th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Marie A. Calderon, City Clerk
City of Banning, California

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ATTACHMENT 2
Certification of 2016 Election Results

REBECCA SPENCER
Registrar of Voters

ART TINOCO
Assistant Registrar of Voters

REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE

December 6, 2016

Marie Calderon
City of Banning
P.O. Box 998
Banning, CA 92220

Dear Ms. Calderon:

Enclosed is our certificate to the results of the canvass of election returns for your Consolidated Presidential General Election held on November 8, 2016.

The Certificate of Election forms were given to you at the seminar in June. An invoice for services rendered will be mailed to you under a separate cover. Please let me know if I can be of any further assistance.

Sincerely,

REBECCA SPENCER
Registrar of Voters

Rachel Rathbone
Chief Deputy Registrar of Voters

Enclosures

2724 Gateway Drive | Riverside, CA 92507-0918
(951) 486-7200 | TTY (951) 697-8966 | FAX (951) 486-7272
www.voteinfo.net

REBECCA SPENCER
Registrar of Voters

ART TINOCO
Assistant Registrar of Voters

REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE

CERTIFICATE OF REGISTRAR OF VOTERS TO THE RESULTS OF THE CANVASS OF ELECTION RETURNS

State of California)
) ss.
County of Riverside)

I, **REBECCA SPENCER**, Registrar of Voters of said County, do hereby certify that, in pursuance of the provisions of Sections 15301, 15372, and 15374 of the California Elections Code, and the resolution adopted by the City Council, I did canvass the returns of the votes cast on November 8, 2016, as part of the Consolidated Presidential General Election in the

CITY OF BANNING

and I further certify that the statement of votes cast, to which this certificate is attached, shows the whole number of votes for each candidate for elective office at said election, in said City, and in each precinct therein, and that the totals as shown for each candidate are full, true, and correct.

Dated this 6th day of December 2016.

REBECCA SPENCER
Registrar of Voters

Rachel Rathbone
Chief Deputy Registrar of Voters

2724 Gateway Drive | Riverside, CA 92507-0918
(951) 486-7200 | TTY (951) 697-8966 | FAX (951) 486-7272
www.voteinfo.net

RIVERSIDE COUNTY Statement of Vote
CONSOLIDATED PRESIDENTIAL ELECTION

100047	NO PARTY PREFERENCE CITY OF BANNING - COUNCIL MEMBER, CD 1															
	Registration	Ballots Cast	Turnout (%)		DANIELA ANDRADE											
55100 BANNING/1	1834	442	24.10		254											
55100 - Vote by Mail Reporting	1834	769	41.93		582											
55103 BANNING/1	77	10	12.99				**********	Insufficient Turnout to Protect Voter Privacy						*********		
55103 - Vote by Mail Reporting	77	36	46.75		26											
Precinct Totals	1911	452	23.65		259											
Vote by Mail Reporting Totals	1911	805	42.12		608											
Grand Totals	1911	1257	65.78		867											
RIVERSIDE	1911	1257	65.78		867											
36th Congressional District	1911	1257	65.78		867											
23rd Senatorial District	1911	1257	65.78		867											
42nd Assembly District	1911	1257	65.78		867											
St Board of Equalization 4th Distri	1911	1257	65.78		867											
5th Supervisorial District	1911	1257	65.78		867											
City of Banning	1911	1257	65.78		867											

100048	NO PARTY PREFERENCE CITY OF BANNING - COUNCIL MEMBER, CD 2															
	Registration	Ballots Cast	Turnout (%)		DON M. PETERSON											
55200 BANNING/2	1426	338	23.70		236											
55200 - Vote by Mail Reporting	1426	689	48.32		496											
55201 BANNING/2	395	87	22.03		46											
55201 - Vote by Mail Reporting	395	172	43.54		122											
Precinct Totals	1821	425	23.34		282											
Vote by Mail Reporting Totals	1821	861	47.28		618											
Grand Totals	1821	1286	70.62		900											
RIVERSIDE	1821	1286	70.62		900											
36th Congressional District	1821	1286	70.62		900											
23rd Senatorial District	1821	1286	70.62		900											
42nd Assembly District	1821	1286	70.62		900											
St Board of Equalization 4th Distri	1821	1286	70.62		900											
5th Supervisorial District	1821	1286	70.62		900											
City of Banning	1821	1286	70.62		900											

RIVERSIDE COUNTY Statement of Vote
CONSOLIDATED PRESIDENTIAL ELECTION

100049	NO PARTY PREFERENCE CITY OF BANNING - COUNCIL MEMBER, CD 3																
	Registration	Ballots Cast	Turnout (%)		ART WELCH	ED MILLER											
55300 BANNING/3	414	68	16.43		25	22											
55300 - Vote by Mail Reporting	414	267	64.49		114	115											
55301 BANNING/3	1998	320	16.02		166	111											
55301 - Vote by Mail Reporting	1998	1423	71.22		758	525											
55306 BANNING/3	2471	373	15.10		223	101											
55306 - Vote by Mail Reporting	2471	1908	77.22		1102	645											
55308 BANNING/3	0	0	0.00		0	0											
55308 - Vote by Mail Reporting	0	0	0.00		0	0											
Precinct Totals	4883	761	15.58		414	234											
Vote by Mail Reporting Totals	4883	3598	73.68		1974	1285											
Grand Totals	4883	4359	89.27		2388	1519											
RIVERSIDE	4883	4359	89.27		2388	1519											
36th Congressional District	4883	4359	89.27		2388	1519											
23rd Senatorial District	4883	4359	89.27		2388	1519											
42nd Assembly District	4883	4359	89.27		2388	1519											
St Board of Equalization 4th Distr	4883	4359	89.27		2388	1519											
5th Supervisorial District	4883	4359	89.27		2388	1519											
City of Banning	4883	4359	89.27		2388	1519											

RIVERSIDE COUNTY Statement of Vote
CONSOLIDATED PRESIDENTIAL ELECTION

100050	CITY OF BANNING														
	Registration	Ballots Cast	Turnout (%)	CITY OF BANNING - CITY CLERK MARIE A. "TONI" CALDERON	CITY OF BANNING - CITY TREASURER JOHN C. MC QUOWN										
55100 BANNING/1	1834	442	24.10	315	294										
55100 - Vote by Mail Reporting	1834	769	41.93	589	588										
55103 BANNING/1	77	10	12.99		**********	Insufficient Turnout to Protect Voter Privacy						*********			
55103 - Vote by Mail Reporting	77	36	46.75	24	24										
55200 BANNING/2	1426	338	23.70	256	243										
55200 - Vote by Mail Reporting	1426	689	48.32	525	517										
55201 BANNING/2	395	87	22.03	63	56										
55201 - Vote by Mail Reporting	395	172	43.54	144	140										
55300 BANNING/3	414	68	16.43	51	46										
55300 - Vote by Mail Reporting	414	267	64.49	208	201										
55301 BANNING/3	1998	320	16.02	204	208										
55301 - Vote by Mail Reporting	1998	1423	71.22	1022	1037										
55306 BANNING/3	2471	373	15.10	235	246										
55306 - Vote by Mail Reporting	2471	1908	77.22	1383	1394										
55308 BANNING/3	0	0	0.00	0	0										
55308 - Vote by Mail Reporting	0	0	0.00	0	0										
55400 BANNING/4	0	0	0.00	0	0										
55400 - Vote by Mail Reporting	0	0	0.00	0	0										
55401 BANNING/4	67	7	10.45		**********	Insufficient Turnout to Protect Voter Privacy						*********			
55401 - Vote by Mail Reporting	67	47	70.15	34	34										
55406 BANNING/4	0	0	0.00	0	0										
55406 - Vote by Mail Reporting	0	0	0.00	0	0										
55407 BANNING/4	333	98	29.43	76	73										
55407 - Vote by Mail Reporting	333	140	42.04	100	105										
55408 BANNING/4	672	176	26.19	126	123										
55408 - Vote by Mail Reporting	672	368	54.76	273	261										
55410 BANNING/4	1771	492	27.78	353	322										
55410 - Vote by Mail Reporting	1771	879	49.63	684	674										
55504 BANNING/5	2289	555	24.25	419	357										
55504 - Vote by Mail Reporting	2289	906	39.58	743	675										
Precinct Totals	13747	2966	21.58	2109	1974										
Vote by Mail Reporting Totals	13747	7604	55.31	5729	5650										
Grand Totals	13747	10570	76.89	7838	7624										
RIVERSIDE	13747	10570	76.89	7838	7624										
36th Congressional District	13747	10570	76.89	7838	7624										
23rd Senatorial District	13747	10570	76.89	7838	7624										
42nd Assembly District	13747	10570	76.89	7838	7624										
St Board of Equalization 4th Distr	13747	10570	76.89	7838	7624										
5th Supervisorial District	13747	10570	76.89	7838	7624										
City of Banning	13747	10570	76.89	7838	7624										

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CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Marie A. Calderon, City Clerk**

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider City Council Reorganization**

RECOMMENDATION:

That the City Council choose one of its members as Mayor and another of its members as Mayor Pro Tem.

BACKGROUND:

According to Chapter 2.04, Section 2.04.070 (A. 2.) of the Banning Municipal Code, the City Council shall choose one of its members as Mayor and one of its member as Mayor Pro Tem every year at the meeting at which the declaration of the municipal elections results and the installation of the newly elected officers is made pursuant to Sections 10262 and 10264 of the California Elections Code, following the declaration of the election results. Additionally, in the intervening years, the organizational meeting shall be held at the first meeting in December. The term of service for both Mayor and Mayor Pro Tem shall be for a period of one year from date of appointment or until their successor is appointed. No person may become Mayor or Mayor Pro Tem unless a majority of the Council votes to approve the action. Section 2.04.070 (A. 3.) of the Banning Municipal Code states that the Mayor shall serve as the Chair of the Successor Agency to the former Community Redevelopment Agency and as Chair to the Housing Authority. The Mayor Pro Tem shall serve as the Vice Chair of the Successor Agency to the former Community Redevelopment Agency and as Vice Chair to the Housing Authority.

FISCAL IMPACT:

None

ATTACHMENTS:

1. Format for Election of Mayor and Mayor Pro Tem

Approved by:



Michael Rock
City Manager

ATTACHMENT 1

Format for the Election of the Mayor and Mayor Pro Tem

Format for Election of Mayor

CITY CLERK: **Nominations for the office of Mayor are now in order and a second to the nomination is not required.**

(At this time Councilmembers will nominate the person of their choice)

1) _____

2) _____

3) _____

4) _____

CITY CLERK: **Are there any further nominations? If not, I will entertain a motion that nominations be closed.**

(Motion_____ **Is there a second?** _____
All those in favor say Aye, Those opposed No.

CITY CLERK: **I will take a roll call vote and please signify your choice of Mayor when your name is called. The roll call will be in alphabetical order.**

ROLL CALL VOTE:

Councilmember Andrade _____

Councilmember Franklin _____

Councilmember Moyer _____

Councilmember Peterson _____

Councilmember Welch _____

_____

_____

_____

CITY CLERK: **The vote is in favor of** _____
for Mayor for a term of one year.

Election of Mayor Pro Tem:

CITY CLERK: **Nominations for the office of Mayor Pro Tem are now in order and a second to the nomination is not required.**

(At this time Councilmembers will nominate the person of their choice)

1) _____

2) _____

3) _____

4) _____

CITY CLERK: **Are there any further nominations? If not, I will entertain a motion that nominations be closed.**

(Motion _____ **Is there a second?** _____
All those in favor say Aye, Those opposed No.

CITY CLERK: **I will take a roll call vote and please signify your choice of Mayor Pro Tem when your name is called. The roll call will be in alphabetical order.**

ROLL CALL VOTE:

Councilmember Andrade _____

Councilmember Franklin _____

Councilmember Moyer _____

Councilmember Peterson _____

Councilmember Welch _____

CITY CLERK: **The vote is in favor of** _____
for Mayor Pro Tem for a term of one year.

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CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Sonja De La Fuente, Executive Assistant/Deputy City Clerk

MEETING DATE: December 12, 2016

SUBJECT: Discuss and Consider Setting a Date for a Special City Council Meeting – Workshop on the Brown Act, Roberts Rules of Order, and the Rules of Procedure

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RECOMMENDATION:

Discuss and consider setting a date for a Special City Council Meeting – Workshop on the Brown Act, Roberts Rules of Order, and the Rules of Procedure.The suggested dates for the Special Meeting are Monday, January 30th, Tuesday, January 31st, Monday February 6th or Tuesday, February 7th.

BACKGROUND:

It has been several years since the City Council has held a workshop outlining the Brown Act, Roberts Rules of Order, and the Rules of Procedure. With a new Councilmember and some that have not been through the workshop before, this would be a good time to conduct a workshop.

Reviewed and Approved by:

Michael Rock, City Manager

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

08/23/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on August 23, 2016 at 3:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Fred Mason, Electric Utility Director
Art Vela, Acting Public Works Director
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

REPORTS

1. Cost of Service Analysis (Rate Study)
(Introduction by Fred Mason, Electric Utility Director
Presentation by Steve Rupp and Craig Shepard, Liedos)

Director Mason addressed the Council stating that earlier this year the Council approved an agreement with Liedos Engineering to conduct a cost of services analysis and a rate design study and they have been working diligently to do that. In attendance are Steve Rupp and Craig Shepard from Liedos to present some updates, some outcomes and some recommendation.

Mr. Rupp stated that they are pleased to be here working with the City and he will talk about their cost of services and rate design study and will be happy to answer questions that the Council may have as they go along. At this time Mr. Rupp started his power-point presentation (Exhibit "A") explaining each of the slides in detail starting with Electric Utility Trends and Challenges.

Councilmember Peterson said when you say how much it costs to deliver the utility, how much it cost to service the utility, and this is the reason why we are going up in the previous slide so the

fixed cost is going up as far as the other but also in this City we have negotiated with the unions so with the rates we are going to buy your boots, your tool belt, pay for training and not necessarily line charges or hard-core charges going up but did you figure in the union cost in to this as what is driving the rates up or is it really the other.

Mr. Rupp said they are not increasing revenue to the utility in this exercise. In this study they have assumed that the revenue that is coming from customers into the utility is not changing; it is not increasing so they are not raising rates. He didn't say that fixed costs are increasing. That may be the case but it is not part of their study. They made an assumption in working with utility staff about what are the utility's cost going to be in the year 2018 and those costs were reasonable and they looking at them and there was nothing in the projection for those costs that seemed to him to be out of the ordinary.

Councilmember Peterson said he is not speaking about Banning. What he what speaking about was on the previous slide where you said already the slide was outdated because Redding was at $10.00 and the slide shows $13.00 and now it is $15.00. So his question is how much of the driver of those inflated cost or the rising cost are not generated because of the cost of electricity but are also because of union and wage cost.

Mr. Rupp said that these are not cost increasing to the utility. These are the utility's increasing what they charge for service so that they can recover fixed costs. So as that fixed cost goes from $10 a month to $13.00 a month to $15.00 a month the cents per kilowatt hour is also going down. The end result is that the bill stays roughly the same. If the bill changes from year to year, it has to do more with removing subsidies between commercial and residential customer for example. It is not really to address necessarily an increase in the utility's operating cost. In general, the kinds of things that you are talking about labor is always an important factor but he doesn't think it is the most important factor.

At this time Mr. Rupp continued explaining the slides in regards to Project Status, Cost of Service Overview, Cost of Service Allocations, and Test Year 2018 Electric Revenue Requirements.

Councilmember Miller asked in regards to the blue portion of the pie chart in regards to Purchased Power and Transmission is that both the system itself and the cost of the electricity.

Mr. Rupp said that was correct. It is about 70% generation and 30% transmission. So of that 51% a little less than half of it is fixed. So again, we make investments in power plants and they have to pay a certain amount to participate in that power plant without regard for whether we buy electricity from it or not. We pay a variable cost for the energy that comes out of it and we pay a fixed cost for the capacity or our share and ownership of it. The same thing is true of a transmission line. We pay a fixed cost for our share of that line and a variable cost associated with what it takes to operate and maintain it.

Councilmember Miller said in regards to transmission lines there are transmission lines to Banning and transmission lines within Banning and you haven't separated those out.

Mr. Rupp said that it is all hooked together in transmission. In that blue piece of pie it would be just purchase power and transmission; not the local transmission lines.

Councilmember Miller clarified that the blue is only the transmission lines to Banning and not the power lines in Banning itself that we own.

Mr. Rupp said that was correct. You also are joint owners in transmission lines with other utilities that are used to deliver power to Banning. Those costs are in that bucket.

Councilmember Moyer said in another item on the agenda today we are going to be asked to approve $30,000 a month for ten kilowatt hours a month that we may or may not use and is that in this number.

Director Mason said with our local capacity purchases as it has been discussed before that is insurance. There is actually no energy with that at all. The ISO requires us to have a certain amount of capacity. He said that number is in this.

Mr. Rupp said that would be a generation and transmission cost in the blue pie.

Mr. Rupp continued explaining the slide in regards to Test Year Revenue Requirement.

Councilmember Franklin said for clarification when you say that we are not talking about raising the rates for customer you are talking as a whole and not necessarily on an individual basis.

Mr. Rupp said both with an asterisk. They are trying to maintain steadiness among all of the customer classes. They are trying not to have changes to customer's bills as a result of the rate design. The reality is there are going to be some winners and some losers but it is not big numbers, it manageable and they think they know where it is going to come from and go to and they are going to ask for some more time to collect more information about how customers use electricity to be able to really define that decision making. They have a list and a few slides that define what are their objectives in the rate design process; what are they trying to accomplish and certainly the top one is making sure that we can recover our fixed operating costs in fixed charges so that we are not susceptible to the impact of increase energy efficiency, increased conservation and customer supply generation. They want to be able to promote those things without hurting the utility economically. They also want to have equity and want to be fair to all the customers. They don't want one customer class subsidizing another one and they don't want customers who use a lot of electricity being treated differently than customers who use only a very little amount of electricity. They all have these competing objectives that they have to try to stick to.

Mr. Rupp continued explaining the slide in regards to Cost of Service Results.

Councilmember Franklin asked are you saying here that we are not charging ourselves enough money under the Municipal.

Mr. Rupp said yes and he thinks those rates (Municipal and Lighting) have been fixed for a long time and since 2007 that rate hasn't changed but if you look and the difference it is not very much.

Councilmember Franklin asked if he could give an example of which of our customers are industrial versus large commercial.

Director Mason said it would be the hospital, Smith Correctional Facility, Banning High School, and the water wells. They are under the industrial rate because they exceed 200 kilowatts of demand so they chose to go under the industrial rate. Because the water utility is an enterprise it is not eligible for the municipal rate. Only General Fund accounts are eligible for the municipal rate so they are actually treated like a regular commercial customer.

Councilmember Franklin asked where churches come in. Are they small commercial?

Director Mason said it depends on the size. Some of them have schools attached or large community centers and that type of thing so they actually go into the larger commercial but a majority that are just churches are small commercial.

Councilmember Miller asked why the industrial has the biggest change.

Mr. Rupp said it has the biggest percent change but if you look at the dollar amount it is not very much. It is a small change on a small number that makes the 10% look bigger.

Councilmember Miller what is that changed?

Mr. Shepard said the existing rate for the industrial time of use is one of the lowest rates and they have found that they were just not recovering their cost. They are still going to be one of the lowest rates but it gets in line with cost of service and also the rate at the time of use they use it during the day. Normally the time of use is designed for a customer that operates around the clock. For example, the school does not do that so they are not recovering their cost.

Mr. Rupp said if you really wanted to get into details, they would have to open up the model and show how they do the allocations of cost but it is a very complex spreadsheet and it takes in factors such as what is their peak demand, what is their load factor, what is the cost to have the infrastructure to supply them, etc.

Councilmember Miller said so this list you have is a perfectly fair one that everybody pays for what they are using and the cost of service to them. What do most cities do? Do they give a break to residents or a break to industry?

Mr. Rupp said it is as different as Baskins-Robbins Ice Cream. It just depends on what is going on in a particular city and what motivates them. If it is an industrial city and it is struggling in trying to provide incentives to customer you might find that they give a subsidy to the businesses and the large factories and such and the residents pay for it. It is usually done by design and often done outside of rates. You might provide incentives that are not through a rate structure to accomplish the same objective without having a residential customer pay for it. In some cities what they see a lot are residential rates subsidize commercial rates. The idea that you are trying to develop a business incentive for people to come and open up shops inside your service territory and the city council's or the utility boards feel the overall benefit to the community is greater under that construct than it would be if it was perfectly based on the cost that is there. The important part is that this is the right starting point so that you try to understand where are costs are really caused and where does the revenue come from and then you can make your decisions about the policies that you want to implement going from there.

Councilmember Moyer said you already analyzed our billing and everything. We have a gentleman who stands up here month after month screaming about how our rates are so outrageous and out of sight compared too many areas in the state. When you analyzed our rates how did we compare to other communities our size and so forth.

Mr. Rupp said it is good to be the leader of the pack. In regards to the average residential rate you are among the highest in the state. Based on what he knows about the utility and what is going on it is not a bad thing. You have addressed some challenges that are behind you that you are paying for now that many utilities who are very low have not. You have taken on some significant infrastructure replacement and infrastructure development projects over the last ten years that the cost for that is built into your rates that you are recovering from customer now and in his opinion, the right thing to do. The consequences, your rates are higher than what utilities who haven't made those decisions yet and who haven't made those investments. So that is one factor.

Councilmember Miller asked if he had a number to compare us to our neighboring city Beaumont and the cost per kilowatt.

Mr. Rupp said Banning is a little bit different. It is hard to do because the City's rate designs are very different and he is sure that Director Mason tracks that on a regular basis between the City and Edison.

Director Mason said that he had just done an analysis and it depends on the actual amount of consumption. It is 16 cents for their Tier 1 and we are at 16.88 cents. So we are less than a cent different on our baseline. The Second Tier we are at 21 and they are at 22 cents so they are a cent higher so when you blend those together for the average customer we are plus or minus a dollar. For customers who use more electricity like 1000 or 1200 kilowatt hours for a larger home during the summer we are much cheaper. For a $200 or $250 dollar bill we are about $40 dollars a month less because of the way the rates are structured.

Councilmember Miller said forgetting the rate structure and just talk about the cost for the City per kilowatt what would that be for Banning and what would it be for Beaumont.

Director Mason said that would be in regards to the blended rate. He said that the City is at 18.3 cents and Beaumont is at 17.9 cents so that is a .3 cent difference and that is based again, on the average.

Councilmember Peterson asked aren't we first high under SCPPA Members. Banning is the first highest amongst the commercial and we are also first highest with large commercial based on per kilowatt hour base rate. Director Mason said yes.

Councilmember Peterson said per base rate we are the highest residential, highest commercial, highest large commercial what do we need to get it down.

Mr. Rupp said to wait because that is really not the challenge; they are going to have to come up. If you look at that list of utilities that you are kind of competing with on that scale you are not asking for a rate increase and he thinks almost without exception they all are so their rates are all coming up. Again, you made some investments and made corrections to your rate structures already that they haven't.

Councilmember Peterson said he appreciates what is being said but he doesn't think the residents appreciate that. When the residents come in here, like Councilmember Moyer was saying, that complain and complain and complain that we are the highest, we are the highest. When he is in the field and the Council all hear the same thing about utility rates we can't tell them to just wait because the others are going to be going up as well. There needs to be something that can be done. We can say that we are stabilized and not going up and that is one consolation, right.

Mr. Rupp said it is and according to the story that they are telling the Council today going up is not on the horizon today.

Councilmember Peterson said this is Test Year 2018 so all 2016, 2017 and Test Year 2018 you are not foreseeing any increases other than the adjustment that is shown on this Test Year Chart.

Mr. Rupp said again, this is their recommendation and the Council may choose to do nothing. If you wanted to recover revenue on what it cost to just serve them, this moves you in that direction.

Mayor Welch said we used to move energy to the house now we are moving it to the house and we are also moving it from the house. Does the installation and the cost of solar on a house be included in that part of the operation that pays for part of that transmission away from the house?

Mr. Rupp said no. Mayor Welch said so in essence we are picking up that cost also.

Mr. Rupp said as the level of penetration increases in the city you will have to go and look at the way you operate the distribution system and you will have to make changes to it that will cost you money and it could include things like increasing wire sizes between you and the customer, could include changing out the protective devices that are used to make sure the system operates safely, it could mean having to put in new operating and safety requirements for your personnel. Those costs will be coming down the pipeline as the level of penetration increases and if you want to know what that number is, some utilities go out and do studies and look at it and they say what is the maximum renewable energy I can have within my service territory and what are the limitations and what are the solutions I have to implement and what does it cost and how are we going to recover that. You are not there yet.

Mayor Welch said those charges that were shown earlier like in Redding and Roseville is that what that is for.

Mr. Rupp said it is. The customer charge is to create a fixed revenue stream from the customer to the utility to pay for the utility's fixed operating cost. Today if your customer saves a dollar by generating it themselves from their rooftop solar, the City loses .71 cents that it needs to pay for fixed operating costs. It is great that the customer saved a dollar. The challenge is that whole dollar is not just your cost to provide that kilowatt of electricity or whatever, that dollar cost is your fixed assets in there too. The rate designs that they are working towards are trying to move the City into a world where that gap between what you lose in revenue and what it cost you to provide gets narrower and narrower and narrower. Will it ever get to exactly the point where you don't lose anything, probably not, but they are going to get it really close.

Councilmember Franklin said as we continue hopefully increase our retail services that are coming into the city and hopefully have more housing units coming on line are those built in to this 2018 number or is that based on what we have today.

Director Mason said that it is built into this number and he explained.

Mr. Rupp continued explaining the slide in regards to Rate Trends Study Results/Recommendations.

Councilmember Miller said if it cost $40 dollars per unit to actually bring the electricity to the person why do you say increase the cost by a small amount. Why not recognize the fact that it does requires $40 to bring electricity to the unit.

Mr. Rupp said you can choose to do that and utilities that have moved in that direction have experience tremendous push back from their customers but even more it is from the solar industry. When you charge a customer $40 dollars a month for their service their volumetric rate is probably going to go, if you are at .16 cents a kilowatt hour now, it would probably be less than .10 cents. He would have to test that to make sure that number is right but if you really wanted to come down on that cents per kilowatt hour scale charge of $40 dollars a month and a much lower energy rate you can do that. It makes the solar cost benefit really a very difficult sell. So they have seen cities that have tried to move in that direction and the solar industry comes out with their guns a blazing and really gets in the way. There is probably a greater range of winner and losers under that construct particularly with those customers that use very little electricity a $40 dollar a month a customer charge would probably have a significant impact on them and you would have to think about how you would choose to mitigate that. That would be a factor that you would want to consider.

Councilmember Miller said but the whole point of this exercise is to have electricity fairly charged to people. So if you ignore the politics of the situation and if you want to fairly charge people, that should be the $40 dollars.

Mr. Rupp said that he thinks one measure of fairness has to also be the impact that you cause on some customers that are going to be impacted significantly. He would think many Council's would love to be able to push a button and make that work. It has been very difficult to do.

Mr. Rupp continued explaining the slides in regards to Rate Design – Rate Making Principles, Rate Design – Electric Fixed/Variable Balance, Rate Design – Recovery of Fixed Costs, Rate Design – Test Residential Demand Rates; and Next Steps.

Councilmember Miller said until we do the rate change the people that don't have solar power are subsidizing the people that do and is that correct. Mr. Rupp said that he believes that to be true.

Mr. Rupp said that he would be back to speak to the Council after the smart meters are installed which would probably be early next fall.

Director Mason thanked the Council for their time and the approval to move forward with the smart meters and ultimately the MI. That is going to do a tremendous amount to move the utility forward and to allow them to provide services to the customers that were unable to do with the

current mechanical meters and the current infrastructure that we have. So with those improvements they will be able to provide much better customer service at a lower cost.

ADJOURNMENT

By common consent the meeting adjourned at 4:05 p.m.

_____
Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Exhibit "A"

Presentation by Leidos

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City of Banning
Electric Cost of Service and Rate Design

Steve Rupp

Craig Shepard

August 23, 2016

leidos.com/engineering

leidos

Agenda

- Electric Utility Trends and Challenges
- Status of Project Phases
- Cost of Service Analysis and Results
- Rate Trends Study Results / Recommendations
- Rate Design
- Next Steps
- Q&A

Electric Utility Trends and Challenges

- Revenue erosion from energy efficiency, conservation, and distributed generation
- Increasing reliance on intermittent renewable resources
- Evolution of the distribution system to two-way transactions
- Increasing regulatory and legislative complexity and uncertainty
- Threats to traditional cost-based service models
- Workforce sustainability
- Increasing market complexity, uncertainty and volatility
- Convergence of information and operational technologies
- Persistent economic stagnation

Electric Utility Trends and Challenges (cont.)

- Growth in Distributed Generation (DG)
  - 3,702 MW of Solar DG in California (May 2016)
  - 2,723 MW of Solar DG in California (May 2015)
  - 9,367 MW of Solar DG in U.S. (May 2016)
  - 6,951 MW of Solar DG in U.S. (May 2015)
  - 3% of Banning Peak Demand is Supplied with DG
  - Banning is processing more than 10 applications for new solar installations each month

Electric Utility Trends and Challenges (cont.)

- Need to Increase Recovery of Fixed Costs
  - Higher Monthly Customer Charges

    Redding – $13.00
    Roseville – $22.00
    SMUD – $22.00
  - Residential Demand Charges

    Salt River Project, Arizona – $3.41 to $34.19 per kW
    Black Hills Energy, SD and Wyoming – $8.10 to $8.25 per kW
    Xcel Energy, Colorado – $6.59 to $8.57 per kW

Project Status

- Phase I – Cost of Service Analysis
  - Test Year - Fiscal Year 2018
  - Revenue Requirement
  - Customer Cost Allocations
  - COS Results
- Phase II – Rate Trends Study – Final Draft
- Phase III – Rate Design
  - Develop Demand Rates for All Customers
  - Maintain Existing Rate Policies such as Tiered and Seasonal Rates
  - Develop Rates to Help Ensure Fixed Cost Recovery
  - Provide Equitable Rates with Opportunity to Control Energy Costs

Cost of Service Overview

STEP 1	Determine the revenue requirements of the utility for a defined Test Year	→ REVENUE REQUIREMENT DETERMINATION
STEP 2	Unbundle costs by functions and services (production, transmission, distribution, etc.)	→ COST ALLOCATION
STEP 3	Classify costs (demand, energy, customer costs, etc.)	
STEP 4	Allocate costs among customer classes (residential, small & large commercial, etc.)	
STEP 5	Design rates	→ RATE DESIGN

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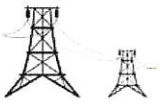
Cost of Service Allocations

Demand (Fixed)	Energy (Variable)	Customer
		
		

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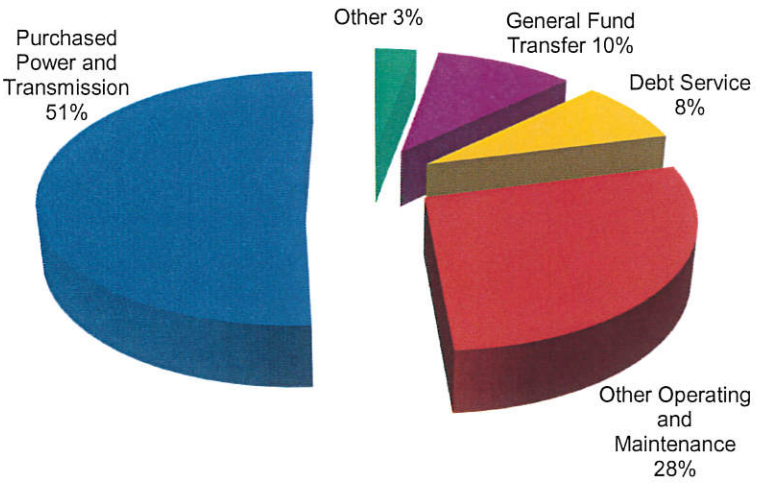
Test Year 2018 Electric Revenue Requirements



Test Year Revenue Requirement

	($Millions)
Test Year Revenue Requirements	$27.0
Existing Rate Revenues	27.0
Difference	$0.0

Overall Revenue Neutral

Cost of Service Results

Test Year 2018				
	Energy	Existing Revenue	Proposed Revenue	Difference
Rate Class	(MWh)	($000)	($000)	%
Residential	67,922	$12,988	$13,181	1.5%
Small Commercial	11,888	$2,447	$2,399	-1.9%
Large Commercial	38,362	$7,894	$7,400	-6.3%
Industrial (TOU)	19,470	$2,896	$3,192	10.2%
Municipal	4,141	$596	$645	8.1%
Lighting	1,949	$179	$179	0.0%
TOTAL	**143,732**	**$27,000**	**$26,996**	**0.0%**

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Rate Trends Study Results / Recommendations

1. Continue existing rate structures:
   - Tiered rates, seasonal rates, economic development rates
2. Increase fixed cost recovery through modest increase in customer charges
3. Continue program of installing advanced metering (smart meters) for customers
4. Develop successor NEM rates
5. Update street lighting rates for LED's after project completion
6. Consider developing demand rates for residential and small commercial

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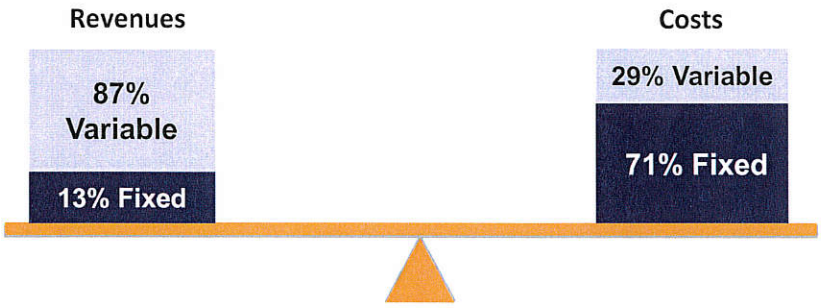
Rate Design – Rate Making Principles

1. Provide Adequate Revenue
2. Increase Fixed Cost Recovery to 50%
3. Consider Equity Among Customer Classes
4. Allow Customers to Manage Energy Usage to Lower Total Demand
5. Allow Customers Benefit of Solar – Avoid Upper Tiers
6. Reflect Community's Social Priorities
7. Strive to be Competitive

Rate Design - Electric Fixed / Variable Balance



Rate Design – Recovery of Fixed Costs

- Average Size of PV System Installed = 5.5 kW
- Annual Energy from Average PV System = 8,000 kWh
- Annual Cost = 8,000 kWh x $.18 = $1,440
- Fixed Portion of Annual Cost = 8,000 kWh x $.13 = $1,040

- For each $1.00 Customer Saves from DG, Efficiency or Conservation, Utility does not recover $.71 for Fixed Costs

Rate Design – Test Residential Demand Rates

	Existing Rate	Test Rate
Customer Charge	$3.00	$TBD
Energy Charge		
Tier 1	$0.1688 per kWh	$ TBD per kWh
Tier 2	$0.2190 per kWh	$ TBD per kWh
Tier 3	$0.2880 per kWh	$ TBD per kWh
Demand Charge Winter		
Tier 1	-	$ TBD per kW
Tier 2	-	$ TBD per kW
Tier 3	-	$ TBD per kW
Demand Charge Summer		
Tier 1	-	$ TBD per kW
Tier 2	-	$ TBD per kW
Tier 3	-	$ TBD per kW

Next Steps

- Install Advanced Metering for All Customers (2016 - 2017)
- Validate COS Analysis
- Finalize Rate Design
- Analyze Existing and Test Rates to Determine Impact on Customers Based on Actual Demands
- Public Involvement & Education for Proposed Rate Design (2016 - 2017)
- Proposed Rates Effective Date – November 2017

Questions?

leidos.com/engineering

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/13/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on September 13, 2016 at 3:03 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Fred Mason, Electric Utility Director
Art Vela, Acting Public Works Director
Brian Guillot, Community Development Director
Kevin Sin, Senior Civil Engineer
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

REPORTS

1. Banning Airport Feasibility Study
   - Presentation by Barry Foster, HdL companies

Mr. Foster, Managing Principal with HdL Companies addressed the Council stating that he has been before the Council a couple of times and refreshed the Council about his background. He said a little over two years ago he went to work for HdL and he started up a new division of the company called ECONSolutions by HdL to work with cities on a variety of economic development services and they are doing work for Banning. He said with this project they were asked to go ahead and do a number of different things. He said that he is not an expert in airports and what he does is economic development so they were brought in to do more of a broad focus look at the airport and how it was operating and most importantly look at some options for the Council to consider looking at going forward and one of those might be the possibility of closing the airport and if that is something the Council wants to look at and then consider some highest and best land uses. They didn't do a lot of detailed analysis on the airport because that is not

their area of expertise. This is a more of a high level look at the airport and how it is working and then how it really operates as a land use and some suggestions.

At this time Mr. Foster started his power-point presentation (attached Exhibit "A") explaining in detail the following slides: Objectives; Airport Summary; Map of Regional Airports and Commuter & General Aviation Airports; Summary of Survey of Other Airports; Assessment of Banning Facilities/Infrastructure; Decline in annual Flight (Banning); General Aviation Decline in U.S.; Location of Airport Property; Possibility of Closing an Airport; Examples of Closed Airports -Rialto and Santa Monica Airport; Highest & Best Use; Logistics and Distribution in the Inland Empire; Distribution/Logistics in the Inland Empire – East; Fulfillment & E-Commerce; Wolverine – Beaumont; and Suggested Next Steps.

Mayor Welch opened the item for public comments; there were none.

Correspondence:

At this time the City Clerk read a letter from Susan Savolainen (attached Exhibit "B") regarding the report prepared by EconSolutions.

Councilmember Peterson said for those of us that were here that remember Highland Fairview and the City entered into an Exclusive Negotiations Agreement with Iddo Benzeevi before his indictment in Moreno Valley's arrest of politicians. He must admit that Iddo's presentation was pretty good. There was going to be a closure of the airport, an agreement with the Morongo Tribe, the land would extend into Morongo's land and this big logistics center would be built and would have been awesome for economic growth. Others we've got probably 400 acres across the freeway, Orco Block, Vulcan Property, and O'Donnell properties sitting vacant. There is other areas to build and perhaps once those areas that already have streets, curbs, sewage, everything already in the ground to build warehouse and once those are built and we are running out of room we can consider the airport. The old people in town don't want to see the airport go so there is a love for the property whether it is useful or not. He doesn't know if the townspeople are ready to give up the airport. On the other hand there is economic growth that needs to occur but like he said before there is 400 acres across the street that can certainly be used prior to the determination of the airport. The one thing he doesn't want to see happen is the continuing taxpayer subsidy to the airport but he thinks with the committee consisting of George Moyer, himself, and Art Vela that subsidy has lessened to almost nothing he thinks so it really costs the City zero dollars to maintain it and to keep it. He thinks as long as it is not costing the City anything and as long as we have 300 or 400 acres across the street that is ready for several million square feet of warehouse space at this point in time he thinks the airport should stay where it is.

Councilmember Franklin asked if the airport was actually working and we were marketing it, doing everything we needed to do to keep it as a real active airport would that have an influence on whether or not industrial was the best and highest use for it.

Mr. Foster said he thinks it would have an impact but he still thinks industrial is the highest and best use for the property but certainly it can get to a position where cash flows and are making money. He thinks that you are losing opportunities of producing new jobs and new revenue opportunities for the City that you can use for other things. He is not familiar with the property

that Councilmember Peterson talked about and asked if it was one or two property owners or is it fragmented owners.

Councilmember Peterson said that there are three or four property owners but in addition to them the Morongo Tribe also wants to do a joint venture and attach some of their property into any big investment that wants to come in. So ultimately on the north side there is innumerable acres that could be invested and brought into play.

Mr. Foster said again, he thinks that would have an impact but would have to invest in upgrades to get it to a point where it is able to complete in cash flow and all those kinds of things but he still thinks the highest and best land use for that looking at revenues and job you could produce is for industrial. He thinks that there is opportunities to do both side and feels that the long-term growth for this area is in logistics and distribution. He thinks that there can be a lot more done not only in Banning but also in Beaumont and the general area. The path of growth is certainly coming and is only going to get greater.

Councilmember Franklin said in regards to saturation in this area you mentioned that it is coming this way but she has heard that for at least ten years. When you think about what has happened in Victorville where they had all of that space set up for e-commerce basically type of development and that really didn't take off so how do we know that it will actually get this far.

Mr. Foster said that Victorville and Apple Valley do have a lot of development on the way right now. It is happening but it is a little bit further of a drive there and a little bit more removed than it is here. This is still closer proximity to the ports and that is where you want to be close to. Banning is in the path of growth but trying to figure it out when it is going to happen he thinks we still have a couple more years of good growth and then maybe a slight decline and then it is going to come back again. The future of logistics is a strong one in this area and it is only going to intensify and e-commerce is the future.

Councilmember Franklin said when you talk about the jobs are we talking about minimum wage jobs, part-time jobs.

Mr. Foster said in regards to Amazon, for example, he did two facilities for Amazon and just helped with the one in Eastvale. They are probably in the $17.00 to $18.00 dollar an hour range, have benefits and they progress up from there. Sometimes other retailers will use an employment agency to bring somebody in and then transition them to their payroll after a period of time. Amazon facilities are typically about 2,000 to 2,400 people and that is the permanent base and they swell probably two to three times in the year during the seasons and those people that come in are part-time people but the other ones are full-time people with benefits.

Councilmember Franklin said what happens if a City determines that they want to close the airport; what happens during that phase down time.

Mr. Foster said in the case of Rialto they had their approvals and everything else and then they hit the recession and then the loss of redevelopment so it took a while. He doesn't have a crystal ball to tell you how long it would take and the opposition you will encounter but it is going to take some time but you don't need to make that decision to shut it down until you have all of approvals.

Councilmember Miller said he disagrees with Councilmember Peterson completely. This is the second time that we have had a workshop on the airport and exactly the same thing was said then except it was said more forcefully this time that airports are dying, amount of people using our airport is decreasing, but there are a few people who really like the airport and that is always going to be true. But when you talk about the future of Banning obviously industry is what is going to make Banning a viable community with jobs available and the fact that the airport has nostalgia cannot affect the fact that we have to look at the future. This is a 25-year project probably and the previous workshop was two and half or three years ago and three years have passed by and we have done nothing. To him it is obvious that the airport is not going to do anything for Banning. A commerce center is going to do a tremendous amount for Banning and he thinks that is an open and shut case. So if that is an open and shut case and we have had two consultants both of which said commerce is the best use of the area, let's do something about it. We have two choices, we can either hire a consultant as suggested who is an expert on closing airports and have at least a beginning of a process or look for a developer. We had a developer who was questionable and the Council didn't pursue that but we can pursue both of those. We have an Economic Development Director who can try to find such a developer but again, for our Council to say that this is really interesting and it should be considered, to him is nonsense. We have considered it and had two workshops and it is time to say let's move on and let's go ahead and do what is necessary to get commerce in to Banning instead of having a few airplanes in Banning.

Councilmember Moyer asked Art Vela if our grants are based on 20-year amortization. Mr. Vela said yes, that is standard.

Councilmember Moyer asked Mr. Foster is he had any idea what the bottom line was for Rialto to actually get it closed because he heard somewhere around $8 million.

Mr. Foster said that is probably a good number. He said the plan that they have in place is probably a 15-year plan and are moving forward pretty aggressively especially with the industrial and one of the shopping centers and some of the residential.

Councilmember Moyer said it was mentioned about sales tax sharing agreements, etc. with a developer or somebody that might come in and what would that entail.

Mr. Foster said that there is a negotiation in terms of what the City is willing to share. He said that the City of Perris did a really bad one with Home Depot and he knows that they were negotiating to put them into Moreno Valley and he thinks the City got the first $100,000 and then after that Home Depot gets the next 75% to a certain point; it is probably not a great one. Kohl's in San Bernardino is a 50/50 split. He has not seen what the share is for Beaumont.

Councilmember Moyer said that one of the problems that all of the stuff that Beaumont did with Ross, Staples, etc. is that they made such a deal that it was only going to be good for about five years and at the end of that five years they have already lost one and he understands that a couple of other are thinking about moving.

Mr. Foster said he is not aware if they had any sales tax sharing. He thinks that part of what they did over there was fee reductions and they weren't paying TUMF fees and other kinds of things. He said that he has done a number of sales tax sharing agreements for clients over the years and some in Moreno Valley and he learned from somebody a long time ago that a percentage of

something is better than 100% of nothing. You want to negotiate the best deal you possible can but sometimes you need to consider those kinds of things and sales tax sharing agreements is an economic development tool if done right.

Councilmember Moyer said that he can relate to Susan Savolainen's letter that it is nice to have the fire people be able to land here, etc. and in emergency type things if the freeway was every closed to get goods and services but he can also related to Councilmember Miller's comments that it has been a drain although we have managed to stop the bleeding somewhat to at least breakeven but he also has an article from the Airport Consulting and Attorney Henry D. Nanjo who is evidently an expert in this and he has been closing Cloverdale. The primary thing that he is saying is that there is significant costs which have to be extended to prepare and complete the package to request for the closure. Any idea what those significant costs might add up to.

Mr. Foster said he was not involved in that and does not know.

Mayor Welch said in looking at the examples where you did your research it looks like we relate very well to the Rialto situation in relation to acreage, etc. He asked if the use of the Rialto Airport was depreciating as rapidly as the one in Banning has over the last five years. Also, during that period of time were they maintaining the airport at an acceptable level?

Mr. Foster said yes it was declining just as bad; probably about the same. They were also maintaining the airport.

Mayor Welch said should we choose as a Council to move forward with closing the airport in your opinion after doing your analysis here, are we looking at a very prolonged period of time.

Mr. Foster said in looking at Rialto and a number of others it would be more like 5 to 7 years. Again, you are going to get challenges and push back especially from the FAA.

Councilmember Moyer said he knows that they have been talking about roughly $4 million in FAA debt in grants. How far back to do those go. And, if we amortize that $4 million over the 20 year period that is discussed in the one thing that he has here; would it really be $4 million.

Director Vela said he thinks that it goes back to 1983 but there was a gap of about 15 years where the City didn't get any grants. In regards to amortization he would have to go back and look but he thinks it would less.

Councilmember Moyer said if we have a major project being brought up to the Council by our Public Works Director to ask for a grant for that airport would your recommendation be that we don't do it. Mr. Foster said that would be his recommendation.

Councilmember Peterson said in going back to the Iddo Benzeevi days when he was making his pitch to take over the airport and all of us may remember that the Pass Area and particularly right here is the perfect spot for logistics for traffic coming into the LA area, stopping here from Phoenix or whatever, drop their trailers, exchange their trailers, and either go to the port for head to Vegas north on the 15 or continue on into California was the perfect spot for that logistics center. In addition to that it had rail to where one could add a spur and then the rail could be unloaded as well. He does recall Benzeevi talking about jobs that you had brought up. If you

remember in Sketchers there is very few jobs because everything is done with robots, so at that point in time robots were loading the trucks is what was occurring.

Mr. Foster said the last count that he saw for Sketcher they are just short of 2000 jobs and it is very heavily automated but there are still a lot of employees there and they swell at certain periods of time too when they are pushing a lot of business out. But there has been a lot of discrepancies on jobs that were produced in that project and other projects. He said that Wolverine in Beaumont is going to be a fairly high number also but a smaller building.

Councilmember Peterson said in a lot of ways the airport failure is part of the City's responsibility as well. The City has never promoted the airport. He can recall when they were going to build a wall at the City yard and we had a 1940's Quonset Hut there and it was given away to March Airforce Base, dismantled and he hopes rebuilt. But this is something that he talked about to Duane Burk back then and he thought the Quonset should have been taken down at the City yard and rebuilt at the airport and established some type of civil air patrol program. The other thing is that when we talk about the City subsidizing and doing things like that if there was just a small restaurant over there, one small restaurant with a little bit of waiting room to where people could fly in and get food, it could be a destination point for a group of flyers to meet in Banning so there are things that could have happened but we have nothing at our airport except a fuel stop. We have nothing inviting so a lot of the failure is ours. He said he would like to see the logistics center and sees the point and the vision but we also has 600 acres to the north of that sitting there empty so it is not like the only spot in Banning to build. He would hate to see it go away as much as he really would like to see it go away for economic growth he would really like to try to salvage it to at least some degree before we try and close it.

Councilmember Moyer said he concurs.

Councilmember Franklin said that she heard a presentation about a month ago at Southern California Association of Governments where they talked about robotics and how robotics are going to be taking over more and more of the jobs that are in warehouses and do we have any idea of what the future is going to look like with that.

Mr. Foster said he thinks the future is still strong and there is more automation and robotics and when you are putting in a Sketchers facility, as an example, that was a $245 million dollar project and so that is an investment that is going to be there for 30 plus years so there are still a lot of jobs there. Amazon is putting in a lot of automation but there is still the need for a lot a jobs.

Councilmember Franklin said going back to the airport side of it in terms of what we would need to make this even revenue generating businesses because she has been to Flabob Airport and it is right in the middle of a residential area and the plans are coming and going all day. There is nothing around it and nothing in the airport that makes you thinks it should be a great facility but the planes are there and moving constantly. Do you have any idea what the difference is other than we are not maintain ours? What draws people to that kind of airport?

Mr. Foster said he thinks that may be part of it and probably their location also. It serves a pretty broad area there. When he looked at the numbers for that facility there were significantly more in terms of operations use, planes, etc.

Councilmember Miller said again, when we talk about closing the airport we are not talking about tomorrow so if we talk about the airport competing with other parts of Banning that is just not true. This will probably take 20 years to do and by that time Banning would have changed tremendously. But if we say that we will wait until the rest of Banning is completed and then do the airport, we are talking about the year 3000. Our job is to look to the future and from this presentation and the previous presentations the future is clearly that the airport belongs as a commercial area and not an airport area. Again, his believe is that if our Council is going to look to the future, it should do something about it.

Mayor Welch said it sounds like the City Council is pretty well in accord with maybe starting a process of taking a look at what we can do with the airport and he would suggest that we can accomplish more than one objective to take a look at the process of over time closing the airport but in the meantime trying to make something happen there from a local standpoint. A good example is that up until about ten years ago this airport was used by fire and rescue helicopter services routinely as a station. They chose to move to another airport in Hemet. Our biggest use of this airport over the last 8 to 10 years has been a fueling stating for in and out flights. When we were up to several fights a day coming in his best guess was that 80% to 85% was for fuel and it was because our pricing at that point in time was very acceptable to pilots more so than some of the other regional airports. A large percentage of them came out of the Palm Springs and desert area just for the purpose of fueling. Over the last 4 to 5 years this airport has been used on a very limited basis by emergency services; it's rare. The same thing is true of our ground crews. They have changed their locations in the Pass Area on the west side of Beaumont. We haven't done enough to use this airport like Councilmember Peterson said. He thinks that the opportunity is still there for at least a limited number of years to see what we can do with it.

Mayor Welch opened the item for public comments.

Don Smith said that for 25 years he has listened to the arguments about how increasing the use of the airport will result in an economic boom to the City of Banning. While he was sitting on the Council he heard himself say if only we had a restaurant there, had a fixed base operator, and better advertised and better utilized the airport, it would be successful. He thinks that Art Welch and Debbie Franklin were on the Council about four or five years ago when the City actually went out with two requests for proposals trying to get somebody to be a fixed base operator at the airport and the City received absolutely no bids. So the City went out a second time and targeted people to do this and nobody wanted the job because there wasn't enough money in it because there is not enough traffic at our airport. Historically he was raised here and he loves the airport and he has flown out of the airport a few times when it was convenient but long range is it what is best for the people of Banning in obtaining employment, income and wealth; probably not. Does that mean that today you should vote to close the airport; no but that is not what you are being asked to do. You are being asked to start the process of hiring someone to walk you through the process to see if you can find a consultant or a developer who would master plan it and he thinks that is the step the Council should take. The Council should keep that option open while running the airport to your best of your ability. He said that he actually rented to four people that work at Amazon that were transferred here by Amazon and their income is way more than you think it is. There are a lot of good jobs in these fulfillment centers and if we could actually get some here for our residents, we would be serving them well. If we could actually turn that airport into that kind of income, we have to consider it.

There was some further Council discussion about the future use of the airport.

Councilmember Franklin suggested that the Ad Hoc Committee take this on to make recommendations on a specific process to the Council as to what we should do forward based on the information that we have received and putting forth a plan. We have some next steps here suggested but actually put forth a plan as to what we need to do working with staff and bring it back to the Council and give a time frame say within 90 days or so.

Councilmember Moyer said that was what he was going to suggest to get the committee back together and work with Ted Shove and Art Vela to review.

Mayor Welch said that there is consensus of the Council to have the Ad Hoc Committee and staff members work with them and come back with some recommendations as to how to proceed in relation to a consultant and what we should do in the near future in relation to the airport. He thinks that they all agree that we shouldn't be taking on additional funds that we would have to refund in a very short period of time.

ADJOURNMENT

By common consent the meeting adjourned at 4:23 p.m.

_____
Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Exhibit "A"

BANNING MUNICIPAL AIRPORT

Tuesday September 13, 2016

Barry Foster
ECONSolutions by HdL

ECONSolutions By HdL Development Driven by Data

OBJECTIVES

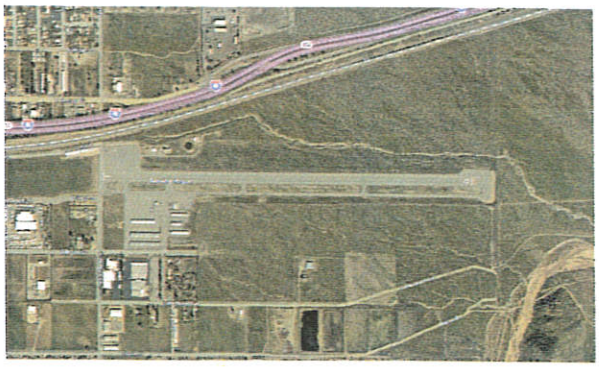
- Analyze and evaluate the Airport including effectiveness as a land use.
- Explore possibility of closing the airport
- Consider 'Highest and Best' land use
- Suggested next steps

ECONSolutions By HdL Development Driven by Data

Exhibit "A" (cont.)

AIRPORT SUMMARY

- 153.83 acres
- General Aviation Airport
- 5,200 foot long asphalt runway
- Small office
- 54 city-owned hangars
- 7 privately owned hangers
- FY 2016/17 budget includes $136,285 in estimated expenditures and $138,750 in projected revenues



ECONSolutions By HdL — Development Driven by Data



ECONSolutions By HdL — Development Driven by Data

Exhibit "A" (cont.)

SUMMARY OF SURVEY OF OTHER AIRPORTS

- All other Airports have better amenities than Banning
- Average number of planes based at airports is 148 versus 38 in Banning
- Average number of annual flight operations (not including Palm Springs & Ontario) is 67,558 versus 1,324 in Banning

ECONSolutions By HdL Development Driven by Data

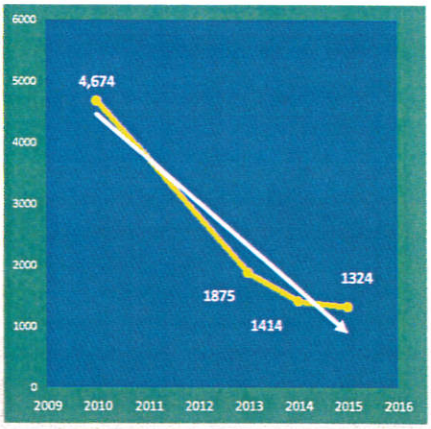
ASSESSMENT OF BANNING FACILITIES/INFRASTRUCTURE

Category	Condition
Runway	Good
Taxiway	Good
Hangers	Fair to Poor
Navigation Equipment	Good
Weather Station	Good
Perimeter Fencing	Poor
Gates/Interior Roadway	Poor
Office/Terminal	Poor

ECONSolutions By HdL Development Driven by Data

Exhibit "A" (cont.)

DECLINE IN ANNUAL FLIGHTS (Banning)



Annual Flights

Year	Flights	% Change (prior Yr)	Total % Change 2010 - 2015
2010	4,674		
2013	1,875	59.99%	
2014	1,414	24.6%	
2015	1,324	6.4%	71.7%

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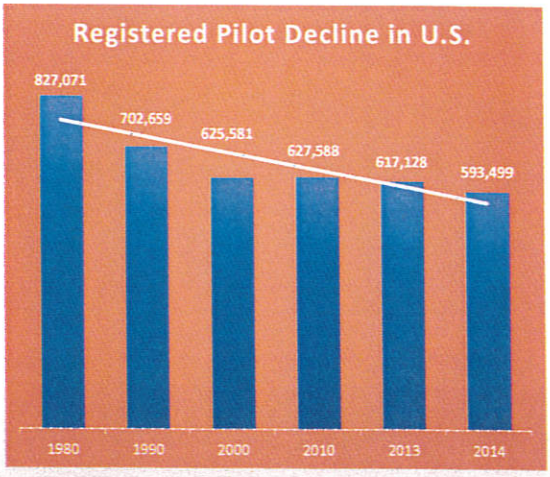
GENERAL AVAIATION DECLINE IN U.S.

- 541 less public use airports in 2014 from 1990 (9.7% reduction)
- 28.2% decrease in registered pilots in the U.S. from 1980 to 2014



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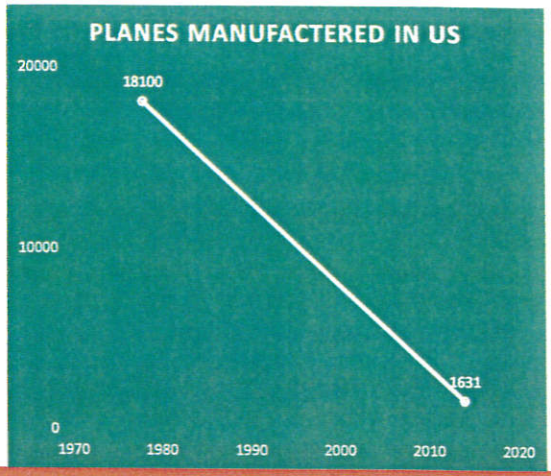
GENERAL AVAIATION DECLINE IN U.S. (continued)

- 91% decrease in the number of new manufactured aircraft in the U.S. from 1978 to 2014.



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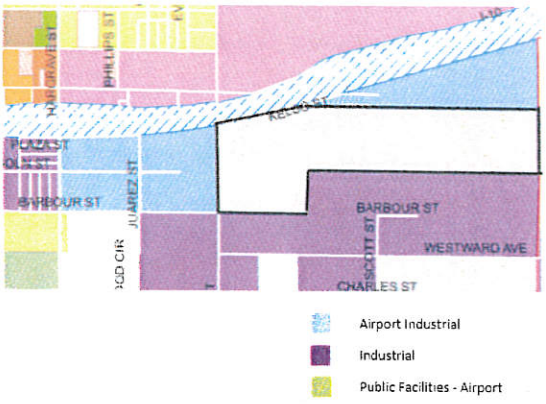
LOCATION OF AIRPORT PROPERTY



- Good location with convenient access to I-10 and adjacent to rail service
- Possibility of including in the expansion of the Foreign Trade Zone at March Air Reserve Base
- Majority of adjacent zoning is Industrial or Airport Industrial
- 154 acres with possibility of including with another 98 acres to create 252 acre development opportunity

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POSSIBILITY OF CLOSING AN AIRPORT

- Challenge from aviation interests (pilots) and FAA
- Restrictions from FAA grants
- Banning has received $4,577,581 in grant funding from FAA
- Since 1990, 30 airports have closed in California

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RIALTO

- Rialto worked more than 20 years to close their 437 acre municipal airport
- Rialto worked with Lewis Hillwood Rialto on redevelopment of airport property and another 1,063 acres adjacent
- In August 2005, U.S Congress adopted special legislation to allow Rialto to be closed and payment of 45% of 'fair market' value of airport property to the FAA
- Airport operations moved to San Bernardino Airport
- Phased redevelopment plan in place including 800 acres of industrial –warehouse

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SANTA MONICA

- Has been working 35 years to close airport because of safety and noise concerns as well as the urban area location
- Airport originally developed for Douglas Aircraft Company in 1920's
- Support closure from neighborhood groups and opposition from pilots and the FAA
- July 2016, City Council voted to phase closing the airport by July 1, 2018
- Redevelopment with park, open-space and recreational uses

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HIGHEST & BEST USE

- Operating as an airport is not the Highest & Best use for Banning
- Given location, adjacent land uses and market conditions the airport property would be best served as **Industrial** land use
- Possible uses could include distribution, logistics, e-Commerce, and light manufacturing
- Location provides easy connection to I-10 and greater LA marketplace, plus opportunity for rail service
- Location in path of growth for logistics and e-Commerce development

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Exhibit "A" (cont.)

LOGISTICS & DISTRIBUTION IN INLAND EMPIRE

- Distribution and logistics #1 category of new commercial development in I.E.
- Vacancy rate is 4.7% in I.E. (more than 490 million SF of total space)
- 12.4 million SF finished in first half of 2016
- 15.7 million SF under construction
- 80% of SoCal Industrial is in the I.E.

*source: 2nd quarter Cushman & Wakefield market report

ECONSolutions By HdL Development Driven by Data

DISTRIBUTION / LOGISTICS IN the INLAND EMPIRE - EAST

- Includes Riverside, San Bernardino, Rialto, Colton, Redlands, High Desert, Perris, Moreno Valley, Beaumont and Banning
- Built 8.36 million SF in first half of 2016
- 5.55 Million SF under construction
- I.E. has 176.87 million SF of inventory
- Beaumont has 1.29 million SF of inventory compared to Banning's 187,500 SF
- Significant opportunity for more Distribution/Logistics development in Moreno Valley, Perris, High Desert and Beaumont/Banning

ECONSolutions By HdL Development Driven by Data

FULFILLMENT & E-COMMERCE

- 37% of total industrial development underway in So Cal is fulfillment/e-Commerce
- 57% of buildings over 100,000 SF are fulfillment/e-Commerce
- I.E. includes 7 Amazon facilities including one at the former Rialto Airport
- 2 to 3 times more jobs than traditional warehouse
- 7% of retail revenue in California came from e-Commerce (2015)



ECONSolutions By HdL Development Driven by Data

WOLVERINE - BEAUMONT

- Phase 1 – 720,000 SF
- Phase 2 – 580,000 SF
- Total employment of 280 to 300 (not including construction)
- Estimated value of project (land, building, equipment) is $57 million
- Sales tax sharing agreement for e-Commerce point-of-sale

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SUGGESTED NEXT STEPS

- City Council shall contemplate what the long-term use should be—either continue operating as an airport or closing down the airport and pursuing a redevelopment project-with industrial land use recommended.
- Consider the idea of phasing out the airport operations over a specified period of time.
- Consider retaining a consultant with experience in closing an airport.
- Consider possible development partners to assist with the redevelopment of the airport property, including pursuing a Request for Qualifications (RFQ) process.
- Consider retaining a land use planner to create a specific plan or overlay zone for the airport property and other adjacent industrial zoned properties.

ECONSolutions By HdL Development Driven by Data

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/27/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on September 27, 2016 at 3:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Art Vela, Acting Public Works Director
Brian Guillot, Community Development Director
Alex Diaz, Police Chief
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

REPORTS

1. Review and Discuss the Development Agreement between the City of Banning and Rancho San Gorgonio, LLC.
(Staff Report – Rochelle Clayton, ASD/Deputy City Manager)

Director Clayton addressed the Council stating that this workshop is to give the Council an overview of the deal points. There is a lot to absorb for the development agreement so this workshop is specifically to go through the items of the agreement. At this time she started her power-point presentation (attached Exhibit "A") going over each of the slides in detail through Section 14. She said that the rest of the Sections are mostly legal jargon so she just listed them by title but Jon Goetz is present who has been the City's lawyer during the entire development agreement negotiations and will be available to answer questions after the presentation along with Brian Guillot, Community Development Director; and the developers include Pete Patassi.

Councilmember Miller said what he would like explained the term of 30 years with an option to extend 5 years.

Director Clayton said 30 years is the term of this actual development agreement so any agreements between concessions by either the City or the developer if the project is not complete within 30 years this agreement would expire. The project could continue but this agreement would expire after 30 years unless they exercise their options to extend which could extend it up to 40 years.

Councilmember Miller asked if there was somewhere in this agreement that indicates how many units have to be produced per year or when this has to start.

Director Clayton said that they did not define the required units per year and so forth.

Councilmember Miller said so the developer could very well start the first unit in year 2048.

Director Clayton said that they do have a phasing plan of how many homes to be constructed during certain periods of time and their plan is to stick to that but per the development agreement there are not any requirements.

Councilmember Miller said this agreement will extend for 30 years but there is no requirement for the developer to start or produce any units at any time during this agreement.

Director Clayton said that there is not a requirement per this agreement. There is still an annual review which is for the City and the developer both to make sure that each party is performing. So the annual review will be conducted and the major reviews will be brought to Council. So at each major review period with the first one being at the 6th anniversary that would be done both by the City on our behalf and by the developer on their behalf and that report would be brought to Council.

Councilmember Miller said he doesn't understand what that would do. If this agreement is signed and you look at it after 5 years, so what. This agreement still stands regardless of what that review says.

Director Clayton said yes unless either party proposes an amendment.

Councilmember Miller said the second item says that the developer shall receive credit for improvements against certain development impact fees and what does that mean.

Director Clayton said if they over improve the few items that is called out in that section such as the parks per their specific plan they will make improvements equating to about $20 million dollars. Our development impact fee total for the 3,100 homes would be under $6 million dollars. So because they would be constructing more than what we would have be constructing had we collected we will give them a credit towards what we would have collected. If they were not to make those improvements, they would be subject to paying the fee and then the City would be required to make those improvements. She explained further in regards to the parks.

Mr. Goetz said that the development agreement is set up to require the developer to perform certain tasks, dedicate certain land for instance for parks, and there is a credit that is given back to the developer for instance in regards to the park fees that would be imposed by the City and

there is no obligation for the City to perform any of these duties and just an obligation for the developer to dedicate the land and actually build the parks and the other facilities required.

Councilmember Miller said so the developer has the requirement to build those parks. Then what does Section 8.1 mean if the developer has the requirement to build the park why is there a statement about us not collecting the fees for that.

Mr. Goetz said rather than having the City impose a park fee against the developer this agreement allows the developer to itself dedicate the land to the City and itself build the park improvements and rather than paying the fee to the City and having the City buy the land and build the park improvements.

Councilmember Miler asked if there was any statement about what is in the Community Center. Director Clayton said she believes the plans are called out in the specific plan.

Councilmember Franklin said in regards to the TUMF Agreement it was mentioned that WRCOG were using their agreement form but given that there have been issues with other cities after the fact she would like to make sure that WRCOG signs off on everything having to do with TUMF fees so that there are no questions.

Director Clayton said absolutely and that is why she has been in constant contract with Christopher Gray to make sure she is asking him questions and what staff plans to do is to give him the agreement prior to the City signing it so that we are in complete agreement and accordance with their regulations.

Councilmember Franklin said by any chance the development agreement becomes void how does this impact the project itself.

Mr. Goetz said the basic idea of the agreement is that it freezes in place the land use entitlements that you approved for the project particularly through the specific plan and if the development agreement ever terminates, then the obligation to continue to allow the project to be built in accordance with the specific plan would go away and you would go back to your regular powers and ability to regulate the project. The idea here is that this vests the rights of the developer so that the developer will invest money in the project and their investors will be comfortable at investing money to make this project happen. But if the development agreement ever did go away, it could be back to square one. There was some further discussion in regards to termination of the development agreement.

Councilmember Franklin said in the development agreement it talks about a choice of a package plant or improvements to the City wastewater plant and who determines which choice that is.

Director Clayton said that the City has plans of expanding its treatment plant and already has those in our current plans so this is because the developer is required to have these facilities in place before construction of so many homes. This is just to insure if for some reason the City falls behind on our schedule that they have some course of action to remedy the situation and put something in place and a package treatment plant is available as an option for them. But this could only be exercised if the City is not meeting its obligations for that treatment plant expansion.

Councilmember Franklin said we don't have in the plans right now a grade separation at 22nd Street but if things progress is that something we can add later as we talk about other tentative tract maps and what has to happen with traffic mitigation.

Director Clayton said yes and what they are obligating themselves is up to $10 million.

Councilmember Franklin asked what triggers the improvements to start on Westward.

Pete Patassi, Diversified Pacific said regarding the requirements for the improvements on Westward and the other streets there are very specific conditions of approval that are tied to the specific plan and the master tract map that dictate timing of improvements so those are not really covered in the development agreement but covered in the conditions of approval. Also, he wanted to clarify a point that she asked earlier regarding the significance of the development agreement relative to the entitlements. The development agreement does not govern the specific plan or the General Plan. If those applications are approved they stay in place whether there is a development or not. The development agreement however, gives the developer and the City predictability as we move forward through a very long term project in terms of what they are entitled to and what they are expected to do and what the City is also obligated to do. It is a joint agreement that brings benefits to both parties and it commits them to doing certain improvements and also commits the City to granting appropriate credit against value of those improvements. If the development were to terminate for some reason, non-performance of the City, non-performance of the developer or example does not change the General Plan and does not change the specific plan; those remain in place.

Councilmember Peterson asked who created or drafted the development agreement.

Director Clayton said she believes what we did was to take a somewhat shell of what the Pardee agreement had and identified like things that we would like to keep in and things that we would like to exclude and based it off of that because to her knowledge that is the only development agreement that the City has ever previously entered into. That was a starting point and then we crafted it to meet the current needs of this project.

Councilmember Peterson asked when she said "we", who is "we".

Mr. Goetz said that the Pardee Agreement was the first format for the agreement. The developer took a shot at the revising that to fit their project and then it came back to the City team and he took that agreement and made substantial revisions to make it more protective of the City and so they did have a chance, on the City side, put things in the agreement that they thought would protect the benefits that the City was trying t to get and limit some of the assistance that the developer was seeking. He said that he was brought on by the City specifically for this project to represent the City on this agreement.

Councilmember Peterson asked how long he has been onboard with the City and what large projects has he worked on such as this in the past.

Mr. Goetz said this is his first project with the City but he has been working on land use matters and similar large projects like this for approximately 30 years primarily for cities. In terms of large master plan development projects he is working on one project like this in the City of Irvine. It is on the former El Toro Marine Base and is approximately 10,000 homes and he has

been working particularly on the affordable housing component of the project. He is working on a couple of projects right now where it is closer to maybe 1000 units, new town projects, with one in King City in Monterey County and another project in the San Luis Obispo area. A lot of his projects have been projects for City redevelopment agencies. Some of them large like the River Development in Rancho Mirage, and he is also working on a $3 million dollar project for the City of Redondo Beach.

Councilmember Peterson said on this particular project how long has he been negotiating with the attorney from Diversified.

Mr. Goetz said he believes they started in approximately June and have been having weekly meetings since that time and those weekly meetings consist of City staff and developer representatives and they have additional calls but primarily they did much of the work in those monthly meetings which he thought were really helpful in getting both parties thoughts out on the table.

Councilmember Peterson said he had a lot of questions on each page. He said the Specific Plan supersedes the General Plan and the Developer Agreement will supersede the Specific Plan and is that correct.

Director Clayton said it doesn't supersede. Councilmember Peterson said it becomes the big boss. Director Clayton said yes.

Councilmember Peterson said but the Specific Plan definitely overrides the General Plan.

City Manager said it does if you approve the Specific Plan as part of this project.

Councilmember Peterson asked if this document is up for approval today so we are having a workshop on everything, approved it, and away we go.

Director Clayton said that is why they wanted to bring this to the Council as a workshop item because it is so detailed and the City felt it warranted a workshop to go through and talk through all the deal points and the sections separate from the item so that the Council could focus on the actual project this evening but it is part of the full item.

Councilmember Peterson said so on the adoption of Goals and Polices on page 13, 5.1 it says within 90 days following the effective date in accordance with Government Code Section the City shall adopt goals and policies governing the use of Mello Roos, Community Facilities Act of 1982. The City may amend the goals and policies from time to time but such amendments shall not be applicable to the project unless they are consented by the developer. So when we talk about the Mello Roos we have to look at our neighbor in Beaumont and what the Mello Roos has done to the City of Beaumont and what it has done as far as the influx and out go of people. So you can buy a home for less money but then you are taxed to death with the Mello Roos to where you can't afford the house. He is still concerned about bringing Mello Roos into the city. We don't have a project with Mello Roos and he still doesn't think we should have a Mello Roos with the flying of more bonds to cover the Mello Roos and the CFD's and all of that but he guesses this would be a talk for later.

Director Clayton said that it is called out that way because it is the Mello Roos Community Facilities Act of 1982 and that is why it is called out and this is for the City to adopt a General Plan. This was something that was also in the Pardee Agreement that we have not adopted so we do need to proceed with that regardless and that would determine the City's goals and plans and then we would go from there.

Councilmember Peterson said in regards to Section 5.4 it talks about Planning Areas 15A and 15B drainage and it says the City shall be responsible for maintenance of such open public space. Again, in a Specific Plan it calls for the same thing about the City being responsible for parks and open space. He was under the impression that it was a master plan and an HOA would be formed and he would assume that HOA fees will be collected. In the event that there is HOA fees, and it is an HOA and it is a closed community or a master-planned community why would the City be responsible for anything?

Director Clayton said the parks are open public community parks. It is not a closed community. It is an open community and the parks will be available to the public so that is why the City would take possession of the parks.

Mr. Pitassi said that the community is not gated. All the major streets are public streets. There are no gates on Rancho San Gorgonio Parkway or any of the collector roads. As Ms. Clayton indicated all the parks and public open areas are intended to be open to the public.

Councilmember Peterson said in regards to Development Impact Fees when he read the Specific Plan and it says that the City has the obligation to improve its wastewater treatment facility and if does not do so then the developer has the right to build a satellite water treatment plant in his facility at which time he will be reimbursed for. But he guesses that we are waiving the sewer connection fees and is that correct.

Mr. Pitassi said the way the development agreement is drafted they are obligated to pay the development impact fees for sewer and sewer connection. Councilmember Peterson said you are going to get reimbursed for those. Mr. Pitassi said not unless they build a satellite facility and if they do they are entitled to be reimbursed for the fees that they have paid up to that point and for any future fees depending on the cost of the plant.

Councilmember Peterson said on page 60, residential development impact fees, he has added up each column and with the single family dwelling fee those impact fees total $25,684, the townhouse at $21,461 and the multi-family at $22,382. He knows that Director Clayton said it totals $49,000 or whatever and he doesn't know how many of each. What he is seeing off the top of his head is about a $10,000 dollar discrepancy between what we are collecting and what is being built so it is right around $9,000. So that $9,000 per dwelling or unit, is that being waived or discounted or what because it is not the full amount.

Mr. Pitassi said he thinks the math does work. These are the fees that are in your current DIF schedule that were adopted in 2006. Some of these facilities they are building like Ms. Clayton indicated the parks so the park fee of $19.55 per unit would not be paid by the developer to the City because they are building facilities in lieu of the fee. Under the Quimby Act they are obligated to build the facility unless the City chooses to collect the fee and as Ms. Clayton pointed out their obligation under the Specific Plan as was drafted is to build the parks in lieu of.

There was further questions and discussion between Councilmember Peterson, Mr. Pitassi and staff in regards to the purpose of the Development Impact Fee, waiver of fees, incentives, and credit in lieu of a fees. Mr. Pitassi went over the schedule of fees and explained each of them along with the TUMF fee. There were also some discussion in regards to the road to Sun Lakes Blvd., wastewater connection fees, traffic mitigation, the fire station, and grading plans and elevations. Director Clayton said that they can insert wording to say: "House Plan Type or House Elevation" to make it clearer.

Councilmember Moyer asked what triggers the wastewater treatment plant.

Director Clayton said that is outlined in the conditions of approval. Director Vela said they don't know exactly the number of houses and that is going to be part of the Focus Study so in the conditions of approval and although it is not outlined in the Development Agreement in the conditions of approval it is specific that a Wastewater Focus Study will be completed to tell us exactly when that number will happen. They don't know if it will be a wastewater treatment plant capacity trigger or a recycled water trigger.

Director Clayton said it would be a packaged treatment plant. Mr. Pitassi said it would be fully self-contained and expandable as needed.

Councilmember Moyer said in regards to the TUMF fee, the $10 million dollar deal we have with WROCG, how soon will that let us actually begin Sun Lakes Boulevard.

Director Clayton said that the City can begin right away. The way it is written if we have any out of pocket money on the City's behalf we are subject to reimbursement by the developer.

Councilmember Moyer said part of this is that we have to annex a piece of property and do we anticipate any problems with LAFCO on that and would the annexation start immediately.

Mr. Pitassi said they don't. They have had conversations with Supervisor Ashley's office and there is no concern or objection to it on his part. They would also have to process an application through LAFCO and that process will probably take 6 to 8 months and that would happen after the entitlements are in place. They are conditioned to have that completed before they can record the Phase 2 map on their project.

Councilmember Moyer asked if 30 years was normal. Mr. Goetz said that he thinks 30 years is in the range of normal for a project of this size. There is no set term that they have found but they have surveyed some other projects and have seen in the 25 to 30 up to 40 or more years.

Councilmember Franklin said for clarification Councilmember Miller asked a question of when the project starts and is that guided by approval of the tentative tract map where you have certain times that you have to renew if you don't start so that will guide the timeframe for the project to actually start. Staff answered that was correct.

Councilmember Miller said it was said that part of the TUMF is to complete the road going from the project to Sun Lakes Blvd. and how much does the RSG project expect to pay for.

Mr. Pitassi said that they committed the $10 million. The City has indicated they want to commit the majority, if not all of those funds, to the Sun Lakes extension. He doesn't think it is

understood at this point what the total cost of that may be. The City has indicated somewhere in the $6 to $7 million dollar range. Director Clayton said yes that is based on current information that Director Vela has obtained so they were looking around that range and that is why RSG committed to $10 million and if the $10 million exceeds the total cost of the Sun Lakes extension, then we have the opportunity to use additional monies in other TUMF projects.

Councilmember Miller said there was some mention in regards to elevation of the homes and he is really concerned about the simple statement that you don't want to be bothered if you want to change the elevation. His problem is that is what exactly what happened in the Sun Lakes community where the north side has the same elevation exactly for the entire north side except for the very beginning and it turned something into not what you want. You want different elevations. You don't want the same exact house built over and over again and your requesting that this just be done over the counter encourages that sort of thing so can you suggest some way to make certain that you don't develop something that just looks the same everywhere.

Mr. Pitassi said absolutely and the Specific Plan governs that and the staff doesn't have the authority to modify the Specific Plan; the Specific Plan calls for variety. It calls for a variety of housing types and calls for a variety of housing styles within any one particular project. So what staff would be looking at is the streetscape that would be developed and he explained further.

Councilmember Miller said he wanted to make a general comment that he thinks you would not be surprised that this is the first time that he has been asked to approve a $1 billion dollar project which is basically what you are talking about. He thinks that everyone here knows that he is very slow and methodical and to have this development agreement given to us and have this workshop done the same day that we are asked to approve it is asking an awful lot. He cannot conceive of anyone approving anything which is valued at $1 billion dollars in one day. He thinks that if anyone goes to buy a house they spend weeks buying just one house and we are being asked to buy 3,300 houses in one day. That doesn't mean that he has any objection to this whatsoever. It looks like as a reasonable development agreement but to ask him to approve it in one day is asking too much. He wants more time to look at this very carefully.

Councilmember Moyer said he had a question that was given to him by somebody on the library board and it says the developer agreed to give 4,500 square feet of dedicated space to the Banning Library District and there are other conditions. He said he didn't see anything in this development plan about the library.

Director Clayton said that the City has been in contact with the library and they were working out some negotiations as to how much space is warranted and how much space the City wants to commit to. They are looking at committing an area of the community center that will be constructed by the developer to the library but they have some options that they still need to talk through.

City Manager said that it will not be in the Development Agreement. It will be under Condition 39 under the Special Conditions. Under the CEQA process the City or the developer is not obligated to give them any space at all. They have a separate library district which they charge taxes for.

Councilmember Moyer said he understands but they believe that it was agree to at least from what he is hearing. The developer agreed to give 4,500 square feet of dedicated space to the

Banning Library District. There were other conditions but this is the main one that they are concerned about.

City Manager said that they have not agreed to any particular number yet and they are still talking with the library and have had several conversations with the library district's attorney and they are trying to sort this thing out because there are lots of different options that are available to them and he would like to explore those with the library district before a final decision gets made.

Councilmember Peterson said that Director Clayton keeps referring that it will be in the Conditions of Approval so are we going to add to those conditions constantly.

Director Clayton said no they are just trying to finalize. As Director Vela mentioned there are some focus studies that need to be complete before they can determine at what phase does the wastewater treatment plant need to be expanded or recycled water needs to be implemented. Because there are so many variables still pending these few studies that need to be completed that will be incorporated into those Conditions of Approval.

Mr. Pitassi said for clarity on terminology we are not adding conditions at a later date. Once an entitlement is in place the conditions are set and the City and the developer are obligated to those conditions. What Ms. Clayton is referring to is a condition that requires a focus study and out of that focus study will be specific requirements that are a part of the original condition. They are not proposing to add conditions at a later date.

Councilmember Peterson addressed Director Vela stating in regards to wastewater we are nearly at capacity at the plant or there is not enough capacity to take on a new project and the new project is going to kick it up to what.

Director Vela said the plant right now is at 3.5 mgd and that is the design capacity and how much it can hold now. On average we get 2 mgd. He said that this project here we are looking at probably another 2.5 mgd total. He also said to be clear that focus study is required to be completed prior to the first house being built.

Councilmember Peterson said to improve our wastewater treatment facility what is that going to cost.

Director Vela said the last estimate that he saw about two years ago was in the range of about $16 to $18 million. That would be tertiary and producing about 1.5 million gallons of recycled water. He said that this amount would be for the plant expansion and would not include the purple pipe and would be looking at another $4 to $5 million to finish the trunk main.

Councilmember Peterson said at the last meeting we had in regards to water it was mentioned that during the summer we shut down several wells because they run low and we switch over to other wells.

Director Vela said that they are not shutting down completely. They are just not relied upon as much. The canyon wells are shallower wells and the water levels there tend to drop faster so we tend not to rely on those as much.

Councilmember Peterson said if we have those wells that we can't rely on as much and it drops down and we can't depend on it to draw from and then we have nine wells with the Chromium-6 and if we have to take those wells off-line and you can't depend on the other low wells, how does that affect the water supply in adding in the new houses.

Director Vela said the answer to that would be that our intent would not be to shut the Chromium-6 wells off and that is why we are going through this process of having a design treatment facility so there will still be wells that are in operation.

Councilmember Peterson said but that is at a cost of $45 million. So either to shut the well at no cost or fix the water so we have $45 million so we are still down $75 million and is that correct.

Director Vela said that was correct. He said it would be difficult to meet our current demand without this project if we were to shut those wells off. Those wells produce roughly 30% to 35% to meet our current demands. During long periods of drought it would be difficult to meet our current demand.

Councilmember Franklin said she wanted to confirm that we talk about Mello Roos and CFD's is that the same thing or are they totally different.

Mr. Goetz said the short answer is that it is the same thing.

Councilmember Franklin said so we are talking about CFD's that apply to the people who are moving in the city to pay for their share of the cost of being a part of the city.

Director Clayton said yes to some extent. We are also talking about the possible maintenance of that area which does serve other communities and that is where she thinks a little more analysis needs to be done and that is where they will be performing this analysis because we are talking about park maintenance and so forth.

Councilmember Franklin said so are we talking about adding a fee to current residents.

Mr. Goetz said no. Again, under State law there are only certain things that can be paid for through the Mello Roos District and it is mostly capital facilities so it is the parks and infrastructure required for the project as well as services above and beyond City services and that would be the park maintenance that is envisioned. It hasn't been determined what would be paid for through that but that is the range of things that could be financed through that.

Councilmember Peterson asked what the Mello Roos would cost on an average home, a single-family home.

Mr. Pitassi said that State law maximizes property tax including any Community Facilities District at 2% of the assessed value which in this case would be the sale price. The city's current base property tax revenue of 1% plus existing bonded indebtedness is about 1.4%. So there is about a .6% delta that would represent a maximum of what the CFD could be and the actual numbers have not been calculated and there is whole process to go through.

Councilmember Peterson said let's say you have a house that sells for $300,000 so at 1% you have $3,000 for just your property tax. In additional to that you would have your Mello Roos on

top of that so say the house sold for $300,000 and you have $3,000 just in taxes; how much would the Mello Roos be in addition.

Mr. Pitassi said it would be $1,800 under that simple math; that would be the maximum and could certainly be less. But as Mr. Goetz pointed out the intent of this CFD is to generate revenue to repay the construction of improvements plus to generate revenue that would go to the City to provide for maintenance of the public parks. He said as pointed out this is a financial mechanism that has been in State law since 1982 and it is used without exception on every major project in the state. It is an integral component of financing a major project such as this.

Councilmember Moyer said when it comes to the wells again he was reading when they were having the meetings on the EIR and everything the Pippenger's said the wells near them go dry quite often.

Director Vela said he has heard that multiple times and they have check the City's records and they do not have any record that those wells have even gone dry. They may have probably broken down but never have gone dry. He said that mostly on a daily basis they check water elevations and that well would have been stopped prior to getting close to that. Also keep in mind that our system is not supplied by one well. Let's say under the scenario if that well did go dry, they have 20 other wells that put water into our system.

Councilmember Peterson said he just has a few concerns going forward where this thing is wanting to be passed tonight. He has to say when he asked who prepared the document and you said we did, that was a frightening thought not that it would be bad but when our Finance Director or Assistant City Manager is preparing it, it didn't make him feel very good. And then our attorney who has just seen for the first time today and he has no idea who he is and in all honesty he would like to see the Development Agreement go back to our old City Attorney, Aleshire & Wynder, for review and have their office look at it and give us pointers. Other than that he doesn't like Mello Roos and he doesn't want the City going into it and he doesn't want to put that on the backs of the taxpayers. In order for him to approve it he needs to feel comfortable with it and he doesn't feel comfortable with it.

Director Clayton said that we don't have a contract with Aleshire any longer. We do have another Interim City Attorney that can have review the Development Agreement.

Mayor Welch at this time adjourned the special meeting workshop and called to order the Special City Council Meeting at 4:34 p.m. and asked for public comments on items no on the agenda.

Larry Cobel, Sun Lakes addressed the Council stating that if we have plenty of water then everybody from here up to Sacramento must not be telling the truth. We have had a five-year drought and he doesn't know how we can afford this project from the standpoint of allowing water especially when you said you had 6 wells that need to be cleared up of Chromium-6. So to him that is a problem and he doesn't know how far you have gone on to approve this but you should have some kind of a moratorium on building until we get through this drought. We are already rationing the rest of the city and now you are going to let 3,000 homes be built granted over possible 30 years. He doesn't understand the common sense of that. Yes, he is a Sun Laker and he does have a little bit of a problem of punching Sun Lakes Blvd. through to Highland Springs Road. We already are so impacted with traffic.

Mayor Welch said this is an opportunity for the public to address the closed session item but the traffic will be part of the general meeting at 6 p.m.

Mr. Cobel said obviously he doesn't understand the agenda as to what we are supposed to be commenting on. At any rate your agreement doesn't sound like it is completed enough to even voice an opinion let alone an approval or disapproval.

Andrew Jared, General Counsel for the Banning Library District said he won't go into his comments regarding the development agreement or the project in general the Specific Plan but wanted to point out that pursuant to Government Code Section 54954.3 there needed to be public comment on that last agenda that was for specific items. Your agenda as it was presented and called only called for items not on the agenda so he can understand the gentleman's confusion in coming up and wanting to speak on that last item. He will reserve his comments for the 7:00 p.m. hour.

Interim City Attorney said if he could confirm he was under the impression that you did in fact ask if there were any public comment on the item towards the end of that item. Did you not ask that? Because if you did so, we should allow public comment on that item; Mr. Jared is correct on that point. If not, we should reopen the public hearing and allow people to speak on that item.

Mayor Welch reconvened the special meeting on the development agreement for public comment at 4:38 p.m.

Mr. Cobel said in getting back to where he left off we were talking about punching Sun Lakes Blvd. through he assumed to Highland Springs Road and a couple of years ago you didn't even own the right-of-way but he assumes that has been taken care of but the point is Highland Springs Road right now from a traffic standpoint is so highly impacted that it is almost impossible at rush hour to even get emergency services through. He doesn't understand and if you don't make a railroad crossing at 22nd as part of the deal that you have to do, you haven't helped the traffic a bit out here. He doesn't understand why you don't put a moratorium on building until we get through this drought to see where we are. Everybody else's well are going dry and he doesn't understand how we have managed to stay in business except we are rationing everybody but yet you still want to keep building.

Andrew Jarred, General Counsel Banning Library District addressed the Council stating that he wanted to make a few points. The Banning Library District is its own government entity. A Special District separate and apart from the City. The CEQA process is to identify all impacts and not just not impacts for the city. You have received comments from various other special districts from the State and those entities collect taxes and they are not being required to use their tax monies collected to mitigate impacts that the developer is affecting because of their development. So the District has made comment to the EIR back in August and spoke at two Planning Commission Meetings (a study session and a Planning Commission meeting) and then last week had some discussions with staff regarding this Condition 39. They have proposed 2,000 square feet of the Community Services Building. It is not the District's intention to cut into the City's community center. The intention is that the developer mitigate the impact of adding 9,000 people to the city to the Library District area and to mitigate the square footage such as Caltrans might comment on a road or an improvement. They are commenting that there needs to be mitigation made to this added population. Mr. Rock is incorrect that their tax

assessment must be used for that; it does not. It is a separate part and is for maintenance. They are not a district that has imposed a Mello Roos type impact fee. They have not imposed a fee the way the City has on a per unit or per square footage basis. Instead they are simply asking that the developer at this juncture add what is required under land use law to mitigate that impact of the 9,000 residents that will come. He looks forward to working with staff in the next couple of hours to work out Condition 39 and he thinks that they are very close and Mr. Pitassi indicated right at the beginning of the meeting that he is in favor of his proposed workout for Condition 39 and now he just needs to talk to staff about that.

Mayor Welch adjourned the meeting at this time.

ADJOURNMENT

By common consent the meeting adjourned at 4:42 p.m.

_____

Marie A. Calderon, City Clerk

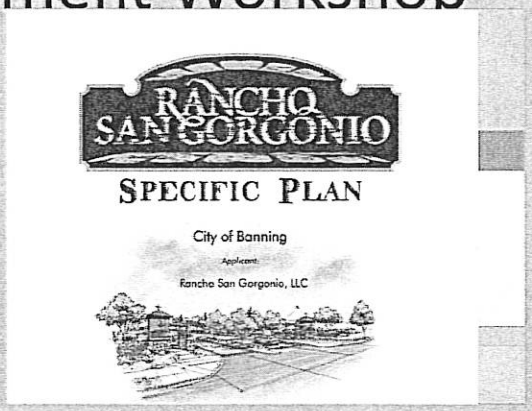
THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Exhibit "A"

Banning & RSG Development Agreement Workshop Presentation

Banning & RSG Development Agreement Workshop





OVERVIEW

- Rancho San Gorgonio Project is approximately 831 acres with plans to construct a maximum of 3,385 dwelling units, 9.3 acres of commercial development, and approximately 50 acres of community and neighborhood parks with a 12,000 square foot community center.
- Benefits of this project include increased tax revenues, traffic improvements by way of construction or paying fees to the City, increased employment within the City, and expansion of water facilities.
- If the neighborhood commercial and school sites are built, the dwelling units constructed could be reduced to 3,133.

OVERVIEW (continued)

- If the number of dwelling units constructed is 3,133, the City shall collect the equivalent of **$89,970,361** in the following fees:
  - Local Development Impact fees of **$46,553,247**
  - Regional Fees of **$33,870,863**
  - Permit and Other Fees of **$9,546,251**

**Based on Current Fees (fee study is currently in progress)*

OVERVIEW (continued)

DEVELOPMENT IMPACT FEES RESIDENTIAL - SINGLE FAMILY DETACHED		RSG PROJECT DWELLING UNITS	RSG PROJECT ESTIMATED COST
Fire Facilities	$ 1,335.00	3,133	$ 4,182,555.00
Police Facilities	$ 823.00	3,133	$ 2,578,459.00
Traffic Control Facilities	$ 250.00	3,133	$ 783,250.00
Parkland	$ 1,955.00	3,133	$ 6,125,015.00
General City Facilities	$ 478.00	3,133	$ 1,497,574.00
Water Connection	$ 7,232.00	3,133	$ 22,657,856.00
Wastewater Connection	$ 2,786.00	3,133	$ 8,728,538.00
ESTIMATED DIF	**$ 14,859.00**		**$ 46,553,247.00**

REGIONAL FEES RESIDENTIAL - SINGLE FAMILY DETACHED		RSG PROJECT DWELLING UNITS	RSG PROJECT ESTIMATED COST
Transportation Uniform Mitigation Fe	$ 8,873.00	3,133	$ 27,799,109.00
Multi-Species Habitat Conservation P	$ 1,938.00	3,133	$ 6,071,754.00
ESTIMATED REGIONAL FEES	**$ 10,811.00**		**$ 33,870,863.00**

OVERVIEW (continued)

PERMIT/OTHER FEES RESIDENTIAL - SINGLE FAMILY DETACHED			RSG PROJECT DWELLING UNITS	RSG PROJECT ESTIMATED COST
Building Permit Fee (estimate)	$	1,817.00	3,133	$ 5,692,661.00
General Plan	$	75.00	3,133	$ 234,975.00
Energy Conservation	$	45.00	3,133	$ 140,985.00
Disaster Education Materials	$	5.00	3,133	$ 15,665.00
Fire Inspection	$	134.00	3,133	$ 419,822.00
Fire Plan Check	$	134.00	3,133	$ 419,822.00
Grading Fee	$	15.00	3,133	$ 46,995.00
Electric Meter Installation	$	265.00	3,133	$ 830,245.00
Water Meter Fee	$	268.00	3,133	$ 839,644.00
Site Plan Check	$	289.00	3,133	$ 905,437.00
ESTIMATED PERMIT/OTHER FEES	**$**	**3,047.00**		**$ 9,546,251.00**
				$ 89,970,361.00

Development Agreement by Section

- 1. Definitions: 1.1 through 1.74 explain term definitions
- 2. Exhibits: Exhibits "A" through "J" to the Agreement
- 3. Term: Period of 30 years
  - 1st Option to extend 5 years contingent upon –
    - Developer has completed 1,000 homes w/certificates of occupancy, &
    - Developer is not in default of its obligations
  - 2nd Option to extend 5 years contingent upon –
    - Developer has completed 2,000 homes w/certificates of occupancy. &
    - Developer is not in default of its obligations
  - Term shall not exceed 40 years

Development Agreement by Section

- 4. Development of the Developer's Property
  - The Developer shall have a vested right to develop property as permitted by the Development Plan and this Agreement (subject to Article 11)
  - Land use and Development of the property shall be governed by the Specific Plan and this Agreement.
- 5. Financing and the City's Obligations
  - Within 90 days of the Effective Date, the City will adopt goals and policies to develop a Financing Plan. The intent is that some or all of the Eligible Facilities shall be funded through the formation of a Community Facilities District (CFD) and levy a special tax to finance maintenance of park and community center facilities as well as other eligible facilities and open space areas.

Development Agreement by Section

- 6. Time for Construction and Completion of Project
  - Public Improvements are required for the Project, to be constructed by both the Developer and the City and are agreed upon by both parties to be completed by specific phasing in order to proceed.
  - Major Reviews shall be conducted by both the Developer and the City, to review the performance of both parties of their obligations to have been performed pursuant to this agreement and the development of the Project. Major Reviews shall take place on the 6th, 14th, 22nd, and 30th anniversaries of the Effective Date.
    - If Options to Extend are exercised, additional Major Reviews may be at the 35th and 40th anniversaries.

Development Agreement by Section

- 7. Fees, Taxes, and Assessments
  - During the Term of this Agreement, the City may require Developer to pay all Processing Fees applicable at the rates in effect on the application date.
  - Development Impact Fees (DIF)
    - Developer shall construct and install improvements relating to water connections, treatment and transmission of reclaimed water, parks, community facilities, open space and trails, and possibly wastewater treatment in exchange for the payment of the DIF.
    - The construction of such improvements shall exceed the equivalent DIF that the City shall otherwise collect if Developer does not construct.

Development Agreement by Section

- 7. Fees, Taxes, and Assessments (continued)
  - Development Impact Fees (DIF)
    - The City is conducting a DIF Study, that may impact fees. The Developer shall be required to pay an increase in fee, if applicable, not to exceed a 7% increase of the current DIF, at the conclusion of the Study.
    - Subsequent to the current study, the Developer shall be subject to pay any future increased DIFs at the Major Review periods, and limited to the greater of 1.) Consumer Price Index for All Urban Consumers in LA-Riverside-Orange Counties, or 2.) 1% each year

Development Agreement by Section

- 7. Fees, Taxes, and Assessments (continued)
  - TUMF Fees
    - The Developer and City shall enter into a WRCOG/TUMF Credit Agreement, in which the developer shall contribute up to $10,000,000 in TUMF improvements.
    - 100% of the $10M contributed and/or constructed by the Developer shall be dedicated to the local project and the City will not be subject to the current fee split to benefit other regional projects.
    - The TUMF Project identified by the City for the Developer to construct is the Sunlakes Extension Project.

Development Agreement by Section

- 8. Dedications and Conveyances of Property Interests
  - Prior to construction of parks, the Developer shall meet with the Parks Director to review the provisions set forth in the Specific Plan
  - Developer shall pay DIFS and City shall construct the fire station. The Developer shall dedicate 1 acre of land, including a super pad with utilities stubbed to the site, with an additional acre of land surrounding that site available for expansion and dedicated to the City.
  - Developer shall dedicate a 0.25 acre site for an electrical substation to be constructed by the City

Development Agreement by Section

- 9. Processing of Requests and Applications: Other Government Permits
  - The City and Developer shall promptly commence and diligently proceed to complete all required steps necessary for implementation of this Agreement.
- 10. Amendment and Modification of Development Agreement
  - Either Party may propose an amendment to this Agreement.
- 11. Reservations of Authority
  - Acknowledges the limitations, reservations, and exceptions to regulatory agencies.

Development Agreement by Section

- 12. Annual Review
  - Following commencement of construction, the City and the Developer shall review the performance of this Agreement and the Development of the Project.
- 13. Default, Remedies and Termination
  - Acknowledges the rights of each Party
- 14. Assignment
  - Acknowledges the terms of agreement, termination, and declaration of covenants, conditions and restrictions.

Development Agreement by Section

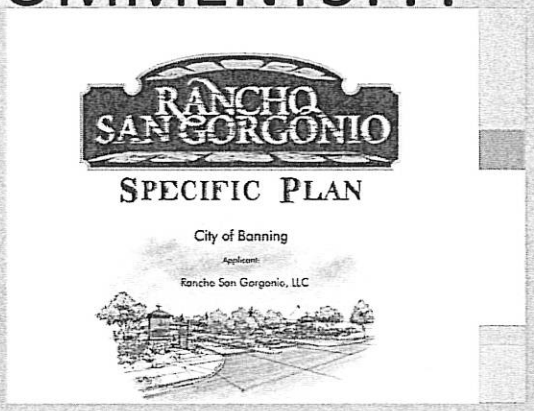
- 15. Releases of Indemnities
- 16. Effect of Agreement on Title
- 17. City Officer and Employees: Non-Discrimination
- 18. Mortgagee Protection
- 19. Miscellaneous

Development Agreement by Section

- EXHIBITS:
  - Exhibit "A": Map and Legal Description of the Developer's Property
  - Exhibit "B": Existing Development Approvals
  - Exhibit "C": Estoppel Certificate
  - Exhibit "D": Development Impact Fees
  - Exhibit "E": [Intentionally Omitted]
  - Exhibit "F": [Intentionally Omitted]
  - Exhibit "G": Rancho San Gorgonio Project Financing Plan
  - Exhibit "H": Form of Assignment and Assumption Agreement
  - Exhibit "I": Summary of Prevailing Wage Requirements
  - Exhibit "J": Form of TUMF Credit Agreement

QUESTIONS & COMMENTS???





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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/27/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on September 27, 2016 at 4:34 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

Mayor Welch opened the item for public comments on the closed session items. There was some confusion in regards to public comment on the Special Meeting Workshop and after some brief comments Mayor Welch reconvened the Special Meeting Workshop for public comments. After the conclusion of the Special Meeting Workshop Mayor Welch reconvened this Special Meeting at 4:42 p.m. and asked for public comments on the closed session items; there were none.

CLOSED SESSION

Interim City Attorney stated that there are two closed session items: 1) real property negotiations pursuant to Government Code Section 54956.8 regarding property located at 33 S. San Gorgonio Ave.; and 2) conference with labor negotiators pursuant to Government Code Section 54957.6 to provide direction with regard to labor negotiations with SBPEA (San Bernardino Public Employees association) Teamsters; and Banning Police Management.

Meeting went into closed session at 4:42 p.m. and reconvened at 5:12 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:12 p.m.

_____
Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/11/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on October 11, 2016 at 4:01 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Brian Guillot, Community Development Director
Ted Shove, Economic Development Manager
John McQuown, City Treasurer
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

REPORTS

1. Economic Development Plan - Presentation by Barry Foster, HdL companies

Manager Shove said that this they will go through the Economic Development Action Plan. This plan was begun back in May with HdL's group, ECONSolutions and heading that group up is Barry Foster. After Mr. Foster's presentation he will provide an initial thought, outlook after being here for a few months, and how we might proceed. After the conclusion of both of the presentations he was hoping to get some input and direction from the Council.

Mr. Foster addressed the Council stating that as Mr. Shove said they started looking at putting together an Economic Development Action Plan for Banning a number of months ago and they have used these plans in a number of cities and even back when he worked as a staff member for cities. He thought that doing an action plan was a little bit more effective and it is a shorter timeframe rather than doing a very grandiose strategy that tends to put everything in there and sometimes you put it up on the shelve and all the things are not really accomplished. An action plan is looking more at a 2 to 3 year timeframe, looking at what the marketplace is, and what can be achieved during that shorter kind of mid-term time frame. At this time Mr. Foster started his

power-point presentation (attached Exhibit "A") going over each of his slides in detail in regards to: What is Economic Development? Actions for Economic Development Should Include; Banning - Community Profile.

Councilmember Franklin asked in regards to the numbers for the trade area, are they including the city numbers or is that separate.

Mr. Foster said it is the city but it is including part of Beaumont. It is a trade area and for this trade area they picked downtown Banning as the center of that area and then going out five miles in each direction.

Councilmember Miller said that he is seeing over and over again that the average income in Banning is something like $39,000 so those figures are wrong and it is now $49,000.

Mr. Foster said these numbers come directly from their data base and they are updated every three months. You might be looking at median income level and not average and usually retailers and restaurants and site selectors look at average household income.

Mr. Foster continued going over and explaining each of the slides regarding: Banning Strengths/Opportunities and Weakness/Challenges; Consumer Demand & Market Supply Assessment; Void Analysis; Economic Development Action Plan; Focus Area Opportunity which includes Medical/Healthcare, Downtown Banning, Ramsey Street Corridor; and Highland Springs.

Councilmember Peterson said in regards to Chipotle how are they now financially after all the trouble that they have had with the contaminated foods.

Mr. Foster said that their stock dropped a little bit and it stabilized and actually has come back up again and they are very much in a growth mode and developers wouldn't being doing deals with them if they were worried about them. They are still financeable and he is doing four deals with them right now.

Councilmember Peterson asked if their franchises are still moving. Mr. Foster said that is not a franchise; those are corporate deals.

Mr. Foster said that he talked to a city out in the desert where the Council Members wanted sit-down restaurants out there and he told them that they kind of had to take baby steps. The sit-down restaurants are not doing a lot of deals right now and so it is that fast-casual. But to get the sit-down restaurants we need to show a little bit more of the sales performance of your existing restaurants. Get some more fast-casual and show what they can do and then kind of telling that story and then you involve into some sit-down restaurants and the economy continues to grow and the area continues to grow. He thinks the challenge over on the south side of the freeway is looking at making sure that the capital improvement projects are in place to help build some of those roads so that you can improve traffic congestion. There is a lot of development especially on the Beaumont side that got put into place and they didn't put any improvements and he further explained.

Councilmember Moyer said in regards to the 47 acres it has had multiple owners over the last several years as he understands it and it is now available for sale again.

Mr. Foster said he understands that the developer still has it tied up but there is a timeframe and he is not sure if they will be able to deliver. It is a very large institutional owner based out of Arizona that owns it and they are not developers; they are more land speculators. So they are going to look for a developer to go in but there are challenges. If you are going in and having a developer trying to do a first phase there and have them pay for all the improvements; that doesn't pencil. It has to be more of a collective look at that entire area and having a plan in place, having your capital improvement program, and being able to look at ways of funding more things and not just putting everything on that development.

Councilmember Moyer asked if was aware of any interest in it now at all.

Mr. Foster said there was interest. There was a movie theater interested and timing was such that they got scared off and so they pulled out but he thinks that they would still be interested but it is really more about timing.

There was some further dialogue between the Council and Mr. Foster in regards to the Rite Aid moving out, the development of that shopping area, and also an explanation of fast-food and fast-casual.

Mr. Foster continued with his presentation in regards to the Light Industrial/Distribution/Logistics slide and said it is really one of the fastest growing segments of business in California especially in the Riverside and San Bernardino County and producing probably half of the new jobs.

Councilmember Franklin said that she has spoken with other people in other cities and on their councils and attended some of State of the City events in Lake Elsinore and Corona which are both on freeways and they are very adamant that they are not going to have logistic centers. What makes us more attractive to have that here than cities that actually have higher income levels and more educated population overall but they are saying they are not going to have that in their cities.

Mr. Foster said that is their preference and if they don't zone properly for that there is no opportunities there but Corona has a pretty good concentration and don't have a lot of property left, Ontario is a great example of a community that has built a very strong foundation with logistics and distribution and Fontana is another one and even Redlands. In looking at the composition here he thinks Banning and Beaumont is a good area and the folks that live here would fit well with this and the wave is coming here and you can choose not to be a part of it but communities can't be just bedroom communities.

Councilmember Franklin asked if he had an idea of how many people per square foot are working inside logistic buildings.

Mr. Foster said that there are some standards and they put that in the last report for the airport project and he thinks that it is growing and while they are getting more automated and high-tech there is still a lot of people in those facilities and they have to have a lot of people that understand computers and robotics so it is a different kind of skill set than here is a forklift go load that into a truck. It is really changing but they can get that information for the Council. The other area that probably is growing tremendously fast is e-commerce and fulfillment centers. He

said that 53% of all the development right now in California that is industrial development is e-commerce or fulfillment centers. They produce twice as many jobs and they are producing sales tax opportunities.

Councilmember Peterson asked if he had any stats on the logistics around the warehouse. Where you say it is a big job creator which it is but how many of those jobs are day-labor jobs to where they hire a labor force via an outside agency bringing them in and therefore not paying the benefits such as medical, retirements, etc. because he has heard most of the warehouse labors do come from day-labor job. Do you know what the split would be?

Mr. Foster said having done this over a number of a years he thinks the vast majority of them have their own employees. Some of them will start off with people through an agency and then they transition them over after a couple of months after they have kind of proved themselves. He knows the Wolverine facility that is under construction in Beaumont have their own people. Amazon at the one facility in Moreno Valley has about 1,400 Amazon employees and he knows some people that are semi-retired and they work there with full benefits and they fluctuate from time to time where they will bring in more people for the season or busier periods of time and those people may come from a temp agency.

Councilmember Miller asked about the industry that is going to come to California in the future that is growing and distributing marijuana. Do you think that is a field that we can consider or say that it is insignificant?

Mr. Foster said it depends what is going to happen in November but he thinks that there is opportunities there and will be a growing area. A lot of the tobacco companies are actually looking to get into that business and looking at coming to California also and that is a growth opportunity also.

Mr. Foster said that they talked earlier about the opportunity that you have with the property on the north side of the freeway that is zoned appropriately but he thinks that there is an opportunity on the south side with the municipal airport. It certainly has it challenges and long-term airports are not getting any better and that area is diminishing so you should look at how to reposition that asset that you have.

Mr. Foster said in regards to Next Steps he knows that Ted Shove will be talking a little bit more about what he envisions and what he sees but they tried to put together a plan to give the Council a framework for the next three years and things that the Council should focus on and go after and try to realize during that three-year timeframe so they would like to get some feedback from the Council on what was presented. They would also like to take this out to some of the Chamber members, some of those stakeholders in the community and get their reaction of what they have put together before the Council finalizes it. But ultimately they would like to bring it back to the Council after they have had that feedback and dialogue for adoption. Again, it is an action plan and something they encourage active participation.

Banning's Vision for Economic Growth

Manager Shove addressed the Council at this time stating that they have heard what Barry Foster had to say and generally put into context these are the things that are out here, these are the emerging trends and what he kind of wanted to do after being here for a few months was to have

a dialogue with the Council to see how they can put this on paper and move forward and put together a vision for Banning for the first year or two, three years and have that action plan as Mr. Foster described. At this time he started his power-point presentation (attached Exhibit "B") explaining each of the slides as follows: What Are the Ingredients? Long-Term Resolve; Business Developer – BEAR (Business, Expansion, Attraction, Retention); Stimulate Economic Activity; and Project Expediting.

Councilmember Peterson said in regards to cutting the red tape where are we at as far as cutting the fees which is going to be part of the red tape. We both know that there was an individual that was looking at his building and just to get him started he needs $10,000 right out of the shoot for a conditional use permit, possible environmental report, plan checks so by the time it is all said and done by the time he is even starting to even get in on his project he is like at $12,000. So this is not inviting for people to come into the city when right out of the shoot he needs $10,000.

Manager Shove said in speaking with that individual one of the first things that they talked about was to go through different costs and they did specifically say the environmental assessment was not required but one thing that he could do is to go through the Project Action Committee and basically bring forward a project without any fees and get initial input. So that would help him determine where he is at and help staff, once they understand his project a little bit more, what types of fees would be most applicable. The second part of that is on the plan checks those are part of the building and fire codes but in terms of ABC they do have a very stringent process and there is not a lot that staff can do in terms of streamlining that but they can definitely assist in a couple of different ways.

Councilmember Peterson said he really thinks that part of our problem here is cost factors. When you talk about "red tape" we really, really need to take a look at the red tape. The small guy is not getting his fees waived like the big boys. Big boys can come in and say we are bringing this and bringing that and before you know it the City is paying them to come in but we are not doing that for the little guy and he is scratching hard in order to try to make his business. We really need to look closely at that.

Councilmember Moyer said that brings him back to the point of where is the fee study that we have been talking about for over a year.

Deputy City Manager said that it is in progress and staff is working with Willdan and in process of the user fee and it is the city-wide fee.

Councilmember Moyer said that they have been waiting for over a year for this. Councilmember Peterson said it seem easy enough to get a hold of Beaumont's book, Hemet's book and get a staffer to sit down and compare what we got to our neighboring cities and at least put us on the same page and not so much different.

Director Guillot said that WRCOG is preparing a fee comparison study for the neighboring cities and some of that information has come out preliminarily to planning directors, and city manager's technical advisory committees. We are not the highest in the fees, in fact, we are more on the low end of our fee structure so that was one interesting part and the Council will get a copy of this report when it is completed.

Councilmember Peterson asked lower in comparison to who and so in comparison to Beaumont are we at the low end or at the high end.

Director Guillot said the issue with Beaumont is that they have found that their General Fund needs to be subsidized by the fees. In other words, they are not covering their cost of services and that was in the newspaper and it is public information. So they are not really paying the cost. They are actually subsidizing everyone by their fees being so low. Our fee studies and most other agency fee studies are based on the cost of doing business so when you examine the cost of doing business we are ranked in the middle or the lower end of the WRCOG member cities so that is interesting to note. He doesn't think it is appropriate to compare our financials to that city at this point. When they are able to balance their financials including their General Fund, then that might be an appropriate comparison.

There was some further Council and staff dialogue in regards to fee comparisons to neighboring cities not WRCOG, the user fee study, why are we using Willdan, when can the Council expect the fee study, is this fee study a two-year process; and have a fee comparison apple for apple with County of Riverside; and want to see what a person has to pay when they want to open up a business.

City Manager said it is his understanding that the WRCOG study shows the fees for all 15 cities and staff will send a copy of that study to the Council. It will show the fees in every city and every fee they charge. Staff will bring the Council all of the different fees (development impact fees, user fees, etc.).

Manager Shove continued his presentation and explained each of the slides regarding: Attraction – Out of Town Capital/Business; Catalyst/Incentives; Communication; Asset Management/Positioning; and Overview of Functions.

Councilmember Franklin said you talked about next steps so she wanted to know with all the information that has been given to the Council, and the several sessions that the Council has had where they talked about the mission and vision for the City what do you envision the next actual steps to be for our City in the next 3 to 6 months.

Manager Shove said the Long Range Property Management Plan that will be underway, the outreach with the top 25 sales tax generators as well as top ten employers, the other couple of leads that have come up which staff is working now, disposition of 128 N. San Gorgonio, potential update at least on the Joshua Palmer Alignment, and with that the commercial project that is contemplated he thinks within the next 90 days those are the types of products that can be delivered upon.

Councilmember Franklin asked if it would be possible to get an update like every three months to let the Council know where we are and this is where we are going so that they are on top of what is happening.

Manager Shove said that they can do that in the City Manager's update or a special report.

Mayor Welch said that in defining some of the different market places we have in town east, south, west he didn't hear suggested that we get not only the top 25 tax produces to be part of a group but he would suggest that we get a downtown owners group. One of the struggles that we

have had in the past in Banning, in his opinion, is that a majority of the owners did not buy into some of the suggested activities that we had planned for downtown and that is why they just kind of went away in a very quick manner. But if you have an investment in downtown you're a property owner, you're in business right now it seems to him that would be some pretty good input for us.

Manager Shove said that that group would be the key to the downtown driver for a "shop local" or a "shop Banning" campaign in conjunction with the Chamber.

ADJOURNMENT

By common consent the meeting adjourned at 5:27 p.m.

_____

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

RAMSEY STREET CORRIDOR

- Explore residential & mixed-use projects
- Assist to upgrade/expand Diamond Hills Chevrolet, Buick & GMC



- Seek ways to expand or reposition Stagecoach Shopping Center
- Facilitate new project by Peninsula Retail Partners / Legendary Restaurants

Smart&Final extra!

HIGHLAND SPRINGS

- Continue upgrading Sun Lakes Village Shopping Center

HOBBY LOBBY Marshalls BIG 5 SPORTING GOODS PartyCity

- Pursue future capital improvement projects to improve traffic circulation
- Support new housing projects to create new rooftops & retail opportunities in South Banning

LIGHT INDUSTRIAL / DISTRIBUTION / LOGISTICS

- Support efforts to attract new businesses to enhance the City of Banning's employment base
- Explore possible closure and redevelopment of Banning Municipal Airport



NEXT STEPS

- Feedback from City Council Members
- Solicit input from Chamber, Business Leaders & Key Stakeholders
- City Council to consider adoption of Economic Development Action Plan

FOCUS AREAS OF OPPORTUNITY



MEDICAL / HEALTHCARE

- Support efforts to upgrade or expand San Gorgonio Memorial Hospital and affiliated healthcare facilities
- Work with Beaver Medical Group to expand healthcare facilities and services

SAN GORGONIO MEMORIAL HOSPITAL



BEAVER MEDICAL GROUP

DOWNTOWN BANNING

- Enhance downtown business district including special events





- Strive to make Downtown Banning more walkable

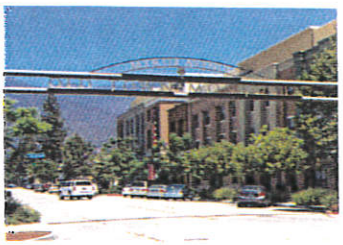


- Promote outdoor dining



DOWNTOWN BANNING (cont.)

- Encourage mixed-use development
- Enhance Downtown Banning's sense of place through landscape design, public spaces and possibility of installing entry arch or gateway feature on Ramsey Street



BANNING

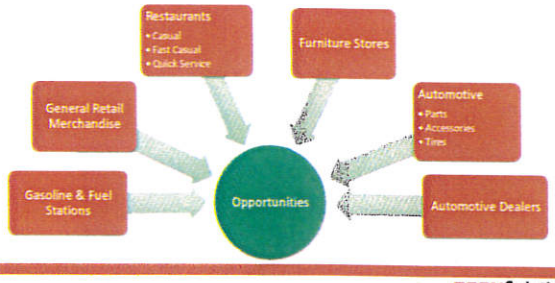
Strengths/Opportunities

- Community with history
- Safe environment
- Downtown area
- Growth opportunities for housing and retail
- Diversified & affordable housing stock
- Freeway frontage along I-10 (over 120,000 vehicles per day)

Weaknesses/Challenges

- Trade area is 'light' with population density & income levels
- Competition from Beaumont
- Development services process could be enhanced
- Infrastructure requirements
- Need a Vision for Banning

CONSUMER DEMAND & MARKET SUPPLY ASSESSMENT



VOID ANALYSIS

24 Hour Fitness	Crunch	Jimmy John's	Regency Theatres
99 Cents Only Stores	CVS	Kirkland's	Round Table Pizza
Anna's Linens	DD's Discounts	Krikorian Theatres	Sit 'n Sleep
Baker's Drive Thru	Discount Tire	LA Fitness	Sleep Train **
Big 5 Sporting Goods *	Gressbarn	Les Schwab Tire Centers	Smashburger
Big O Tires	Dunkin' Donuts	Marshalls *	Sonic
Blaze Pizza	Fallas Discount Stores	Massage Envy	The Flame Broiler
Boot Barn	Fitness 19	Massage Green	The Habit Burger Grill
Burlington Coat Factory	Five Guys	Menchie's	The Original Pancake House
Capriotti's Sandwich Shop	Freddy's Frozen Custard	Miguel's Jr.	Tractor Supply Co
Charming Charlie	Grocery Outlet	Olive Garden	Tuesday Morning
Chipotle Mexican Grill **	Hancock Fabrics	Panera Bread	ULTA Beauty
CiCi's Pizza	Harbor Freight Tools	Party City *	WaBa Grill
Corky's Kitchen Bakery	Hobby Lobby *	Pieology Pizzeria	WSS
Corner Bakery Café	Jersey Mike's	Planet Fitness	Yogurtland

* Recently opened
** Opening soon

ECONOMIC DEVELOPMENT ACTION PLAN

- Recognize the marketplace
- Identify near-term opportunities
- Establish goals & objectives to be accomplished within a 3-Year timeframe

BANNING

Study Session

ECONOMIC DEVELOPMENT ACTION PLAN

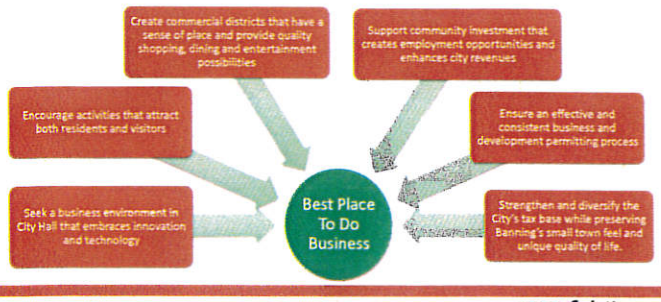
WHAT IS ECONOMIC DEVELOPMENT?

Efforts to increase economic activity by strengthening existing business areas, attracting new businesses and creating employment opportunities, along with promoting an effective climate for businesses to succeed and flourish.

- Factors include:
  - Jobs created
  - Income generated
  - Marketplace growth
  - Increased sales
  - Increased local revenues
  - Healthy business environment



ACTIONS FOR ECONOMIC DEVELOPMENT SHOULD INCLUDE



BANNING – COMMUNITY PROFILE

	City of Banning	Trade Area (5-Miles)
Population	30,698	43,294
Households	11,287	15,544
Average Household Income	$49,051	$56,965
Owners/Renters	69/33%	71/29%
White Collar/Blue Collar	51/49%	55/45%
Hispanic	41%	39%
White	44%	43%
Asian	5%	6%
Black	7%	7%

*Trade area refers to Downtown Banning

BANNING'S VISION FOR ECONOMIC GROWTH



WHAT ARE THE INGREDIENTS?

- Business development
- Asset management/positioning
- Communication
- Long-term resolve



LONG-TERM RESOLVE

- Housing projects
  - Construction starts
- Infrastructure
  - SunLakes Blvd Extension
  - Joshua Palmer Realignment
- Update Downtown Specific Plan
- Airport Strategic Plan



BUSINESS DEVELOPMENT - BEAR

Business
Expansion
Attraction
Retention

- Business Visitation/Outreach – Identify 'red flags'
- Stimulate economic activity
- Project Expediting
- Attraction – out of town capital/business
- Catalyst/Incentive



STIMULATE ECONOMIC ACTIVITY

- Downtown
  - Vacant storefronts
  - Address blight
  - Leverage resources to:
    - Create downtown events
    - 'Shop Banning' Campaign
    - Ceremonies - R/C, Ground-breaking
- Banning East
  - Promote industrial sites
  - Market airport area



PROJECT EXPEDITING



- For qualified projects:
  - Liaison w/ project reps
  - 'Red Carpet' treatment – forward progress
  - Identify & match resources necessary
  - Reduce 'red tape' in permitting

"Intellectual property is a key aspect for Economic Development"
-Craig Venter

Nano H_2O

ATTRACTION – OUT OF TOWN CAPITAL/BUSINESS

- Interface with external people
  - Day-to-day
    - Contacts, proposals
  - Trade shows
  - Networking events



Focus: *sell* the area/*steer* interest to community/*drive* key sites

CATALYST/INCENTIVES



- *Not all projects are created equal*
- Utilize resource partners
- Critically analyze project
- Focus on minimum need, return on investment to City
- Only 'Best' deals advanced for Council consideration

COMMUNICATION



- External communication
  - Social media
  - Press releases
  - City website – updates & upload of information
- Special events
  - Ribbon cutting/Ground breakings
- Presence at select business networking events

9

ASSET MANAGEMENT/POSITIONING



- City's real property inventory
  - Responsible use and greatest practical value
- Long Range Property Management Plan (LRPMP)
- Disposition of Banning Municipal Airport

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OVERVIEW OF FUNCTIONS



- Business outreach – top companies, small businesses
- Permit, impact fees, efficiencies
- Communication
  - R/E community dialogue
  - Presence at regional and national business events
  - Website, marketing material
- Update City's R/E inventory
- Housing, Infrastructure, Airport, Downtown SP

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/25/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on October 25, 2016 at 2:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller *(arrived at 2:11 p.m.)*
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Brian Guillot, Acting Community Development Director
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

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.
   (Staff Report – Rochelle Clayton, ASD/Deputy City Manager)

Deputy City Manager Clayton gave the staff report on this item as contained in the staff report. She also stated that if this is approved, staff would bring the full agreement back to Council at its meeting on November 7th and that is why only the basic terms are attached and not the full agreement. It does need to be noticed for ten days for a public hearing as well. This item is supported by the Budget and Finance Committee and it was discussed in detail at their meetings held on October 4th, October 11th and October 20th.

Mayor Welch opened the item for public comment; there were none.

Councilmember Peterson said this was pretty much covered before when it came to the Council the first time but there was a request for a financial statement and do all of their qualifications meet the terms of the contract that was outlined.

Deputy City Manager Clayton said that Ted Shove met with Dalia and went over their financial statements and they have met all of the qualifications.

Councilmember Peterson said the other thing that was mentioned was hiring and that they have about 45 positions and are creating more jobs and is there any way we can have a priority hiring of Zip Code 92220 and that way the first choice of jobs would come from anybody living within our zip code.

Deputy City Manager Clayton said yes, they can absolutely request that and they are very vested in the community and willing. They also want to go a step further and partner with the school and develop a school vocational program where they can bring on apprentices for the mechanics and try to home-grow some mechanics here.

Councilmember Franklin asked in regards to the timeframe for renovations do we know approximately how long that is supposed to take and how soon are they planning to start.

Deputy City Manager Clayton said they would like to start as soon as possible but they do need to get their financing in order. Having this agreement with the City does assist them in getting financing sooner so as soon as that proceeds they will go forward with at least the purchase of property and the signage and would like to have it completed within two years.

Councilmember Franklin asked if this was an agreement that was very similar to what other cities do with auto dealerships.

Deputy City Manager Clayton said yes and she does have some information available and brought copies.

Councilmember Moyer said that the Finance Committee spent two hours with Dalia about a week ago and as mentioned the new owners has already invested as part of their purchase price $668,000 worth of improvements that the previous owner passed along so they inherited the loan for that. They are one of our top sales tax producers and we have increase from the threshold and we now get $150,000 a year before we split with them where under the old agreement the City got $100,000 so it has been increased by $50,000 a year. The owner is committed and he was supposed to close that property last Friday but he does need the City's approval on this so he can go to GM Financial and tell them that they have a done deal.

Councilmember Peterson asked who is watching this.

Deputy City Manager Clayton said that the Economic Development Manager will be watching this and we also have a responsibility she believes, on a quarterly basis, a report that staff plans to put on the website and it will be under that department in conjunction with Finance.

Councilmember Moyer said that the Finance Committee unanimously recommended adoption of this item.

City Manager said that Dalia shops locally. All the products they buy they first shop in Banning; that is their top priority. So all the pieces of equipment and tools and everything they need they shop Banning first and they understand the reason for that and he had a great conversation with the owner and the management team about that and they totally get it.

Councilmember Moyer recommended approval of the terms and conditions. Seconded by Councilmember Miller. Motion carried, all in favor.

ADJOURNMENT

By common consent the meeting adjourned at 2:11 p.m.

_____
Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/25/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on October 25, 2016 at 3:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Brian Guillot, Acting Community Development Director
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

WORKSHOP ITEMS

A. Communications Assessment

Deputy City Manager said this workshop is to go over the Communications Assessment that was completed by CV Strategies hired by the City Manager to review the communications between not only staff and their supervisors and management but interdepartmental communications and external communications and then talk about the next steps. She said that in attendance are Erin Gilhuly and Alex Altman from CV Strategies.

Mr. Altman addressed the Council stating that it has been a few months and a nice long process but it has also been a thorough process and they have had tremendous cooperation from staff and a lot of honest, open and intense dialogue and he thinks the results here are thorough and they stand behind them. They will run through a high-level summary of their findings, give the Council an opportunity to ask questions, and then talk about where they head from here.

At this time Mr. Altman started the power-point presentation along with Ms. Gilhuly (attached Exhibit "A") in regards to Who They Are; Background; What the City Communications Assessment Provides; and Process and Review Elements.

Councilmember Franklin asked when you talked about stakeholders did you talk to just everyday citizens, people and were they willing to speak with you.

Mr. Altman said yes and felt it was important and didn't just want to confine themselves just to city hall and the police department. This was also helpful for the sort of perception and brand assessment element also.

Ms. Gilhuly said also their general approach is that they don't know, what they don't know and that world is huge. So one of the things that they do is just go into the trenches as far as they can with citizens. They will go to the local area and sit there and talk to people and try to get a general feel. Read the Record Gazette as an average resident versus a consultant who have worked in local medial for twenty years. That is not really the impression they want to gather. They approach it as the "What don't we know" type of attitude. Yes, people were willing to share with them.

Mr. Altman continued his power-point presentation at this time going over Foundation Strengths; Findings: Leadership, Culture.

Councilmember Peterson asked them if watched CSPAN and if they do, he thinks the meetings at Congress are a whole lot worse than what he sees in our Council Chambers and when you talk about discord he thinks there needs to be discord otherwise we go back to the "rubber stamp" theory. Where do you want to draw the line of there is discord which that is inappropriate versus discussion however or complete agreements and if the Congressional leaders are a lot worse than what we are when it comes to public discord and the things that they do in Congress, how are we any different than them when it comes this.

Ms. Gilhuly said that is a fair question. She is not indicting discord in any way, shape or form. This process was to acknowledge that it is there. She thinks it is a perception issue and it may also be a real issue. This is to say that needs attention because you have staff who are saying they don't even want to go to a Council Meeting. So they are not saying that discord is necessarily bad. It is a thing that needs that healthy discussion.

Councilmember Peterson said that he was in law enforcement for many years and during that time if he was on the street and called to an offense he had to write a report and that would have been his staff report. Based on that staff report it goes to the District Attorney who reads that staff report and determines whether or not there is enough evidence in there to prosecute the person he just arrested and that is the last he sees of it. If the District Attorney decides that he is going to prosecute this subject, he is called to court as a witness and what he is going to use to testify to the court is his report that he created and he is responsible for that report and he is the one that can answer questions about that report. What makes a staff report and them reporting to Council any different than a cop reporting to a judge or another attorney? If you create the report, then you should certainly know the information in the report, you should be able to justify and defend your report and be able to answer anything otherwise you have no bearing being there even bringing it forward or the DA's going to reject it if it is incomplete; so what's the difference.

Mr. Altman said he thinks that what folks are after and he clearly agrees that there should be responsibility for the words and the information they give to Council and that they should be accountable for those words. If we are talking about the culture of community here and decorum in the Council Chamber your use of the word "defend" is very telling to him because he thinks that what staff is looking for is that should be able to collaborate with Council and share information and not be defending against Council. He thinks that that approach is what they are sort of advocating. A more collaborative approach in which all the information and maybe even more information is being shared because it is being shared in the spirit of partnership rather than in the spirit of attach and defend.

Councilmember Peterson said that makes sense but he can sit here and he can look at Art Vela or Fred Mason and either one of those two will say if they don't know the answer, they will get the answer and within 12 hours you are getting an email that gives you the answer. The problem comes in when you begin to ask questions and the staff member begins to dance but what that does is that it tends to irritate some of those on the Council and they want an answer to question.

Mr. Altman said that one of the things that they could do in the plan is create a protocol or time line that really formalizes how your questions are responded to. He thinks that there are processes that can put in place that would create a structure that helps the Council get the information when the Council wanted it.

Councilmember Moyer said he thinks going along with this and he has seen staff reports that he didn't think were thorough enough or answered the proper questions but when we start using words like "corrupt" or "intent to deceive" when we just have a bad report in front of us instead of saying go back and write it and bring it back to Council again correctly that tends to scare staff also. The Council needs to watch their verbiage a little bit and again, collaborate more and get the report we want to see.

Mayor Welch said he would agree with Councilmember Moyer but there is another aspect that he would like to bring up. All of the Council ends up making a final decision on most matters but all of the Council usually have the information in a timely manner that allows the Council to review it, formulate their questions, and especially if it is something we really want our constituents in Banning to understand. He thinks a strong part of this collaboration is for him to get on the phone or come and see the City Manager to start with and give him questions that he feels the public wants to know and will ask and have staff be more prepared to concentrate on those. That takes away this look of defensiveness as far as staff is concerned and certainly in most cases such as Councilmember Peterson just mentioned within 12 to 24 hours you get an answer anyway. It seems that if that were to be done prior to an open meeting, then it would be more meaningful to the Council, to staff and certainly to the public.

Councilmember Moyer said along with that he feels that the Council needs the information sooner. They could ask more questions of staff before a meeting if they got their information prior to late on Thursday night or early Friday morning the weekend before a Council meeting. Particularly when it is something of great importance. The Council needs to get things in a timely manner.

Councilmember Miller said you will find that the Council has five different opinions and as said, strong opinions which he thinks is true. His opinion is that he thinks all five of the Council recognize that we have an excellent staff. His feelings about the Council meetings is that we are here not only to make the decision but to tell the people who are interested what is happening in the City and in order to tell them what is happening we have to ask the staff various questions. So possibly the only problem is that staff doesn't realize that the Council appreciates them and recognize that they are very competent and value their service. But again, he thinks that his view point of the Council is twofold: 1) to make decisions; and 2) to inform the public as to why we are making those decisions and that is why he asks many questions to bring everything out. So to summarize again, possibly the lack of communication is that the staff does not recognize that the Council appreciates them and personally, he is so confident in them that he thinks he can ask staff any question.

Mayor Welch said he agrees with Councilmember Miller but wanted to add if we think the public needs to know, then we need to have thought through information to offer them and that is why his suggestion is earlier receipt of the agenda and material so that the Council has an opportunity to formulate their questions that they think the public would be interested in and be sure that staff is aware of that prior to the meeting.

Mr. Altman said that formalizing some of those ideas would go a long way to helping and he thinks that there are tools that they can distribute to citizens immediately following Council meetings that would be very useful in terms of communicating the business that was transacted or taken on by the City.

At this time the power-point presentation was continued in regards to Findings: Perception; Community Outreach & Citizen Engagement; Internal Communications & Collaboration; Communication Tools.

Councilmember Franklin asked in regards to signage and when it was mentioned about space downtown what are you talking about

Mr. Altman said when you go to some cities there are neighborhoods marked with over street signs that hang to mark a neighborhood or a place, pictures on bus ads, advertisements, public service announcements, etc. There are also opportunities to partner with businesses to put signage up that has events that are happening or coming up. There are a million different opportunities to where folks are walking around and getting a sense of place and a sense of all the things that are happening.

Councilmember Miller said when it comes to communication normally it is the newspaper that is a prime source for information for the people in a city and about six months ago he wrote letters to the editor of our newspaper summarizing what the Council had done and after two of those letters the newspaper said that they were not going to publish that anymore. If he wanted to take out a political ad to indicate what the Council has done, that was perfectly alright. So our newspaper should be the main source of information and should have a reporter here that tells the citizens what the Council has done and instead they are just not interested in that. Again, what he had done was to write just an absolute impartial statement about what the Council had voted on and the information about each of the items and for a newspaper of a city not to publish something like that either by the Council or by a reporter simply means that the

main source of information is lacking. If you take any big city, you will also have all sorts of things about what is happening in the city in the newspaper and we just don't have that here.

Mr. Altman said that is a great point and we always wish that particularly in a time in which newspaper staffs are shrinking and are tight on time and the pressures that they are under are tremendous we find that most of the places that we work we wish they would take more of an interest and devote more time to covering City politics. But he would add that we have the opportunity here to talk to the citizens ourselves and speaking to them directly from the City there is an advantage to that over relying on a third party who often can make mistakes despite best intentions. When it comes from the City we know that the information is as close to the source and as accurate as it can be so that it one of the reasons they really encourage the City doing as much as it can itself to communicate directly with the citizens. Mr. Altman continued the power-point presentation in regards to: Findings – Resources; Structure & Geography. He said that out of this document they did want to identify some recommendations about things that they could immediately tackle in the near term as they are working toward a more comprehensive plan and he went over them as contained in the power-point presentation and he concluded by going over the Next Steps.

Councilmember Franklin asked in regards to the 92220 Newsletter is he anticipating that this also would be on the City's website and not just a paper drop and would there be value to just having a City link or having its own website where people could just go to 92220.

Mr. Altman said absolutely. They want to deliver this in as many ways as they possibly can. Deputy City Manager added that we do have a link to it on the City's website now.

Mr. Altman said that there are a lot of places where we use specifics or a micro-site that is devoted to something like this and one of the advantages to that is that everywhere you put an advertisement for it you can put a very simple web address that everyone can remember.

Ms. Gilhuly said the other advantage to having its own micro-site is that that it is so much more trackable so we are going to know right away if it is working. Mr. Altman added that you can also track things such as how long people are spending viewing it, which articles are duds and which articles people are really paying attention to.

Mr. Altman thanked the Council for their time and appreciated the opportunity to take on this challenge and hopes there is real value given and they look forward in being a part of moving forward in this City.

Councilmember Miller said it seems to him that everything that has been said is exactly what a communications director should be doing so why would we continue with both CV Strategies and the communications director working on this. It seems like a duplication of efforts.

City Manager said that they won't do that. They will have one more step which is the Communications Plan and staff will be asking for City Council direction tonight whether or not to pursue the Communications Plan and once that document is complete and the Council considers it, then CV Strategies' work will be essentially complete.

Councilmember Moyer said since we are going to be asked to go forward with a plan what is the estimated cost for that plan.

City Manager said somewhere between $10,000 and $12,000. The entire Assessment and Communications Plan would be under $25,000.

Councilmember Franklin asked him when he thinks he will have the next step ready and with your plan would you be showing some examples of some of the things that you are talking about that the Council should be considering to do

Ms. Gilhuly said she thinks when the Council pulls the trigger it is probably six weeks from then and it would be relatively turnkey. She usually advocates finishing off the assessment and if the Council decides that they want CV Strategies to help move forward, that is great. They start from scratch but they obviously go into that with a whole lot of knowledge that saves you time and money which is why they can do it for that kind of rate and at the end of that process you have a turnkey plan.

Councilmember Franklin asked if the Communications Plan would include measurements for the Council to know whether or not they are being successful in different areas.

Mr. Altman said that is an extremely important part of the plan and the other thing that is connected with that is that for every action that they propose taking they put in a timeline, responsible party, who should be doing it, and then how to test whether or not it is working.

Councilmember Peterson said earlier in the year he tried to get a hold of Erin to get a draft copy of this report and evidently according to the City Manager there was a draft made that was sent to him for review and editing so from the original draft that was submitted to the City Manager to the completed product how much has the report changed.

Ms. Gilhuly and Mr. Altman answered very little. Grammar was corrected, corrections were made if a department was misidentified. There was no substantive changes at all.

Councilmember Peterson said he noticed in the report that you identify some employees by name along with their answers. Weren't these questions and the interview supposed to be confidential? Were the interview questions and answers ever given to the City Manager for each employee that was ever interviewed?

Ms. Gilhuly said that these were the original staff questionnaires that were different than the interviews. She said she didn't even take notes. Mr. Altman said that the notes that they took were agreed upon to be private and they remain private. Most of them were just casual notes like bullet points to remind them of what folks said in conversations. They promised folks that they would maintain confidentiality but what they wanted to do was not to get into a situation where thirty interviews down the road they couldn't remember what Employee "A" said.

Ms. Gilhuly said the staff questionnaires that you see in this document were the ones that were sent out and then submitted back with the idea that they knew they were going to be submitting questionnaires back.

Councilmember Peterson said he was just more concerned as to whether the Council's answers were given to the City Manager as well as staff members or employees and the question is when they were told they would not go but they did go.

Mr. Altman said they were given as findings in this document. He said that Council findings were reported as a body.

Councilmember Peterson said it is a great report but he just wanted to makes sure that someone's privacy wasn't breached and the employee doesn't come back and there is some kind of retaliation or whatever because of information that was not to be disclosed was disclosed.

Mr. Altman said he thinks with a document like this the best case scenario is that people who are reading it over sees a little bit of themselves in it but they can't tell quite who the other folks are and where the communication is coming from. That is what they aim for.

Mayor Welch thanked Mr. Altman and Ms. Gilhuly for their presentation.

Deputy City Manager said while the cost would be under the $25,000 with both the assessment and the plan staff would still like to get direction from the Council on proceeding with the plan and that again it would be a complete plan that would handed over to the PIO (Public Information Officer) for implementation and would not need to keep CV Strategies onboard afterwards.

Councilmember Franklin suggested that the Council continue forward with the plan and they have given us good information and take advantage of their expertise to get a plan together and turn it over to our new PIO.

Councilmember Miller said it seems to him that we have hired a director and it may very well be that the plan is not the one that the new director has in mind. It seems to him that when you hire someone as a director that it is his job to develop a plan that he thinks is the most appropriate. So again, to say to our new employee this is your plan to him is kind of backward. He would like to have the Council continue that discussion in private as to whether or not the director likes this plan and not simply say we spent $10,000 and you do this.

Ms. Gilhuly said it would not be without his input. It would absolutely be a collaborative effort. She added that she has done 30 of these and she doesn't know if he has done any of these so the best case scenario she thinks for the City is collaborating with him. It is not a plan they do in a vacuum. They would absolutely rely on his expertise and his input and it would require that in order to produce a plan that we feel is the best thing to implement for the Council.

Councilmember Franklin said that would be her suggestion that we are actually taking advantage of everybody's expertise.

Phil Southard, new appointed PIO for the City addressed the Council stating that he appreciates Councilmember Miller's comments. Coming in here he thinks actually that CV Strategies did him a world of service by preparing such a comprehensive review of your communications

because that was something he would have had to do so that has already saved you a great amount of work. In speaking with them and kind of their direction he feels that he will have a very intricate role in preparing that plan and he looks forward to doing that and thinks that is the most prudent action going forward.

Councilmember Miller said that sounds fine as long as there is communication and everyone agrees on it.

Councilmember Moyer said we are talking roughly six weeks from the time we get a contact because he recently found out that we have approved some things a year ago that have now just started. Ms. Gilhuly said that is correct.

City Manager said they will not sit on it and want to get this back to the City Council for approval of a communications plan so that the PIO has a work plan.

Mayor Welch said that there is a consensus of the Council that we move forward with the development of the plan.

Deputy City Manager said that when they were talking about the newsletter and the micro-site the one thing that will be included in the newsletter is a contest to sign up for the 92220 on-line. There is a "Notify Me" link already existing so we have for anyone who signs up before December 31st on-line through "Notify Me" for an automated email version of the newsletter they can be entered in a drawing for "Hobby Lobby". So that is to encourage more people to sign up and save us money on mailing the actual paper mailing out and that is something that they can also use to push notification for when we have that micro-site developed to go to this site instead of receiving the future email newsletters.

ADJOURNMENT

By common consent the meeting adjourned at 4:11 p.m.

_____

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

EXHIBIT "A"

Communications Assessment Presentation

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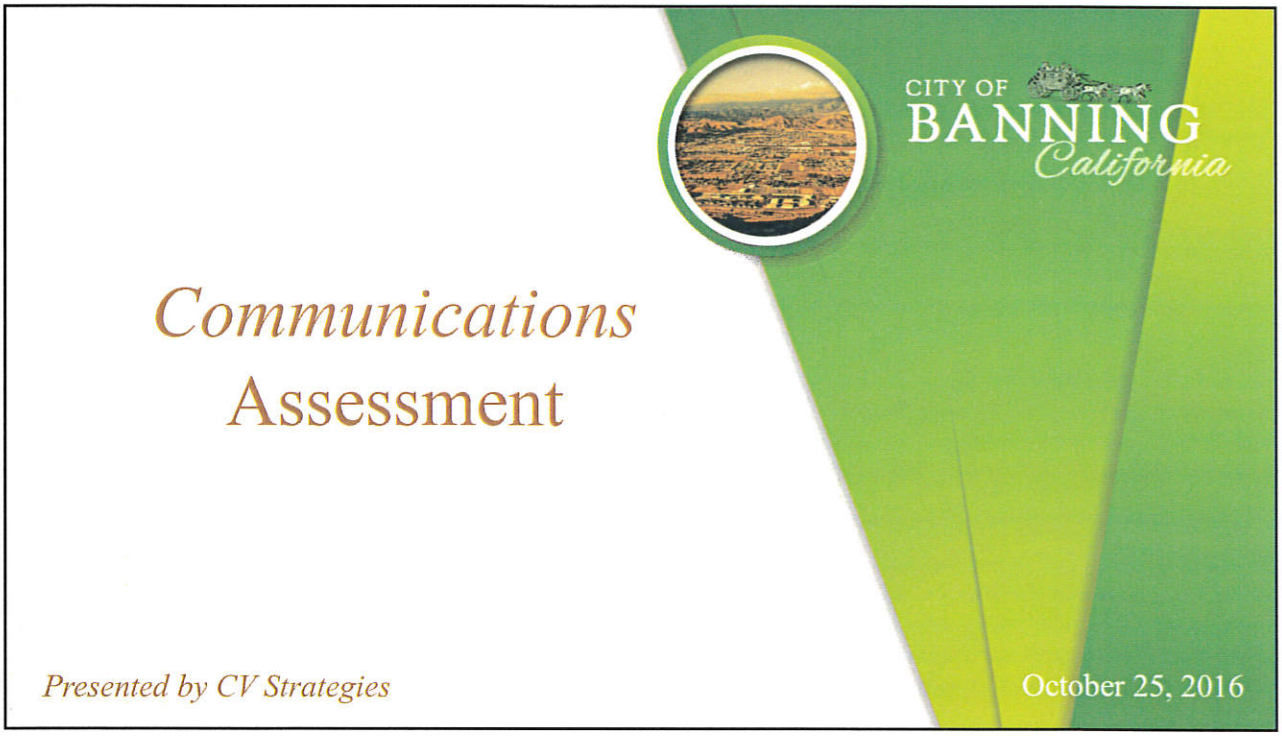
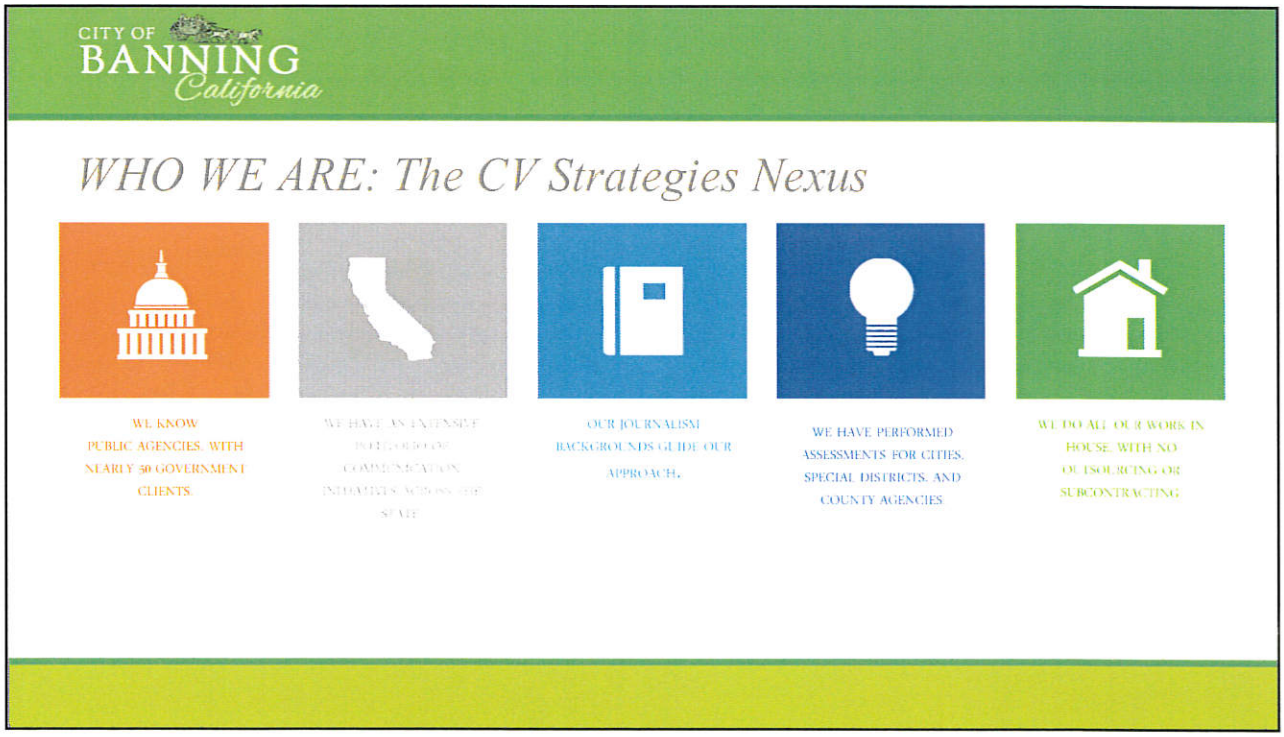

CITY OF
BANNING
California
Communications
Assessment
Presented by CV Strategies
October 25, 2016


CITY OF
BANNING
California
WHO WE ARE: The CV Strategies Nexus
WE KNOW PUBLIC AGENCIES. WITH NEARLY 50 GOVERNMENT CLIENTS.
OUR JOURNALISM BACKGROUNDS GUIDE OUR APPROACH.
WE HAVE PERFORMED ASSESSMENTS FOR CITIES, SPECIAL DISTRICTS, AND COUNTY AGENCIES
WE DO ALL OUR WORK IN HOUSE. WITH NO OUTSOURCING OR SUBCONTRACTING

CITY OF BANNING California

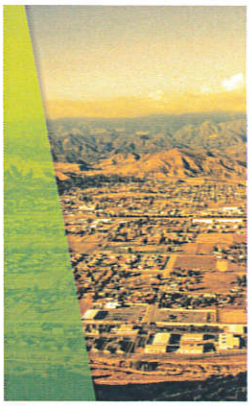
BACKGROUND

- Organization-wide communications assessment
- Assessed over 4 months
- Evaluated communications capacity, culture and capability
- Identified challenges and opportunities

CV Strategies spent more than 100 hours reviewing materials, visiting sites, facilitating group discussions, distributing questionnaires, and interviewing elected officials, managers, staff, citizens and other stakeholders

CITY OF BANNING California

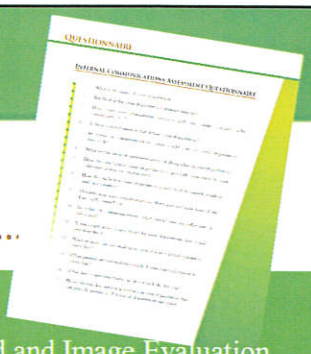
CITY COMMUNICATIONS ASSESSMENT PROVIDES



1. Holistic and comprehensive evaluation based on observations, meetings and research
2. Examination of the City of Banning's resources and strategies related to communications within the organization, including staff and elected leaders
3. Evaluation of the effectiveness of the City's external messaging and related strategies
4. Review of the City of Banning's communications and media outreach efforts
5. Evaluation of Banning's communications tools (e.g. website, printed collateral, press releases)
6. Assessment of Banning's brand and branding efforts
7. Immediate communications recommendations
8. Long-term communications recommendations

CITY OF BANNING California

PROCESS AND REVIEW ELEMENTS



Assessment Team:

Erin Gilhuly
Alex Altman
Janet Zimmerman

- Interviews and Interviews with Elected Officials and Staff
- Questionnaires
- Group Discussions
- Site Visits and Ridealongs
- Stakeholder Analysis
- Media Landscape Assessment
- Brand and Image Evaluation
- Communication Tools Appraisal
- Web, Social Media, and Digital Tools Evaluation
- Internal Communication Protocol Review
- Site Geography Assessment

CITY OF BANNING California

FOUNDATIONAL STRENGTHS



1. Unique identity
2. Heritage
3. Sense of community
4. Hard-working, self-sufficient staff that prioritizes service
5. Active, engaged City Council
6. Well-respected Chief of Police
7. Leaders that are interested in proactive, innovative communication

CITY OF BANNING California

FINDINGS

LEADERSHIP



1. Rapid turnover undermines stability
2. Strong department leaders focus on individual department performance
3. Discord in public meetings
4. Departments have different rules, standards, and protocols
5. Need processes to promote information sharing

CITY OF BANNING California

FINDINGS

CULTURE



1. How disagreements are handled impacts morale
2. Culture of respect and decorum should be nurtured
3. Solutions-oriented approach should be encouraged
4. Communication occuring outside the traditional Council→City Manager→Staff structure can lead to confusion

CITY OF BANNING California

FINDINGS

PERCEPTION



1. Banning has very little public image/awareness
2. Not leveraging the City's unique identity
3. Services could be shared more with citizens
4. Media image focuses on council and lawsuits
5. Community has pride and an appetite for good news
6. Tremendous opportunity for positive information

CITY OF BANNING California

FINDINGS

COMMUNITY OUTREACH & CITIZEN ENGAGEMENT



1. Need master plan approach to communication
2. Need to coordinate outreach among departments
3. Could enhance two-way dialog with citizens
4. Many only interact through their utility bills
5. Opportunity to leverage full-service City approach
6. Community Services and Police are tremendous opportunities for outreach
7. Eastern areas and youth should be a priority

CITY OF BANNING California

FINDINGS

INTERNAL COMMUNICATIONS & COLLABORATION



1. Employees are hungry for enhanced communication
2. Structure process change could eliminate bottlenecks
3. Mission and Vision could be shared more
4. Employees desire open door policy
5. Silos hamper department communication

CITY OF BANNING California

FINDINGS

COMMUNICATIONS TOOLS



1. Signage could be enhanced
2. Website is in transition
3. Social media presence could be unified
4. Community access TV and transit ads are tremendous opportunities
5. Newsletter and collateral should be prioritized
6. Communication must occur frequently beyond bill

CITY OF BANNING California

FINDINGS

RESOURCES

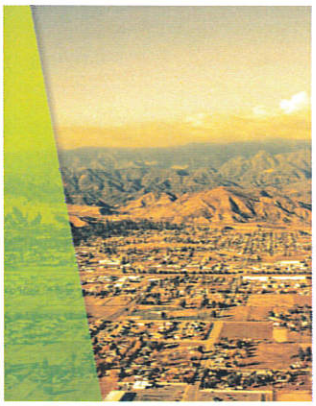


1. Need to coordinate messages and tools
2. No single point of contact for the media
3. A central hub of information would provide contact and oversight
4. Public information officer would present a unified face and voice for the City
5. This would improve organizational development, morale and internal & external communication

CITY OF BANNING California

FINDINGS

STRUCTURE & GEOGRAPHY



1. City Hall divides staff into two halves
2. Electric and Water utilities are separated
3. PD and Community Center are in separate locations
4. Staff at CC is isolated
5. Neighborhoods feel disconnected
6. All facilities could use more signage sharing info
7. Banning downtown could serve as a key link
8. East Banning could be a focus

CITY OF BANNING California

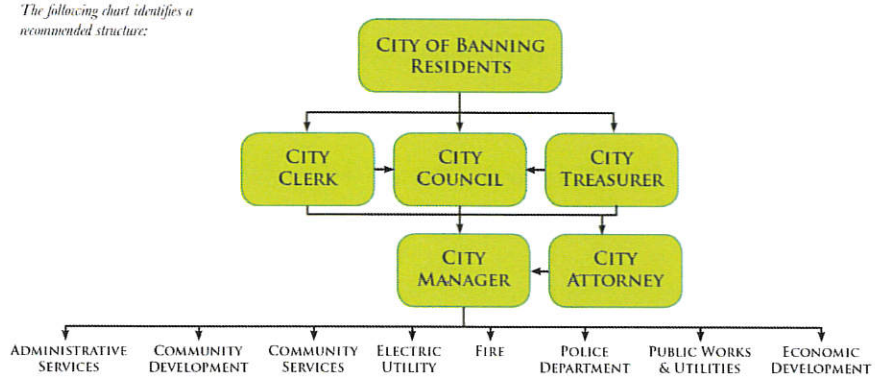
RECOMMENDATIONS

- Creating a cohesive leadership structure and minimizing public meeting conflict will help focus on positives in the community and improve employee productivity and morale.
- Increased outreach to community members through frequent, regular and dynamic information sharing will eliminate the information vacuum and build awareness of Banning's brand and services.
- A central coordinator of all outreach activities would unify the City's voice, ensure accuracy and clarity, and reach out to parts of the community that are currently not engaged with City programs and services.
- New digital tools and practices must be embraced to improve the convenience, speed, and effectiveness of the transactions citizens have with the City.
- The City's wide range of services and their value must be actively messaged to community members through the numerous methods already available in Banning.
- Internal client service should be prioritized to enhance collaboration, shared vision, unified spirit, and morale.

CITY OF BANNING California

ORGANIZATION CHART

The following chart identifies a recommended structure:



City Council


Mayor *Art Welch*


Mayor Pro Tem
George Moyer

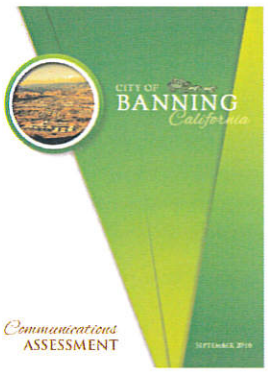

Council Member
Edward Miller


Council Member
Debbie Franklin


Council Member
Don M. Peterson

CITY OF BANNING California

NEXT STEPS



- Develop Strategic Communications Plan, in an effort to:
  - ✓ Improve and coordinate all internal and external communications;
  - ✓ Fulfill its mission through practical and proactive communication strategies;
  - ✓ Build relationships and buy-in across departments with different goals and leadership;
  - ✓ Increase public awareness of Banning's many services;
  - ✓ Increase overall communications effectiveness
- Projects underway:
  - ✓ PIO recruitment process initiated
  - ✓ Draft newsletter developed

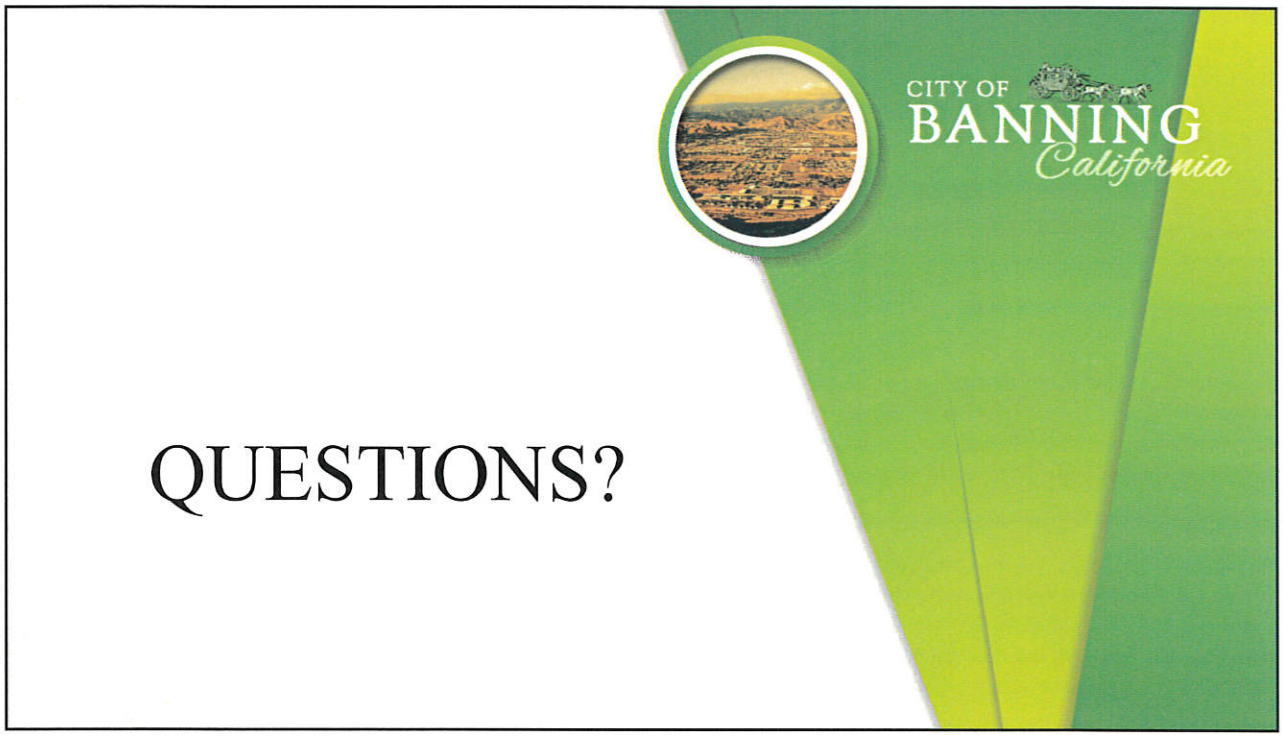
CITY OF BANNING California

REDESIGNED NEWSLETTER

Key Topics:

- State of the City
- Animal Shelter
- Balanced Budget
- Drinking Water Standards
- Capital Improvement Projects




CITY OF
BANNING
California
QUESTIONS?

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/25/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on October 25, 2016 at 4:31 p.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS

Andrew Jared, Banning Library District Counsel addressed the Council regarding the conversation held last week with staff in regards to Condition No. 39 and future agreements. He said this will not cover everything for the future but it is a start so the City and the District can address concerns and move forward.

INTERVIEWS

1. Candidate Interviews for City of Banning Park and Recreation Commission

Mayor Welch went over the process that they would be using for the interview process.

The City Council interviewed candidates Albert Jasso and Katrina Cline asking them various questions in regards to why they were interested in being on the Commission, their experience and background, and their understanding of the Park and Recreation Commission and its role. The candidates also had an opportunity to ask the Council questions.

ADJOURNMENT

By common consent the meeting adjourned at 5:10 p.m.

_____
Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/25/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on October 25, 2016 at 5:12 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

Mayor Welch opened the item for public comments on the closed session items. There were none.

CLOSED SESSION

Interim City Attorney stated that there are three closed session items: 1) Real Property Negotiations pursuant to Government Code Section 54956.8 for the property located at Repplier Park, 201 W. George Street; 2) Conference with Labor Negotiations pursuant to Government Code Section 54957.6 regarding employee organization SBPEA (San Bernardino Public Employees Association) Teamsters; 3) Existing Litigation regarding Cassadas, et al., v. City of Banning, et all, Riverside Superior Court Case No. 16003770.

Meeting went into closed session at 5:13 p.m. and reconvened at 5:39 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:39 p.m.

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Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/25/16
REGULAR MEETING

A regular meeting of the Banning City Council; and a joint meeting of the Banning City Council and the Council Sitting in Its Capacity of a Successor Agency was called to order by Mayor Welch on October 25, 2016 at 6:00 p.m.at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Alex Diaz, Police Chief
Fred Mason, Electric Utility Director
Heidi Meraz, Community Services Director
Arturo Vela, Public Works Director
Brian Guillot, Community Development Director
Tim Chavez, Battalion Chief
Ted Shove, Economic Development Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

The invocation was given by Banning Police Chaplain Merle Malland. Councilmember Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Interim City Attorney stated that the Council did convene to closed session at about 5:10 p.m. to discuss the three items listed on the closed session agenda as follows: 1) Real Property Negotiations for the property located at Repplier Park, 201 W. George Street; 2) Conference with Labor Negotiations to give direction to their labor negotiations regarding employee organization SBPEA (San Bernardino Public Employees Association) Teamsters; and 3) Conference with legal counsel involving the case of Cassadas, et al., v. City of Banning. At the conclusion of the closed session the Council took no reportable actions.

PRESENTATIONS

1. Update Regarding Receivership Process of Abandoned Building on Lincoln Street by Silver & Wright, LLP

Mayor Welch said this item is tabled and will come back to the City Council.

APPOINTMENTS

2. Consideration of appointing one candidate to fill the vacant position on the Banning Park & Recreation Commission.

Mayor Welch said this item is tabled and will come back to the City Council.

ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

City Council

Councilmember Franklin –

- In regards to the Riverside County Transportation Commission (RCTC) meeting they are looking at possibly removing some of the call boxes along the freeways. The cost for maintenance every year is over $1.3 million and the software in them is obsolete so they are looking at other ways to take care of those parts of the freeways that still may have them. What they found out in doing the review of the call boxes is that most of them are used less than five times a year. If anybody has any ideas of what RCTC can do, please let her know. Everything else on that agenda mainly pertained to Freeway 91 and the continuing closures.

Councilmember Moyer –

- The next animal control meeting will be held tentatively on November 15th at 6:00 p.m. at the police station and if it changes they will let everyone know.
- In regards to 2+2 meetings, he and Councilmember Franklin have been meeting with the school board and superintendent working on trying to get a work experience program in our city. They have already contacted a number of businesses who have volunteered but if you know of a business that might be interested in participating, give him or Councilmember Franklin a call and give them the name of the company and the contact information so they can try to get this program off the ground.
- Over the last couple of months the Council has been talking about Chromium-6 and he had talked to some people at the League of California Cities Conference and the Council asked him to pursue those to see if we might be interested in collaborating on some kind of action against the State. He has talked to about six cities and two have confirmed that they would like to join and he is now starting to talk to the different water agencies that are also impacted throughout the State.

Mayor Welch –

- This past Wednesday he enjoyed a very thorough presentation that gave a look at yesterday, today, and into the future as far as the economics and growth of the Pass Area by Economist John Husing. You can view this presentation on-line at: www.JohnHusing.com.

City Committee Reports – Nothing to report.

Report by City Attorney – None at this time.

Report by City Manager –

- He introduced new employee Phil Southard, Public Information Officer. He comes to the City of Banning with nine years of experience at OPR Communications in Riverside as a Senior Account Executive and also spent over a year in the office of Governor Schwarzenegger as the Assistant Deputy Appointment Secretary. He has a Bachelor's Degree from Cal State San Bernardino in Criminal Justice and lives in Beaumont with his wife and two sons.

PUBLIC COMMENTS – *On Items Not on the Agenda*

Ellen Carr, Tender Loving Critters Animal Rescue addressed the Council with updates on the Animal Action League Mobile Spay and Neuter Clinic coming November 17th and 18th and so far for both days are half full. For information or to make an appointment you can call the Animal Action League at 760-366-1100 and for information in Spanish the number is 760-366-1105. She went into detail in regards to the prices for the various services that are being offered.

Diane Box, citizen of Banning addressed the Council thanking Code Enforcement and the Banning Police Department for cleaning up the blight in Banning which has made a considerable improvement over the last few months and it is very much appreciated. She said that one of the concerns she has is on the agenda tonight but there are a few questions about some of the donations that our Mayor Art Welch has received and she is concerned that there could be a conflict of interest, in her opinion. To date he has received over $140,000 in campaign contributions to support his campaign from special interest groups and companies located outside of Banning. She doesn't understand why they would want to contribute to him but if you want to compare the donations to his voting record she would bet that it lines up. The entity that has donated $140,000 to Mayor Art Welch's campaign is the Inland Empire Taxpayer Association. This is the umbrella Political Action Committee (PAC) unrelated to Banning that has received the money from special interest groups and out of town corporations to be used in helping Mayor Art Welch's campaign. Let us look at the actual donors: FH 11, LLC from Rancho Cucamonga, CA donated $65,000. Why…there appears to be a connection between FH 11, LLC and Diversified Pacific, the development company for which Mayor Art Welch recently voted to approve two of their projects in Banning. Robertson's Mine donated $10,000. Why…Mayor Art Welch is on the committee that negotiated a 50% reduction of the voter approved 80 cents per ton tax. Yet, somebody proposed 25 cents for them to pay instead of 80 cents. Why would they do that? Why would they give $10,000 to somebody who has a say in whether or not they reduce that cost to Robertson's. Morongo Band of Mission Indians donated $20,000. Why…Mayor Art Welch was appointed to the Indian Gaming Distribution Commission by County Supervisor Marion Ashley. To have a contribution to anyone who is overseeing the gaming operation is certainly worth a thought. Advanced Heal The-Solutions from Hemet, CA donated $25,000. Why…the company's name suggests that they are an E-business however, they appear to have no interest presence and also, there appears to be no listed telephone number for the company. The company's address traces back to the CPA office of Pehl, Foutz and Teegarden of Hemet with no known ties to Banning. Why would they donate such a large sum? San Bernardino Firefighters Local 735 donated $10,000. Why…this is the impressive name of a Political Action Committee (PAC) with donors who remain anonymous. You have to ask yourself, why? It seems to her that Mayor Art Welch is already bought and paid for and it looks like you won't be on the side of the citizens by these donations. She is very concerned who he will have loyalty to; the people who paid for his campaign or the citizens he wants to represent.

Inge Schuler, resident addressed the Council stating that she was pleased to hear that we have a Public Information Officer. We are in dire need of one after her experience with the Finance Department. She paid for her business license on September 11th with the expiration date of her license being the 30th; she did not get her license. She called about two weeks ago and left a message and had no return call so the Public Information Officer is needed to return those calls. She called again after she received her bank statement the day before yesterday and the check was cashed on October 12th so it took a month to cash her check and she still does not have the license. She called again yesterday and was told by the person who did not identify herself that she has two jobs. She has to do the business licenses and is also doing the purchasing so we need to hire somebody in those departments rather than a Public Information Officer who has to clean up the messes that are left behind. Then on Friday we were notified by email about a 2 p.m. meeting today. Most of us cannot attend these early meetings especially if we only have a two-day notice but that is probably the intent and it doesn't really matter because if there is a workshop, Mayor Welch does not allow public comment until everybody has left so this needs to be redone.

Amy Pippenger, Stagecoach Days thanked George Moyer, Heidi Meraz, and Rochelle Clayton for meeting with Stagecoach Days in trying to find a resolution for their insurance and she knows that they are still working on it and so they are waiting and cannot sign contracts until all of this is figured out. She introduced the 2016 Rodeo Queens: Little Miss, Sydney Webb; Tiny Miss, Maddison Miner; Tiny Miss Princess, Abigail Ramirez; Junior Miss, Kory Baudouine; Miss Stagecoach Days, Sarah L'Huller. Ms. Pippenger said that if anyone would like to have the queens come out to do any presentations or talk to any of the service groups in the area, just give them a call and they are more than willing if their school schedules allow for it. Ms. Baudouine and Miss L'Huller gave further information on what they along with the court have been doing such as attending different events to represent Stagecoach Days and some of the various rodeo events. On November 12th they will be raising money for the 60th Anniversary of Stagecoach Days by hosting a golf tournament at the Morongo Golf Club and if you would like to be in the tournament please register by November 5th.

Dorothy Familetti-McLean, resident addressed the Council stating that she wanted to let the Council know that she hasn't forgotten about the probation department. She has not seen a shovel, metal or plastic, over there breaking any ground. She hopes and prays that Vanir drops the ball or gives it to somebody else so that we can build something that this community can be proud of.

Councilmember Moyer said that he has seen the mailings and the Banning Informer where they claim that the Art Welch has received $140,000 from all these special interests. Anybody who can read and read the entire form would see that they did not donate $140,000 to Art Welch. In fact, there was $3,250 donated and that was in-kind services and it wasn't even cash. That is a PAC that represents a number of political issues throughout the Inland Empire. It is a flat out lie to say you received $140,000 and anybody that could read would know that.

CORRESPONDENCE

City Clerk read a letter from Fred Sakurai (attached Exhibit "A") regarding campaign contributions of Super-PACS.

Councilmember Miller said he would like to make a correction to what was just read from Fred Sakurai. The Inland Empire has donated that money in support of Mayor Art Welch and if you look at that form it does not say they have given money to support him. It says specifically that they are donating the money in a campaign against his election. So again, this letter is completely incorrect.

There was conversation back and forth between Councilmembers Moyer and Miller.

Mayor Welch stopped the conversation stating that this is a City Council Meeting to do City business, not to have a political forum.

Councilmember Miller said when a letter is read that has incorrect information he has the responsibility and duty to inform the correct statement and the correct statement is that the $70,000 was given in opposition to his election and that is what the form states.

Mayor Welch said that he was exactly right and has a right to say that but we will not have the bantering back and forth between members.

CONSENT ITEMS

Councilmember Peterson pulled Consent Item No. 7 for discussion.

1. Approval of Minutes – Regular Meeting – 09/27/16 *(Closed Session)*

Recommendation: That the minutes of the regular meeting of September 27, 2016 be approved.

2. Approval of Minutes – Special Meeting – 10/04/16 *(Special Meeting)*

Recommendation: That the minutes of the special meeting of October 4, 2016 be approved.

3. Approval of Minutes – Special Meeting – 10/11/16 *(Closed Session)*

Recommendation: That the minutes of the special meeting of October 11, 2016 be approved.

4. Receive and File List of Contracts Signed Under City Manager Signature Authority of. $25,000 or Less.

Recommendation: Receive and file the list of contracts approved under the City Manager's signature authority of $25,000 or less.

5. Adopt Resolution No. 2016-107, in opposition of Proposition 57.

Recommendation: That the City Council adopt Resolution No. 2016-57 in opposition of Proposition 57, which will be on the November ballot.

6. Ordinance No. 1502 – 2nd Reading; An Ordinance of the City Council of the City of Banning, California, Amending Section 3.18.030 of Chapter 3.18 of the Banning Municipal Code Reducing the Mining Tax from Eighty Cents to Twenty-Five Cents

Per Ton of Rock Materials Excavated, Processed and Transported within the City of Banning.

Recommendation: That Ordinance No. 1502 pass its second reading and be adopted.

Mayor Welch opened the item for public comments; there were none.

Motion Peterson/Franklin that Consent Items 1 through 6 be approved. Motion carried, all in favor.

7. Approval of Accounts Payable and payroll Warrants for the Month of July 2016

Councilmember Peterson said that there seems to be some rhetoric on social media i.e. specifically the Banning Patch regarding post of Libi calling for all of us Council Members to be removed because of some check warrants. But specifically a total line item of $366,929 dated July 7th, $1,334,132 dated July 14th, $93,729 dated July 21st, $188,395 dated July 28th, and $5,439,826 dated October 5th. He personally looked at the warrants and saw that these were totals. These were not individual expenditures but totals of different funds throughout the City and he would like to defer to our financial expert Rochelle Clayton and have her explain that to the public.

Director Clayton said that these are totals and the first four amounts are the totals for the four weeks in July. The higher total $5.439 million is the total of the month end. It is a grand total and not an individual expenditure and this is the highest dollar amount because it's considered month end meaning that we process all of the journal entries. It is dated October 5th and it says so on that report that Libi put out. October 5th is when all of the journal entries were processed. These were for high-dollar transfers that were done in July but they were done as wire transfers. We have our debt service expenditure which is $1.2 million, retirement benefits catching up for the entire month of $1 million, $1.2 for electric revenue expense and that is a monthly transfer. So those high dollar amounts are all done as wire transfers and all entered into the system via journal entry and that is why they are done after July and it is dated October 5th and it is a total for the entire month of those wire transfer expenditures. Those high-dollar expenditures are done via wire transfer and just captured on the books after the fact and that is why it totals that $5.4 million which does seem high but it is not a one-time as it appears on that post that Libi put up that appears as a single expenditure; it is a total.

Councilmember Peterson said that transparency is always best and when he sees something like this on social media and rather than to leave it there, he would rather call it to attention and nip it in the bud right away and not let these types of things fester and if there are questions on it, you can call Rochelle Clayton and she can explain it further.

Motion Moyer/Franklin that Consent Item No. 7 be approved ratifying the report per the California Government Code. Mayor Welch opened the item for public comments; there were none. **Motion carried, all in favor.**

JOINT MEETING

Mayor Welch recessed the regular meeting of the Banning City Council and called to order a joint meeting of the Banning City Council and the Banning City Council Sitting in its Capacity of a Successor Agency.

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution No. 2016-09 SA, approving the Subordination Agreement to the Loan Agreement for a First Time Homebuyer Program located at 510 Dorothy Anna Drive.
(Staff Report – Ted Shove, Economic Development Manager).

Manager Shove gave the staff report as contained in the agenda packet. He said that should the Council approve this item there is a material change that should be noted. The lender provided updated loan information after agenda publication. The new loan amount is $114,641.00 and it is a $520 dollar increase from what was reported in the resolution and subordination agreement.

Mayor Welch opened the item for public comments; there were none.

Motion Moyer/Miller to adopt Resolution No. 2016-09 SA, approving the Subordination Agreement to the Loan Agreement for the First Time Homebuyer Program to Security Interest in property located at 510 Dorothy Anna Drive, Banning, CA Assessor's Parcel No. 537-262-002-5. Motion carried, all in favor.

Mayor Welch adjourned the joint meeting of the Banning City Council and the Banning City Council Sitting in Its Capacity of a Successor Agency and reconvened the regular City Council Meeting.

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution No. 2016-105, Approving a Fiscal Year 2017-2018 Community Development Block Grant (CDBG) Program Project.
(Staff Report – Ted Shove, Economic Development Manager)

Manager Shove gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

Motion Franklin/Moyer to adopt Resolution No. 2016-105, approving a Fiscal Year 2017-2018 Community Development Block Grant Program Project and authorize staff to submit an application to the Riverside County Economic Development Agency.

Councilmember Moyer said that part of this process is that we did advertise for anybody wanting part of this grant for their non-profits and we had one application from the Boys and Girls Club. He wanted to make a point that he believes the Boys and Girls Club service this community very well however, we need these new fields badly and need to expand them our soccer programs and facilities. So he apologizes for the denial to the Boys and Girls Club but these funds needed to go where the City needed them most and that was to this Lions Park expansion.

Motion carried, all in favor.

2. Discuss and Consider Adopting Resolution No. 2016-104, Approving the First Amendment to the Rancho San Gorgonio Specific Plan Project Manager Services Agreement Between the City of Banning and Romo Planning Group, Inc.
(Staff Report – Brian Guillot, Community Development Director)

Director Guillot gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

Motion Miller/Franklin that the City Council adopt Resolution No. 2016-104, approving the First Amendment to the Rancho San Gorgonio Project Manager Services Agreement with Romo Planning Group, Inc. Motion carried, all in favor.

3. Discuss and Consider Adopting Resolution No. 2016-87, Approving the Amendment to the City of banning Professional Services Agreement for Cost of Service Analysis and Rate Design between the City of Banning and Leidos Engineering, LLC to Extend the Term of the Contract to April 30, 2018 and Include the Development of a Stranded Cost Recovery Rate for $5,000.
(Staff Report – Fred Mason, Electric Utility Director)

Director Mason gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

There was Council and staff dialogue in regards to the rate analysis/study, how long it would take to complete the smart meter installation, the collection of data, and an explanation of customers being served by another entity and the ability to recover stranded investment and what percentage of customers are there, and the delays in getting the rate study completed.

Motion Franklin/Moyer to adopt Resolution No. 2016-87: 1) approving the Amendment to the City of Banning Professional Services Agreement for Cost of Service Analysis and Rate Design between the City of Banning and Leidos Engineering, LLC; 2) authorizing the City Manager to execute the applicable documents to effect said Amendment; and 3) authorizing the Administrative Services Director to make the necessary purchase order adjustments, appropriations, and transfers. Motion carried, all in favor.

4. Discuss and Consider adopting Resolution No. 2016-106, Awarding the Contract for the Smart Meter Installation Service to Vanguard Utility Service, Inc. in an Amount Not to Exceed $365,480 and Rejecting All Other Proposals.
(Staff Report – Fred Mason, Electric Utility Director)

Director Mason gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

There was Council and staff dialogue in regards to meter switch out impacting a customer's bill, the billing process be more consistent, cost of installation, number of customers, interruption of power, noticing to customers and public outreach.

Motion Moyer/Franklin to adopt Resolution No. 2016-106: 1) Awarding the Contract for the Smart Meter Installation Service to Vanguard Utility Service, Inc. in an amount not to exceed $365,480 and rejecting all other proposals; 2) authorizing the City Manager to execute the applicable documents to effect said Amendment; and 3) authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations and transfers. Motion carried, all in favor.

5. Discuss Establishing a Financial Impact Maximum not to Exceed $25,000 on the City Council Agenda under Consent Items.
(Staff Report – Rochelle Clayton, ASD/Deputy City Manager)

Deputy City Manager Clayton gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

Councilmember Miller said that he brought this item forward simply as a point of transparency of government. Before he was on the Council he saw the Consent Calendar and it was just a mystery and he always wondered whether or not there were things purposely put on the Consent Calendar to hide from public discussion so it seemed to him to avoid any such thought that we have a limit of $25,000 or some other figure so that large items cannot appear as a Consent Item. So if we have an item on the Consent Calendar that is purchasing something for $200,000 that we may need but to have it on the Consent Calendar implies that we don't want to discuss it and want to keep it from the public. His idea is for open transparency to have a limit of $25,000 so that we know that everyone who is watching the Council Meetings knows that all the information or significant items is available to them.

Councilmember Franklin asked if that was the recommendation from the Budget and Finance Committee.

Councilmember Miller said that they did not make a recommendation.

Councilmember Moyer asked how many items really do we have on the Consent Calendar that are actually over $25,000.

Director Clayton said that there are very few. She looked at the last few months and the MOU's brought forward did have a financial impact of over $25,000 and those were discussed at length in closed sessions and did see that historically it had been put on Consent for the MOU's to go forward. There was a reimbursable item that was over $25,000 but that was she believes a developer paid expense that goes through the City. Those were the few that she saw in the recent months but beyond that she did see any others in the last six months.

There was a consensus of the Council to give it back to the Budget and Finance Committee to add to their next meeting.

BANNING UTILITY AUTHORITY (BUA) – There was no meeting

BANNING FINANCING AUTHORITY (BFA) – no meeting.

ITEMS FOR FUTURE AGENDAS

New Items –

Mayor Welch said that the Council only has two more meetings this year and they will both be on Mondays. November 7th and that is because November 8th is Election Day and city hall is used as a polling place and December 12th is also a Monday and that will be the swearing in of the newly elected City Council Members and one of those Council Members will not be in the country on the 13th so that is why it is being moved.

Councilmember Franklin said that since we do have a new PIO she would like to ask were we have Committee Reports if they could start adding a report from the PIO because we always have some activity going on in the city and it would be good for him to be able to just give a report on things.

City Manager said that they can have a PIO Report.

Councilmember Franklin announced that we do have a citizen Mary Elizabeth Waller who was recognized as a Woman of Distinction by Senator Morrell earlier this month and she thought it was really nice to know that he was recognizing one of our local citizens.

Councilmember Moyer welcomed back Gail Wesson, Press Enterprise reporter who had been gone and now she is back.

Pending Items – City Council

1. Annual Report by Southern California Gas Company.
2. Zoning Amendment to General Plan – allow for community gardens
3. Consideration of the Annual Disaster Survival Expo as a City signature event.
4. Join other agencies to challenge the State in regard to Chromium-6 water issues.

ADJOURNMENT

By common consent the meeting adjourned at 7:08 p.m.

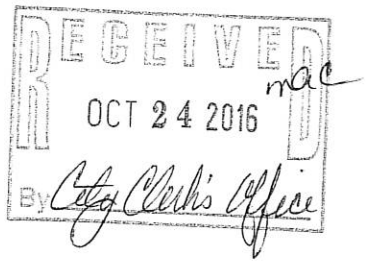
_____

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Marie Calderon

From: Frp2002
Sent: Sunday, October 23, 2016 2:20 PM
To: Marie Calderon
Subject: letter for City Council meeting



D. Ellis, closely associated with Banning Citizens Against Corruption, came to the prior meeting and denounced Mayor Welch for receiving a $73,000 donation from a group led by Chris Mann called the Inland Empire Taxpayers Association. Although not required, this association filed a Form 496 with the City Clerk of Banning. Also, Mr. Burgess and Ms. McLean jumped on the bandwagon and wrote letters to the Record Gazette denouncing this $73,000 campaign donation. This trio failed to mention a similar form with exactly the same figures were filed with Ed Miller's name.

Very much to his credit, and in accordance with the State of California Brown Act, Mayor Welch remained a gentleman and did not stand to give a condescending lecture to the obviously misguided trio. Mayor Welch did not receive a single nickel of the proclaimed $73,000, nor the $3250 documented in still another Form 496.

A recent letter in the Record Gazette explained most of the process by which Super-PACS operate. Although still a bit confusing to me, I am glad that, as far as I know, the Banning City Council members are not involved.

Fred Sakurai
Banning, CA

Exhibit "A"
(Correspondence)

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/07/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on November 7, 2016 at 4:00 p.m. at the Banning Civic Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Art Vela, Public Works Director
Philip Southard, Public Information Officer
Perry Gerdes, Public Utilities Superintendent
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

PUBLIC COMMENTS – *On Items Not on the Agenda*

There were none.

REPORTS

1. Sustainable Groundwater Management Act
(Presentation – Art Vela, Public Works Director and Wes Miliband, Esq.)

Director Vela said the purpose of this workshop is to reintroduce to the Council in a little bit more detail the Sustainable Groundwater Management Act or SGMA and also to go over the approaches and the involvement that they have had so far in meeting SGMA's requirements. He said he invited Wes Miliband with Stoel Rives to be here who will be doing the presentation and will be going over some of those items. At the end of the presentation they can discuss a little bit of what has been done so far to date to meet the requirements of SGMA.

Wes Miliband addressed the Council stating that he will go through the slides and it is front-loaded with kind of the big picture aspects to California Water Supply, SGMA itself with its goals and some of the milestones mentioned and then get specific to our local interest particularly with the San Gorgonio Pass Sub-Basin. At this time Mr. Miliband started his power-point presentation (attached Exhibit "A") starting with California Water Use; Satellite Images of California's drought conditions; Water Rights; and SGMA Background and Milestones: A Sketch. He explained that a GSA is a public agency referred to as a Groundwater Sustainability

Agency (GSAs) and are by default under SGMA the County. The County can opt out in which case other local public agencies would need to step in and if they do not do that, then the State can step in by placing that basin into what is called a "probationary status" and then develop what is called a GSP (Groundwater Sustainability Plan). In regards to the timelines June 30, 2017 is the deadline to develop the GSA and if that doesn't happen, this is where the State could step in as that backstop and put the basin into a probationary status. So next June is a very critical point in the implementation timeline of SGMA to have a GSA formed and then move on to that next big step as to what he is referring to is the development of a Groundwater Sustainability Plan.

Councilmember Franklin said for clarification when you say the "State" who is that.

Mr. Miliband said that there are basically three State agencies that have a role in SGMA: State Water Resources Control Board or State Water Board, Department of Water Resources, and California Water Commission which is a separate but somewhat related governing body of Department of Water Resources. It is the DWR (Dept. of Water Resources) that would place the basin into a probationary status but the State Water Board is the one with the enforcement authority so once that probationary status is there and it is not cured, the State Water Board becomes the enforcement agency on behalf of the State of California.

He continued with his power-point referring to slide 9 that shows the 27-year timeline and it is basically showing the June 30, 2017 timeline, January 2020 becomes a very relevant date here in the City of Banning for the Pass Sub-Basin, and then going out to 2042 it gets into the compliance where basically that basin needs to be shown as having met its sustainability goal. He continued going over the Groundwater Basin and Sub-Basin; Groundwater Basin Prioritization; and Groundwater Sustainability Agency.

Councilmember Miller asked Mr. Miliband if he could explain what the different colors are in slide 11.

Mr. Miliband said that basically the colors are orange, yellow and green and light blue. Orang – most severe – highest priority basin; Yellow – medium; Green and Blue – refer to low and very low priorities respectively and low and very low priority basins are not mandatorily subject to SGMA; it's voluntary. There have been a few public agencies around the state that have voluntarily subjected themselves to this. He said that the Pass Sub-Basin is yellow so it is a medium-priority basin.

Councilmember Miller asked what exactly does that mean "priority".

Mr. Miliband said that DWR when it was developing somewhat of an evaluation and then criteria for how to implement SGMA it took a look from a State perspective as to how many groundwater basins are there, what data do we have to be able to drawn conclusion as to its status, is it in overdraft, is it close to overdraft, or is it what the State might call a very healthy basin or in low risk of being in overdraft. And so what they did was to collect data that had been submitted by various sources, local agencies themselves, and they created a priority totem pole where basins that are in overdraft and deemed the highest priority meaning the highest priority in getting them back into a sustainable status. Meaning let's get more water put back into that basin or less coming out or a combination of that so that the basin levels are sustainable and not continually dropping.

There was some Council and staff dialogue along with Mr. Miliband in regards to the San Gorgonio Sub-Basin.

Councilmember Peterson said he came across an article that Nestle pays only $524 dollars to extract 27 million gallons of California drinking water and where they are extracting this they are calling a drawn from natural springs most notoriously in the San Bernardino National Forest, also Arrowhead Springs which is on public land and National Forest, and Twelve Springs in Strawberry Canyon and additionally Deer Canyon. So are those attached in any way to our aquifer?

Director Vela said the plant that is related to Morongo in the Cabazon area are within the San Gorgonio Sub-Basin. He said SGMA specifically does not require federally recognized tribes to comply with SGMA. That is one of the challenges that we are facing and staff has corresponded with the State Water Resources to see how they should handle this and a lot of this is still being worked out. So the challenge that they are seeing the San Gorgonio Sub-Basin Morongo owns roughly about 30% of that land and by this Act we are required to maintain the Sub-Basin in a sustainable fashion although there is a property owner that owns a big portion of that land that doesn't have to comply with the Act.

Councilmember Peterson said that would explain why Nestle is in no hurry to renew their permit that expired in 1988.

Mr. Miliband said if he is thinking about the same thing it might be a Special Use Permit from the Forest Service because that has been one of those hot issues out there. There was some discussion between the Council and Mr. Miliband on the issue of federally owned land.

Councilmember Miller said the fact that our basin as you indicated is a medium-priority means that we are in danger of overdrawing or are we currently overdrawing. Exactly why did they decide that we are medium-priority?

Mr. Miliband said yes it does mean that the State considers the basin to be in a medium risk of overdraft. It doesn't mean that the basin is in overdraft or at least, from his perspective, is not being abused but in a position such that the State thinks there needs to be management so that it doesn't become worse and in fact, even becomes better. The data that was relied upon for that he doesn't know off-hand but he would image what they were looking to was specifically the water usage reports and annual filings that are done by local water users, urban water management plans and he would imagine that there were certainly parts of that evaluation looking at demands and sources of water and making their own conclusions based on that.

At this time Mr. Miliband continued his presentation in regards to Groundwater Sustainability Plans and went into it in more detail.

Councilmember Miller asked what the plan consists of. How does an agency indicate that it has evaluated this and in the future will the water be sustainable?

Mr. Miliband said in regards to the process it is similar in some ways to almost like a Prop 218 process. There are very strict procedural process requirements for public transparency, noticing, and an opportunity to hear from those stakeholders. Substantively the plan itself is a "water

budget". He said that when he went through the 60 pages of regulations he would surmise it down to "water budget" and that becomes the critical component to the plan and that is what deals with how much water is coming in and how much is coming out and he is, of course, over-simplifying it a bit but the idea is to develop a plan that is looking at what is the existing and anticipated demands, what are those existing and anticipated sources of recharge, and developing a water budget similar to a household budget. That is the primary objective and that is what requires a process of not only public input but having essentially technical folks looking at what are those basins characteristics, groundwater flow directions, groundwater levels and what are the demands and again, looking to an urban water management plan it becomes a great source for some of that information with the end product being a plan that he thinks essentially is looking to what these regulations make very clear what needs to exist and that is a water budget.

There was further dialogue between the Council and Mr. Miliband in regards to this water budget and what that means, possible restrictions of water, future development, and the MS4 Permit Process.

Mr. Miliband continued with his power-point presentation in regards to What the Water Regulations Do Not Mean; The San Gorgonio Pass Sub-Basin; GSA Status of San Gorgonio Pass Sub-Basin; and Next Steps.

Councilmember Franklin said she knows with this it has been discussed for many months through the water retailers and do you have any recommendations as to what direction to go in and how long it is going to take to get to whatever plan staff would like to see.

Director Vela said the approach that they are taking now is to manage the basin by three GSAs. When they first started the discussions with the different agencies they were going to try to develop one GSA for the entire sub-basins but during those discussions the Desert Water Agency had an interest of being their own GSA for their very small portion of the basin and then that evolved to Mission Springs also taking that approach. Then there would be another GSA being made up of multiple water agencies so essentially it would be the City of Banning, San Gorgonio Pass Water Agency, Cabazon Water District and possibly Banning Heights Mutual. So they have been meeting once a month for the last 6 to 7 months and have begun to draft an MOU that will be basically submitted to the State in order to meet the deadline to identify the GSA. Once they do that and it is approved by the State, staff will work on further defining the responsibilities of each water agency and start diving into the management authorities within each service area and how that plays out and they are not exactly there yet but will be getting there.

Councilmember Franklin asked on the western border, does that include any of Beaumont. Director Vela said it does not.

There was further Council and staff dialogue in regards to Beaumont being included, the advantage of an MOU versus a JPA, advantage of having a GSA with multiple agencies as compared to the City being alone, any thought of having the City, Cabazon and the Bench as one group, and how do wholesalers and retailers mesh together.

Mayor Welch said based upon the next step slide the deadline for the GSA formation and submittal to DWR is June 30, 2017 and do we have a calendar set up to make sure we can achieve that date.

Director Vela said that they do not have a calendar set up yet but he was hoping to be in front of Council with a draft MOU sometime in April and want to get it to the State well before the deadline.

Mayor Welch during that calendar period it is going to require meetings with the other agencies to come up with this or are we just talking about our GSA.

Director Vela said the date that he just referred to would be the date that he would have a draft MOU in front of this Council. Before then they would continue to meet with the other water agencies to draft up that MOU and Wes Miliband has played a part in reviewing what they have so far which is not a complete MOU but more of an outline of what the MOU would look like.

Councilmember Miller said if you came to us to ask what the opinion of the Council is, he thinks from what he has heard is that everyone has to some extent his feeling that if we give permission to control our water to some other agency that would be a disaster. He thinks the opinion of the Council if he is wrong, is that we want to have as small a GSA as possible and not to include the Pass Water Agency that is such a giant organization with such a giant reach and to ask them to control in any way whatsoever our water besides the purchase of water from the reservoir would not make too much sense.

Councilmember Franklin asked if there was a difference in cost whether or not we were to do it as four bodies, three bodies, and one body.

Director Vela said he doesn't believe so in terms of creating the GSA. The difference in cost would be that we would all share in the cost of developing the sustainability plan. There are different ways of handling that also. We can have one GSP for the entire basin, multiple GSPs that cover the entire basin but the City's approach would be to create one GSP for the entire basin and shared amongst the entire agencies.

Councilmember Moyer said the deadline right now is to get the GSA formed; that is the deadline now. Both Director Vela and Mr. Miliband said that was correct.

Mr. Miliband said that there is all these moving pieces with their timeline and obviously these are valid concerns so one way to try to reconcile that in a way that would be preferential potentially to the Council is if there is this one GSA with the four agencies the MOU could potentially contemplate that and he referred to this a moment ago where the City is already managing the groundwater and would continue to be responsible for that part of the plan to manage its own groundwater as opposed to having one of the other three telling the City what to do.

Councilmember Moyer said he doesn't want the Pass Water Agency having a vote on how we manage our groundwater. Councilmember Franklin said that can be a part of the MOU.

Mr. Miliband said that Mr. Vela reminded him that there is a particular section in the MOU that already deals with management responsibilities so this is part of the skeletal framework that they already have in the MOU to address these very topics and these concerns.

ADJOURNMENT

By common consent the meeting adjourned at 4.58 p.m.

_____

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Exhibit "A"

The Sustainable Groundwater Management Act Presentation

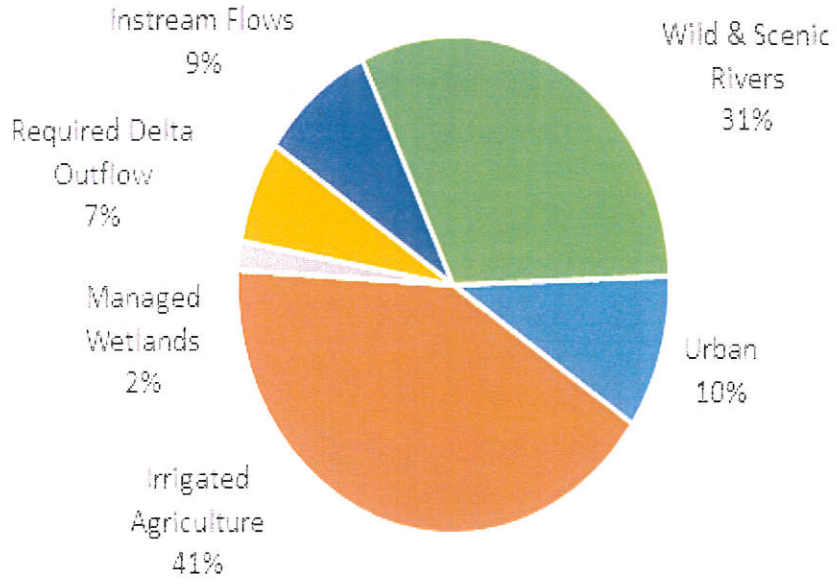
The Sustainable Groundwater Management Act

Presented by
Art Vela, P.E.
Wes Miliband, Esq.
November 7, 2016

AGENDA

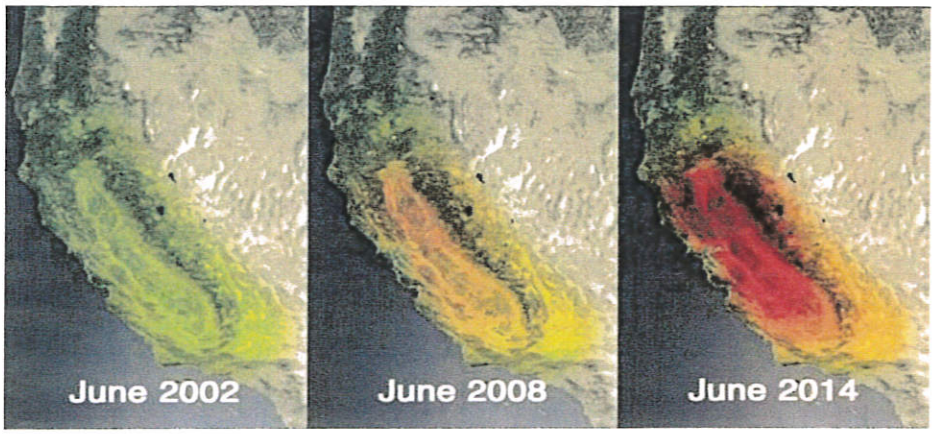
- Water Supplies and Drought
- SGMA Background
- Implications of New Groundwater Management Regulations
- Status of San Gorgonio Pass Sub-Basin
- Next Steps

California Water Use



STOEL RIVES...

DROUGHT



Source:
http://www.jpl.nasa.gov/news/news.php?feature=4693

STOEL RIVES...

WATER RIGHTS

- **California's "System":**
  - "Hybrid" system of riparian/overlying and appropriative doctrines
  - *Contra* contractual rights
- **Real Property Right of "Bundle of Sticks":**
  - Water right *usually* part and parcel to land
- **Usufructuary Right:**
  - Right to possess and use, not own, water
- **Reasonable and Beneficial Use**
- **Riparian/Overlying, Appropriative, Prescriptive rights**

SGMA BACKGROUND AND MILESTONES: A SKETCH

- Primary purpose: "Sustainability Goal"
- Timeline for implementing steps
- Local control through GSAs and GSPs

Purpose of Sustainable Groundwater Management Act

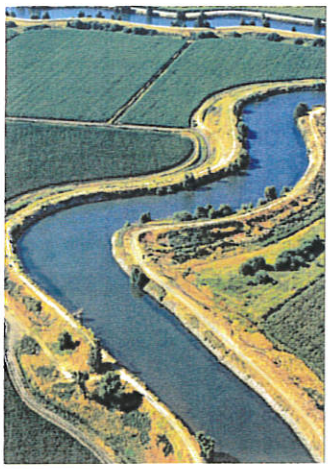
- To establish and maintain "sustainable" groundwater management
  - Sustainability goal
  - Sustainable yield



- To allow local authority to manage local groundwater
  - State is a backstop



Sustainable Groundwater Management Act



- New law with local level regulation

Establish Medium and High-Priority Groundwater Basins	✓
Develop Groundwater Sustainability Agencies	June 30, 2017
Develop Groundwater Sustainability Plans for Medium and High-Priority Basins in Critical Overdraft	January 31, 2020

SUSTAINABLE GROUNDWATER MANAGEMENT ACT

- Still in earliest stages of implementation
- Many more steps and milestones over next 27 years

Implementation Deadlines

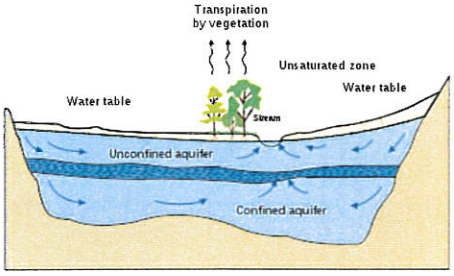
We are here

When	Who	What
January 31, 2015	Department of Water Resources (DWR)	Categorize and prioritize basins as high, medium, low [§ 10722.4(a)]
January 1, 2016	DWR	Adopt regulations for basin boundary adjustments and adopt adjustment requests from local agencies [§ 10722.2(4)(b)]
April 1, 2016	Local water agencies or water-masters in adjudicated areas	Submit final judgment /order / decree and required report to DWR (report annually thereafter) [§ 10720.8(f)]
June 1, 2016	DWR	Adopt regulations for evaluating adequacy of Groundwater Sustainability Plans (GSPs) and Groundwater Sustainability Agency (GSA) coordination agreements [§ 10733.2]
December 31, 2016	DWR	Publish report estimating water available for groundwater replenishment [§ 10729(c)]
January 1, 2017	DWR	Publish groundwater sustainability best management practices [§ 10729(d)]
By June 30, 2017	Local agencies	Establish GSAs [§ 10735.2(a)(1)]
After July 1, 2017	State Water Resources Control Board (SWRCB)	Designate basins as probationary where GSAs have not been formed [§ 10735.2(1)]
After July 1, 2017	Groundwater users in probationary basins	File annual groundwater extraction report with SWRCB by December 15 each year [§ 5202]
January 31, 2020	GSAs in medium- and high-priority basins in critical overdraft	Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(1)] or alternative [§ 10733.6]
After January 31, 2020	SWRCB	Designate basins as probationary where GSPs have not been adopted in medium- and high-priority basins in critical overdraft [§ 10735.2(1)]
January 31, 2022	GSAs in other medium- and high- priority basins	Adopt GSPs and begin managing basins under GSPs [§ 10720.7(a)(2)]
After January 31, 2022	SWRCB	Designate basins as probationary where GSPs have not been adopted in other medium- and high-priority basins [§ 10735.2(1)]
After January 31, 2025	SWRCB	Designate basins as probationary where GSPs are inadequate or not being implemented, and extractions result in significant depletions of interconnected surface waters [§ 10735.2(a)(5)(B)]
After January 31, 2040	GSAs (in medium- and high-priority basins in critical overdraft)	Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(A)]
After January 31, 2042	GSAs (in other medium and high priority basins)	Achieve groundwater sustainability goals (DWR may grant two five-year extensions upon a showing of good cause) [§ 10727.2(3)(A)]

Source: ACWA 2014

GROUNDWATER BASIN AND SUBBASIN

- **Groundwater Basin** – an alluvial aquifer or stacked series of alluvial aquifers with reasonably well-defined boundaries
- **Groundwater Subbasin** – subdivisions of a basin using geologic and hydrologic barriers or institutional boundaries



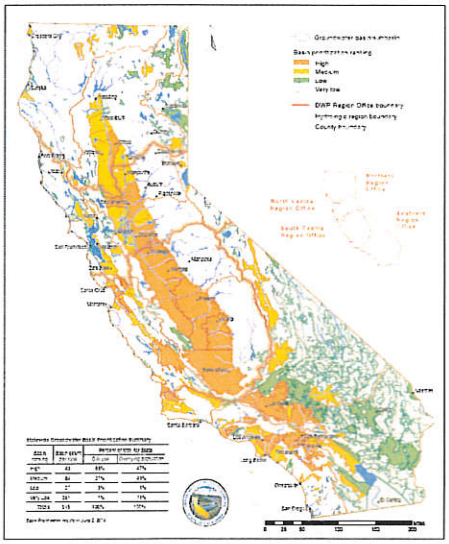
Source: Alley et al 1999

GROUNDWATER BASIN PRIORITIZATION

- First established January 31, 2015 (Bulletin 118) based on June 2014 CASGEM Program
- 127 high- and medium-priority basins covering 96% of groundwater use in California

Know your basin's priority status

CASGEM Groundwater Basin Prioritization



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GROUNDWATER SUSTAINABILITY AGENCY

- Local agency to implement the Act in one or more groundwater basins or subbasins, based on *current boundaries or revised boundaries*
- Public Process: Now through June 2017
  - Local agency notification to DWR
  - Public Notice Hearing and Notice of Intent to Form a GSA
  - GSA presumed to be exclusive GSA within basin(s) absent competing Notice of Intent
  - Unclaimed basins default to County unless County declares that they will not be GSA

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GSAs

- Establishing GSAs and their powers and authorities
- Approx. 213 submittals to DWR
  - 100 "overlap," 70 are "exclusive" and 43 are neither because 90 days have not passed
  - Only about 75 of 127 SGMA basins have at least 1 GSA

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GROUNDWATER SUSTAINABILITY PLANS



- To be developed by each GSA
- GSAs must provide opportunities for public participation
- GSP deadline is either January 2020 or January 2022

January 31, 2020	Medium- and high-priority basins in critical overdraft
January 31, 2022	Other medium- and high-priority basins

Draft list of 21 basins in critical overdraft: https://cwc.ca.gov/Documents/2015/08_August/August2015_Agenda_Item_9_Attach_5_Draft_list_of_COD_basins.pdf
30-day comment period now open: http://www.acwa.com/news/groundwater/dwr-releases-draft-list-critically-overdrafted-groundwater-basins-schedules-public-

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LEGAL AND POLICY CHALLENGES

- Contiguous boundaries are far from reality in all basins
  - Evident already from GSA notifications
- Non-contiguous boundaries make an already complex set of processes even more complex
  - "Export" claims
  - Which GSA is paid admin/operations fees

LEGAL AND POLICY CHALLENGES

- How to govern
  - Centralized GSA, Distributed Governance or Combination GSA
  - Large users subject to multiple GSAs or GSPs
  - Strength of "smaller" voices
- Preserving water rights while also achieving the sustainability goal
- GSA/GSP dispute resolution procedures (e.g., decisions, enforcement, assessments under Proposition 218)

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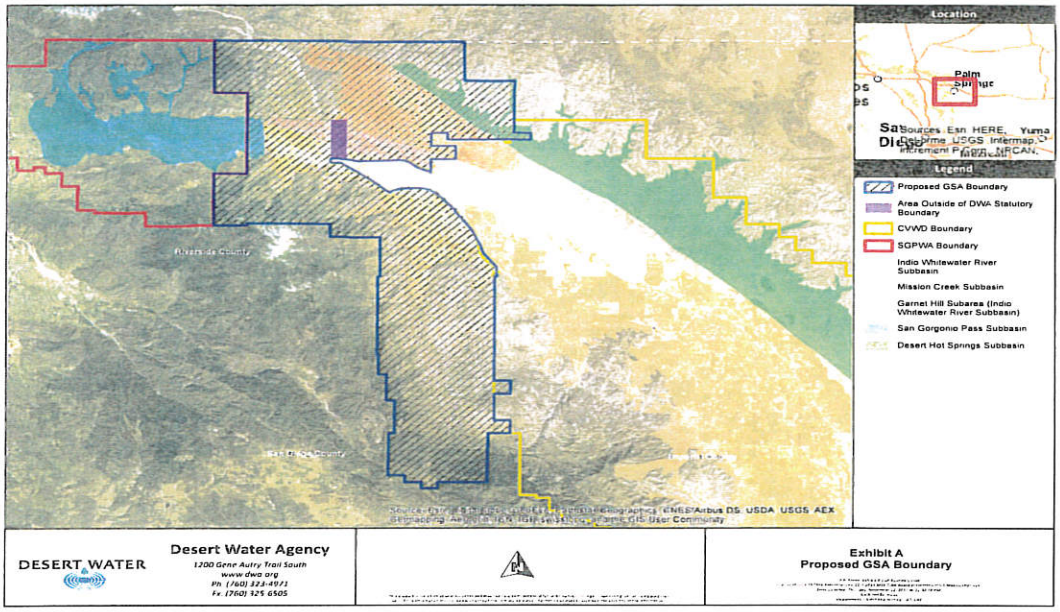
SPECIFIC IMPLICATIONS

- Public sector
  - Local public agencies whether counties, cities or water districts with land use planning, changes to general plans or zoning, and UWMPs (Urban Water Management Plans) and WSAs (Water Supply Assessments)

WHAT THE REGULATIONS DO *NOT* MEAN

- A water right remains a water right (Water Code §10726.8(b))
  - Where SGMA does not "succeed" with GSP implementation among the impacted stakeholders then groundwater adjudications are very likely
- Code of Civil Procedure §§ 830 *et seq.*
  - Antelope Valley became the poster child for reform with AB 1390 / SB 26

THE SAN GORGONIO PASS SUB-BASIN (BASIN NUMBER 7-21.04: MEDIUM PRIORITY)



GSA STATUS OF SAN GORGONIO PASS SUB-BASIN

- Desert Water Agency is the GSA for a small portion outside of the City's boundaries
- Mission Springs Water District has applied to be the GSA for their service area within the SGP Sub-basin.
- Local water retailers including the City, and wholesale agency San Gorgonio Pass Water Agency, are discussing GSA formation
  - MOU potentially identifying "who does what"
    - Multiple GSAs and/or GSPs?
    - Respective rights and obligations

NEXT STEPS

- Determine GSA formation by having a single GSA or multiple GSAs such as the City being a GSA within City boundaries that overlie the sub-basin
  - Deadline for GSA formation and submittal to DWR is June 30, 2017
- Determine GSA agreement amongst other local agencies by way of an MOU or JPA
  - Other agencies seem disinterested in JPA
  - SGMA defers to local agencies
- Work toward GSP development, whether one or multiple GSPs
  - Deadline: January 1, 2022

Questions?

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/07/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on November 7, 2016 at 5:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Art Vela, Public Works Director
Wes Miliband, Esq.
Marie A. Calderon, City Clerk

Mayor Welch opened the item for public comments on the closed session items. There were none.

CLOSED SESSION

Interim City Attorney stated that there are three closed session items to be heard in response to an addendum that was posted on November 3rd: 1) Conference with legal counsel anticipated litigation and a significant exposure to litigation pursuant to Government Code Section 54956.9 (d)(2) involving the Banning Library District and their challenge to the City's approval of the Rancho San Gorgonio Project; 2) Conference with legal counsel existing litigation pursuant to Government Code Section 54956.9 (d)(1): Socal Environmental Justice Alliance v. City of Banning, et al.: Riverside Superior Court Case No. RIC1214264; and 3) Conference with legal counsel significant exposure to litigation pursuant to Government Code Section 54956.9 (d)(2) and (d)(4); United States Forest Service and/or Federal Energy Regulatory Commission (FERC) (FLUME).

Meeting went into closed session at 5:01 p.m. and reconvened at 5:45 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:45 p.m.

_____
Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/07/16
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Welch on November 7, 2016 at 6:02 p.m.at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
John C. Cotti, Interim City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Alex Diaz, Police Chief
Fred Mason, Electric Utility Director
Heidi Meraz, Community Services Director
Arturo Vela, Public Works Director
Phillip Southard, Public Information Officer
Patty Nevins, Senior Planner
James Barrett, Building Official
Steve Swarthout, Assistant Fire Marshal, Riverside County
Tammi Phillips, WRCOG Fellow
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

The invocation was given by Councilmember Franklin. Councilmember Miller led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Interim City Attorney stated that the Council did convene to closed session at 5:00 p.m. to discuss three items listed on the closed session agenda and the addendum closed session agenda that was posted on November 3rd. and they included three items: 1) conferences with legal counsel anticipated litigation involving the Banning Library District and their challenge to the City's approval of the Rancho San Gorgonio Project and at the conclusion of that discussion the Council authorized the City Attorney to enter into a Tolling Agreement with the Banning Library District to toll any claims they might have to challenge that project; 2) conference with legal counsel existing litigation SoCal Environmental Justice Alliance v. City of Banning; and 3) conference with legal counsel significant exposure to litigation involving the United States Forest Service

and the Federal Energy Regulatory Commission i.e. the flume. At the conclusion of those items the Council took no reportable action.

ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

City Council

Councilmember Peterson –

- Said that back in June the City Council had approved an Ad Hoc Committee for a marijuana study and he wanted to provide a report on what they have been doing (see attached Exhibit "A").

Councilmember Franklin –

- At the Western Riverside Council of Governments meeting held earlier today and went over the TUMF program. A review is being done now about TUMF fees and there hasn't been any determination as to what the fees will be but they are looking at reducing the number of projects will reduce the price and we will be hearing more about that because Art Vela, Public Works Director sits on one of the committees.
- In regards to the HERO Program for the city of Banning we have 10,436 housing units, 214 have been improved for energy, 306 new items installed for a bill savings of $3.38 million, for solar we have had 72 for a savings of $2.41 million, 15 water units for a savings of $76,000. There have been 723 applications received with 471 approved and the amount funded is $3.76 million. It had an economic stimulus for our community of $6.52 million, 32 jobs created, 27.1 kilowatts of energy saved, 6900 tons of emissions reduced, and $7.57 million gallons of water saved since starting with this program.
- The meeting for animal services will be held on November 15th at 6 p.m. Hopefully everyone has received the 92220 Newsletter that included the survey so please fill it out and return them so the committee knows what the community wants.
- Thank you to everyone involved with the weeds reduction across the city. The City Manager went on a tour with her to see some of the areas that we have had concerns about weeds from our residents and many of them have been cleaned up. We do have a ways to go but it was a marked improvement.

Councilmember Miller –

- He said our city has been divided into districts and as a result when it comes to electioneering all one has to do is to go to one particular district. Many of you may not be aware of the fact that in the district in which he is running for re-election there has been a tremendous amount of scurrilous, vicious type of propaganda submitted by a political action committee called the Inland Empire Taxpayers Association. That political association has received $140,000 in donations in order to defeat him for re-election. He said what has he done that would have that amount of money donated by people outside of Banning in order to have him not be elected and to have Art Welch, his opponent, elected. He said $140,000 for one little district is really amazing and if we take a look at this we have to say what did he do and what he did was to ask that we evaluate carefully the proposal for the Diversified Pacific project Rancho San Gorgonio on the south east side of this city. He didn't even say that he did not approve it. He simply said that we should evaluate it carefully. If you take a look at the people that have donated to the political action committee that he was talking about,

none of them are from Banning and if you look carefully they are essentially another political PAC that gives money to the Inland Empire so that their actual names can never be determined but there is only one possible explanation and that is that the money is being provided by the Housing Association, builders or Diversified Pacific itself. No one else could possibly be interested in getting rid of him that doesn't live in Banning. If we take a look at this the whole procedure for passing that Rancho San Gorgonio Project was completely outrageous and the only explanation for that is that the people who approved it were in desperate fear of having such outrageous statements made against them. He was considered a crook, a stooge, and considered being bought and you can go on and on with their attacks on him which of course are not true. Why would anyone do that in order to intimidate the other Council Members for fear that they would have such attacks on them or intimidate future people who might think about running for the Council. If he was any individual in this city and he was thinking of running for Council, he would never consider it. This is basically a volunteer position and get paid $300 a month for being on the Council and that basically covers the cost of gasoline to get here so would put themselves up to that series of insults and the answer is no one. Again, these developers are trying to make sure that the Council is composed of people who will just "rubber-stamp" whatever they want so that they do not get attached the way he has been attacked. If we take a look at the results of the vote on that particular project there is really no other explanation in his mind. That project was approved so rapidly, so quickly, so demonstratively without any evaluation that there can be no other explanation whatsoever. The Council had a workshop at 1:00 in the afternoon and for an hour the developer showed how wonderful the project was. The same day at 6 p.m. the Council had their regular meeting and they started to discuss it and the developer gave the same one and a half hour presentation of how wonderful the project was. There was no one to say let's look at the environmental impact report and see whether or not that report satisfied all the requirements of having our City being a safe, healthy place to live. He said he had more than 2 hours of questions written down about that report but our Mayor, Art Welch, who was running against him said we are going to finish this today so the meeting ran from 6 p.m. to 1 a.m. and at that time the Mayor said we have spent so much time that we really don't have time to listen to the people's opinion of that project and we had a big audience, but we have spent so much time and we are not going to listen to anyone anyway so let's therefore limit people from the usual 5 minutes to 3 minutes. So people were only given 3 minutes to give their opinion on a project which is close to $1 billion dollars in value. Whoever heard of approving a $1 billion dollar project in one day? A $1 billion dollar project should be evaluated over a period of weeks where every single aspect of it and every single question should be asked and answered. The project was going to be approved and it was pushed through; why? As far as he is concerned there is only one explanation and that is that the developer and other builders spent $140,000 in vicious ads to attack him and no one else wanted to do that. So if we take a look at this, we say we have to be careful that developers do not run this city; the people in our city determine what is best for our city. When we take a look at what happened at that meeting most of the time was taken up by the developer and when it came to questions Councilmember Franklin asked a very difficult question as to who was going to replace the flowers on the roads when they are finished. In the project there is a 12,000 sq. ft. community center that is supposed to be built and our Community Services Director said she needed 10,000 sq. ft., the library said they needed 4,000 sq. ft. and the building is only 12,000 sq. ft. So Councilmember Moyer very correctly said how about extending the building 2000 sq. ft. more and the developer said no that it will cost him $200,000 and he is not going to do that and that was the end of

it. Councilmember Peterson said how about throwing us a bone and giving us 2000 sq. ft. more and the developer said no. The developer was not willing to do that but he was willing to spend $140,000 to get him defeated. You can figure out that that means the developer was more interested in having future developments approved without any question for fear of the attacks he has faced. If we take a look at the statement that he just said that all we had to do to satisfy both our Community Services Director and the library was to put 2000 more square feet on the building and that would have been .02% of the total cost of this project. Do you think the developer would have walked away from the project if the Council had had a little bit of guts and said no we are not going to approve the project unless you make this building a tiny drop bigger. Of course, he would have said yes but the Council did not have the guts to even do that. So if we take a look at this, we need to recognize that we the people of Banning have to say that we should control what is happening in Banning and not have developers determine what is happening in Banning and he really wishes that the Council would stand by that requirement.

Councilmember Moyer –

- He commended the Mayor and Don Peterson for their research and work on the cannabis issue.

Mayor Welch –

- On Veteran's Day November 11th at 11 a.m. there will be a ceremony at Diamond Hills honoring our veterans. Back in 2004/2005 the owner of Diamond Hills at that time built this memorial to honor the veterans and was dedicated by our then Congressman Jerry Lewis and then it went away and the new owner wants to bring that back as a remembrance of our veterans.
- On November 9th at 8 a.m. the school systems are honoring the Students of the Month at Sizzler and everyone is invited.

Report by City Attorney – Nothing to report at this time.

Report by City Manager

- The 92220 Newsletter has been mailed to all residents in the city of Banning and there are also some newsletters available at the counter in city hall. For those that want to fill out the survey regarding the animal care issue they can turn in their surveys at any City public building. The City would like to get those surveys back for the Animal Ad Hoc Committee so they can take a look at those results. Many have been returned already and thank you to the community for being actively involved in that survey. Also, the newsletter will be published four times a year.

PUBLIC COMMENTS – *On Items Not on the Agenda*

Inge Schuler, resident addressed the Council stating that she would like to call to attention some errors in the mailings that have been out for Mr. Duncan. He claims that that he is a coach at Banning High School and apparently he doesn't know that there are three tenses in the English language that refer to the past, one for the present, and two for the future. He was a coach 2012/13; he is not now so the present tense in incorrect. She said that she got a call from Gail Wesson last Thursday and she was concerned about a lawsuit that was filed against the City from the Southern California Environmental Justice Alliance. From the research that she had done

they are statewide, very important, very influential, and very successful in fighting for the environmental correctness according to CEQA in any of these developments that are occurring in these small communities in particular, the ones that have a distinct population demographics of below income or very low income population. On page 2 of this lawsuit which is available on the court site, in regards to the project that Councilmember Miller was referring to and many of us were here at that meeting and they were very concerned that none of the environmental impact report issues were addressed or they were not allowed to be addressed. She was cut off because she had too much to say about these thick documents and the main problem here is that the EIR fails to specify in any detail how the provision of public services utilities and infrastructure will be accomplished. This empty promise is inadequate under CEQA. It is not enough to merely recommend or suggest mitigation. Mitigation measures must be fully enforceable and this was never addressed and it isn't. She knows that Councilmember Miller at the time asked the developer what is meant by "fair share" and he would not commit. There was only vague sort of promises but not really promises of what the developer would actually consider doing and of course when there was something specific, like the library issue, then no. The same thing was done with the Wilson development when asked for a park for the children which is the same developer. To insure environmental justice for the city's residents the project should be reduced by 50% to 1865 homes as originally allowed under the City's General Plan or at least reduced by 20%, 677 homes as contemplated by the reduced density alternative discussed in the project EIR and that was not discussed by the Council nor the Planning Commission which didn't even know any of these determinations that were in the development agreement of which there was no public comment allowed in the afternoon. Yes Mr. Miller, this was a done deal before it even got started. The city failed to adopt all feasible mitigation for project impacts and the analysis of impacts and the plan mitigation measures are uncertain and unreasonably deferred. It is unbelieved what has passed here and she thinks the lawsuit is very specific in what they want the City to do or the court to decide and she hopes they win and it is impossible to even determine what is going to be put on the citizens with these litigation fees. Don't do this again, you have done it twice already in a short time.

Jerry Westholder addressed the Council stating that he wanted to address several things. We had the eloquent attorney of Mr. Jeff Burum here looking at this project telling us what an innocent man he was but he never commented on all the public officials that were indicted over bribery charges during the cloister project; that was never addressed and he wonders why. He said that there was an article in the Press Enterprise comparing Mr. Miller to Mr. Welch and your friend David Heiss did a great job favoring you and pointed out a lot of interesting things. For one thing he said that Mr. Miller is not progressive because of Paseo San Gorgonio but most of us didn't like the project but it was passed anyway. As a liaison to Riverside Transportation Committee, the San Gorgonio Pass Water Agency, and the Gaming Commission and he wonders if he would have been a part of those if he hadn't received since 2013, $24,000 in committee stipends. Are you that altruistic or maybe you are motived by something other than that? He also finds it very, very curious that Robertson's Mine donated you $10,000 when you negotiated a voter initiative of 80 cents per ton down to 40 cents per ton and you might say that it was to get rid of a lawsuit. It wasn't and we were assured by Mr. Aleshire who wrote the legislation for the City of Irvine that this would not be a problem at all because every time that the City of Irwindale came to fight that they lost but it helped you out. Also in light of the new math and common core since when is $140,000 compared to $19,000 to Mr. Miller; and he is corrupt. We have money here from Rancho Cucamonga donated $65,000, Robertson's Mine $10,000, Morongo Band of Mission Indians $20,000; and Advance Sales Solutions $25,000. He is personally appalled; he thought

he had better character. He addressed Ms. Franklin stating that when he served on City Council it was never pointed out to him that these committees were paid for and because he was the only working member on the Council at the time he had to make exceptions but he is sure that he could have talked to his Board and had exceptions had he known that his salary would have been supplemented but since 2013 you have gotten over $10,000 in stipends. Also this information is a matter of public record so anybody can look at it. He addressed Mr. Moyer stating that to present he has received $3,000 in committee stipends and there is also mileage and meal reimbursements. He told Mr. Moyer that he was afraid to debate him and did not allow debate in Sun Lakes. He addressed Councilmembers Moyer and Franklin stating that there was no debate here at city hall when he ran for office and when the City decided to go to districting they made sure that he could not run in the General Election and made sure that he would not be able to run in this election under districting. Why, because he is an honest man. He said he is upset with Councilmember Moyer and hasn't said anything for two years because it came up again and that is for you taking credit for getting the walking track for city use over at the school. He and Councilmember Miller negotiated that contract in their 2+2 sessions. Mr. Westholder said he just wanted to point this stuff out here and he is tired of being lied to and wants some honesty in government. Also in regards to the Rancho San Gorgonio Project we have the highest utility rates still in the state and why would business want to come here to give jobs and why would residents want to come here to live when we can't afford our utility bills.

Dorothy Familetti-McLean, resident addressed the Council wanting to know what the deadline is for Vanir to break ground and what the status of the probation department. We don't want it in town and it is not going to help our town. We want to build something there that everyone will be proud of.

Councilmember Peterson asked the Mayor if there was any way to give the public some kind of announcement on Vanir.

City Manager said that they can update the public on December 12th and it will be on the agenda. We are waiting for the 60-day demand letter period to end.

Frank Burgess addressed the Council stating he is here to support Mr. Miller for the election tomorrow. He said he was just handed a report published by the Office of Attorney General which states, "Conclusion – Vacancies that occur in unexpired terms on the Banning Library District Board Trustees shall be filled by the remaining Library District Trustees in accordance with Government Code Section 1780." Some months ago he asked the Council to help the library and he wrote a letter and he was not the only one and the Riverside County Officer wrote one also but today we have a conclusion on it. You didn't help your own library and it cost them thousands of dollars and hopefully they can recoup that before they are finished with it. He just listened to the gentleman before him and he didn't see one word or anything responding back to him. If he was sitting up there on the dais and someone was telling him that he was dishonest, he would be after him but you sit back and take it. He is displeased with this City. He has lived here 50 some years and served 12 years on the Council and he sees the attitude. He asked the Mayor what have we accomplished in the 12 years or so that he has been on the Council. Tell me what is better today than it was 15 years ago. Only one thing has been improved and that is the fast food row that he organized and put in this city and he organized himself on Hargrave. He asked Councilmember Franklin as what has she done to improve the east end of town. You represent the east but you haven't done a thing for those people. He said to tell him if he is

wrong. He was notified that there was another lawsuit filed against the City and he assumes tonight that the City settled one of them and it cost the taxpayers roughly $100,000 and maybe he is wrong and maybe not because the City Attorney announced that there was no action taken in the closed session this evening. But we have this new lawsuit and he would like very much to put the Administration on notice and the City Manager and all departments to please get that lawsuit before them and go through that and see what they have failed to do and make the corrections now and notify the people that the corrections are being made and if that means you have to throw it back on the table, put it on the table. Let's not spend another $200,000 to $500,000 of the taxpayers' money on lawyer's fees because that is what you are going to do because you don't listen to what the people are saying here. He hopes that they will all vote for Mr. Miller in District 3. He also asked if the Sun Lakes Country Club water bill been settled and why hasn't it been announced to the public? When was it settled? When was it announced? And what was it settled for?

Interim City Attorney said that item did appear on a public agenda about two meetings ago and the settlement amount was $113,000 and the dispute was between $12,000 and $180,000.

David Ellis, resident said he was here to express his disgust with the flyers that came out against Councilmember Miller and judging from where the discussion was coming from and George Moyer's actions he thinks he knows where this stuff came from. Speaking of George he lacks a little bit of social grace. He was unable to attend the last meeting and there was a discussion when somebody came up and talked about the flyer that went out and it is from a PAC, Banning Citizens Against Corruption, and very similar to the PAC that collected donations for the Mayor. At this time Mr. Ellis played a recording from a previous City Council meeting where Councilmember Moyer was responding to the donations made to Art Welch's campaign by a PAC. Mr. Ellis said in regards to that statement made by Councilmember Moyer, it was a lie. Nothing on that form says that Art Welch put the money into his pocket. This action committee here is not authorized by a candidate or a committee or controlled by a candidate which is the same thing as the Inland Empire Taxpayers Association. He said that he wasn't going to go into depth on these Form 490's but PACs have to put these in and he was kind of intrigued that these were all Late Independent Expenditure Reports and were not filed on time. He has one here and the candidate's name is Art Welch so he will benefit from this amount of money and this amount of money was deposited into the Inland Empire Taxpayers Association account and it was in support of Art Welch in the amount of $2,173.72 and that was for mailing and printing of some flyers obviously that he put out. He has another Late Independent Expenditure Report from the Inland Empire Taxpayers Association and this is opposed to Ed Miller so this money benefited Mr. Welch and it went against Mr. Miller and the amount is $1,753.14 printing and posting. He addressed his remarks to Councilmember Moyer asking him if he was going to call him a liar for reading the information on the form. He has another form from the Inland Empire Taxpayers Association for $65,000 and anybody who is knowledgeable of how a PAC works and what a PAC does will know that that $65,000 has pretty much been earmarked to be spent by the candidate as he pretty much chooses. He directed his comments to Mr. Moyer saying for you to sit here and grandstand like you do almost every meeting and for you to demeanor people and call us liars over stuff that is printed and given out, he worries about the future of this town with individuals like yourself and have to grandstand and make yourself look impressive in front of everybody.

Councilmember Moyer said the biggest grandstander is Mr. Ellis but besides that he has not given one nickel for any political donation, to any political party, and to any political candidate. He has not been involved with any PAC, not discussed this with any PAC, not participated with any PAC, and he has not made one nickel of a donation to any political group this year at all.

Diane Box addressed the Council and commended Mayor Welch for keeping his composure and professionalism during and after reading that controversial political mailer against you and your campaign. Speaking of reading she read that political flyer word for word claiming that the Mayor is receiving campaign donations from builder Diversified Pacific who are under investigation. She read that the San Bernardino District Attorney has charged Diversified Pacific's founder and managing member Jeff Burum with 29 counts of bribery, extortion, tax fraud, forgery and perjury in a scheme to corrupt public officials. She said those charges are still pending yet the City of Banning wants to work with these people and bring them in; it's fishy to her. She addressed Councilmember Moyer stating that he actually took the time out of the Council Meeting after she stepped away to hurl insults indicating that she was illiterate, acting like a child throwing a fit and by the looks of your hostile temperament she understands now why your neighbors filed police reports against you and are afraid that you are going to kill their dog and release their medical records verbally to the public in violation of the Hipaa Act. She asked him if Lloyd Fields has any developments in Banning; her research says no. He does not have any developments in Banning. The political flyer sent out against Ed Miller should actually have Moyer's name on it and not Miller. Miller has done nothing but attempt to protect Banning against corrupt builders so because he does his homework and is not out at every party in the city you condemn him for that. Actually reading proposals instead of just passing things blindly hoping for the best; you see where that got us. Having the county to use our land to build non-revenue generating buildings; they use used us and we let them. We appreciate your due diligence Mr. Miller and Mr. Peterson and she would just wish that we had more Council that actually did their homework like you two. She is sure that you asked for an extension or a review of this project because of all these discrepancies instead of getting those extra days three of them passed the project without any adequate EIR; surprise and now a lawsuit. Maybe next time you will take heed, the Peterson and Miller approach, to read proposals and not take the builders word for it of how great it is going to be. Ms. Box read from the lawsuit that is pending: "The projects EIR fails to provide adequate identification analysis of significant adverse environmental impacts of the project. Including but not limited to the following: global climate change, traffic and transportation, air quality, noise, aesthetics, land use and land use planning, and cumulative impacts. The Specific Plan states the project will insure provision of adequate public services, utilities, and infrastructure in a timely manner as development occurs. However, the EIR fails to specific any detail on how the provision of public services, utilities, and infrastructure will be accomplished. This empty promise is inadequate under CEQA. The City must require the project applicant to make specific improvements to accommodate the large number of new residents. The Specific Plan also states a new elementary school be developed by the Banning Unified School District but fails to provide any evidence that BUSD has the funds to build the school. Moreover, the Specific Plan fails to address whether the surrounding junior and senior high schools will have the capacity to absorb the large number of students who will be moved into the project." She said that there are so many things wrong with this and you guys passed it and she doesn't understand where your heads are but would appreciate it if you kind of read through these proposals from now on. It is going to impact our families and our future.

Andrew Jared, Banning Library District, addressed the Council thanking Mr. Cotti for drafting the tolling agreement. It will give them time to reach an amicable resolution of this issue. He has spoken to staff about this issue that he talked about before and he thinks that cooler heads are going to be able to prevail and address both parties interest in this issue. He introduced Noelle Neff who is the new Library Director for the Banning Library District and she come with decades of experience in libraries and has a no nonsense attitude. She might be quiet but she has a lot of great ideas and she wants to foster a good-working relationship with the city and make Banning a better place.

Ms. Neff said that she was very pleased to be in Banning and is looking forward to working with everyone here. She believes this development project is going to be a great benefit to the community and to the library and she is looking forward to working in this growing community and happy to be here.

Vera Macias addressed the Council stating that three weeks ago her daughter called her early in the morning to come and see what was happening in regards to the police officers who were on the freeway going to the funeral for the two police officers who were killed in Palm Springs and when she went there the first face she saw was Art Welch. It was early in the morning but he participated in something that was so important. The fire department was there, the police department and Chief Diaz were there and it was just amazing. People were waving flags and waiting for this parade of police cars to go through the freeway and it was really nice. She said that she has been in Banning for 74 years; longer than anyone in this room. You talk about spending money for nasty flyers and she displayed a nasty flyer in the newspaper that Mr. Miller put out and asked how much money did that cost. She asked how much money did the big sign in Beaumont cost, on Beaumont property, but you are running for office in Banning but have a sign in Beaumont.

Councilmember Peterson addressed Ms. Macias stating that he paid for the sign.

Ms. Macias continued and stated that Mr. Welch will get her vote tomorrow. She addressed Councilmember Franklin and said the east end of town is getting cleaned up and it is beautiful. She loves going to the animal meeting with both Councilmembers Franklin and Moyer trying to get this thing going. Also, the three of you always are at the Christmas doings and stuff downtown and she doesn't know where the other Councilmembers are but those three are there talking to the people. They are at the concerts in the summer talking to the people and that is what she likes. She likes someone who talks to the people.

Ron Klimczak, 36 year resident of Banning addressed the Council stating that he hasn't been to a Council meeting in a while but was kind of disappointed in this one. First of all, people that stand up here are limited to five minutes for things that are not on the calendar and he believes that the Councilmember's political statements should also be limited to five minutes. He understands Mr. Miller's frustration but there was an awful lot of time there. He believes the Rules of Decorum for the City Council also prohibit personal attacks on any Councilmember and he seems to have seen a lot of that tonight. He thinks that Mr. Welch should have stopped some of this.

Police Chief Diaz said that Ellen Carr made a comment at the last meeting about the spay and neuter clinic that is going to be hosted here at the end of the month and it is completely booked.

There is a wait list but for those citizens of Banning or the Pass Area who were planning on coming in and bringing their dogs without an appointment first, forget about it. It is not going to happen unless you add yourself to that wait list. Ellen Carr said at the last meeting she was going to reach out to the company and see if they are available for a future date so they are hoping to get that started. He said on December 10th at 9 a.m. at the Banning Community Center they will be hosting their 9th Annual Shop with A Cop Event. They were "Shop with a Cop the first two years and it changed to "Shop with a Hero" and now they are going back to "Shop with a Cop". Once again their goal is to honor those kids that have gone above and beyond in the city of Banning; Beaumont is doing the same. They are doing something a little bit different that he is excited about in that they are actually going to give the kids shopping options this year. A couple of new stores opened up in town and they are going to allow the kids to sign up to go to whichever store they want and be able to buy whatever they want and it is going to be a really nice eye-opening experience for the kids and also be good for the businesses. Anyone interested in making a donation can go to the BPAL Facebook website.

CORRESPONDENCE - None

CONSENT ITEMS

1. Approval of Minutes – Regular Meeting – 10/11/16

Recommendation: That the minutes of the regular meeting of October 11, 2016 be approved.

2. Adopt Resolution 2016-111, Approving the Tentative Agreement for a Successor Memorandum of Understanding (deal points) and the Memorandum of Understanding Between the City of Banning and the Banning Police Management Association Employee Unit for the period July 1, 2016 through June 30, 2017.

Recommendation: That the City Council adopt Resolution 2016-111.

3. Resolution 2016-112, Approving the Maximum Compensation and Benefits in City Executive Department Director Employment Contracts.

Recommendation: That the City Council adopt Resolution 2016-112, approving the maximum Compensation and Benefits in City Executive Department Director employment contracts, including the City Manager, Administrative Services Director/Deputy City Manager, Community Development Director, Public Works Director, Electric Utility Director, Police Chief, and Community Services Director, authorizing a Cost of Living Adjustment (COLA) increase of two percent (2%), an additional holiday, and authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers.

4. Adopt Resolution 2016-95, Approving the Tentative Agreement for a Successor Memorandum of Understanding (Deal Points) and the Memorandum of Understanding Between the City of Banning and the Teamsters Local 1932 Management Unit for the period July 1, 2016 through June 30, 2017.

Recommendation: That the City Council adopt Resolution 2016-95.

5. Adopt Resolution 2016-108, Authorizing the Submittal of a Southern California Association of Governments (SCAG) Grant Application or the Downtown Specific Plan.

Recommendation: That the City Council adopt Resolution 2016-108, authorizing the submittal of a SCAG Sustainability Planning grant application in the category of Integrated Land Use.

6. Approve Settlement Agreement in the Case entitled Cassadas, et at. V. City of Banning, et al., Riverside Case No. RIC 160770.

Recommendation: That the City Council approve a settlement agreement to resolve the case entitled Cassadas, et al. v. City of Banning, et al., and designated Riverside Case No. RIC 160770.

7. Ordinance No. 1502 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Section 3.18.030 of Chapter 3.18 of the Banning Municipal Code Reducing the Mining Tax from eighty Cents to Twenty-Five Cents per Ton of Rock Materials Excavated, Processed and Transported within the City of Banning.

Recommendation: That Ordinance No. 1502 pass its second reading and be adopted.

Motion Peterson/Miller that the Council approve Consent Items 1 through 7. Mayor Welch opened the item for public comments; there were none. **Motion carried, all in favor.**

PUBLIC HEARINGS

1. Discussion and Consideration of Approving Ordinance 1504, Adopting the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes.
(Staff Report – Jim Barrett, Building Official)

Mr. Barrett gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the public hearing on this item for comments from the public. Seeing no one coming forward, Mayor Welch closed the public hearing.

Mayor Welch asked the City Clerk to read the title of Ordinance 1504. City Clerk read: Ordinance No. 1504, An Ordinance of the City Council of the City of Banning, California, Adopting the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes.

Motion Moyer/Franklin to waive further reading of Ordinance 1504. Motion carried, all in favor.

Motion Franklin/Moyer that Ordinance 1504 pass its first reading. Motion carried, all in favor.

2. Discussion and Consideration of Approval of Ordinance 1503, Adopting the 2016 California Fire Code.

(Staff Report – Steve Swarthout, Assistant Fire Marshal, Riverside County

Mr. Swarthout gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the public hearing on this item for comments from the public. Seeing no one coming forward, Mayor Welch closed the public hearing.

Mayor Welch asked the City Clerk to read the Title of Ordinance No. 1503, City Clerk read: Ordinance No. 1503, An Ordinance of the City Council of the City of Banning, Repealing Chapter 8.16 of the Banning Municipal Code as it's amended in this ordinance for, 1) Regulating and Governing the Safeguard of Life and Property from Fire and Explosion Hazards [Arising from the Storage, Handling and Use of Hazardous Substances, Materials and Devices] and from Conditions Hazardous to Life or Property in the Occupancy of Buildings and Premises in the City of Banning, and 2) Providing for the Issuance of Permits and Collection of Fees Therefor.

Motion Peterson/Franklin to waive further reading of Ordinance 1503. Motion carried, all in favor.

Motion Moyer/Franklin that Ordinance 1503 pass its first reading. Motion carried, all in favor.

3. Approve the Operating Covenant Providing for the Sharing of Sales Tax Revenue Between the City of Banning and Dalia Auto Group, LLC Doing Business as Diamond Hills Chevrolet Buick GMC and Khan Properties and Holdings, LLC. (Staff Report – Rochelle Clayton, ASC/Deputy City Manager)

Deputy City Manager gave the staff report stating that based on the City and Dalia needing to work through a few items staff is not ready with the full agreement and would like to open the public hearing for comments and continue the item to December 12th at the regular City Council Meeting in December.

Mayor Welch opened the public hearing for comments from the public.

Jerry Westholder addressed the Council stating that understanding the City's current financial position why is it that we are considering sharing sales tax with the corporation rather than keeping the entire amount in the City for the benefit of the City seeing how they are located here and they are making their income from the residents surrounding the area and those coming into this area. Why do we have to share it? What benefit is it to the City? Can anybody answer that?

Mayor Welch said that the Council will take public comments because they are going to continue this to the next meeting.

Motion Moyer/Franklin that the public hearing on this item be continued to December 12, 2016 Regular City Council Meeting.

Councilmember Peterson asked if the agreement will be a part of the packet. Deputy City Manager said it would be part of the packet.

Motion carried, all in favor.

REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2016-103, Awarding a Professional Services Agreement to Raymundo Engineering Co., Inc. for Assessment and Design of the City's CNG Fueling Station in the Amount of $46,480.
(Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

Councilmember Moyer said he knows that the school district and some other entities actually fuel there also and it has come to his attention that the school district has an ability to get grants to maybe help with this project and have we approached them with sharing in the cost of this at all.

Director Vela said he and Rochelle Clayton met with the Superintendent of the Banning Unified School District and their approach to this is that staff will get the assessment and the design completed in order to determine exactly what the construction cost will be or at least get a good estimate. Once that is completed staff will meet with the school district to get possibly an MOU together so that they can jointly apply for grants that are out there. Additionally, staff will reach out to the County because the City currently has an agreement with them to utilize the existing facility and they also participated in the cost for constructing what is out there now.

Councilmember Peterson said instead of having our own filling station for the CNG what would the difference in cost be if we contracted to a CNG service who can come out here at night and fill up all of our vehicles. Have we thought about anything like that?

Director Vela said that they can look at that option during this assessment period and he also explained the two demands that are needed to be met.

Councilmember Peterson said that his point is that we will be going into debt and $46,000 for an assessment and then a construction cost and other costs and who are we doing that for and is it the best remedy for the City.

City Manager said that is exactly what he and Director Vela had a conversation about in that the City probably doesn't charge enough and they will be looking at what we charge per gallon and also look at contracting the whole service out so that we are not running, managing, or owning that.

Motion Franklin/Moyer to adopt Resolution 2016-103, awarding a professional Services Agreement to Raymundo Engineering for Assessment and Design of the City's CNG Fueling Station in the amount of $46,480. Motion carried, all in favor.

2. Discuss and Consider Adopting Resolution 2016-102, awarding a Professional Services Agreement to Albert A. Webb Associates for Lions Park Environmental Services in the amount of $66,300.
(Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet.

Mayor Welch opened the item for public comments; there were none.

Councilmember Franklin asked what the time frame is for getting the report completed.

Director Vela said that they have been told that it is going to take somewhere between 6 to 8 months. Once they start the process they will be able to tell staff whether some of the technical studies are required or not. If some of the more in-depth technical studies are not required it should take closer to about 6 months.

Motion Franklin/Peterson that the City Council adopt Resolution No. 2016-102, awarding a Professional Services Agreement to Albert A. Webb Associates for Lions Park Environmental Services in the amount of $66,300. Motion carried, all in favor.

BANNING UTILITY AUTHORITY (BUA) – no meeting.

BANNING FINANCING AUTHORITY (BFA) – no meeting.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Peterson asked City Manager if he could set up a meeting for the marijuana Ad Hoc Committee prior to December 12th so that they can come back with a recommendation. Mayor Welch added that they set this meeting as quickly as possible so that they really have time to consider it and any changes that have to be made for the recommendation, they will have time to do that.

Councilmember Moyer said he would like to apologize if anybody thought he lost his temper, he did not but he was trying to respond to something that was obviously wrong and uncalled for.

Pending Items – City Council

1. Annual Report by Southern California Gas Company.
2. Zoning Amendment to General Plan – allow for community gardens
3. Consideration of the Annual Disaster Survival Expo as a City signature event.
4. Join other agencies to challenge the State in regard to Chromium-6 water issues.

ADJOURNMENT

By common consent the meeting adjourned at 7:36 p.m.

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Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

Recd 11/07/16 mac

The Marijuana Ad Hoc Committee met in July, Aug, & Sept. Members in attendance were Mayor Welch, Councilman Peterson, Chief Diaz, Cpt. Holder, Attorney Joshua Naggaer, and Community member Terry Wilson.

The main focus of the meetings was to determine if Marijuana should be allowed to be cultivated, sold and transported within the City Limits of Banning. And, if allowed, what part of the City would cultivation occur, and how many retail stores would be allowed and where.

Many factors have come in to discussion. The largest factor is Marijuana is still listed as a Class 1 Federal Drug. And, although the DEA has temporarily suspended its enforcement of the drug in States where it has been legalized or pending Legalization, according to a ruling by 9th Circuit Court Judge O'Scannlain that temporary restraint or Budget Rule could change with a new Presidential administration. Other factors taken in to consideration were Zoning, Schools, Homes, Crime Stats, and the size of our Police Department.

Currently there are 25 States and Wash. D.C. that have legalized marijuana for Medical Purposes. Voters in 9 other States will consider passing Marijuana for Medical and or Recreational purposes on Nov. 8th.

On Nov. 7, 2012, the State of Colorado legalized Marijuana for Recreational purposes, and that is when Colorado's problems started. On October 12, 2016 Mitchell R. Morrissey, the District Attorney for Denver, Colorado release a letter that contained the following statistics:

Since the legalization of recreational marijuana in Colorado:

In 2013 traffic related marijuana deaths have increased 48%,

Marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%.

According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents.

Aurora, Colorado's homicide rate more than doubled from 2014.

Additionally, more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year.

In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana:

The number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System.

In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

The Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marijuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate.

The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds.

In Denver, unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Another City to look at is Pueblo.

The story of Pueblo is a cautionary tale of what happens when County commissioners try to resolve their financial difficulties with tax revenue from marijuana. This small city with a population of 120,000 is a former steel mill town which fell on hard times. It ranks #2 in the state for poverty.

Seventy percent of the counties in Colorado opted out of Amendment 64, which commercialized and legalized marijuana. The city of Pueblo banned retail marijuana, but the county of Pueblo began to give licenses to marijuana grows and retail stores. Pueblo County commissioners saw marijuana as an opportunity to fill empty factories and create jobs. They made the decision against the wishes of most of the county's 160,000 residents.

An influx of 15,000 migrants moved to Pueblo for the drug, and some looking for jobs in the industry. Pueblo now has a tremendous homeless problem. Tent villages are housing newcomers who can't afford or find homes. Social services, soup kitchens and emergency rooms are stressed to the breaking point. So far in 2016, 5800 people have asked the local homeless center for assistance, a 49% increase since 2013. Approximately one-third of county residents, 67,000 are on Medicaid.

Concerned citizens started a campaign, Citizens for a Healthy Pueblo, raising concerns about the social costs of public health, traffic safety, crime and teen use. The campaign succeeded in getting two initiatives on the Nov. 8th ballot (Prop 200, Prop 300) which will give the citizens a voice on whether or not to allow the marijuana industry to continue to do business in the county. A "yes" vote on both initiatives will end Pueblo's marijuana drug trade.

The medical community recently held a press conference, announcing that 237 physicians signed a statement supporting a "yes" vote on 200, 300. Physicians who spoke at the event detailed some of the health risks coming from marijuana use in the community.

The black market is growing along side the legal industry. Sheriff's office finds that foreign cartels from Laos, Argentina, Cuba and Russia are now operating in Pueblo. The cartels are buying or renting homes and setting up illegal grows. Law enforcement has busted sixty illegal grows in 2016, there are 1500 other documented grows –also illegal. Sheriff Kirk Taylor is also retooling his tracking methods to account for the increasing crimes associated with marijuana. Currently Pueblo has the highest murder rate in the state, at 11.1 per 100,000.

"Those living in the rural areas are scared," reports Paula McPheeters of the Citizens for a Healthy Pueblo. "The marijuana grows are despoiling the land and draining the water aquifers. Squatters are growing marijuana and crime is increasing."

McPheeters says the community is being overwhelmed by outsiders moving in and taking over. Gang activity is increasing, drive by shootings, petty crime, auto theft are now big problems in a once peaceful community.

"Pueblo County now has 20 retail marijuana stores, compared to our 18 McDonalds, Starbucks and Walmart stores combined," says McPheeters. The county took in 3.5 million in tax revenue from the marijuana industry, but McPheeters says, "The social costs to the community could easily be upwards of two times that amount."

The biggest concern to those seeking to pass the ballot initiatives is the increase in youth drug use. Thirty one percent of youth age 12-17 are using marijuana in Pueblo County, three times the national average. Tragically, 12% have tried meth-amphetamine or heroin. The community has inadequate drug treatment facilities, so when teens get into trouble with addiction it is difficult to get them help.

In the State of Washington, and according to a new AAA Foundation for Traffic Safety research, fatal crashes involving drivers who recently used marijuana more than doubled — from 8 percent to 17 percent — in Washington one year after the state legalized the drug for recreational use. This translates to one in six drivers involved in fatal crashes testing positive for active-THC, the ingredient in marijuana that causes impairment.

While the data analyzed for the study did not include enough information to determine which driver was at fault in a given crash, the trend is troubling because the proportion of fatal crashes involving marijuana in Washington had been relatively stable between 2010 and 2013.

In fact, marijuana decreases driver performance and attention, and increases reaction time and lane deviation. Furthermore, previous research shows that drivers killed in crashes who tested positive for marijuana were 1.3 to 6.6 times more likely to have caused the collision.

I realize that my report is long, but I wanted to make sure the proper data was distributed. Now we should ask ourselves: Will the benefits of legalizing Marijuana for Cultivation, Sales, and Transportation in our City outweigh the negative impacts?

Tomorrow, Nov. 8th the citizens of California will make a decision to either legalize marijuana for recreational use or not. Even if Proposition 64 passes, the cities still have the options to allow or disallow the product in their cities.

At this point, I believe the committee should meet one more time and make a decision as to accept or reject an ordinance for legalization within the city of banning.

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ORDINANCE 1503

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA REPEALING CHAPTER 8.16 OF THE BANNING MUNICIPAL CODE AND ADOPTING THE 2016 CALIFORNIA FIRE CODE AS IT'S AMENDED IN THIS ORDINANCE FOR, 1) REGULATING AND GOVERNING THE SAFEGUARD OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS [ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES] AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE CITY OF BANNING, AND 2) PROVIDING FOR THE ISSUANCE OF PERMITS AND THE COLLECTION OF FEES THEREFOR.

WHEREAS, the California Fire Code contains regulations consistent with nationally recognized accepted practices for safeguarding, to a reasonable degree, life and property from the hazards of (i) fire and explosion, (ii) dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and (iii) hazardous conditions in the use or occupancy of buildings or premises; and

WHEREAS, the City of Banning has historically adopted and followed the most current standards set forth in California Fire Code (the "Fire Code"); and

WHEREAS, the California Fire Code was recently updated to a 2016 Edition.

NOW THEREFORE BE IT HEREBY ORDAINED, that an Ordinance of the City of Banning adopting the 2016 Edition of the California Fire Code to be referred to as the Fire Code of the City of Banning, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Banning providing for the issuance of permits and collection of fees. The above-referenced code is adopted as amended herein below.

SECTION 1. FINDINGS IN SUPPORT OF ADOPTING THE CALIFORNIA FIRE CODE

The City Council of the City of Banning hereby finds as follows:

(1) This ordinance is adopted pursuant to Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 which allow a city or county to adopt modifications or changes to the California Fire Code that are reasonably necessary because of local climatic, geological and topographical conditions.

(2) Every three years the State of California adopts a new California Fire Code, as part of the California Building Standards Code, which becomes effective

as to the City of Banning 180 days after publication by the California Building Standards Commission.

(3) The California Fire Code 2016 Edition, and the California Fire Code Standards published by International Code Council, are nationally recognized compilations of proposed rules, regulations, and standards of said organization.

(4) The International Fire Code has been printed and published as a code in book form within the meaning of Section 50022.2 et seq., of the California Government Code and said code has been adopted and amended by the California Building Standards Commission into the California Code of Regulations (CCR) as Title 24 Part 9, 2016 Edition.

(5) That one (1) copy of each of the California Fire Code, has been certified by the City Clerk of the City of Banning to be a true copy, and has been filed for use and examination by the public in the office of the City Clerk of the City of Banning prior to the adoption of this ordinance.

(6) That the sections of the California Fire Code and California Fire Code Standards may be referred to by the same number used in said published compilation preceded by the words "City of Banning Fire Code Section" or "California Fire Code Section" or "Fire Code Section."

(7) That added protection for new development is necessary to supplement normal Fire Department response resources available in areas impacted by new development to provide immediate fire protection for life and safety of single-family residential and multiple occupancy occupants during fire occurrence. The additional requirements and standards herein, including, but not limited to, enhanced on-site protection of property and occupants, are necessary to properly protect the health, safety, and welfare of the existing and future residents and workers of the City of Banning, and based thereon, Riverside County may establish more restrictive standards reasonably necessary to provide fire protection for life and property because of local climatic, geological or topographical conditions.

(a) Climatic Conditions: Generally, the City of Banning has an arid climate. Annual rainfall averages about 15 inches. Hot, strong, dry Santa Ana winds are common to areas within the City. These winds constitute a contributing factor that causes small fires originating in high density development presently being constructed in the City of Banning that spread quickly and create the need for an increased level of fire protection. This added protection, including, but not limited to, on-site protection, will supplement normal Fire Department response available in new development, and provide immediate fire protection for life and safety of multiple occupancy occupants during fire occurrence.

(b) Topographical conditions:

- The City of Banning includes mountainous, brush covered wildlands, and agricultural lands. Elevation ranges from twenty-two hundred (2,200) feet above sea level to over six thousand (6,000) feet high. Topography extends from flat to 25% slope for habitable land. Travel distances in rural and wildland areas often place Fire Department response times to emergencies at risk. This condition makes the need for enhanced on-site protection for property occupants necessary.

- Traffic and circulation in urban areas are an impetus to extreme travel distances in rural and wild land areas, often increasing Fire Department response time to emergencies, thus increasing risk to life and property, thus creating a need for enhanced on-site protection.

(c) Geological Conditions: There is a major earthquake fault, the San Andreas, which bisects the City. In addition, there are numerous minor faults. There are numerous areas within the City that are subject to earthquakes, landslides, wind erosion, blown sand, flooding, and wildfires. Placement of multiple occupancy buildings, location of arterial roads, and Fire Department staffing constraints due to revenue limiting State legislation, have made it difficult for the Fire Department to locate additional fire stations and provide staffing to fire companies and personnel sufficient to control fires in single and multi-story retail, commercial and industrial buildings, making enhanced built-in protection necessary.

California Health and Safety Code Sections 17958.7 and 18941.5 require that the modification or change be expressly marked and identified as to which each finding refers. Therefore the City Council finds that the following table sets forth the 2016 California Fire Code sections that have been modified and the associated local climatic, geological and/or topographical conditions described above supporting the modification.

2016 CODE SECTION	TITLE/SUBJECT	FINDINGS I, II, III
101.4	Severability	Administrative
102.5	Application of the residential code	(a), (b) & (c)
103.4 and 103.4.1	Liability	Administrative
104.1.1	Authority of the Fire Chief and Fire Department	Administrative

104.12	Authority of the Fire Chief to close hazardous fire areas	Administrative
108.1	Board of Appeals established	Administrative
109.4	Violation and Penalties	Administrative
113.2	Fees	Administrative
113.6	Cost Recovery	Administrative
202	Fire Chief	Administrative
503.2.1	Dimensions	Administrative
503.2.2	Authority	Administrative
503.6.1	Automatic opener	Administrative
503.7	Loading areas and passenger drop-offs	Administrative
507.5.7	Fire hydrant size and outlets	(a) (c)
507.5.8	Fire hydrant street marker	(a), (b) & (c)
508.1, 508.1.1, 508.1.3, 508.1.6, 508.1.8	Fire command center	(a), (b) & (c)
509.2.1	Minimum clearances	(a) & (c)
606.10.1.2	Manual operation	(b) & (c)
903.2	Where required (automatic sprinkler systems)	(a), (b) & (c)
903.3.5.3	Hydraulically calculated systems	(a) & (b)
3204.2.1	Minimum requirements for client leased or occupant	Administrative
4904.3	High Fire Hazard Severity Zone Maps	Administrative
App Ch B, Table B105.2	Buildings other than one- or two-family dwellings	(a), (b) & (c)
App Ch C, C103.1	Fire hydrant location	(a), (b) & (c)

SECTION 2. ADOPTION OF THE CALIFORNIA FIRE CODE

Chapter 8.16 of the City of Banning's Municipal Code is hereby repealed in its entirety and fully replaced to read as follows:

CHAPTER 8.16 FIRE PROTECTION CODE

8.16.010 Application and adoption of the California Fire Code
8.16.020 Amendments to California Fire Code

8.16.010 Application and adoption of the California Fire Code.

Except as stated in this Section or as amended below in Section 8.16.020 of this Ordinance, all of the provisions and appendices of the 2016 California Fire Code, inclusive of all of the inclusions and exclusions set for in each chapter's matrix, are hereby adopted and shall apply to the City of Banning. In addition, the following provisions that are excluded in the 2016 California Fire Code are hereby adopted -

Chapter 1, Division II of the California Fire Code is hereby adopted, except that Section 103.2 and 108.3 are not adopted, and Chapters 3, 25, and Sections 403.12, 503, 510.2, and 1103.2 are adopted.

8.16.020 AMENDMENTS TO CALIFORNIA FIRE CODE:

The codes, chapters, standards and appendices are amended as specifically set forth in the following chapters herein:

CHAPTER 1. SCOPE AND ADMINISTRATION

Section 101.4 of the California Fire Code is deleted in its entirety and replaced with the following:

101.4 Severability. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 102.5 of the California Fire Code is amended as follows:

102.5 Application of residential code. Where structures are designed and constructed in accordance with the California Residential Code, the provisions of this code shall apply as follows:

1. Construction and design provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.7 of this code shall apply.
2. Administrative, operational and maintenance provisions of this code shall apply.
3. Automatic fire sprinkler system requirements of this code shall apply to detached accessory buildings 3,600 square feet or greater in accordance with Section 903.2. The provisions contained in Section 903.2.18 of the California Fire Code or Section R309.6 of the California Residential Code may be used for the design of the automatic fire sprinkler system for detached private garages.

Sections 103.4 and 103.4.1 of the California Fire Code are deleted in their entirety and replaced with the following:

103.4 Liability. Any liability against Riverside County or the City of Banning or any officer or employee for damages resulting from the discharge of their duties shall be as provided by law.

Section 104.1.1 is added to Section 104.1 of the California Fire Code to read as follows:

104.1.1 Authority of the Fire Chief and Fire Department.

1. The Fire Chief is authorized and directed to enforce all applicable State fire laws and provisions of this ordinance and to perform such duties as directed by the City Council.

2. The Fire Chief is authorized to administer, interpret and enforce this ordinance. Under the Fire Chief's direction, the Riverside County Fire Department is authorized to enforce ordinances of the City of Banning pertaining to the following:

2.1. The prevention of fires.
2.2. The suppression or extinguishment of dangerous or hazardous fires.
2.3. The storage, use and handling of hazardous materials.
2.4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.
2.5. The maintenance and regulation of fire escapes.
2.6. The maintenance of fire protection and the elimination of fire hazards on land, in buildings, structures and other property, including those under construction.
2.7. The maintenance of means of egress.
2.8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

3. The following persons are hereby authorized to interpret and enforce the provisions of this ordinance and to make arrests and issue citations as authorized by law:

3.1. The Unit Chief, Peace Officers and Public Officers of the California Department of Forestry and Fire Protection.
3.2. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department.
3.3. The Riverside County Sheriff and any deputy sheriff.
3.4. The Police Chief and any police officer of any city served by the Riverside County Fire Department.
3.5. Officers of the California Highway Patrol.
3.6. Code Officers of the City of Banning Code Enforcement Department.
3.7. Peace Officers of the California Department of Parks and Recreation.
3.8. The law enforcement officer of the Federal Bureau of Land Management.

Section 104.12 is added to Section 104 of the California Fire Code to read as follows:

104.12 Authority of the Fire Chief to close hazardous fire areas. Except upon National Forest Land, the Fire Chief is authorized to determine and announce the

closure of any hazardous fire area or portion thereof. Any closure by the Fire Chief for a period of more than fifteen (15) calendar days must be approved by the Riverside County Board of Supervisors and/or the City Council within fifteen (15) calendar days of the Fire Chief's original order of closure. Upon such closure, no person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas. During such closure, the Fire Chief shall erect and maintain at all entrances to the closed area sufficient signs giving notice of closure. This section shall not prohibit residents or owners of private property within any closed area, or their invitees, from going in or being upon their lands. This section shall not apply to any entry, in the course of duty, by a peace officer, duly authorized public officer or fire department personnel. For the purpose of this section, "hazardous fire area" shall mean public or private land that is covered with grass, grain, brush or forest and situated in a location that makes suppression difficult resulting in great damage. Such areas are designated on Hazardous Fire Area maps filed with the office of the Fire Chief.

Section 108.1 of the California Fire Code is deleted in its entirety and replaced with the following:

108.1 Board of appeals established. The Board of Appeals shall be the City Manager. If he or she determines an outside board is needed, he or she shall designate an outside hearing officer to hear the appeal. The Fire Chief shall be notified of any appeal and the Fire Chief or designee shall be in attendance at the appeal hearing. Depending on the subject of the appeal, specialized expertise may be solicited, at the expense of the applicant, for the purpose of providing input to the Appeals Board.

Section 109.4 of the California Fire Code is deleted in its entirety and replaced with the following:

109.4 Violation and penalties. It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this code or ordinance. Punishments and penalties for violations shall be in accordance with the City of Banning ordinances, fee schedule and Health and Safety Code Sections 17995 through 17995.5.

Section 113.2 of the California Fire Code is deleted in its entirety and replaced with the following:

113.2 Schedule of permit fees. Fees for services and permits shall be as set forth in the City of Banning fee schedule.

Section 113.6 is added to Section 113 of the California Fire Code to read as follows:

113.6 Cost recovery. Fire suppression, investigation, rescue or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1, as may be amended from time to time. Additionally, any person who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150, et seq, as may be amended from time to time. Any expense incurred by the Riverside County Fire Department for securing such emergency shall constitute a debt of such person and shall be collectable by Riverside County in the same manner as in the case of an obligation under contract, express or implied.

CHAPTER 2. DEFINITIONS

Section 202, definition of "Fire Chief" in the California Fire Code is deleted in its entirety and replaced with the following:

FIRE CHIEF. The Fire Chief of Riverside County or the Fire Chief's designee.

CHAPTER 5. FIRE SERVICE FEATURES

Section 503.2.1 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm). For additional requirements or alternatives see Riverside County Fire Department Standards and Policies, as may be amended from time to time.

Section 503.2.2 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.2 Authority. The fire code official shall be the only authority authorized to designate fire apparatus access roads and fire lanes and to modify the minimum fire lane access widths for fire or rescue operations

Section 503.6.1 is added to Section 503.6 of the California Fire Code to read as follows:

503.6.1 Automatic opener. New motorized gates shall be provided with means to be automatically opened remotely by emergency vehicle in accordance with Riverside County Fire Department standards and Policies, as may be amended from time to time.

Exception: Gates serving individual one- and two-family dwelling parcels.

Section 503.7 is added to Section 503 of the California Fire Code to read as follows:

503.7 Loading areas and passenger drop-off areas. On private properties, where fire apparatus access roads are utilized for loading or unloading or utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the minimum required width for the fire apparatus access road.

Section 507.5.7 is added to Section 507 of the California Fire Code to read as follows:

507.5.7 Fire hydrant size and outlets. As determined by the fire code official, fire hydrant sizes and outlets shall be based on the following:

1. Residential Standard – one (1) four (4) inch outlet and one (1) two and half (2 ½) inch outlet.
2. Super Hydrant Standard – one (1) four (4) inch outlet and two (2) two and one half (2 ½) inch outlet.
3. Super Hydrant Enhanced – two (2) four (4) inch outlet and one (1) two and one half (2 ½) inch outlet.

Section 507.5.8 is added to Section 507 of the California Fire Code to read as follows:

507.5.8 Fire hydrant street marker. Fire hydrant locations shall be visually indicated in accordance with Riverside County Fire Department Technical Policy 06-11, as may be amended from time to time. Any hydrant marker damaged or removed during the course of street construction or repair shall be immediately replaced by the contractor, developer or person responsible for removal or damage.

Section 508.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1 General. Where required by other sections of this code and in all buildings classified as high-rise buildings by the California Building Code, in buildings greater than 300,000 square feet in area and in Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access, a fire command center for fire department operations shall be provided and comply with Sections 508.1.1 through 508.1.8.

Section 508.1.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1.1 Location and access. The fire command center shall be located adjacent to the main lobby and shall be accessible from fire department vehicular access or

as approved by the fire code official. The room shall have direct access from the building exterior at the lowest level of fire department access.

Section 508.1.3 of the California Fire Code is amended to add the following:

Exception: A fire command center solely required because a building is greater than 300,000 square feet in area shall be a minimum of 96 square feet (9 m^2) with a minimum dimension of 8 feet (2438mm).

Section 508.1.6 of the California Fire Code is amended to add the following:

Exception: A fire command center solely required because a building is greater than 300,000 square feet in area shall comply with NFPA 72 and contain the features set forth in Section 508.1.6 subsections 5, 8, 10, 12, 13 and 14. The features set forth in Section 508.1.6 subsections 1, 2, 3, 4, 6, 7, 9, 11, 15, 16, 17, 18 and 19 shall be required when such building contains systems or functions related to these features.

Section 508.1.8 is added to Section 508 of the California Fire Code to read as follows:

508.1.8 Fire command center identification. The fire command center shall be identified by a permanent easily visible sign stating "Fire Dept. Command Center," located on the door to the fire command center.

Section 509.2.1 of the California Fire Code is amended to add the following:

509.2.1 Minimum clearances. A 3-foot (914 mm) clear space shall be maintained around the circumference of exterior fire protection system control valves, or any other exterior fire protection system component that may require immediate access, except as otherwise required or approved.

CHAPTER 6. BUILDING SERVICES AND SYSTEMS

Section 606.10.1.2 of the California Fire Code is deleted in its entirety and replaced with the following:

606.10.1.2 Manual operation. When required by the fire code official, automatic crossover valves shall be capable of manual operation. The manual valves shall be located in an approved location immediately outside of the machinery room in a secure metal box or equivalent and marked as Emergency Controls.

CHAPTER 9. FIRE PROTECTION SYSTEMS

Section 903.2 of the California Fire Code is deleted in its entirety and replaced with the following:

903.2 Where required. In all new buildings and structures which are 3,600 square feet or greater, an approved automatic sprinkler system shall be provided regardless of occupancy classification. Where the Sections 903.2.1 – 903.2.19 of the California Fire Code require more restrictive requirements than those listed below, the more restrictive requirement shall take precedence.

Exception: Unless required elsewhere in this code or the California Building Code, automatic fire sprinkler systems shall not be required for the following:

1. Detached Group U occupancies used for agricultural or livestock purposes, less than 5,500 square feet, and having setback distances of 50 feet or more from the property line and other buildings.
2. Detached non-combustible equestrian arena shade canopies that are open on all sides and used for riding only - no commercial, assembly or storage uses.
3. Detached fabric or non-combustible shade structures that are open on all sides and used to shade playground equipment, temporary storage of vehicles and dining areas with no cooking.
4. Detached Group U occupancy greenhouses less than 5,500 square feet.
5. Where determined by the Fire Chief that no major life safety hazard exists, and the fuel load does not pose a significant threat to firefighter safety or to other structures or property, automatic fire sprinklers may be exempted.

One- and two-family dwellings shall have an automatic fire sprinkler system regardless of square footage in accordance with the California Residential Code. Fire sprinkler systems shall be installed in mobilehomes, manufactured homes and multifamily manufactured homes with two dwelling units in accordance with Title 25 of the California Code of Regulations.

The following exceptions in the California Fire Code shall not be allowed:

a. Exception in Section 903.2.3

b. Exception 2 in Section 903.2.11.3

Section 903.3.5.3 is added to Section 903 of the California Fire Code to read as follows:

903.3.5.3 Hydraulically calculated systems. The design of hydraulically calculated fire sprinkler systems shall not exceed 90% of the water supply capacity.

CHAPTER 32. HIGH-PILED COMBUSTIBLE STORAGE

Section is added to Section 3204.2 of the California Fire Code to read as follows:

3204.2.1 Minimum requirements for client leased or occupant owned warehouses. Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of

NFPA 13. The responsible fire protection engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The fire protection engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall describe the basis for determining the commodity and sprinkler design selection, how the commodities will be isolated or separated, and include referenced design document(s), including NFPA 13 or the current applicable factory mutual data sheets. If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBANINTERFACE FIRE AREAS

Section 4904.3 is added to Section 4904 of the California Fire Code to read as follows:

4904.3 High Fire Hazard Severity Zone Maps. In accordance with Government Code Sections 51175 through 51189, Very High Fire Hazard Severity Zones are designated as shown on a map titled Very High Fire Hazard Severity Zones, dated December 24, 2009 and retained on file at the office of the Fire Chief, which supersedes other maps previously adopted designating high fire hazard areas.

APPENDIX B

Table B105.2 of the California Fire Code is amended as follows:

TABLE B105.2
REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (gallons per minute)	FLOW DURATION (hours)
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the *California Fire Code*	50% of the value in Table B105.1(2)[a]	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the *California Fire Code*	50% of the value in Table B105.1(2)[b]	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.
a. The reduced fire-flow shall be not less than 1,000 gallons per minute.

b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

APPENDIX C

Section C103.1 of the California Fire Code is deleted in its entirety and replaced with the following:

C103.1 Hydrant spacing. Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the International Fire Code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be in accordance with Sections C103.2 and C103.3. Fire hydrants shall be provided at street intersections.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2016.

_____
Mayor

ATTEST:

_____
Marie A. Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1503 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 7th day of November, 2016, and was duly adopted at a regular meeting of said City Council on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Marie A. Calderon, City Clerk
City of Banning, California

ORDINANCE 1504

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 15.08 OF THE BANNING MUNICIPAL CODE BY ADOPTING BY REFERENCE THE ENTIRETY OF THE LATEST CALIFORNIA BUILDING CODE, RESIDENTIAL CODE, GREEN BUILDING STANDARDS CODE, PLUMBING CODE, MECHANICAL CODE, ELECTRICAL CODE, AND INTERNATIONAL PROPERTY MAINTENANCE CODE, ALL AS RELATIVE TO CONSTRUCTION CODES

WHEREAS, the State's Health and Safety Code Section 17958 mandates that the California Building Standards Commission adopt and publish the California Building Standards Code (Title 24 California Code of Regulations) every three (3) years; and

WHEREAS, the State's Health and Safety Code requires local governments to adopt the most recent editions of the model codes related to construction; and

WHEREAS, the construction codes include the California Building, Residential, Green Building Standards, Plumbing, Mechanical, and Electrical Codes; and

WHEREAS, the adoption of the Ordinance related to construction codes is consistent with California Government Code Title 5, Division 1, Part 1, as published by the Building Standards Bulletin 09-02.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ADOPTION

Chapter 15.08 of the Banning Municipal Code relating to "Adoption of Uniform Codes" is hereby amended by deleting the existing Chapter 15.08 in its entirety and adopting a new Chapter 15.08 to read as follows in its entirety:

"Chapter 15.08 Construction Codes

Sections:

15.08.010 Incorporation by Reference.

15.08.020 Interpretation of the Banning Municipal Code and Zoning Code with regard to references to the amended Construction Codes

15.08.030 Additional Penalties

15.08.010 Incorporation by Reference.

A. Except as otherwise provided in this chapter for the purposes of prescribing regulations for erecting, construction, enlargement, alteration, repair, improving, removal, conversion, demolition, occupancy, equipment use, height, and area of building and structures, the following construction codes are hereby adopted as "Chapter 15.08, Construction Codes," and all appendices, tables, and indices thereto, as the same existed on **December 31, 2013**, are hereby adopted by reference and incorporated as if fully set out herein, and the provisions thereof shall be controlling within the limits of the city.

1. California Building Code, 2016 Edition, including Chapter 1 Division II, based on the 2015 International Building Code as published by the International Code Council;

2. California Residential Code, 2016 Edition, based on the 2015 International Residential Code as published by the International Code Council;

3. California Green Building Standards Code, 2016 Edition;

4. California Plumbing Code, 2016 Edition, based on the 2015 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials;

5. California Mechanical Code, 2016 Edition, based on the 2015 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials;

6. California Electrical Code, 2016 Edition, based on the 2014 National Electrical Code as published by the National Fire Protection Association;

7. International Property Maintenance Code, 2012 Edition, as published by the International Code Council; the Uniform Code For The Abatement of Dangerous Buildings, 1997 Edition, as published by the International Code Council.

B. One copy of the Construction Codes, described in this Section, has been deposited in the Office of the City Clerk and shall be at all times maintained by the City Clerk for use and examination by the public.

15.08.020 Interpretation of the Banning Municipal Code and Zoning Code with regard to references to the amended Construction Codes

For the purposes of interpreting the adopted Construction Codes in the Banning Municipal Code and Zoning Code, references to the Uniform Building Code shall be replaced with the latest adopted California Building Code, if any.

15.08.030 Additional Penalties

In addition to those penalty provisions adopted by reference from those codes listed in Section 15.08.010, the following penalties shall also apply:

It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this ordinance. Any person, firm, corporation or association of persons violating any provisions of this ordinance or the provisions of any permit granted pursuant to this ordinance, shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person or entity shall be deemed guilty of separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance or the provisions of any permit granted pursuant to this ordinance, is committed, continued, or permitted.

Any person, firm, corporation or association of persons so convicted shall be: (1) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars ($200.00) for a first violation; (2) guilty of an infraction offense and punishable by a fine not exceeding three hundred dollars ($300.00) for a second violation on the same site. The third and any additional violations on the same site shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars ($1,000.00) or six months in jail, or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person or entity from the responsibility for correcting the violation.

SECTION 2. FINDINGS

The City of Banning is not making any amendments to the California Building Codes; therefore, the findings are not required per the California Government Code Section 17958.7.

SECTION 3. PENALTIES ADOPTED BY REFERENCE

Violation of or failure to comply with any of the provisions of Chapter 15.08, Construction Codes shall be subject to those penalty provisions set forth in Attachment "A" hereto. These penalty provisions are so set forth herein to meet the requirements of Government Code Section 50022.4; such penalty provisions are also adopted by reference pursuant to Section 1 without any revisions (unless otherwise specified

above) and, therefore, such penalty provisions as printed in Attachment "A" need not be codified in the Banning Municipal Code.

SECTION 4. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or 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 5. EFFECTIVE DATE

This Ordinance shall be in full force and effective 30 days after its passage.

PASSED, APPROVED, AND ADOPTED this 12th day of December, 2016.

_____
Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1504 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 7th day of November, 2016, and was duly adopted at a regular meeting of said City Council on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____

Marie A. Calderon, City Clerk
City of Banning, California

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ATTACHMENT "A"

Penalties. In addition to the penalty provision provided in Section 15.08.030 of this chapter, the following penalty provisions are incorporated by reference into Chapter 15.08, but will not be expressly stated therein:

California Building Code Section 114.1 -Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

California Building Code Section 114.2 -Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

California Building Code Section 114.3 -Prosecution of violation. If the notice of violation is not complied with promptly, the building official is authorized to request the 'legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

California Building Code Section 114.4 -Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

California Residential Code –R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the legal counsel of the *jurisdiction* to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

California Residential Code -R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents*, or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

California Residential Code -R114.2 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

California Plumbing Code Section 102.3.1 -Violations. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, or maintain any plumbing or permit the same to be done in violation of this code.

California Plumbing Code Section 106.3 -Penalties. Any person, firm, or corporation violating any provision of this code shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this code occurs or continues, shall be deemed to constitute a separate offense.

California Plumbing Code -Section 106.2 Corrections. Notices of correction or violation shall be written by the Authority Having Jurisdiction and posted at the site of the work, mailed or delivered to the permittee or an authorized representative. Refusal or failure to comply with any such notice or order within ten (10) days of receipt thereof shall be considered a violation of this code, and shall be subject to the penalties set forth elsewhere in this code for violations.

California Mechanical Code Section 109.0 -Violations. It shall be unlawful for a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, or maintain mechanical systems or equipment or cause or permit the same to be done in violation of this code.

International Property Maintenance Code Section 106.4 -Violation Penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

International Property Maintenance Code Section 106.5 -Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Sonja De La Fuente, Executive Assistant/Deputy City Clerk**

MEETING DATE: **December 12, 2016**

SUBJECT: **Receive and File List of Contracts Approved Under the City Manager's Signature Authority**

RECOMMENDATION:

Receive and file the list of Contracts approved under the City Manager's signature authority of $25,000 or less.

BACKGROUND:

City Council requested regular reports of contracts signed under the City Manager's signature authority of $25,000 or less.

ATTACHMENT:

1) List of Contracts approved by City Manager

Reviewed and Approved by:

Michael Rock, City Manager

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ATTACHMENT 1

Contracts Approved Under City Manager Signature Authority

DATE	DEPARTMENT	COMPANY	AMOUNT NOT TO EXCEED	SERVICE(S)
4-Oct	Public Works	Siemens Industry, Inc.	$ 25,000.00	Traffic Signal Maintenance & Repair
6-Oct	Fire	Omega Fire Protection	$ 5,000.00	Annual Fire Extinguisher Inspections & Maintenance
11-Oct	Public Works	TKE Engineering	$ 12,250.00	ALTA Land Title Survey Services
21-Oct	Public Works	Chris Taylor's Plumbing	$ 25,000.00	Plumbing Services
25-Oct	Police	Mitsubishi Electric US, Inc.	$ 5,404.00	Elevator Maintenance at Police Department
10-Nov	Public Works	Pacific Alarm Service, Inc.	$ 15,994.43	Alarm Monitoring
17-Nov	Admin Services	Kronick, Moskovitz, Tiedemann & Girard	$ 14,250.00	RSG Development AgreementLawyer
21-Nov	Admin Services	Technology Unlimited Inc	$ 755.00	Coin Sorter Maintenance
30-Nov	Community Development	Aaragon Geotechnical	$ 6,120.00	Annual Surface Mining Inspections

CITY OF BANNING
RESOLUTION

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Alejandro Diaz, Chief of Police**
Phil Holder, Captain

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-118: Acceptance of the 2016 State Homeland Security Program (SHSP) Grant in the amount of $33,500.**

RECOMMENDATION:

The City Council adopt Resolution 2016-118, a Resolution of the City of Banning, California, authorizing the acceptance of the 2016 SHSP Grant through the Riverside County Emergency Management Department in the amount of $33,500 for the purchase, installation, and programing of three (3) Motorola APX7500 Multi-Band Vehicle Radios in the police department's mobile command center.

STRATEGIC PLAN OBJECTIVE:

This request supports the City's strategic goal related to "Public Health and Safety".

JUSTIFICATION:

The purchase, installation, and programming of the three (3) Motorola APX7500 radios will enhance the department's mobile command center's interoperability capabilities. In 2015, the police department transitioned its communication system to the Riverside County maintained 700/800 MHz system, known as PSEC. This upgrade will allow each of the communication consoles in the mobile command center to operate on the PSEC system.

BACKGROUND:

On April 27, 2016, the Banning Police Department submitted an application for the FY16 SHSP Grant to the Riverside County Emergency Management Department for the purchase, installation, and programming of the noted three radios for its mobile command center. The application identified the department's need to upgrade its mobile command center's ability to operate on the countywide PSEC system.

In July 2016, the Banning Police Department was notified by the Riverside County Emergency Management Department that its application had been accepted for the full amount of $33,500. During the 2016 SHSP Grant Post Award Workshop, held on November 9, 2016, the Banning Police Department was advised the grant award document should be arriving by the end of November 2016 from the State of California and purchases can take place following the signing of the document.

OPTIONS:

1. Adopt Resolution 2016-118
2. Reject Resolution 2016-118 and provide direction to staff.

FISCAL IMPACT:

A budget adjustment in the amount of $33,500 is necessary to increase estimated revenues and appropriate funds for the 2016 SHSP Grant to pay for the radios, installation, and programming. Upon completion of the project, paid invoices will be submitted to the Riverside County Emergency Management Department which will reimburse the City for the full cost of the radios, installation, and programming. This grant does not require matching funds.

ATTACHMENT:

Resolution 2016-118

Approved by:

Michael Rock
City Manager

RESOLUTION 2016-118

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE ACCEPTANCE OF THE 2016 STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT IN THE AMOUNT OF $33,500 FOR THE PURCHASE, INSTALLATION, AND PROGRAMMING OF THREE (3) MOTOROLA APX7500 MULTI-BAND VEHICLE RADIOS FOR THE POLICE DEPARTMENT'S MOBILE COMMAND CENTER.

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

WHEREAS, it is imperative the Banning Police Department maintain the optimal level of Interoperable communications with allied law enforcement agencies in the area; and,

WHEREAS, there is a need to upgrade the radios in the Banning Police Department's Mobile Command Center to the Riverside County maintained PSEC radio system; and,

WHEREAS, the City's procedures require the City Council to adopt a resolution authorizing acceptance and expenditure of funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the Banning Police Department to accept the 2016 State Homeland Security Program Grant in the amount of $33,500 to purchase three (3) Motorola APX7500 Multi-Band Vehicle Radios, with installation and programming, for the Banning Police Department Mobile Command Center. Furthermore, The City Council authorizes the appropriation of City Funds into the appropriate Banning Police Department Technology account in the amount of $33,500. The Finance Department is authorized to make the necessary budget adjustments related to these funds. Additionally, the City Manager or his designee is authorized to act as the SHSP Grant Authorized Agent on behalf of the City of Banning.

PASSED, APPROVED, AND ADOPTED this 12th day of December 2016.

_____

, Mayor
City of Banning

ATTEST:

_____

Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the forgoing Resolution 2016-118 was duly adopted by the City Council of the City of Banning at the regular meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Marie A. Calderon, City Clerk
City of Banning, California

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: December 12, 2016

SUBJECT: Accept the Right-of-Way Dedication from Sagemont-Banning, LLC for 6071 Joshua Palmer Way, Assessor's Parcel Number 419-120-026-5

RECOMMENDATION:

Accept the Right-of-Way dedication from Sagemont-Banning, LLC for 6071 Joshua Palmer Way, Assessor's Parcel Number 419-120-026-5 and direct the City Clerk to accept and record said dedication. The legal description and plat of the proposed dedication are listed in Exhibit "A" and Exhibit "B", respectively.

JUSTIFICATION:

It is essential to obtain the right-of-way so that the constructed public improvement will be located within public right-of-way and meet the requirements of the City's General Plan.

BACKGROUND:

The owners for the parcels in question have constructed improvements on the property. As part of the conditions of approval of the project right-of-way dedications were required in order to meet the ultimate width requirements of the City's General Plan. The legal descriptions and plat maps for said right-of-way dedications have been reviewed and meet the necessary engineering requirements.

FISCAL IMPACT:

Not applicable.

OPTIONS:

1. Accept the Right-of-Way dedication.
2. Reject the Right-of-Way dedication.

ATTACHMENTS:

1. Right of Way Dedication
2. Exhibit "A"
3. Exhibit "B"
4. Certificate of Acceptance

Approved by:

Michael Rock,
City Manager

ATTACHMENT 1

(Right-of-Way Dedication)

EXEMPT RECORDING REQUESTED BY City of Banning PER GOV'T CODE 6103 AND WHEN RECORDED MAIL TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220 MAIL TAX STATEMENTS TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220	

RIGHT OF WAY DEDICATION – ROAD PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable offer of dedication to the City of Banning, a political subdivision of the State of California, and its successors or assigns for public road, street, highway, and utility purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 2nd day of November, 2016.

Sagemont-Banning, LLC
Corporation (Type Name)

Signature

Hiral Patel Managing Member
Name and Title (Type)

Corporation (Type Name)

Signature

Name and Title (Type)

See acknowledgements attached to this document.

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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 RIVERSIDE }

On NOVEMBER 02, 2016 before me, SUSAN E. MORGAN, NOTARY PUBLIC,
(Here insert name and title of the officer)

personally appeared HIRAL PATEL,
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 the instrument.

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

SUSAN E. MORGAN
Commission # 2087646
Notary Public - California
Riverside County
My Comm. Expires Nov 22, 2018

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT
RIGHT OF WAY DEDICATION - ROAD PURPOSES
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 11-02-16

CAPACITY CLAIMED BY THE SIGNER
- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

2015 Version www.NotaryClasses.com 800-873-9865

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ATTACHMENT 2

(Exhibit "A")

EXHIBIT 'A'

RIGHT OF WAY DEDICATION

THE SOUTHERLY 5.00 FEET OF REAL PROPERTY IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 48 OF GRAND VIEW RANCHO, AS SHOWN BY MAP RECORDED DECEMBER 9, 1948 IN BOOK 23 PAGES 19 AND 20 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 48 OF GRAND VIEW RANCHO, AS SHOWN BY MAP RECORDED DECEMBER 9, 1948 IN BOOK 23, PAGES 19 AND 20 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA;

THENCE NORTH 01°54'00" EAST ALONG THE WEST LINE OF SAID LOT 48, A DISTANCE OF 300.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 48;

THENCE SOUTH 88°06'00" EAST ALONG THE NORTH LINE OF SAID LOT 48, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 48;

THENCE SOUTH 01°54'00" WEST ALONG THE EAST LINE OF SAID LOT 48, A DISTANCE OF 300.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 48;

THENCE NORTH 88°06'00" WEST ALONG THE SOUTH LINE OF SAID LOT 48, A DISTANCE OF 300.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 48 AND BACK TO THE POINT OF BEGINNING.

THIS LEGAL DESCRIPTION IS PURSUANT TO LOT MERGER RECORDED MAY 31, 2007 AS INSTRUMENT NO. 2007-0358436 OF OFFICIAL RECORDS.

APN: 419-120-026-5

AREA = 1500 SQUARE FEET

REGISTERED PROFESSIONAL ENGINEER
DOUGLAS L. GOODMAN
No. 28500
Exp. 03-31-18
CIVIL
STATE OF CALIFORNIA

PREPARED BY:

11/01/2016
DATE

DOUGLAS L. GOODMAN
R.C.E NO. 28500, EXP. 3-31-2018
2079 SKY VIEW DRIVE
COLTON, CA 92324
909-824-2775

SHEET 1 OF 1

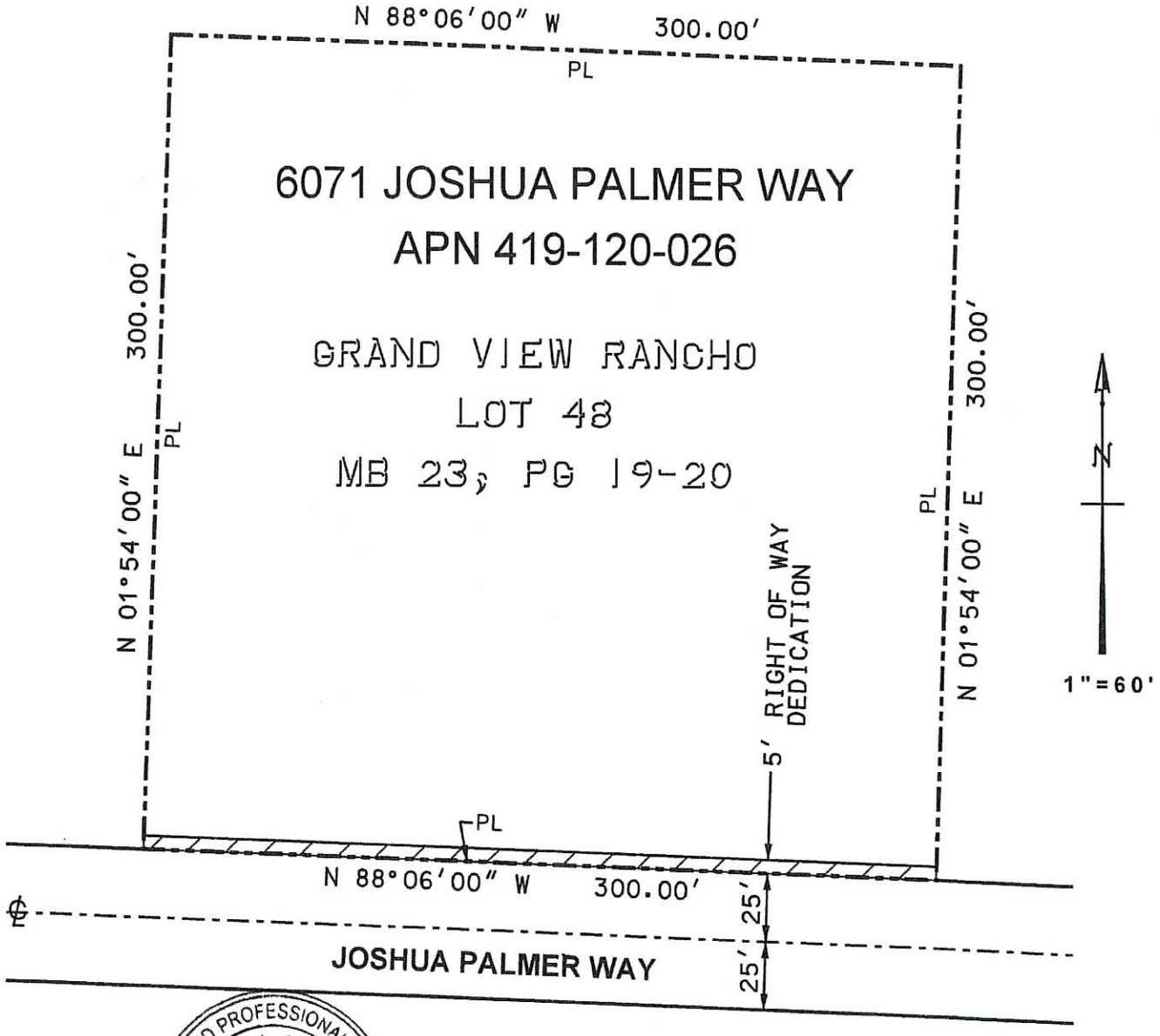
CITY OF BANNING
STREET RIGHT OF WAY DESCRIPTION
APN 419-120-026

DATE: 11/01/2016

ATTACHMENT 3

(Exhibit "B")

EXHIBIT 'B'



REGISTERED PROFESSIONAL ENGINEER
DOUGLAS L. GOODMAN
No. 28500
Exp. 03-31-18
CIVIL
STATE OF CALIFORNIA

PREPARED BY:

11/01/2016
DATE

DOUGLAS L. GOODMAN
R.C.E NO. 28500, EXP. 3-31-2018
2079 SKY VIEW DRIVE
COLTON, CA 92324
909-824-2775

SHEET 1 OF 1

CITY OF BANNING
STREET RIGHT OF WAY
APN 419-120-026

DATE: 11/01/2016	SCALE: 1"=60'

ATTACHMENT 4

(Acceptance of Certificate)

When Recorded Mail To:
City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE.

SPACE FOR RECORDER'S USE

CERTIFICATE OF ACCEPTANCE

This is to certify that the Right of Way Dedication- Road Purposes from Sagemont-Banning, LLC dated November 2, 2016 , is hereby accepted by the CITY OF BANNING pursuant to authority conferred by the City Council on this 12th day of December, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

Dated:_____

CITY OF BANNING

By_____
Marie A. Calderon, City Clerk

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Director of Public Works**
Kevin Sin, Senior Civil Engineer

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-119, "Approving the Banning Municipal Airport's Airport Capital Improvement Plan for 2018-2022"**

RECOMMENDATION:

Adopt Resolution 2016-119, approving the five year (2018-2022) Airport Capital Improvement Plan (ACIP) and direct staff to submit the ACIP to the Federal Aviation Administration (FAA).

COMMITTEE RECOMMENDATION:

The Public Works Advisory Committee (PWAC) met on October 26, 2016, reviewed the proposed list of projects contained in the 2018-2022 ACIP and recommends approval of said list.

JUSTIFICATION:

The FAA requires sponsors, such as the City of Banning, to provide annual updates and submittals of their five year ACIP. The ACIP is used to identify and prioritize airport capital improvement needs and to plan for the distribution of Airport Improvement Program (AIP) funds. The City's ACIP must be submitted in order for the identified projects to be funded using AIP funds.

BACKGROUND:

Through the AIP, the FAA provides grants for the planning and development of airports important to the National Airspace System (NAS) in the National Plan of

Integrated Airport Systems (NPIAS). Eligible projects for AIP funding include improvements related to airport safety, capacity, security and environmental concerns.

The FAA is currently providing ninety percent (90%) of a project's funding by using entitlement and/or discretionary grant funding. Each federal fiscal year the FAA appropriates $150,000 to the Banning Municipal Airport in entitlement grant funding to be used towards the cost of ACIP projects. Additionally, FAA discretionary grants may be received based on applications, federal priorities and availability of funding. Discretionary funds are requested by the City when entitlement funds do not cover ninety (90%) of the project costs. The City utilizes airport revenue funds for its grant match. CALTRANS Division of Aeronautics also provides the Banning Municipal Airport with grant funding to be used towards the City's local match equal to five percent (5%) of the federal funded project cost (i.e. 5% of the 90%).

FISCAL IMPACT:

The total required local matching funds for FY 2018 to FY 2022 projects are as follows:

YEAR	FEDERAL	STATE	LOCAL MATCH	**TOTAL**
2018	$40,500	$2,020	$2,475	**$45,000**
2019	$540,000	$27,000	$33,000	**$600,000**
2020	-	-	-	**-**
2021	-	-	-	**-**
2022	$45,000	$2,250	$2,750	**$50,000**
Total	**$625,000**	**$31,275**	**$38,225**	**$695,000**

The matching funds will be funded by the Airport Fund, which is projected to have a fund of $88,957 at the end of the fiscal year (July 1, 2017).

OPTIONS:

1. Adopt Resolution 2016-119.
2. Reject Resolution 2016-119. If rejected, the City will not receive any federal funds to make improvements to the airport.

ATTACMENTS:

1. Resolution 2016-119
2. Banning Municipal Airport Layout Plan (ALP)
3. 2018-2022 Airport Capital Improvement Plan (ACIP)

Approved by:

Michael Rock,
City Manager

ATTACHMENT 1

(Resolution 2016-119)

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RESOLUTION 2016-119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, "APPROVING THE BANNING MUNICIPAL AIRPORT'S AIRPORT CAPITAL IMPROVEMENT PLAN FOR 2018-2022"

WHEREAS, the City of Banning is obligated to develop, operate, and maintain the airport in accordance with the latest approved Airport Layout Plan (ALP), attached as Exhibit "A", and only those improvements and developments shown on the ALP are eligible for Airport Improvement Project (AIP) funds; and

WHEREAS, the Federal Aviation Administration (FAA) requires airport sponsors, such as the City of Banning, to utilize the approved ALP to update and submit their five year Airport Capital Improvement Plan (ACIP), attached as Exhibit "B", which is used to identify and prioritize airport capital improvement needs and to plan for the distribution of AIP funds; and

WHEREAS, the five year ACIP must be submitted to the FAA in order to receive AIP funding; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. City Council adopts Resolution 2016-119, "Approving the Banning Municipal Airport's ACIP for 2018-2022" and directs staff to submit the ACIP to the FAA.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2016.

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Hogan & Jenkins, LLP

CERTIFICATION:

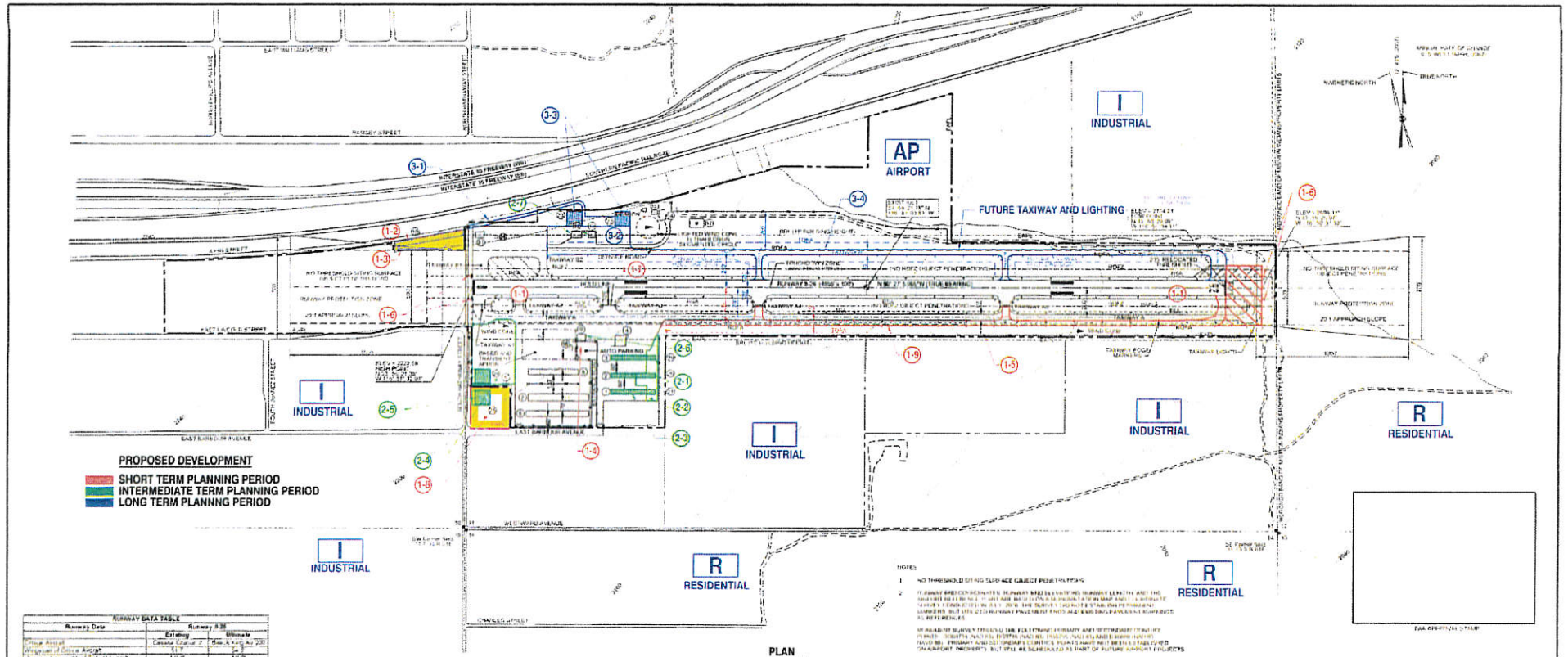
I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2016-119, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Marie A. Calderon, City Clerk
City of Banning

ATTACHMENT 2

(Exhibit "A", Banning Municipal Airport Airport Layout Plan (ALP))



PLAN

SCALE 1"=300'

NOTES

1. NO THRESHOLD SITING SURFACE OBJECT PENETRATIONS
2. RUNWAY END COORDINATES: RUNWAY END ELEVATIONS RUNWAY LENGTH AND THE AIRPORT REFERENCE POINT ARE BASED ON A MODIFICATION MAP AND COORDINATE SURVEY CONDUCTED IN JULY 2016. THE SURVEY DID NOT ESTABLISH PROPERTY BOUNDARIES, BUT UTILIZED RUNWAY PAVEMENT ENDS AND EXISTING PAVEMENT MARKINGS AS REFERENCES.
3. MONUMENT SURVEY UTILIZED THE FOLLOWING PRIMARY AND SECONDARY CONTROL POINTS: SOBATTA NAD 83 (2007) (NAD 83) (2007) (NAD 83) AND BARRY (NAVD 88). PRIMARY AND SECONDARY CONTROL POINTS HAVE NOT BEEN ESTABLISHED ON AIRPORT PROPERTY, BUT WILL BE SCHEDULED AS PART OF FUTURE AIRPORT PROJECTS.
4. USABLE RUNWAY LENGTH NAD83 OR NAVD88 ELEVATION SURVEY CONDUCTED IN JULY 2016. THE DIE OF PAVEMENT PRIOR TO RELOCATED THRESHOLD IS PART OF THE TAXIWAY AND IS NOT DESIGNATED OR MARKED USABLE FOR TAXI OR CRUSHING.
5. ACCURATE GROUND CONTOUR DATA AT 2' TO 10' INTERVALS IS NOT AVAILABLE WITH EXISTING SURVEY DATA.
6. MAGNETIC VARIATION BASED ON NOAA NATIONAL GEOPHYSICAL DATA CENTER INTERNATIONAL GEOMAGNETIC REFERENCE FIELD WITH GENERATION (2005)

RUNWAY DATA TABLE		
Runway Data	Runway 8-26	
	Existing	Ultimate
Critical Aircraft	Cessna Citation 2	Beech King Air 200
Wingspan of Critical Aircraft	51.7'	54.5'
Undercarriage width of Critical Aircraft	14' 4"	14' 8"
Approach Speed of Critical Aircraft	108 knots	98 knots
Max. Gross Takeoff Weight of Critical Aircraft	12,300 lbs	12,500 lbs
Effective Gradient (%)	2.4	2.4
Maximum Gradient (%)	2.4	2.4
Pavement Design Strength	40,000 lbs sw 60,000 lbs dw	40,000 lbs sw 60,000 lbs dw
Approach Visibility Minimums for each Runway End	Visible / Visual	Visible / Visual
RSA Length Beyond Stop End of Runway	300'	300'
RSA Width	150'	150'
ROFA Length Beyond Stop End of Runway	300'	300'
ROFA Width	500'	500'
ROFZ Length Beyond Stop End of Runway	200'	200'
ROFZ Width	250'	250'
Distance from Runway Centerline to Hold Bars and Signs	125'	125'
Marking for each Runway End	Visible / Visual	Visible / Visual
Standard Separation - Runway Centerline to Parallel Taxiway Centerline	240'	240'
Standard Separation - Taxiway Centerline to Fixed or Movable Object	65.5	65.5
Taxiway Object Free Area Width	131'	131'
Taxiway Safety Area Width	79'	79'
Taxiway Wingtip Clearance	18'	18'
Elevation (NAVD 88) of Runway End	2,220.5 / 2,220.5	2,220.5 / 2,220.5
Elevation of Runway Touchdown Zone (TDZ)	2,220.5 / 2,220.5	2,220.5 / 2,220.5
Elevation of Runway High Point	2,222	2,222
Elevation of Runway Low Point	2,104	2,104
Line of Sight Requirements met	N/A	N/A
Runway Length	4,965	4,965
Runway Width	100	100
Runway Surface Type	Asphalt	Asphalt
Taxiway Surface Type	Asphalt	Asphalt
Approach Slope	8.20 / 1.26 20:1	8.20 / 1.26 20:1
Pavement Strength		
Single Wheel	40,000 lbs	40,000 lbs
Dual Wheel	60,000 lbs	60,000 lbs
Runway Lighting	MIRL	MIRL
Navigational Aids	Nacim, segmented circle, wind cones, tetrahedron	Nacim, segmented circle, wind cones, tetrahedron, GPS
Critical Aids	26 PAPI	8 26 PAPI, REILS

Deviations from FAA Airport Design Standards					
No.	Design Standard	Required	Existing	Action	Date Approved
A	RUNWAY TAXIWAY SEPARATION	240	200	RELOCATE TAXIWAY SOUTH	
B	ALIGNED TAXIWAY AT RUNWAY 26	PROHIBITED		RELOCATE TO THRESHOLD	

AIRPORT DATA TABLE		
Airport Data	Existing	Proposed
Airport Elevation (Msl)	2,220	2,220
Airport Reference Point (NAD 83/NAVD 88)		
Latitude	33° 55' 21.18" N	33° 55' 21.18" N
Longitude	116° 51' 43.51" W	116° 51' 43.51" W
NAVAIDS	Beacon, Lighted Wind Cone, Tetrahedron, PAPI	Beacon, Lighted Wind Cone, Tetrahedron, PAPI, AWOS
Mean Max. Temperature of Hottest Month August	96.6°F	96.6°F
Airport Reference Code	B-I	B-I
GPS	N/A	N/A

FACILITIES TABLE		
Existing		
#	Description	Top Building Elevation*
1	Fixed Copper T Hangar G	2197
2	Fixed Copper T Hangar C	2208
3	Fixed Copper T Hangar B	2206
4	Conventional Hangar	2211
5	Air Quality Monitor Station	2210
6	T Hangar C&D	2206
7	T Hangar A&B	2209
8	T Hangar E	2210
9	Terminal Building	2219
10	Private Conventional Hangars	2253
11	Maintenance Building	2251
12	Conventional Hangar G	2237
13	Conventional Hangar H	2234
14	Conventional Hangar Building	2218
15	Electrical Building	2214
16	Fuel Station (Mini)	2213
17	AWOS	2240

*The Building Elevations are estimated

FACILITIES TABLE		
Proposed		
#	Facility Name	Top Building Elevation*
18	New T Hangar Building D	2190
20	New T Hangar Building C	2208
21	New T Hangar Building B	2203
22	New Conventional Hangar (south)	2241
23	New Conventional Hangar (south)	2240
24	New Conventional Hangar (south)	2237
25	New Conventional Hangar (south)	2237

NOTE:
THE CONTENTS OF THIS PLAN DO NOT NECESSARILY REFLECT THE OPINION VIEWS OR POLICY OF THE FAA. ACCEPTANCE OF THIS DOCUMENT BY THE FAA DOES NOT IN ANY WAY CONSTITUTE A COMMITMENT ON THE PART OF THE UNITED STATES TO PARTICIPATE IN ANY DEVELOPMENT DEPICTED HEREIN NOR DOES IT INDICATE THAT THE PROPOSED DEVELOPMENT IS ENVIRONMENTALLY ACCEPTABLE IN ACCORDANCE WITH APPROPRIATE PUBLIC LAWS.

CITY OF BANNING

APPROVED BY [signature] ART VELA, PE
DIRECTOR OF PUBLIC WORKS

DATE 7-27-16

LEGEND		
Existing	Description	Proposed
	Runway Centerline	
RSA	Runway Safety Area (RSA)	RSA
ROFA	Runway Object Free Area (ROFA)	ROFA
ROFZ	Runway Obstacle Free Zone (ROFZ)	ROFZ
TOFA	Taxiway Object Free Area (TOFA)	TOFA
TSA	Taxiway Safety Area (TSA)	TSA
BRL	Building Restriction Line (BRL)	BRL
	Airport Buildings	
	Other Buildings	
FAPC	Airport Property Line	FAPC
	Other Property Lines	
	Railroad	
	Fence	
	Road	
	General Elevation Contours	2000
	Overhead Lights	
	PAPI	
	Windcone	
	Hangars	
	Section Corners	

RUNWAY END COORDINATES (NAD 83/NAVD 88)	
Latitude - 8	33° 55' 21.38" N
Longitude - 8	116° 51' 32.61" W
Latitude - 26	33° 55' 20.99" N
Longitude - 26	116° 50' 34.11" W

Short Term Planning Period (1-5 Years Airport Needs) to a Native Pavement Strip	
1-1	Rehabilitate Runway 8-26
1-2	Acquire private property (Building #10)
1-3	Remove obstruction - Bldg #10 (private hangars)
1-4	Sign and stripe existing terminal parking lot
1-5	Install new airport security entry fence
1-6	Install REILS (Hwy 8 & Rwy 26)
1-7	Install PAPI for Runway 8
1-8	Acquire 1.63 acres, northwest corner of East Barbour Ave. & S. Hathaway St
1-9	Relocate Taxiway A
Intermediate Planning Period (5-10 Years Airport Needs) to a Native Pavement Strip	
2-1	Construct T Hangars #1, #2 & #3
2-2	Site work to improve drainage between hangars #1, #2 & #3
2-3	Construct trees (3) near T Hangars (near Tower T Hangars #1, #2, & #3)
2-4	Construct trespend apron area west of existing based aircraft parking area
2-5	Construct conventional hangars on new apron area west of existing based aircraft area
2-6	Relocate terminal building
2-7	Construct Mitigate #12 & #13
Long Term Planning Period (11-20 Years) Future Development as Demand Warrants	
3-1	Construct new airport road from John Street to northwest portion of airport
3-2	Construct new apron north of Runway 8-26
3-3	Construct two (2) 10,000 SF conventional hangars on new apron area north of Runway 8-26
3-4	Construct 2,600 x 35 partial parallel taxiway north of Runway 8-26

NO	REVISION	DATE	BY	APPD
4	PER & INF UPDATE	7/22/2016		
3	ALP UPDATE	4/19/2016		
2	ALP UPDATE	10/29/2007	JC	
1	ALP UPDATE	2/23/2005	JC	

REVISIONS

BANNING MUNICIPAL AIRPORT

CITY OF BANNING RIVERSIDE COUNTY, CALIFORNIA

AIRPORT LAYOUT PLAN

DESIGNED JCT | DRAWN JCT
CHECKED MWW, DRG | DATE APRIL 2016
PROJECT FILE NO. 05C501001 | DWG FILE NO. BANNING AIRPORT

SHEET 3 OF 8

CRS CALIFORNIA
ENGINEERS
DESIGN BUILD
TECHNICAL RESOURCES
OPERATIONS

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ATTACHMENT 3

(Exhibit "B", 2018-2022 Airport Capital Improvement Plan (ACIP))

BANNING MUNICIPAL AIRPORT
5 YR CAPITAL IMPROVEMENT PROGRAM (2018-2022)

US Department of Transportation Federal Aviation Administration

DATE: 11/10/2016

Airport: Banning Municipal Airport **State:** California **NPIAS#:** 06-0018 **LOCID** BNG

Project Description & Year	Federal Eligible *Grant Amount*	State Eligible	Local	Total	*Environmental*	Start Date	Comp. Date	FUNDING SOURCE	NPIAS Priority	On ALP?
2018										
Rehabilitate Runway 8-26 (Design)	$ 40,500	$ 2,025	$ 2,475	$ 45,000	CATEX (10/2016)	6/1/2018	12/1/2018	Entitlements	**68**	Y
2019										
Rehabilitate Runway 8-26 (Construct)	$ 540,000	$ 27,000	$ 33,000	$ 600,000	CATEX (10/2016)	2/1/2019	9/1/2019	Entitlements	**68**	Y
2020										
No Projects										
2021										
No Projects										
2022										
Install Runway 8 and 26 REILS, and Runway 8 PAPI (Design)	$ 45,000	$ 2,250	$ 2,750	$ 50,000	CATEX (10/1/2020)*	1/1/2021	9/1/2021	Entitlements	**47**	Y
TOTALS:	$ 625,500	$ 31,275	$ 38,225	$ 695,000						

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Fred Mason, Electric Utility Director
Brandon Robinson, Electrical Engineer

MEETING DATE: December 12, 2016

SUBJECT: Authorize the Director of Electric Utility to sign the Notice of Completion for "Project No. 2013-04EL, City of Banning Hydroelectric Facility Rehabilitation"

RECOMMENDATION:

The City Council accept Project No. 2013-04EL, City of Banning Hydroelectric Facility Rehabilitation as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

The contractor has completed the work per the project plans and specifications.

BACKGROUND:

The City Council awarded the construction contract for said project to Charles King Company of Long Beach, CA at its regular meeting held on September 10, 2013.

The scope of work for the project included furnishing of all labor, materials, equipment, services, and incidentals necessary for the design, install facilities necessary to upgrade the control system, fix or repair equipment needed to operate the Lower and Middle Hydroelectric facilities, provide startup services, and provide maintenance services for one year after completion of this project.

OPTIONS:

1. Accept Project No. 2013-04EL, City of Banning Hydroelectric Facility Rehabilitation as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

2. Do not accept Project No. 2013-04EL, City of Banning Hydroelectric Facility Rehabilitation as complete, which would prevent the City Clerk from recording this new City owned asset with the County of Riverside. This may also result in the contractor filing a claim against the City, since we would be unable to pay him the $34,425 in withheld retention, which the Notice of Completion releases.

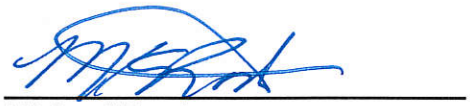
FISCAL IMPACT:

The project was completed within the Council approved contract amount of $693,574.41.

ATTACHMENT:

Exhibit A: Notice of Completion

Approved by:



Michael Rock
City Manager

ATTACHMENT
(EXHIBIT "A")

WHEN RECORDED MAIL TO:

City Clerk's Office
City of Banning
City Hall, 99 E. Ramsey Street
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2013-04EL – CITY OF BANNING HYDROELECTRIC FACILITY REHABILITATION

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning pursuant to authority conferred by the City Council this December 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

(1) That the OWNER, the City of Banning, and Charles King Company, Inc., entered into a written Agreement dated September 24, 2013, for the City of Banning Hydroelectric Facility Rehabilitation. The scope of work for the project included furnishing of all labor, materials, equipment, services, and incidentals necessary for the design and install facilities necessary to upgrade the control system, fix or repair equipment needed to operate the Lower and Middle Hydroelectric facilities, provide startup services, and maintenance services for one year after completion of this project.

(2) That the Work of Improvement was substantially completed on November 15, 2016, and the Nature of Interest is in fee simple owner.

(3) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said Work of Improvement.

(4) That the said Work of Improvement was performed at Banning Canyon Lower and Middle Hydroelectric Facilities in the City of Banning.

(5) That the original contractor for said improvement was Charles King Company, Inc., State Contractor's License No. 738236.

(6) That the corporate surety on the performance and payment bonds is The Ohio Casualty Insurance Company.

Dated: December 12, 2016

CITY OF BANNING
A Municipal Corporation

By_____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and that I am authorized to verify this Notice of Completion on behalf of said City; that I have read the foregoing Notice and knows the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning I declare under penalty of perjury that the foregoing is true and correct.

_____

Marie A. Calderon
City Clerk of the City of Banning

Executed on _____, 2016 at Banning, California.

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Fred Mason, Electric Utility Director**
Brandon Robinson, Electrical Engineer

MEETING DATE: **December 12, 2016**

SUBJECT: **Authorize the Director of Electric Utility to sign the Notice of Completion for "Project No. 2014-01EL, Sunset Grade Separation Phase 2 – Underground Electrical Substructures"**

RECOMMENDATION:

The City Council accept Project No. 2014-01EL, Sunset Grade Separation Phase 2 – Underground Electrical Substructures as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

The contractor has completed the work per the project plans and specifications.

BACKGROUND:

The City Council awarded the construction contract for said project to Perry C. Thomas Construction, Inc. of Monrovia, CA at its regular meeting held on February 25, 2014.

The scope of work for the project included furnishing of all labor, materials, equipment, services, and incidentals necessary to install conduit, electrical vaults, transformer pads, and other electric substructures to accommodate the grade separation at Sunset Avenue between Ramsey Street and Lincoln Street in the City of Banning.

OPTIONS:

1. Accept Project No. 2014-01EL, Sunset Grade Separation Phase 2 – Underground Electrical Substructures as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

2. Do not accept Project No. 2014-01EL, Sunset Grade Separation Phase 2 – Underground Electrical Substructures as complete, which would prevent the City Clerk from recording this new City owned asset with the County of Riverside. This may also result in the contractor filing a claim against the City, since we would be unable to pay the $2,456.50 in withheld retention, which the Notice of Completion releases.

FISCAL IMPACT:

The project was completed within the Council approved contract amount of $190,310.

ATTACHMENT:

Exhibit A: Notice of Completion

Approved by:



Michael Rock
City Manager

ATTACHMENT
(EXHIBIT "A")

WHEN RECORDED MAIL TO:

City Clerk's Office
City of Banning
City Hall, 99 E. Ramsey Street
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2014-01EL – SUNSET GRADE SEPARATION PHASE 2-UNDERGROUND ELECTRICAL SUBSTRUCTURES

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning pursuant to authority conferred by the City Council this December 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

(1) That the OWNER, the City of Banning, and Perry C. Thomas Construction, Inc., entered into a written Agreement dated March 3, 2014, for the Sunset Grade Separation Phase 2 – Underground Electrical Substructures. The scope of work for the project included providing labor, material and equipment to install facilities necessary for the realignment of the City's overhead electrical distribution system at the Sunset Grade Separation. Phase 2 includes providing labor, material and equipment to install conduit, electrical vaults, transformer pads, and other electric substructures to accommodate the grade separation at Sunset Avenue between Ramsey Street and Lincoln Street in the City of Banning.

(2) That the Work of Improvement was substantially completed on June 15, 2016, and the Nature of Interest is in fee simple owner.

(3) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said Work of Improvement.

(4) That the said Work of Improvement was performed at Sunset Avenue and Lincoln Street in the City of Banning.

(5) That the original contractor for said improvement was Perry C. Thomas Construction, Inc., State Contractor's License No. 672532.

(6) That the corporate surety on the performance and payment bonds is The Ohio Casualty Insurance Company.

Dated: December 12, 2016

CITY OF BANNING
A Municipal Corporation

By_____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and that I am authorized to verify this Notice of Completion on behalf of said City; that I have read the foregoing Notice and knows the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning I declare under penalty of perjury that the foregoing is true and correct.

_____

Marie A. Calderon
City Clerk of the City of Banning

Executed on _____, 2016 at Banning, California.

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Fred Mason, Electric Utility Director**
Brandon Robinson, Electrical Engineer

MEETING DATE: **December 12, 2016**

SUBJECT: **Authorize the Director of Electric Utility to sign the Notice of Completion for "Project No. 2014-02EL – Downtown Underground Project Phase 3"**

RECOMMENDATION:

The City Council accept Project No. 2014-02EL – Downtown Underground Project Phase 3 as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

The contractor has completed the work per the project plans and specifications.

BACKGROUND:

The City Council awarded the construction contract for said project to Southern California West Coast Electric, Inc. of Beaumont, at its regular meeting held on May 13, 2014.

The scope of work for the project included furnishing of all labor, materials, equipment, services, and incidentals necessary for the potholing of existing utilities; trench excavation and backfill; installing conduits, hand holes, transformer pads and other appurtenances for primary and secondary distribution; installing street light bases, removal and disposal of any surplus or demolished materials, and restoration of asphalt concrete pavement, sidewalks, and landscaping through Downtown Banning.

OPTIONS:

1. Accept Project No. 2014-02EL – Downtown Underground Project Phase 3 as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

2. Do not accept Project No. 2014-02EL – Downtown Underground Project Phase 3 as complete, which would prevent the City Clerk from recording this new City owned asset with the County of Riverside. This may also result in the contractor filing a claim against the City, since we would be unable to pay the $69,757.77 in withheld retention, which the Notice of Completion releases.

FISCAL IMPACT:

The project was completed within the Council approved contract amount of $1,395,155.36.

ATTACHMENT:

Exhibit A: Notice of Completion

Approved by:



Michael Rock
City Manager

ATTACHMENT
(EXHIBIT "A")

WHEN RECORDED MAIL TO:

City Clerk's Office
City of Banning
City Hall, 99 E. Ramsey Street
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2014-02EL – DOWNTOWN UNDERGROUND PROJECT – PHASE 3

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning pursuant to authority conferred by the City Council this December 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

(1) That the OWNER, the City of Banning, and Southern California West Coast Electric, Inc., entered into a written Agreement dated May 19, 2014, for the Downtown Underground Project - Phase 3. The scope of work for the project includes but is not limited to: potholing of existing utilities; trench excavation and backfill with native material (or slurry as shown on the Drawings or directed by the City); installing conduits, hand holes, transformer pads and other appurtenances for primary and secondary distribution; installing street light bases, removal and disposal of any surplus or demolished materials, and restoration of asphalt concrete pavement, sidewalks, and landscaping through Downtown Banning, CA.

(2) That the Work of Improvement was substantially completed on September 22, 2016, and the Nature of Interest is in fee simple owner.

(3) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said Work of Improvement.

(4) That the said Work of Improvement was performed between 8th Street, Williams Street, and Livingston Street in the City of Banning.

(5) That the original contractor for said improvement was Southern California West Coast Electric, Inc., State Contractor's License No. 462222.

(6) That the corporate surety on the performance and payment bonds is SureTec Insurance Company.

Dated: December 12, 2016

CITY OF BANNING
A Municipal Corporation

By_____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and that I am authorized to verify this Notice of Completion on behalf of said City; that I have read the foregoing Notice and knows the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning I declare under penalty of perjury that the foregoing is true and correct.

_____

Marie A. Calderon
City Clerk of the City of Banning

Executed on _____, 2016 at Banning, California.

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Fred Mason, Electric Utility Director**
Brandon Robinson, Electrical Engineer

MEETING DATE: **December 12, 2016**

SUBJECT: **Authorize the Director of Electric Utility to sign the Notice of Completion for "Project No. 2015-01EL, Lincoln St., Airport and City Yard Electrical Distribution Improvements"**

RECOMMENDATION:

The City Council accept Project No. 2015-01EL, Lincoln St., Airport and City Yard Electrical Distribution Improvements as complete, authorize the Director of Electric Utility to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

The contractor has completed the work per the project plans and specifications.

BACKGROUND:

The City Council awarded the construction contract for said project to Regency-Pacific Development Corp of Beaumont, CA at its regular meeting held on April 14, 2015.

The scope of work for the project included demolition of existing structures, site grading, site paving, miscellaneous site work, and installation of underground electrical utilities. All improvements were completed at the Banning Corporate Yard located at 176 East Lincoln St. and on/off site at the Banning Municipal Airport.

OPTIONS:

1. Accept Project No. 2015-01EL, Lincoln St., Airport and City Yard Electrical Distribution Improvements as complete, authorize the Director of Electric Utility to sign the Notice of Completion, and direct the City Clerk to record the Notice of Completion.

2. Do not accept Project No. 2015-01EL, Lincoln St., Airport and City Yard Electrical Distribution Improvements as complete, which would prevent the City Clerk from recording this new City owned asset with the County of Riverside. This may also result in the contractor filing a claim against the City, since we would be unable to pay the $23,877.20 in withheld retention, which the Notice of Completion releases.

FISCAL IMPACT:

The project was completed within the Council approved contract amount of $484,762.77.

ATTACHMENT:

Exhibit A: Notice of Completion

Approved by:

Michael Rock
City Manager

ATTACHMENT
(EXHIBIT "A")

WHEN RECORDED MAIL TO:

City Clerk's Office
City of Banning
City Hall, 99 E. Ramsey Street
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2015-01EL – LINCOLN ST., AIRPORT AND CITY YARD ELECTRICAL DISTRIBUTIONS IMPROVEMENTS

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning pursuant to authority conferred by the City Council this December 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

(1) That the OWNER, the City of Banning, and Southern California West Coast Electric, Inc., entered into a written Agreement dated April 22, 2015, for the Lincoln St., Airport and City Yard Electrical Distribution Improvements. The scope of work for the project includes the furnishing of all labor, materials, equipment, services, and incidentals necessary for demolition of existing structures, site grading, site paving, and miscellaneous site work installation of underground electrical utilities for improvements at the Banning Corporate Yard located at 176 E. Lincoln St. and distribution system improvements near the Banning Municipal Airport on Lincoln St in the City of Banning.

(2) That the Work of Improvement was substantially completed on November 18, 2016, and the Nature of Interest is in fee simple owner.

(3) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said Work of Improvement.

(4) That the said Work of Improvement was performed the Banning Municipal Airport and 176 E. Lincoln Street in the City of Banning.

(5) That the original contractor for said improvement was Regency-Pacific Development Corporation, State Contractor's License No. 555936.

(6) That the corporate surety on the performance and payment bonds is North American Specialty Insurance Company.

Dated: December 12, 2016

CITY OF BANNING
A Municipal Corporation

By_____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and that I am authorized to verify this Notice of Completion on behalf of said City; that I have read the foregoing Notice and knows the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning I declare under penalty of perjury that the foregoing is true and correct.

_____

Marie A. Calderon
City Clerk of the City of Banning

Executed on _____, 2016 at Banning, California.

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Rochelle Clayton, Deputy City Manager

MEETING DATE: December 12, 2016

SUBJECT: **Review and Consider Adoption of Resolution 2016-80, Approving the Agreement for Transfer of the Sales Tax Sharing and Operating Agreement (Agreement) between the City of Banning (City) and Dalia Auto Group, LLC (Dalia) and Khan Properties and Holdings, LLC (Khan Properties), doing business as Diamond Hills Chevrolet Buick GMC as per Terms of Agreement Approved by Council at its October 25, 2016 Meeting.**

RECOMMENDATION:

Adopt Resolution 2016-80, Approving the Agreement for Transfer of the Sales Tax Sharing and Operating Agreement (Agreement) between the City of Banning (City) and Dalia Auto Group, LLC (Dalia) and Khan Properties and Holdings, LLC (Khan Properties), doing business as Diamond Hills Chevrolet Buick GMC as per Terms of Agreement Approved by Council at its October 25, 2016 Meeting.

COMMITTEE RECOMMENDATION:

At its December 6, 2016 meeting, the Budget and Finance Committee reviewed the Agreement and recommended that Council approve the Agreement, once defining long term lease in section 7(f).

JUSTIFICATION:

At its October 25, 2016 meeting, the City Council approved the transfer of Agreement, release of the tax-sharing payments in arrears, and the Amended and the new Terms of Agreement. Staff was directed to bring the new Agreement back for approval.

With the purchase of additional property, renovation and expansion of the existing Dealership, the City's tax consultant Hinderliter, de Llamas & Associates (HdL) projects that the Dealership's tax revenue shall increase from approximately $289,000 in 2015 to $719,000 by the year 2026.

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 Dalia to notify the City that a sale was pending, to secure a new business license and to submit a sign permit.

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

- An increase in sales volume since November and they are 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. Adopt Resolution 2018-80, approving the Agreement for Transfer of Sales Tax Sharing and Operating with Dalia
2. Do not approve and provide direction to staff.

FISCAL IMPACT:

No fiscal impact to the budget. If approved, the cost of renovations will be reimbursed to Dalia and shall not exceed $3.2M, which will be paid over an estimated 15 years.

ATTACHMENTS:

A. Resolution 2018-80
B. Agreement for a Transfer of Sales Tax Sharing & Operating Agreement.
C. Economic Development Subsidy Report Pursuant to Government Code Section 83083 (Assembly Bill 562)

Approved by:



Michael Rock
City Manager

ATTACHMENTS FORTHCOMING

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ATTACHMENT A

RESOLUTION 2016-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE AGREEMENT FOR SALES TAX SHARING AND OPERATING BETWEEN THE CITY OF BANNING AND DALIA AUTO GROUP, LLC AND KHAN PROPERTIES AND HOLDINGS, LLC, DOING BUSINESS AS DIAMOND HILLS CHEVROLET BUICK GMC AS PRESENTED OR AMENDED BY CITY COUNCIL FOLLOWING PUBLIC COMMENT

WHEREAS, City of Banning ("City") is a California municipal corporation; and

WHEREAS, the City proposes to provide assistance in the expansion and renovation of a major automobile dealership in the City; and

WHEREAS, Dalia Auto Group, LLC and Khan Properties and Holdings, LLC, doing business as Diamond Hills Chevrolet Buick GMC ("Dalia) is a limited liability company qualified to conduct business in the State of California and City of Banning; and

WHEREAS, the sales tax revenue generated by local merchants is critical to the City's economic viability; and

WHEREAS, Dalia purchased Diamond Hills Auto Group located at 4545 W. Ramsey Street and 4661 W. Ramsey Street, Banning, California; and

WHEREAS, Dalia possesses a valid City of Banning Business License, Sales Permit from the California Department of Motor Vehicles, and Sales and Use Permit from the State Board of Equalization; and

WHEREAS, pursuant to Government Code Section 53083, the City has provided detailed terms of a proposed agreement between the City and Dalia in an Economic Development Subsidy Report; and

WHEREAS, operation of Dalia in the City, pursuant to the proposed Agreement, would provide the following benefits to the community:

1. Ensuring increased sales tax revenue, which ultimately funds essential City services while securing the City's financial stability

2. Creating at least 10-15 new jobs in the community, thereby stimulating further generation of sales tax revenue and increased demand for housing, goods and services

3. Occupying a strategic site, Dalia complements the three existing new car dealerships with plans of expanding and making it a more appealing, economically vibrant destination for prospective car buyers

WHEREAS, City and Dalia have negotiated the terms of an Economic Development Subsidy Agreement to provide assistance to Dalia in purchasing additional parcels with freeway front signage, renovation, and expansion of the dealership, to ensure the long-term success of the City retail operation; and

WHEREAS, pursuant to Government Code 53083, the City has held a noticed public hearing regarding the proposed economic development subsidy as required by said statute; and

WHEREAS, the City has duly considered all terms and conditions of the proposed agreement and maintains it severs the public interest of the City.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: That the City Council approves the Economic Development Subsidy Report and Agreement as presented or amended by City Council following public comment.

SECTION 2: That the City Council authorizes the City Manager for the City of Banning to execute the Sales Tax Sharing and Operating Agreement.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2016.

_____
, Mayor
City of Banning, California

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogan, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2016-80 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Marie A. Calderon, City Clerk
City of Banning, California

ATTACHMENT B

SALES TAX SHARING AND OPERATING AGREEMENT

between

THE CITY OF BANNING,
a California municipal corporation

and

DALIA AUTO GROUP, LLC and KHAN PROPERTIES AND HOLDINGS, LLC

doing business as
DIAMOND HILLS CHEVROLET BUICK GMC
a Limited Liability company

This Sales Tax Sharing Agreement ("Agreement") is entered into between (i) the CITY OF BANNING ("Banning or "City"), a municipal corporation, and (ii) DALIA AUTO GROUP, LLC and KHAN PROPERTIES AND HOLDINGS, LLC, limited liability companies, doing business as DIAMOND HILLS CHEVROLET BUICK GMC ("Dealership"). Banning and Dealership are each individually referred to as a "party" and collectively as the ""parties."

1. EFFECTIVE DATE

This Agreement will not become effective until it (i) has been duly executed by the authorized officers of the Dealership and delivered to Banning, and (ii) has been duly approved by the City Council of the City of Banning (the "Effective Date").

2. RECITALS AND REPRESENTATIONS

2.1 The Dealership represents and warrants to the City that it has the legal right to use and occupy that certain real property (the "Property") located within the City of Banning, and commonly known as 4545 W. Ramsey Street and 4661 W. Ramsey Street, Banning, California.

2.2 On January 12, 2012, the City and Diamond Hills Auto Group, Inc. entered into a transferrable "Agreement Regarding Operating Covenant" (the "Amended Original Agreement") whereby the City agreed to (i) Pay Diamond Hills Auto Group, Inc. $2,000,000 over a ten year period, or until September 2015; (ii) Provide both parties an option to extend the Original Agreement by ten years, or until September 2025, and create a new ceiling of $5,000,000 if Diamond Hills Auto Group, Inc. added a maximum of two new dealer franchises to their existing dealership; and (iii) Pay Diamond Hills Auto Group, Inc. a sliding percentage scale of sales tax as long as the City maintained a minimum threshold of $100,000 per year in sales tax by the Dealer. The percentage split was 50% in Year 7. The Amended Original Agreement contemplated a tax-sharing arrangement between Banning and Diamond Hills Auto Group, Inc. by which both parties would eventually split the City's sales tax revenue generated from the operations on a 50/50 basis beyond the City's minimum threshold.

2.3 On November 9, 2015 Dalia Auto Group, LLC and Khan Properties and Holdings, LLC purchased and assumed rights to the Property in the Asset Purchase Agreement and on October 25, 2016 the Banning City Council approved the transfer of Operating Covenant and authorized its amendment on the terms and conditions stated herein.

2.4 Dealership continues to operate the existing automobile dealership commonly known as "Diamond Hills Chevrolet Buick GMC." Dealership has approximately 63 employees, which has increased from approximately 50 employees at time of purchase. In 2016,

Dealership anticipates that it will produce approximately $332,700 in sales tax revenue to the City, placing it among the City's largest sources of sales tax revenue.

2.5 Dealership anticipates increases in revenues and growth in its automobile sales and service that require it to expand its facilities. Dealership has considered relocating to nearby cities to acquire larger facilities; were that to happen the City would lose a significant share of its total sales tax revenues.

2.6 The City Council, in order to assist in the re-construction, improvement and expansion its facility, determined that providing economic incentive payments to Dealership, in an amount equal to a percentage of the Sales Tax as defined below, would: (i) enhance the quality of the facilities, goods, and services that Dealership makes available to the public and City's residents; (ii) provide desirable and attractive shopping experiences for City's residents and its visitors; (iii) enhance local employment opportunities; and (iv) increase sales tax revenue to the City.

2.7 Dealership represents to City that the Dealership Improvements (as defined below) will result in an increase in sales of both new and used automobiles, automobile parts and services and are anticipated to result in sales tax increment.

2.8 By adoption of Resolution No. 2016-80, the City Council desires to assist the Dealership in the form of annual Economic Incentive Payments, reimbursed on a quarterly basis under the provisions of this Agreement for a term of fifteen (15) years for the cost of Dealership Improvements paid by Dealership, up to a maximum reimbursement of three million two hundred thousand dollars ($3,200,000).

3. TERMS OF SALES TAX SHARING

NOW, THEREFORE, in consideration of the mutual promises and covenants of the Parties set forth herein, and for other good and valuable consideration, the value and receipt of which are hereby acknowledged by the Parties, the Parties agree as set forth hereinafter.

3.1 Incorporation of Recitals.

The Parties agree that each of the foregoing Recitals is true and correct and incorporate each of the Recitals in this Agreement by reference thereto.

3.2 Definitions. The terms used in this Agreement shall be given the meaning expressly defined in this Agreement.

a) **"Economic Incentive Payment"** shall mean payments by City to Dealership implementing Sales Tax Sharing as provided for in this agreement. The Economic

Incentive Payment is an amount equal to eight-five percent (85%) of the Sales Tax after the City has received one-hundred percent (100%) of the first one hundred fifty thousand dollar ($150,000) in tax revenue per year, for a term of fifteen (15) years, and up to a maximum payment of three million two hundred thousand dollars ($3,200,000.00). Payments shall be made quarterly by City to Dealership at a rate of eighty-five (85%) of sales tax revenue received by City, above the first thirty-seven thousand five hundred dollars ($37,500).

b) **"Effective Date"** shall mean the date upon which all of the following have occurred: (i) City's City Council has approved the Agreement; (ii) City Manager has executed the Agreement; and (iii) Dealership's authorized representatives(s) have executed the Agreement.

c) **"Existing Retail Business"** shall mean the Dalia Auto Group, LLC doing business as Diamond Hills Chevrolet Buick GMC located at 4545 W. Ramsey Street and 4661 W. Ramsey Street, Banning, California that is owned and operated by Dalia Auto Group, LLC and Khan Properties, LLC, and consists of new and used car sales, auto parts sales, and automobile service facilities on the Property.

d) **"Improved Business"** means the Existing Retail Business as improved by the completed Dealership Improvements.

e) **"Maximum Payment"**. Dealership shall not be entitled to payments from City beyond the fifteen (15) year term, or in excess of the Maximum Payment consistent with this agreement.

f) **"Property"** shall mean that parcel or parcels of real property upon which Dealership operates the Existing Retail Business.

g) **"Sales Tax"** on an annual basis, the sales tax actually generated by Dealership and received by City from the State Board of Equalization over the Sales Tax Base. For purposes of this Agreement, the Sales Tax Base is the first one hundred fifty thousand dollars ($150,000.00) of sales tax revenue generated by Dealership per tax year of which the City shall retain 100%.

h) **"Sales Tax Base"** shall be the first one hundred fifty thousand dollars ($150,000.00) of sales tax revenue generated by Dealership per tax year of which the City shall retain 100%.

i) **"Total Maximum Expense"** shall mean Payments by Dealership for Dealership Improvements reimbursed by the City shall not exceed the Total Maximum Expense of three million two hundred thousand dollars ($3,200,000.00).

j) **"Dealership Improvements"** shall mean the expansion, remodeling, renovation and

improvement of the Existing Retail Business by (i) enlarging or remodeling the new car showroom; or (ii) renovating the facility per GM corporate imaging; and (iii) adding a new freeway frontage sign to the newly acquired property adjacent to the facility and identified by Assessor Parcel Numbers 537-100-027-7, 537-100-028-8, and 537-100-029-9.

3.3 Dealership Obligations The following are conditions precedent to City's obligation to provide the Economic Incentive Payment to Dealership:

a) Completion of Dealership Improvements. Dealership shall timely undertake all work reasonably necessary to timely complete the Dealership Improvements as provided herein

(i) Deadline. Dealership agrees to begin the Dealership Improvements not later than eighteen (18) months after the Effective Date of this Agreement unless such deadline is extended by approval of City Council.

(ii) Completion Date. Completion of the Dealership Improvements shall be deemed to have occurred on the date where Dealership has substantially completed all Dealership Improvements and City reviews documentation supporting such.

(iii) Improvement Standards. The Dealership Improvements shall be constructed in accordance with all City zoning and building requirements and Dealership shall have procured all necessary permits from City and any other local governmental entity having jurisdiction over the Dealership Improvements or any material aspect thereof. Dealership is solely responsible for undertaking and completing the Dealership Improvements and obtaining all necessary permits at its sole cost.

(iv) Sign Improvement. Dealership shall provide the option to the City to display a message on the freeway frontage sign, including but not limited to "Welcome to Banning."

b) Confirmation of Payments for Dealership Improvements.

(i) Confirmation of Payments for Dealership Improvements. Dealership agrees to provide to City documentation reasonably acceptable to City, including without limitation, invoices, lien releases, and other evidences of Dealership's actual payment, confirming payments to contractors, subcontractors, and vendors.

(ii) City Shall Reimburse up to the Total Maximum Expense. Payments by Dealership for Dealership Improvements shall be reimbursed by the City up to the Total Maximum Expense of three million two hundred thousand dollars ($3,200,000.00). If the accepted documentation evidences payments by Dealership of more than the Total Maximum Expense, then City shall have the right to terminate Economic Incentive Payments as per Section 2.8. For example, if Dealership pays four million dollars ($4,000,000) for Dealership Improvements, the City shall not reimburse more than three million two hundred thousand dollars ($3,200,000.00) to Dealership.

(iii) City's right to audit Dealership Operations and Documentation of Dealership Improvements. City shall have the right to audit the operations, sales data, and dealership expansion and renovation documentation.

c) Continued Operation. Dealership shall remain in continuous operation during current normal business hours and days for the duration of the fifteen (15)-year period or until receipt of the Maximum Payment, whichever occurs first. Dealership will be considered to be in continuous operation, even if closed on all recognized California and federal holidays, and during times of temporary closure for planned repairs or renovations for which Dealership notified City in writing at least thirty (30) days in advance. No closureshall operate to extend the period during which Dealership may be entitled to receive the Economic Incentive Payment from City.

d) Good Standing. Dealership shall otherwise remain in good standing and not in default of its performance of this Agreement. If dealership does not remain in good standing and in operation, this agreement shall terminate as defined in Section 3.6.

3.4 City's Obligation to Make the Economic Incentive Payment

a) Obligation of City. City shall be obligated to make Economic Incentive Payments to Dealership, at the times and as provided in this Section, provided Dealership has satisfied the conditions precedent to payment set forth in Section 3.3 of this Agreement and otherwise remains in good standing and is not in default under this Agreement.

b) Sales Tax Sharing Period. Calculation of the Sales Tax sharing shall commence on the Effective Date of this Agreement. The period during which

City shall receive Sales Tax which forms the basis of the Economic Incentive Payment shall commence on the Effective Date and shall continue for a period of not to exceed fifteen (15) years thereafter or until Dealership has received the Maximum Payment. In the event that Sales Tax received by City during the fifteen (15) year period is insufficient to yield the Maximum Payment to Dealership, then Dealership shall not be entitled to further payments or assistance from City. The Parties acknowledge that sales will continue on the Property during the construction of the Dealership Improvements. The 'yearly' period for measurement of Sales Tax shall be in accordance with the normal processes of the City. If necessary to reach the full fifteen (15) year term of the Sales Tax Sharing period, the final month or months shall likewise be prorated.

EXAMPLE OF TAX SHARING REIMBURSEMENT						
ANNUAL SALES TAX	City's Sales Tax Base	City Share over Base	Dealership Share over Base	City TOTAL	Dealership TOTAL	ANNUAL REVENUE
$ 318,840	$ 150,000	$ 25,326	$ 143,514	**$ 175,326**	**$ 143,514**	**= $318,840**
	100% of first $150k	15% over $150k	85% over $150k			

c) Making Payment. The Economic Incentive Payment is payable to Dealership by City in quarterly payments within 30 days subsequent to the City's receipt of Sales Tax revenue from the State Board of Equalization in accordance with the City Finance Department's procedures as they may change from time to time.

d) Exclusions from Sales Tax. Sales Tax not actually received by City, for reasons not within City's control, are not subject to sharing under this Agreement unless and until actually received by City. Transactions and Use Tax collected by City is separate from, and excluded from, the Bradley Burns Uniform Local Sales and Use Tax and shall not be included in the calculation of the Economic Incentive Payment

3.5 Sign Improvements.

a. Dealership shall be entitled to apply for a freestanding freeway-oriented sign. Dealership shall be permitted to a freestanding freeway-oriented sign as outlined in Section 17.36.110 of the sign regulations substantially as illustrated in Exhibit "A" and/or Exhibit "B" of this agreement. Upon submittal of application and approval by

City Council, Dealership shall receive entitlement for the freestanding freeway-oriented sign only, as outlined in the zoning ordinance. Prior to approval of a building permit for the sign structure, the applicant shall submit a sign application to be reviewed and approved by the City Manager or his/her designee in accordance with the design guidelines of Section 17.36.010 of the sign regulations. Any necessary findings regarding the freestanding freeway-oriented sign shall be made at time of building permit application.

b. Dealership shall be entitled to apply for a freestanding freeway-oriented sign that includes the relocation of an existing billboard that may be incorporated into one sign, or two separate signs. Currently, the Dealership's site includes an existing billboard. Should the business desire to relocate the existing billboard for offsite advertising, Dealership shall apply for approval of a relocation agreement by City Council in accordance with Section 17.36.060(D) of the sign regulations.

3.6 Defaults and Remedies.

a) Defaulted Dealership Improvements. Dealership shall be deemed Defaulted if Dealership Improvements have not begun within eighteen (18) months after the Effective Date of this Agreement. At time of Defaulted Dealership Improvements, Tax Sharing split shall revert to terms stated above in Recitals and Representations 2.2, by which both parties will split the City's sales tax revenue generated from the operations on a 50/50 basis above the City's Sales Tax Base, and the Sales Tax Base shall revert to two hundred thousand dollars ($200,000) annually.

b) Occurrence of any or all of the following shall constitute a default under this Agreement:

c) Failure or refusal on the part of either party to perform a material term or obligation of this Agreement.

d) The filing of a petition in bankruptcy by or against Dealership, or the appointment of a receiver or trustee of any property of Dealership or an assignment by Dealership for the benefit of creditors, or adjudication that Dealership is insolvent by a court, and a failure of Dealership to cause such petition, appointment or assignment to be removed or discharged within sixty days.

e) Dealership's ceasing for any reason to operate on the Property or its relocation outside the City during the term hereof.

f) Failure of Dealership to report to the State Board of Equalization all taxable sales actually made from the Dealership and to remit the full amount of the sales tax when due from all taxable sales actually made by Dealership.

g) Establishment of another facility within California resulting in a diminution of taxable sales below that reported to the State Board of Equalization in calendar year 2015.

3.7 Indemnification; Release.

a) Survival. The indemnification provided in this section shall survive the termination of, and/or the expiration of the term of, the Agreement for a period of five (5) years from the termination or end of said term.

b) Dealership agrees to and shall indemnify, defend (with counsel reasonable acceptable to the City) and hold City, and its elected officials, officers, employees, agents, and attorneys (the "Indemnified Parties") harmless from and against all losses, costs and expenses (including reasonable attorneys' fees) damages, claims and liabilities to third parties arising from the evaluation, approval, entering into and carrying out of the terms and provisions of this Agreement, including, but not limited to a challenge to this Agreement or the transactions contemplated by this Agreement, except to the extent causes by the sole negligence or wrongful acts of the Indemnified Parties.

c) Release. Dealership releases City from any Claims arising from any inability of City to legally collect sales tax, share sales tax as provided in this Agreement, or any other act or omission, including any state statute or regulation to which City is subject, which is beyond City's sole control.

d) Waiver. Dealership waives any right which it might have or accrue at any time during the effective period of any provision of this Agreement, including these indemnification provisions, or any of its various exhibits, to pursue any legal or equitable remedy or Claim against City, other than for non-payment of Dealership's share of Sales Tax calculated under and otherwise due under the provisions of this Agreement.

3.8 Termination of Agreement by City.

a) City's Right to Terminate. City shall have the right to terminate its obligations under this Agreement if Dealership breaches any promise, obligation, covenant or duty under this Agreement or the Operating Covenants, including, without limitation, the failure of Dealership to construct the Dealership Improvements, the failure of Dealership to collect Sales Tax, the failure of Dealership to operate the Business continuously during the term of the Agreement, or the failure of Dealership to otherwise satisfy the requirements of this agreement.

b) Notice of Termination and Cure. In order to terminate this Agreement, City shall

first provide notice to Dealership, given in accordance with the notice requirements set forth in Section 6 hereof, specifying Dealership's breach of the Agreement in reasonable detail and indicating what steps Dealership must take to cure the referenced breach. Dealership will be afforded ten (10) business days from the date of the notice to cure the specified breach(es).

c) If, at the end of the ten (10) day cure period, any correctible breaches have not been corrected, City shall have the right, at its sole option, to deem the Agreement terminated without further notice or action by City. In such case, Dealership (or any other person or entity receiving any portion of the Economic Incentive Payments directly from City) shall be obligated to immediately repay all installments of the Economic Incentive Payments made by City, together with interest thereon at the highest rate permitted by law, from the date of the initial payment made by City to Dealership.

3.9 Miscellaneous Provisions.

a) Council Action. All findings and decisions of the City Council taken in connection with this Agreement with Dealership to participate in Sales Tax Sharing shall be deemed to be reasonable and supported by an adequate and appropriate record. No such findings or decisions shall be subject to challenge or be the subject of any Claim by Dealership. Any action taken by City, including, but not limited to, the termination of this Agreement under the provisions hereof, shall be at the sole option of City and in its sole and absolute discretion, unless a different standard is otherwise specifically indicated. Dealership acknowledges that City would not have entered into this Agreement in the absence of this covenant by Dealership.

b) Integration. All exhibits attached to this Agreement are deemed to be incorporated into this Agreement by reference.

c) Further Documents. Dealership agrees to execute any additional documents, forms, notices, applications or other documents which City reasonably determines to be necessary to carry out the intent of this Agreement and/or the intent and provisions of applicable portions of the Code.

d) Partial Invalidity; Severance. The Parties agree that, should any provision, section, paragraph, sentence or word of this Agreement be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of legislation, the remaining provisions, sections, paragraphs, sentences and words of this Agreement shall remain in full force and effect and the Parties agree in good faith

to immediately amend this Agreement in such a way as to provide alternative provisions, sections, paragraphs, sentences or words as necessary to carry out the intent of this Agreement and/or the Code.

e) Payment of Taxes and Encumbrances. Dealership shall keep current and in good standing and pay prior to delinquency all lawful real property taxes, assessments mortgages payments, loan payments, rents, lease payments, liens, and other monetary encumbrances on or against the Improved Business the repayment of which is secured by the Property, at all times during the term of the Operating Covenants.

f) Assignments and Transfers. Dealership shall not, without prior written approval of City, which approval may be given or withheld at the absolute discretion of City: (i) assign or attempt to assign this Agreement or any right herein; or (ii) make any total or partial sale, transfer, conveyance, lease, leaseback, or assignment of the whole or any part of the Improved Business and/or the Property or the improvements thereon; or (iii) transfer control of Dealership through whatever mechanism, including, without limitation, sales of stock, a sale of Dealership to any other person or party, or agreements giving voting control to persons not holding an interest in Dealership at the date of this Agreement. This prohibition shall not apply to the reasonable grant of limited easements or permits to facilitate the development of the Property. Notwithstanding the foregoing, City agrees that it will consider an assignment of this Agreement in connection with a sale of the Improved Business to a third party, provided that said third party provides City with such financial or other information as City deems necessary in its sole discretion to enable it to adequately evaluate the experience and ability of the third party to operate the Improved Business. All decisions made by City in connection with such an assignment shall be made at City's sole discretion and in its sole judgment, and shall not be subject to challenge. All rights granted to Dealership under this Agreement shall automatically terminate upon a sale or long-term lease, of longer than three months, of the Improved Business or of the Dealership to a third party, and Dealership shall have no remaining rights under this Agreement, notwithstanding any approved assignments.

g) Remedies. With respect to any default by the other Party occurring after the Effective Date, whether with regard to a breach during the period of Sales Tax Sharing, the term of the indemnification provided in this Agreement to City by Dealership, or the life of the Operating Covenants, the non-breaching Party may institute legal action to cure, correct or remedy any default, providing that such action is not otherwise prohibited or restricted by the provisions of this Agreement,

to recover any damages arising from such breach or to obtain any other remedy consistent with the purposes of this Agreement, and further provided that notice is given in accordance with this Agreement. Any legal actions brought concerning this Agreement or Economic Incentive Payments hereunder must be instituted in the Superior Court of the County of Riverside, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

h) Governing Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

i) Rights are Cumulative; Wavier. Except with respect to any rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party. A waiver of a requirement shall not constitute an ongoing waiver of that requirement in the future.

j) Notices. Any and all notices, demands or communications submitted by any Party to the other Party pursuant to or as required by this Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, or by registered or certified United States mail, postage prepaid, return receipt requested, to the principal office of City and Dealership, as applicable, as designated in Section 3.9j hereof. Any such notice, demand or communication shall be deemed to be received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is dispatched by messenger for immediate personal delivery, or two (2) calendar days after it is placed in the United States mail as heretofore provided. Any notices to any Party required to be given under this Agreement, or given by a Party for other reasons, shall be sent to:

Dealership:
Alam Khan
Diamond Hills Chevrolet, Buick, GMC
4545 West Ramsey Street
Banning, CA 92220

City:
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Attention: City Manager

k) Conflict of Interest. No elected official, officer, employee or agent of City having any conflict of interest, direct or indirect, related to this Agreement and/or the development of the Dealership Improvements or the Improved Business shall participate in any decision relating to this Agreement.

l) No Third Party Consideration. Dealership 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. Third parties, for the purposes of this Section, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial or other consultants, accountants, engineers, architects and the like when such fees are considered necessary by Dealership. For the purposes of this paragraph, third parties shall include any officer, employee, agent or elected official of City.

m) No Personal Liability of Officials. No elected official, official or officer, employee, agent or attorney of City shall be personally liable to Dealership, its shareholders or principals, or any successor in interest, or any other party or person whatsoever, in the event of any default or breach by City or for any amount which may become due to Dealership or to its successors, or on any obligations under the terms of this Agreement, except for gross negligence or willful acts of such member, officer, employee or attorney.

n) Force Majeure. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of public enemy; epidemics; quarantine restrictions; freight embargoes or lack of transportation; weather-caused delays; inability to secure necessary labor, materials or tools; acts of the other Party other than as permitted or required by the terms of this Agreement; acts or failure to act of any public or governmental agency or entity other than as permitted or required by the terms of this Agreement (except that action or failure to act by City shall not extend the time for City to act unless such extension is otherwise expressly authorized herewith) unless such action or failure to act is the result of a lawsuit or injunction, or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. Any extension of time for any such cause hereunder shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) calendar days of the commencement of the cause. If notice is not timely given, such extension shall not commence until and if the other Party has actual knowledge of the cause. Times of performance under this Agreement may be extended by mutual agreement in writing by and between City

and Dealership.

o) Inspections. City shall have the right at all reasonable times, and no cost or expense may be imposed with respect thereto by Dealership, to inspect the books and records of Dealership pertaining to a breach or suspected breach of this Agreement. Matters learned by City in the course of such inspections shall not be disclosed to third parties unless required by law or unless otherwise resulting from or related to the pursuit of any remedies or the assertion of any rights by City hereunder.

p) City Administration. The City Manager of City is authorized to sign on his own authority amendments to this Agreement which are of routine or technical nature.

q) Independent Review. Each Party represents and warrants the following: they have carefully read this Agreement, and in signing this Agreement are agreeing to be bound by the same, they have received independent legal advice from legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement, and they have freely signed this Agreement and agreed to be bound by it without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or its respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise. This Agreement shall be interpreted as though prepared jointly by both Dealership and City.

r) Prevailing Party. If either Party hereto files any action or brings any action or proceeding against the other arising out of this Agreement, seeks the resolution of disputes, or is made a party to any action or proceeding brought by a third party with respect to the Agreement or the participation in either by either Party, then as between Dealership (and any successor in interest thereof) and City, the prevailing Party shall be entitled to recover as an element of its costs of suit or resolution of disputes, and not as damages, its reasonable attorneys' fees as fixed by the Court or other forum for resolution of disputes as may be agreed upon by the Parties in such action or proceeding or in a separate action or proceeding brought to recover such attorneys' fees.

s) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

t) Time Frames. Unless otherwise indicated with respect to a requirement, all time frames for performance of an act required or permitted by this Agreement shall be

calendar days. Time frames measured in months shall be calculated with reference to the actual number of days in the relevant months. Annual time frames shall mean a period of 365 days.

u) Duplicate Originals. This Agreement shall be executed in two (2) duplicate originals each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the Parties. The Parties may sign this Agreement in counterparts.

v) Integration. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

w) Waivers. All waivers of the provisions of this Agreement and all amendments hereto must be in writing and signed by the appropriate representatives of City and/or Dealership. Other than minor or technical amendments which the City Manager may approve on his own authority, any amendment to this Agreement must be approved by the City Council of City.

[SIGNATURES ON THE FOLLOWING PAGE]

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

CITY:

CITY OF BANNING, a municipal corporation

_____
Michael Rock, City Manager

ATTEST:

_____
Marie Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CONSULTANT:

By:_____
Name: Alam Khan
Title: Owner

By:_____
Name:
Title:

Address: 4545 & 4661 W. Ramsey Street
Banning, CA 92220

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF
On _____, _____ before me, _____, personally appeared
_____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.
Signature: _____

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

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER
_____
TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER_____
_____
_____
_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))
_____
_____
_____
_____

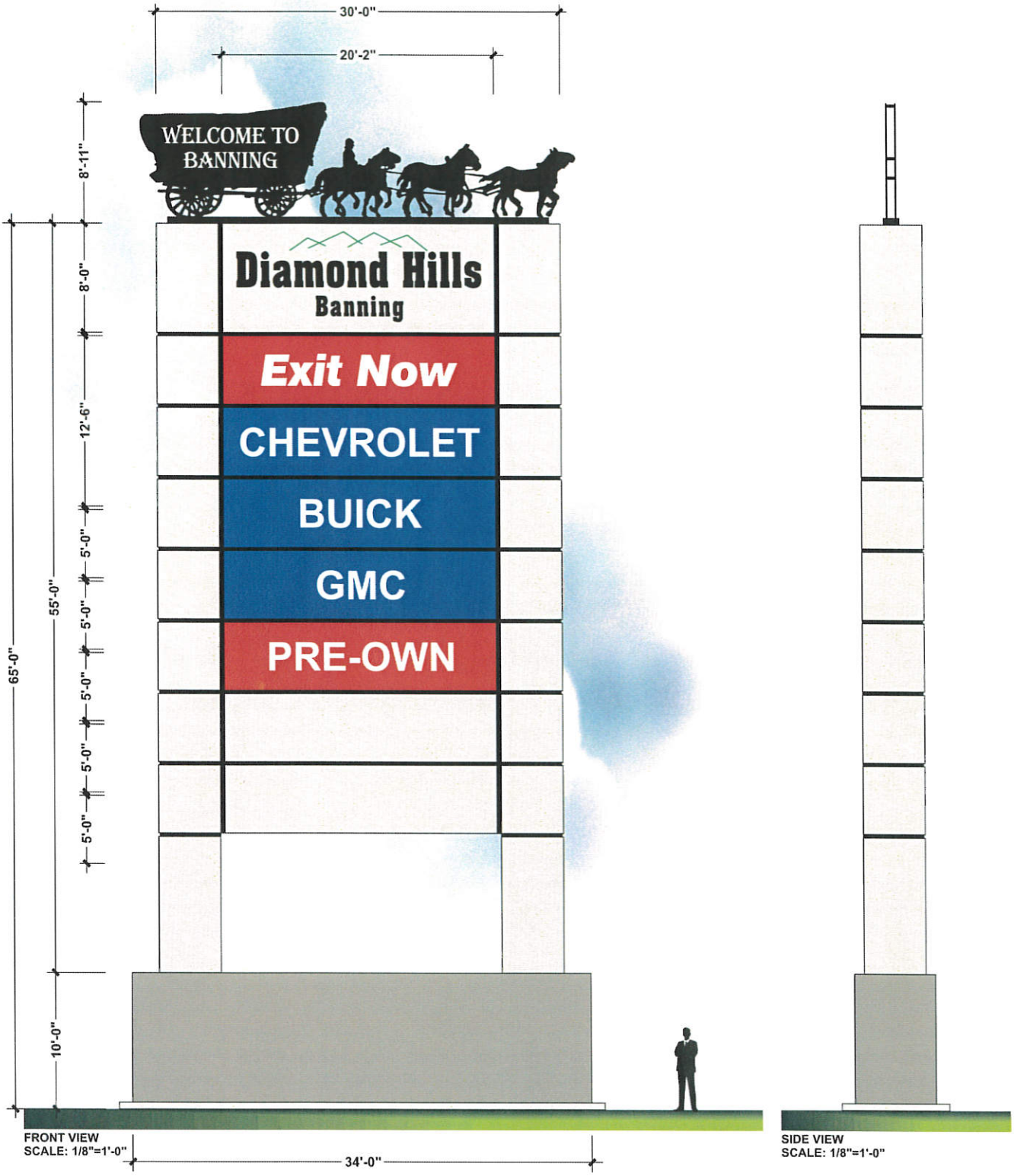
DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT
_____
NUMBER OF PAGES
_____
DATE OF DOCUMENT
_____
SIGNER(S) OTHER THAN NAMED ABOVE

Ref: Resolution 2016-80

EXHIBIT A

Ref: Resolution 2016-80



CONCEPT

PROPOSED DOUBLE FACED ELECTRIC, FREEWAY PYLON SIGN

ALL SIGNS
U.L. LISTED

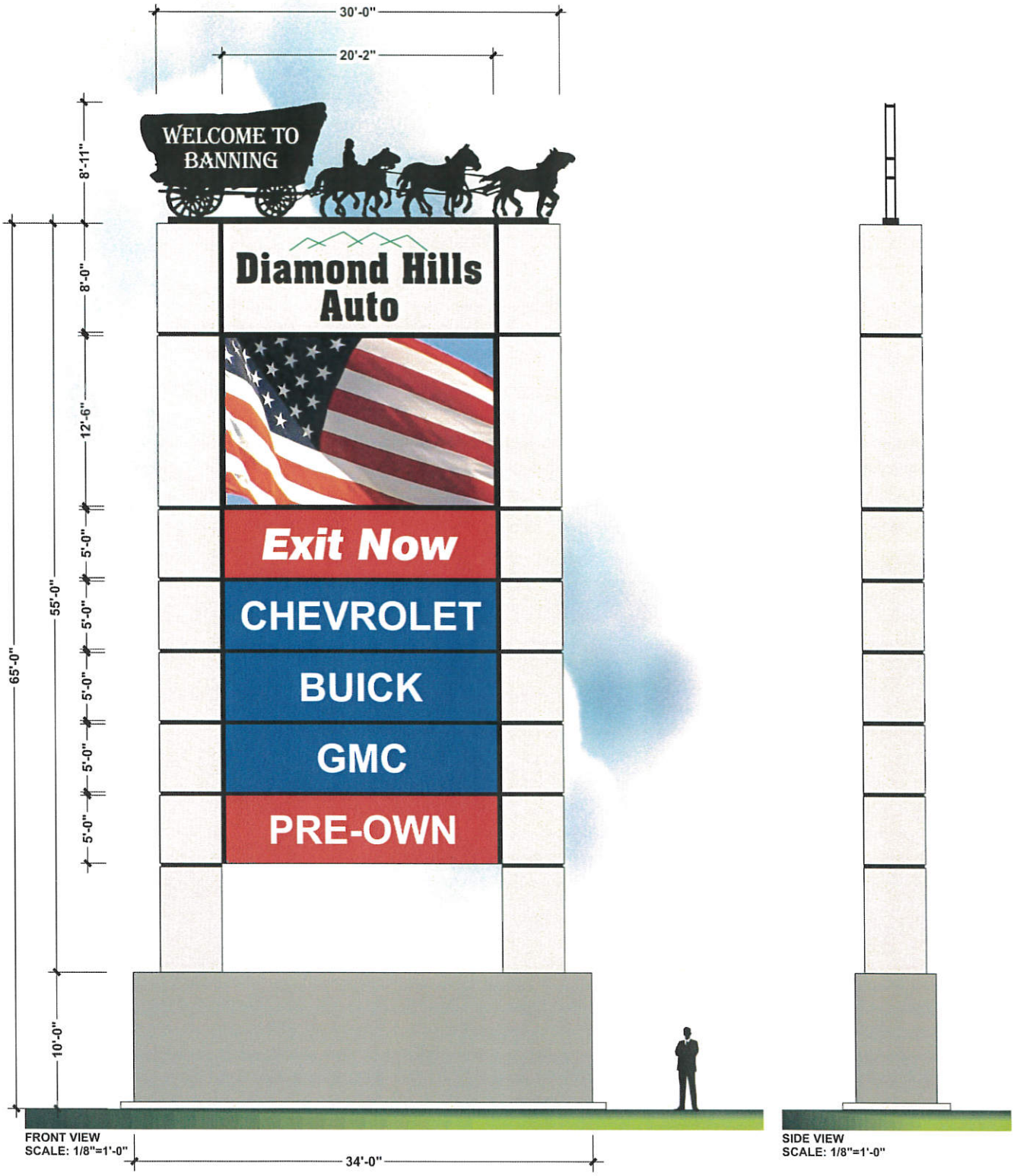
REMINDER
This design is the result of research, design and engineering time specifically for your project. This investment is intended to assist us in helping you bring your project to fruition. It is intended for your eyes only. Please use professional courtesy and refrain from sharing.

DRAWINGS ARE FOR ILLUSTRATIVE PURPOSES ONLY. SCALES, DIMENSIONS MAY VARY. SEAMS IN MATERIALS ARE NOT ILLUSTRATED. COLORS MAY VARY FROM ACTUAL PRODUCT.

260-X

Client & Location	Original Drawing & Revisions					CUSTOMER APPROVAL
PURCHASER: Alam Kham PHONE NO: 818 264 6712	1	NEW FWY PYLON SIGN CONCEPT	.5	MP	SS	11-11-16	Approval for Size, Design and Colors

EXHIBIT B



FRONT VIEW
SCALE: 1/8"=1'-0"

SIDE VIEW
SCALE: 1/8"=1'-0"

CONCEPT

PROPOSED DOUBLE FACED ELECTRIC, FREEWAY PYLON SIGN

ALL SIGNS
U.L. LISTED

REMINDER

This design is the result of research, design and engineering time specifically for your project. This investment is intended to assist us in helping you bring your project to fruition. It is intended for your eyes only. Please use professional courtesy and refrain from sharing.

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260-Z

Client & Location		Original Drawing & Revisions					CUSTOMER APPROVAL
PURCHASER: Alam Kham	PHONE NO: 818 264 6712	NEW FWY PYLON SIGN CONCEPT	2.0	MP	SS	11-11-16	Approval for Size, Design and Colors

ATTACHMENT C



CITY OF BANNING

ECONOMIC DEVELOPMENT SUBSIDY REPORT PURSUANT TO GOVERNMENT CODE SECTION 53083 (AB 562 REPORT)

PRESENTED FOR PUBLIC HEARING BANNING CITY COUNCIL DECEMBER 12, 2016

260-BB

CITY OF BANNING
ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083

INTRODUCTION

Legislative Intent

With the adoption of Assembly Bill 562, codified as California Government Code Section 53083, the California Legislature recognized the need for municipalities and counties to encourage economic development, even in light of the dissolution of Community Redevelopment Agencies in 2012. However, the legislation requires that subsidies to local businesses in the amount of $100,000 or more—those intended to increase employment, enhance the local tax base and attract or retain desirable businesses—be detailed in a written report and subject to a public hearing. This report is intended to satisfy the requirements of Government Code 53083, and is being made available to the public prior to consideration of the proposed Agreement and subsidy. It is also, pursuant to statute, being made available on the City of Banning's website.

Legal Requirements

Pursuant to Government Code Section 53083, the following elements must be presented in written form, available to the public, including posting on the City's website, prior to the approval of the proposed economic development subsidy:

1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.

2. The start and end dates and schedule, if applicable, for the economic development subsidy.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

4. A statement of the public purposes for the economic development subsidy.

5. Projected tax revenue to the local agency as a result of the economic development subsidy.

6. Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

Proposed Agreement

The City of Banning, in an effort to increase the generation of sales tax revenue, enhance community vitality and create new jobs, proposes to provide the type of subsidies addressed by Government Code Section 53083. The City of Banning ("City") and Dalia Auto Group, LLC and Khan Properties, LLC, doing business as Diamond Hills Chevrolet Buick GMC ("Dalia") intend to enter into an Economic Development Subsidy Agreement

("Agreement"). The Agreement requires Dalia to retain a point-of-sale location in Banning, and for the City to provide a limited sharing of sales tax revenue to assist the company in acquiring additional parcels, freeway front signage and renovating its facility which is essential to its long term viability in the City of Banning.

AB 562 REPORTING REQUIREMENTS

This section addresses the reporting elements of Government Code Section 53083:

A. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy:

Name: Dalia Auto Group, LLC and Khan Properties, LLC,

doing business as Diamond Hills Chevrolet Buick GMC

Business Address: 4545 W. Ramsey and 4661 W.

Ramsey St., Banning, CA, 92220

APN Numbers: 537-100-027-7, 537-100-028-8, & 537-100-029-9

B. The start and end dates and schedule, if applicable, for the economic development subsidy:

The Agreement is anticipated to commence in December, 2016 and expire no later than January, 2031. During the fifteen (15) years of the Agreement, the City will provide Dalia up to $3,200,000 of credits in the form of shared sales tax revenue, all of which shall be used to retire a loan(s) for property acquired and renovated by Dalia.

C. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy:

In furtherance of the City's economic development strategies, specifically the generation of sales tax revenues to support essential City services, the proposed Agreement with Dalia provides funds, through credits based on generated sales tax revenue, to assist the company in acquiring additional land for expansion of its retail operation, which may eventually include a new car dealership accompanying its existing used car sales. Specifically, 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.as described herein.

Additional terms of the economic development subsidy are as follows:

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.

D. 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.

EXAMPLE OF TAX SHARING REIMBURSEMENT						
ANNUAL SALES TAX	City's Sales Tax Base	City Share over Base	Dealership Share over Base	City TOTAL	Dealership TOTAL	ANNUAL REVENUE
$ 318,840	$ 150,000	$ 25,326	$ 143,514	**$ 175,326**	**$ 143,514**	**= $318,840**
	100% of first $150k	15% over $150k	85% over $150k			

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. Dealership agrees to provide to City documentation reasonably acceptable to City, including without limitation, invoices, lien releases, and other evidences of Dealership's actual payment, confirming payments to contractors, subcontractors, and vendors.

E. Dalia shall expansion, remodeling, renovation and improvement of the Existing Retail Business by (i) enlarging or remodeling the new car showroom; or (ii) renovating the facility per GM corporate imaging; and (iii) adding a new freeway frontage sign to the newly acquired property adjacent to the facility and identified by Assessor Parcel Numbers 537-100-027-7, 537-100-028-8, and 537-100-029-9.

F. Continuously operate, or cause and allow for the continuous operation of, Dalia at 4545 W. Ramsey Street and 4661 W. Ramsey Street, Banning, California 92220.

G. Operate with inventory and sales personnel sufficient to satisfy and respond to customer demand and, in compliance with Government Code Section 53084.5, shall designate said property on its sales tax statements as the point-of-sale for all sales transactions generated from or arising out of the business conducted on the subject property.

H. Maintain, or cause maintenance of said property to Banning Municipal Code standards at company's own expense.

I. Carry out the operation of the business of retail automobile sales in substantial conformity with applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, State of California, Riverside County, and City of Banning.

J. Maintain continued possession of valid City of Banning Business License and Sales and Use Tax Permit from the State of California Board of Equalization.

K. Repay Dealership loan(s) and financing as provided in the Economic Incentive Agreement – Sales Tax Sharing.

D. A statement of the public purpose for the economic development subsidy:

The proposed Agreement is consistent with City's economic development goals and objectives and is in the best interest of the general public. Specifically, the following public

purposes are achieved:

- Ensuring increased sales in sales tax revenue, which ultimately funds essential City services while securing the City's financial stability.

- Creating new jobs in the community, thereby stimulating further generation of sales tax revenue and increased demand for housing, goods and services.

- Occupying a strategic site, Dalia complements the three existing new car dealerships with plans of expanding and making it a more appealing, economically vibrant destination for prospective car buyers.

The proposed Agreement is projected to result in one of the City's highest grossing businesses and one of its largest producers of sales tax revenue. That revenue will support the City's General Fund, from which the City funds essential services such as public safety, recreation, leisure, infrastructure, etc. With the already increased employees and revenue since Dalia purchased Diamond Hills, Dalia can benefit the City in future business recruitment and retention. The proposed Agreement, through its generation of sales tax revenue and creation of significant on-site employment, advances the City's economic development goals and thus, achieves a great public purpose.

E. Projected tax revenue to the local agency as a result of the economic development subsidy:

Specific sales tax data for individual businesses such as Dalia is confidential pursuant to California Revenue and Taxation Code Section 7056. However, using conservative assumptions and based on sales from Diamond Hills Auto Group and Dalia, staff has estimated that more than $7.8 million of local sales tax revenue will be generated to the City during the 15-year term of this Agreement (See Exhibit A). This translates into approximately $200,000 of average annual sales tax revenue to be retained by the City. Cyclical market trends and overall economic conditions may cause sales volume to fluctuate, but over time revenue can reasonably be expected to grow.

F. Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions:

During the first year of operation since purchasing Diamond Hills, Dalia has already increased jobs from 49 to 63. During the proposed Agreement, Dalia is expected to add more than 50 full-time employees to the Banning labor force. Based on anticipated expansion of the facility for additional services, it is estimated that employment will increase by at least 10% within the first year of the Agreement and modest annual increases in employment are likely. These well-paying jobs would not exist without the proposed economic development subsidy. Additionally, it is anticipated that the presence of this company with the additional jobs created will have a simulative impact on the local economy.

EXHIBIT A
Proposed Tax Sharing Agreement with Dalia Auto Group

ASSUMPTIONS		
Year	Tax Revenue	Increase %
2015	*$289,302*	*Actual*
2016	$309,553	7%
2017	$318,840	3%
2018	$328,405	3%
2019	$361,245	10%
2020	$397,370	10%
2021	$437,107	10%
2022	$458,962	5%
2023	$481,910	5%
2024	$491,549	2%
2025	$501,380	2%
2026	$511,407	2%
2027	$521,635	2%
2028	$532,068	2%
2029	$542,709	2%
2030	$553,564	2%
2031	$564,635	2%
2032	$575,928	2%

Total: $7,888,267

Proposed Terms

1st $37,500 to City & 15% - 85% Split			
CITY	*Cumulative*	*DALIA*	*Cumulative*
$170,895		*$118,407*	
$173,933	**$173,933**	$135,620	**$135,620**
$175,326	**$349,259**	$143,514	**$279,134**
$176,761	**$526,020**	$151,644	**$430,778**
$181,687	**$707,706**	$179,559	**$610,337**
$187,105	**$894,812**	$210,264	**$820,601**
$193,066	**$1,087,878**	$244,041	**$1,064,642**
$196,344	**$1,284,222**	$262,618	**$1,327,260**
$199,787	**$1,484,009**	$282,124	**$1,609,384**
$201,232	**$1,685,241**	$290,316	**$1,899,700**
$202,707	**$1,887,948**	$298,673	**$2,198,373**
$204,211	**$2,092,159**	$307,196	**$2,505,569**
$205,745	**$2,297,905**	$315,890	**$2,821,459**
$207,310	**$2,505,215**	$324,758	**$3,146,217**
$208,906	**$2,714,121**	$333,803	**$3,480,020**
$210,535	**$2,924,656**	$343,029	**$3,823,049**
$212,195	**$3,136,851**	$352,440	**$4,175,489**
$213,889	**$3,350,740**	$362,038	**$4,537,527**

**First $150,000 to City and 15%-City to 85%-Dalia split*

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Director of Public Works**
Holly Stuart, Management Analyst

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-116, "Awarding a Professional Services Agreement to Stantec Consulting Services, Inc. for the Design of the Reconstruction and Widening of Ramsey Street and Hathaway Street in the amount of $254,512 and approving a 10% Contingency"**

RECOMMENDATION:

The City Council adopt Resolution 2016-116:

1. Awarding a Professional Services Agreement to Stantec Consulting Services, Inc. of Redlands, CA in the amount of $254,512 for the Design of the Reconstruction and Widening of Ramsey Street and Hathaway Street and approving a 10% contingency of $25,451 for a total project budget of $279,963.

2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement.

3. Authorizing the City Manager to execute the Professional Services Agreement with Stantec Consulting Services, Inc. of Redlands, CA in the amount of $254,512 and to approve change orders within the 10% contingency.

COMMITTEE RECOMMENDATION:

The Public Works Advisory Committee (PWAC) met on March 23, 2016 to consider several projects that could be funded using Tax Allocation Bond (TAB) proceeds. On

July 12, 2016, City Council approved the PWACs recommendation to allocate TABs proceeds for the widening and reconstruction of Hathaway Street and Ramsey Street project, which would also include the installation of a waterline on Ramsey Street.

JUSTIFICATION:

Stantec, Inc. (Stantec) was hired by a private developer to prepare plans, specifications and estimates (PS&E) for the reconstruction and widening of Ramsey Street and Hathaway Street. The preparation of PS&E for the project was started, but never completed due to the economic downturn. It is both cost effective and efficient to award the Professional Services Agreement to Stantec, the project engineer of record, to complete the design phase of the project.

BACKGROUND:

As part of the 2010 City Council approval of TPM No. 36056, also known as the Banning Business Park, the project was required to prepare a PS&E package for the reconstruction and widening of the intersection of Hathaway Street and Ramsey Street. The design was to include the construction of curb and gutters, sidewalks, streetlights, medians, striping and signage. The intersection would be widened to provide dedicated turn lanes and a new traffic signal in order to enhance the circulation of current and future traffic volumes.

Stantec was hired by the Banning Business Park project applicant to develop the PS&E package in addition to engineering design of the project site located east of the intersection of Hathaway Street and Nicolet Street. In this process Stantec conducted a topographic survey, prepared right-of-way dedications and a street improvement plan. The plans were submitted for the first plan check only. During the economic downturn the Banning Business Park project stalled and eventually expired.

During the refinance of the 2003 and 2007 Tax Allocation Bonds (TABs), it was identified that bond proceeds were available to fund capital projects such as the widening and reconstruction of the Hathaway Street and Ramsey Street intersection.

Rather than start over, it is economically feasible and effective to have the engineer of record, Stantec, update and complete the design of this project as well as to begin and complete other tasks that were not part of their original scope of work (SWPPP, waterline, traffic control, monument sign, etc.). Therefore, staff solicited a proposal from Stantec to update the existing plans, complete the design that was already started and to complete additional design tasks such as the design of a waterline along Ramsey Street, design of a new City monument sign and design of landscaping plans. The final product will be a complete PS&E package that will be used for bidding the project for construction.

The scope of work is described in detail in the attached proposal dated November 16, 2016 - (Attachment 2).

Staff respectfully recommends an award of a Professional Services Agreement to Stantec in the amount of $254,512 for the completion of the PS&E package and request a 10% contingency. If awarded, the procurement of the services would classify as a Restrictive Purchase from a Sole Proprietor as allowed by the City's purchasing policy.

FISCAL IMPACT:

The design and construction of the street improvement project is on the approved Capital Improvement Projects List for Fiscal Years 2016-2020. The Professional Services Agreement with Stantec in the amount of $254,512 and 10% contingency will be funded by the Tax Allocation Bond proceeds, Account No. 480-9500-490.93-15.

OPTIONS:

1. Adopt Resolution 2016-116.
2. Reject Resolution 2016-116 and direct staff to solicit proposals following the City's formal bidding process.
3. Reject Resolution 2016-116 and provide direction to staff.

STRATEGIC PLAN OBJECTIVE:

The recommendation supports Strategic Plan Goal No.1 "Economic Development" which specifically identified the use of TABs proceeds for the construction of infrastructure projects such as street and water improvements.

The recommendation also supports Strategic Plan Goal No. 2 "Beautification", which identified the need to improve the City's points of entry.

ATTACMENTS:

1. Resolution 2016-116
2. Stantec Consulting Services, Inc. Proposal
3. Draft Agreement with Stantec Consulting Services, Inc.

Approved by:

Michael Rock,
City Manager

ATTACHMENT 1

(Resolution 2016-116)

RESOLUTION 2016-116

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT TO STANTEC CONSULTING SERVICES, INC. FOR THE DESIGN OF THE RECONSTRUCTION AND WIDENING OF RAMSEY STREET AND HATHAWAY STREET IN THE AMOUNT OF $254,512 AND APPROVING A 10% CONTINGENCY

WHEREAS, on July 13, 2010 City Council approved Tentative Parcel Map (TPM) No. 36056, referenced as the Banning Business Park, Conditions of Approval which included the preparation of plans, specifications and estimates (PS&E) for the widening and reconstruction of the intersection of Ramsey Street and Hathaway Street which included the construction of curb and gutters, sidewalks, street lights, medians, striping and signage. The intersection would be widened to provide dedicated turn lanes and a new traffic signal in order to enhance the circulation of current and future traffic volumes; and

WHEREAS, Stantec Consulting Services, Inc. ("Stantec") was hired by the Banning Business Park project applicant to develop the PS&E package; and

WHEREAS, Stantec began the initial data collection and preliminary design and submitted one plan check to the City, but the project was not completed and during the economic downturn the Banning Business Park stalled and eventually the approved entitlements expired; and

WHEREAS, on July 12, 2016 City Council approved recommendations by the Public Works Advisory Committee to fund the design and construction of the widening and reconstruction of the intersection of Ramsey Street and Hathaway Street with Tax Allocation Bond (TABs) Proceeds; and

WHEREAS, since Stantec has completed work related to the design phase of the project it was determined that it would be both cost effective and efficient to award a Professional Services Agreement to Stantec in the amount of $254,512 to complete their original scope of work and to complete additional tasks such as the design of a water line on Ramsey Street, design of a new City monument sign and design of landscaping plans; and

WHEREAS, the total project budget of $279,963 which includes a 10% contingency will be funded by TABs proceeds available in Account No. 480-9500-490.93-15.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council adopts Resolution 2016-116 awarding a Professional Services Agreement to Stantec of Redlands, CA in an amount of

$254,512 for the design of the Reconstruction and Widening of Ramsey Street and Hathaway Street and approving a 10% contingency.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Stantec Consulting Services, Inc. of Redlands, CA and to approve change orders within the 10% contingency.

PASSED, ADOPTED AND APPROVED this 12th day of December, 2016.

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2016-116, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____

Marie A. Calderon,
City Clerk of the City of Banning

ATTACHMENT 2

(Stantec Consulting Services, Inc. Proposal)

Proposal for Professional Civil Engineering Services for Completion of Plans, Specifications and Estimates for Ramsey Street and Hathaway Street Roadway Improvements

Stantec

Prepared for:
City of Banning CA

Prepared by:
Stantec Consulting Services Inc.

November 16, 2016

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4) Traffic Signalization at Ramsey Street/ Hathaway Street Intersection

You are requiring the use of video detection system at the signals. Traffic signals at this intersection will be redesigned to meet the latest requirements.

5) Ramsey/Hathaway SIP Hydrology Report

We will prepare one final hydrology and hydraulics report in conformance to agency standards to support the design of the drainage improvements associated with the street improvement plans for widening of Hathaway Street and Ramsey Street to the limits described above. This task includes addressing the ultimate street condition, including new catch basins on both streets and the northerly extension of the box culvert under Ramsey Street. The Hydrology Study will be submitted to your Public Works Department for review along with the drainage plans.

6) Notice of Intent(NOI)/ Storm Water Pollution Prevention Plan (SWPPP) Documentation

We will prepare and submit one notice of intent (NOI) to the State Water Resources Control Board (SWRCB). We will also prepare one storm water pollution prevention plan (SWPPP) in conformance with the State Water Resources Control Board, Order No. 2009-0009-DWQ, and General Permit No. CAS000002. You will be responsible for payment of all fees and implementation of site monitoring and inspecting program as described in the SWPPP. This task assumes a risk level one site determination.

7) Dry Utility Coordination

We will meet with the utility representatives, client, and consultant team to discuss design schedules and requirements. We will coordinate the preparation of necessary plans for submittal. We will prepare and maintain schedules as requested by you for utility company design and contract preparation. We will submit utility company submittals, including civil and landscape plans and street lighting plans, project information, and authorization forms. Preparation of plans for relocation of existing lights and design of new street lights will be performed by the City of Banning.

We will review preliminary electric designs for conflicts and revisions and submit copies to you for review and approval, and to telephone and CATV for early design initiation. We will also review final designs and contracts for accuracy and correct tariff application. We will then provide you with final utility designs and contracts, including summary of costs indicating breakdown of fees and potential refunds.

We will schedule a pre-trench meeting with utilities to discuss project construction and installation timelines, based on the dates discussed at the pre-trench, we will schedule initial cable and energize dates with Banning Electric, Verizon, and Time Warner. In addition, we will coordinate with Banning Electric services to relocate street light locations and the traffic signal at Ramsey and Hathaway.

8) Water Line Design

Plans, profiles, typical section and construction details for the installation of 12" ductile iron water line shall be prepared. The City of Banning Standard Plans, as applicable, shall be utilized.

We will review and incorporate resolution of your comments on 90 percent submittal and prepare 100 percent submittal. If needed, we will meet with your staff to resolve or get clarification on any comments.

We will respond to your comments and prepare final PS&E documents.

16) Project Management, Meetings, and Coordination

We will provide project management and coordination with you and other public agencies during the completion of PS&E documents. This task includes the following services:

a. Project kick-off meeting

b. Two additional meetings with your staff

c. Project management and coordination

17) Permits

We will apply for and coordinate permits from the County of Riverside Flood Control District for the proposed improvements.

Optional Services

A. CONSTRUCTION STAKING

The following scope of services is based on the first submittal set of plans provided, dated 05/24/12. Said numbers are for budgetary purposes only, and are subject to a review of final construction drawings.

B. Right-of Way Documents Update

We will update the previously prepared legal documents, if needed, to accommodate any changes in the design.

C. Construction Bid Phase Support

We will provide support to you during Bidding Phase. Work includes:

1. Attend Pre-bid Meeting
2. Respond to RFI's (Assumed four RFI's)

D. Construction Phase Support

We will provide support to you during Construction Phase of the project. Work includes:

1. Attend Preconstruction Meeting
2. Respond to questions pertaining to the design documents
3. Attend two progress meeting
4. Prepare record drawings based on the red line mark-up provided by the construction contractor. Actual field verification of the complete construction improvements is not included

1.1 Assumptions

This proposal was based on the following assumptions related to the proposed project:

- We are not responsible and cannot be held accountable for the accuracy of as-built or record drawings provided by the Agencies or utility providers. We have no means of determining whether subsurface features were constructed per the construction/improvement drawings and does not claim to do so
- This proposal assumes that all data prepared by others and provided to us will be made available in a digital format, compatible with our systems. It is also understood that the information and technical data provided and prepared by others, on your behalf, may be used by us in performing our services and is entitled to rely upon the accuracy and completeness thereof
- Adequate connection points for storm drain, water, and sewer are available at the project boundary to serve the proposed development
- Mapping will be based on available local agency vertical datum and an assumed horizontal datum, unless specifically requested otherwise
- A current title report, under an open order number and covering the property, will be provided by you prior to any related mapping effort
- Monument / gateway sign will be mounted on a concrete mat. If the City decides to use a cantilever type sign, revised proposal to design the foundation will be submitted.

Dry utilities proposal is based on the following assumptions related to the proposed project:

TIME ALLOCATION AND HOURLY RATE SCHEDULE
Fee Proposal to Provide Design Services for
RAMSEY STREET AND HATHAWAY STREET WIDENING

To: City of Banning, 2016-10-28/ Revised 2016-11-15
By: Stantec Consulting Services Inc.

Tasks	Task Description	Number of Plan Sheets	Stantec Staff Hours and Fees																			Total Hours	Direct Cost	Fee
			Principal-in-Charge	QA/QC	PM	Lead Civil	Deputy Project Manager/ Project Engineer	Senior Design Engineer	Lead Traffic/ Trans Engineer	Senior Designer	Senior Engineer	Traffic Engineer/ Analyst/Sr Engr	Design Tech/Asst Traffic Engr Arch. Designer/surv. Field prep.	Research Processor	Manager Survey /Mapping	Landscape Architect	Sr. Landscape Design /	Landscape Desinger	Survey Analyst/ Tech Supp.	Survey Field Coord.	Survey -2 Person Crew	Proj Coord/ Admin Assist/Cad Intern			
			$278	$207	$179	$171	$171	$140	$179	$131	$161	$161	$121	$113	$179	$150	$140	$131	$140	$161	$250	$113			
1	Survey - Site Control, Topographic Survey, and Cross Sections																							$ -
2	Records Research					8		12														20		$ 3,048.00
3	Field Visit					6					6	6										18		$ 2,958.00
4	Precise Alignment, Base Map				1	16		40		8									8			73		$ 10,711.00
5	Utilities - Utility Research, Coordination , and Potholing (Including 10 Potholes)					8		24		24										2	8	4	70	$ 8,500	$ 19,146.00
6	Dry Utilities Processing and Coordination								80													40	120		$ 18,840.00
7	Notice of Intent (NOI)/SWPPP Documentation					4					40											4	48		$ 7,576.00
8	Traffic Signal Modification and Installation Plans	1			2	2			8			32		16									60		$ 9,148.00
9	Water Line Design	3			24	48		72															144		$ 22,584.00
10	Striping and Signing	2				2			2			20	32										56		$ 7,792.00
11	Traffic Control	4			2	4			8			32	40										86		$ 12,522.00
12	Landscape and Irrigation	10			24	1										40		36					101		$ 15,183.00
13	Monument/Gateway Sign				8	32		24															64		$ 10,264.00
14	Drainage - Hydrology and Hydraulic Study and Report					24					64												88		$ 14,408.00
15	Permits(County of Riverside)				2	16		32														2	52		$ 7,800.00
16	50% Plans and Estimate																								$ -
17	A.Title Sheet, Index Sheet, and Details	3			2	4		16		32						6	1	1				8	70		$ 9,549.00
18	B. Plans and Profiles	5		2		80				40													122		$ 19,334.00
19	C. Storm Drain Plans and Details	1				32				8													40		$ 6,520.00
20	D. Cross Sections	6				6				24													30		$ 4,170.00
21	90% Plans, Specifications and Estimate			1		80				40												8	129		$ 20,031.00
22	100% Plans, Specifications and Estimate			2		24				24												4	54		$ 8,114.00
23	Engineer's Estimate					4				20													24		$ 3,304.00
24	Project Coordination and Meetings																								$ -
25	A. Project Coordination				4	40		12				8											64		$ 10,524.00
26	B. Project Kick-off Meeting		2		6	6					6												20		$ 3,622.00
27	C. Coordination Meetings (2)				12																	2	14		$ 2,374.00
	Subtotal Hours	35	2	10	82	447		232	98	220	116	98	72	16		46	1	37	8	2	8	72	1567.0	$ 8,500	$ 249,522.00
	Percentage of Overall Time		0.1%	0.6%	5.2%	28.5%		14.8%	6.3%	14.0%	7.4%	6.3%	4.6%	1.0%		2.9%	0.1%	2.4%	0.5%	0.1%	0.5%	4.6%	100.0%		
	Optional Work																								
1	Bid Phase Support					8	8		8	4								8				4	40		$ 6,208.00
2	Construction Phase Support					18	8		40	8								16				4	94		$ 14,314.00
3	Construction Staking														10					40	150		200		$ 45,730.00
4	Right-of-Way Legal Documents Update (If needed)																								$ 5,000.00
	Subtotal Optional Tasks and Allowances					26	16		48	12					10			24			40	150	8		$ -	$ 71,252.00
	Reimbursable budget (2% of Subtotal Costs. Includes: Printing, Copying, and Deliveries)																								$ 4,990.44
	TOTAL COST INCLUDING EXPENSES, FEES, REIMBURSABLES (DOES NOT INCLUDE OPT TASKS AND ALLOWANCES)																								$ 254,512.44

ATTACHMENT 3

(Draft Agreement with Stantec Consulting Services, Inc.)

CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF BANNING
AND
STANTEC CONSULTING SERVICES, INC.

This AGREEMENT is entered into this 12th day of December, 2016, by and between the CITY OF BANNING, a general law city a municipal corporation ("CITY") and STANTEC CONSULTING SERVICES, INC., a New York corporation ("CONSULTANT").

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this agreement.

B. Therefore, the City desires to contract out for consulting services for certain projects relating to preparation of documents in connection with a design project.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, based on the foregoing recitals, the City and the Consultant agree as follows:

1. CONSIDERATION AND COMPENSATION

A. As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, attached as EXHIBIT A;

B. As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;

C. As additional consideration, CITY agrees to pay CONSULTANT a total of $254,512.00, for CONSULTANT's services, unless otherwise specified by written amendment to this Agreement.

D. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager or his designee.

E. CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

2. SCOPE OF SERVICES.

A. CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICE attached hereto as Exhibit A and incorporated herein by this reference.

B. Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

3. PAYMENTS. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

4. TIME OF PERFORMANCE. The services of the CONTRACTOR are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY's reasonable satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.

5. FAMILIARITY WITH WORK. By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

6. KEY PERSONNEL. CONSULTANT's key person assigned to perform work under this Agreement is Susan Reid. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City.

7. TERM OF AGREEMENT. The term of this Agreement shall commence upon execution by both parties and shall expire on December 11, 2017 unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

8. CHANGES. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

9. TAXPAYER IDENTIFICATION NUMBER. CONSULTANT will provide CITY with a Taxpayer Identification Number.

10. PERMITS AND LICENSES. CONTRACTOR will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

11. TERMINATION.

A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.

B. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.

C. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY's option, become CITY's property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.

D. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

12. INDEMNIFICATION.

A. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY'S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should CITY in its sole discretion find CONSULTANT'S legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

B. The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by Section 17, and any approval of said insurance by

CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

13. ASSIGNABILITY. This Agreement is for CONSULTANT's professional services. CONSULTANT's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.

14. INDEPENDENT CONTRACTOR. CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which is it performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

15. AUDIT OF RECORDS.

A. CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

B. CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

16. CORRECTIVE MEASURES. CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

17. INSURANCE REQUIREMENTS.

A. The CONSULTANT, at the CONSULTANT's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective employees. Any notice of cancellation or non-renewal of all Workers' Compensation

policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, agents, employees, and volunteers for losses arising from work performed by the CONTRACTOR for City.

2. General Liability Coverage. The CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. The CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. The CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONSULTANT'S operations under this Agreement, whether such operations be by the CONSULTANT or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a "claims made basis," CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability, automobile liability and professional liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by City, and shall be endorsed as follows. CONSULTANT also agrees to require all contractors, and subcontractors to do likewise.

1. "The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations."

2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance maintained by the CITY, including any self-insured retention the CITY may have,

shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' written notice has been received by the CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against Contractor arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY's option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. The CONSULTANT shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement.

F. Failure on the part of the CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 11 above.

18. USE OF OTHER CONSULTANTS. CONSULTANT must obtain CITY's prior written approval to use any consultants while performing any portion of this Agreement. Such approval must include approval of the proposed consultant and the terms of compensation.

19. FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE. The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of the CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of the CITY'S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the CITY shall not constitute, nor be deemed, a release of the responsibility and liability of the CONSULTANT, its employees, sub-consultants and agents for the accuracy and competency of the

information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the CITY for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

20. CORRECTIONS. In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the CITY, and the cost thereof shall be charged to the CONSULTANT. In addition to all other available remedies, the City may deduct the cost of such correction from any retention amount held by the City or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

21. NON-APPROPRIATION OF FUNDS. Payments to be made to CONSULTANT by CITY for services preformed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT'S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT'S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

22. NOTICES. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

CITY	CONSULTANT
City of Banning 99 East Ramsey Street Banning, CA 92220 ATTN: City Manager	Stantec Consulting Services, Inc. 38 Technology Drive, Ste. 100 Irvine, CA 92618 ATTN: Susan Reid

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

23. SOLICITATION. CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT's bona fide employee, to solicit or secure this Agreement. Further, CONSULTANT warrants that it has not paid nor has it agreed to pay any company or person, other than CONSULTANT's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.

24. THIRD PARTY BENEFICIARIES. This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party.

There will be no incidental or other beneficiaries of any of CONSULTANT's or CITY's obligations under this Agreement.

25. INTERPRETATION. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

26. ENTIRE AGREEMENT. This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.

27. RULES OF CONSTRUCTION. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

28. AUTHORITY/MODIFICATION. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY's city administrator, or designee, may execute any such amendment on behalf of CITY.

29. ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

30. FORCE MAJEURE. Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

31. TIME IS OF ESSENCE. Time is of the essence to comply with dates and schedules to be provided.

32. ATTORNEY'S FEES. The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

33. STATEMENT OF EXPERIENCE. By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability,

personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

34. DISCLOSURE REQUIRED. (City and Consultant initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a "consultant" for the purposes of the California Political Reform Act because Consultant's duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18701(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City's Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City's Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant's disclosure obligations in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials _____

OR

By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a "consultant" for the purpose of the California Political Reform Act because Consultant's duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18701(a)(2)(A) and is otherwise not serving in staff capacity in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials _____

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

_____
MICHAEL ROCK, CITY MANAGER

CONSULTANT

By: _____
NAME:
TITLE:

By: _____
NAME:
TITLE:

ATTEST:

_____
Marie A. Calderon, City Clerk

_____
Tax ID No.

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other oj cer completing this certiÄcate veriÄes only the identity of the individual who signed the document to which this certiÄcate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

_____,

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 the instrument.

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other oj cer completing this certiÄcate veriÄes only the identity of the individual who signed the document to which this certiÄcate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

_____,

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 the instrument.

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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EXHIBIT A

CITY OF BANNING
CITY COUNCIL REPORT

TO: City Council

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Public Works Director
Kevin Sin, Senior Civil Engineer

MEETING DATE: December 12, 2016

SUBJECT: **Discuss and Consider Adopting Resolution 2016-120, "Awarding a Construction Agreement for Project No. 2016-03, 'Street Improvements at Various Locations' to All American Asphalt of Corona, CA in the amount of $944,900 and establishing a total project budget of $1,039,390 and reject all other bids"**

RECOMMENDATION:

The City Council adopt Resolution 2016-120 approving the following actions:

1. Approve a Construction Agreement for Project No. 2016-03, "Street Improvements at Various Locations" to All American Asphalt of Corona, CA in the amount of $944,900 and a 10% contingency in the amount of $94,490 for a total project budget of $1,039,390 and rejecting all other bids.

2. Authorize the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-03, "Street Improvements at Various Locations" and to approve change orders within the 10% contingency.

3. Authorize the City Manager to execute the Construction Agreement with All American Asphalt for Project No. 2016-03, "Street Improvements at Various Locations".

JUSTIFICATION:

All American Asphalt Inc. is the lowest responsive and responsible bidder to construct Project No. 2016-03, "Street Rehabilitation and Sidewalk Improvements."

BACKGROUND:

Voters in Riverside County approved Measure "A" in 1988, which authorized the Riverside County Transportation Commission to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets. In 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements.

Each City in Riverside County is required to submit a Five Year CIP, as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years. The list of streets to be improved as part of this project is consistent with the approved Five Year CIP adopted by City Council.

Public Works staff prepared plans and specifications for Project 2016-03 "Street Improvements at Various Locations" which included the following items: grinding of existing asphalt concrete (AC) pavement; constructing new AC; crack sealing of existing AC pavement; slurry seal existing AC pavement; remove and replace broken sidewalks, driveway approaches, curb and gutters; remove and replace access ramps to comply with ADA requirements; install new sidewalk and access ramp; repair of a slope failure on Sunset Avenue; repair potholes and trench repairs (related to water main repairs) on various streets; replace affected traffic signal detection loops; and remove and replace all affected pavement markings and striping. The project location map, plans and list of streets for the various improvements can be found as Attachment 3.

Bid documents for Project No. 2016-03 were advertised on October 7, 2016 and October 14, 2016 in the Press Enterprise and on the City's website. Additionally, notifications were sent to multiple plan rooms. In response to these efforts, four (4) bids were received on October 27, 2016 from the following contractors:

Companies	Bid Amount
1) All American Asphalt of Corona, CA	$944,900
2) Hardy & Harper, Inc. of Santa Ana, CA	$977,000
3) Matich Corporation of San Bernardino, CA	$1,236,220
4) Vance Corporation of Rialto, CA	$1,245,966

All American Asphalt has successfully performed similar work with the City in the past.

As a result, staff recommends that the Construction Agreement be awarded to the lowest responsive and responsible bidder, All American Asphalt, in the amount of $944,900. A copy of the bid schedule for the lowest bid can be found as Attachment 2.

If awarded, staff anticipates the work to commence mid-January, 2017 and to be completed within eighty (80) working days or approximately four (4) months.

FISCAL IMPACT:

The Construction Agreement with All American Asphalt is for an amount of $944,900 with a 10% contingency of $94,490 for a total project budget amount of $1,039,390.

The project shall be funded by the following sources:

Account No.	Amount
101-4900-431.93-16 (Street Improvements)	$ 885,000
660-6300-471.45-08 (Water Distribution Exp)	$ 122,390
670-7000-473.90-15 (Building Imp)	$ 32,000
	$1,039,390

OPTIONS:

1. Adopt Resolution 2016-120.
2. Reject Resolution 2016-120 and provide direction to staff.

STRATEGIC PLAN OBJECTIVE:

The recommendation supports Strategic Plan Goal No. 2 "Beautification", Objective No. 2, Activity No. 1 "Effectively Manage the City's Street Assets."

ATTACHMENTS:

1. Resolution 2016-120
2. All American Asphalt Bid Schedule
3. Project Location Map, Plans and List of Street Improvements

Approved by:

Michael Rock,
City Manager

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ATTACHMENT 1

(Resolution 2016-120)

RESOLUTION 2016-120

A RESOLUTION OF THE CITY COUNCIL OF BANNING, CA, AWARDING A CONSTRUCTION AGREEMENT FOR PROJECT NO. 2016-03, "STREET IMPROVEMENTS AT VARIOUS LOCATIONS" TO ALL AMERICAN ASPHALT OF CORONA, CA IN THE AMOUNT OF $944,900 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $1,039,390.

WHEREAS, voters in Riverside County approved Measure "A" in 1988, which authorized the Riverside County Transportation Commission to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets; and

WHEREAS, in 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements; and

WHEREAS, on April 12, 2016 City Council approved Resolution 2016-26 approving the Measure "A" Five Year Capital Improvement Plan; and

WHEREAS, the program is intended to support local transit systems, street pavement rehabilitation and public street improvements; and

WHEREAS, Public Works staff prepared plans and specifications for the Project 2016-03, "Street Improvements at Various Locations" which included the following items: grinding of existing asphalt concrete (AC) pavement; constructing new AC; crack sealing of existing AC pavement; slurry seal existing AC pavement; remove and replace broken sidewalks, driveway approaches, curb and gutters; remove and replace access ramps to comply with ADA requirements; install new sidewalk and access ramps; repair a slope failure on Sunset Avenue; repair potholes and trench repairs (related to water main repairs) on various streets; replace affected traffic signal detection loops; and remove and replace all affected pavement markings and striping; and

WHEREAS, bid documents for Project No. 2016-03, "Street Improvements at Various Locations" were advertised on October 7, 2016 and October 14, 2016 in the Press Enterprise, the City's website and multiple plan rooms and as a result four (4) bids were received; and

WHEREAS, staff recommends that a Construction Agreement be awarded to All American Asphalt in the amount of $944,900.00 and requests that a 10% contingency of $94,490 be added for a total project budget amount of $1,039,390; and

WHEREAS, the project has been included in the fiscal year 2016/2017 budget and shall be funded by Account No. 101-4900-431.93-16 in the amount of $885,000, Account No. 660-6300-471.45-08 in the amount of $122,390 and Account No. 670-7000-473.90-15 in the amount of $32,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning City Council adopts Resolution 2016-120 approving the Construction Agreement for Project No. 2016-03, "Street Improvements at Various Locations" to All American Asphalt of Corona, CA in the amount of $944,900 and a 10% contingency in the amount of $94,490 for a total project budget of $1,039,390 and rejecting all other bids.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-03, "Street Improvements at Various Locations" and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Construction Agreement with All American Asphalt for Project No. 2016-03, "Street Improvements at Various Locations".

PASSED, ADOPTED AND APPROVED this 12th day of December, 2016.

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution. 2016-120 was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____

Marie A. Calderon
City Clerk of the City of Banning

ATTACHMENT 2

(All American Asphalt Bid Schedule)

SECTION 1.3
OF
PROCEDURAL DOCUMENTS

BID

Proposal of All American Asphalt,
hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as Corporation.
* insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bids and Instruction to Bidders, Bidder hereby proposes to perform all work for the **PROJECT NO. 2016-03, "STREET IMPROVEMENTS AT VARIOUS LOCATIONS"** in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed and to fully complete the contract within a total of **EIGHTY (80) Working Days** thereafter.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of **$750.00** for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual damage.

BID SCHEDULE

PROJECT NO. 2016-03, "STREET IMPROVEMENTS AT VARIOUS LOCATIONS"

ITEM NO	DESCRIPTION OF ITEM	ESTIMATED QUANTITY		UNIT PRICE	TOTAL
1.	PERMITS AND LICENSES AND MOBILIZATIONS	LS	LS	53,000 -	53,000 -
2.	TRAFFIC CONTROL	LS	LS	38,360.16	38,360.16
3.	NPDES COMPLIANCE	LS	LS	10,000 -	10,000 -
4.	CLEARING AND GRUBBING	LS	LS	45,000 -	45,000 -
5.	COLD PLANE/GRIND FULL WIDTH OF ASPHALT CONCRETE PAVEMENT (1 ½" THICK)	69,500	S.F.	0.16	11,120 -
6.	COLD PLANE/GRIND FULL WIDTH OF ASPHALT CONCRETE PAVEMENT (1 ¼" THICK)	160,548	S.F.	0.16	25,687.68
7.	COLD PLANE/GRIND EDGES OF ASPHALT CONCRETE PAVEMENT (8' WIDE VARIOUS FROM 0" TO 1 ½" THICK)	58,144	S.F.	0.16	9303.04
8.	COLD PLANE/GRIND EDGES OF ASPHALT CONCRETE PAVEMENT (8' WIDE VARIOUS FROM 0" TO 1 ¼" THICK)	13,200	S.F.	0.16	2112 -
9.	CONSTRUCTION OF RUBBER POLYMER MODIFIED SLURRY (RPMS); CRACK-SEALING AND CRACK-FILLING OF EXISTING A.C. PAVEMENT AND ALL OTHER APPURTENANT WORK.	238,788	S.F.	0.24	57,309.12
10.	REMOVAL OF ALL EXISTING TRAFFIC STRIPING AND PAVEMENT MARKINGS; INSTALLATION OF NEW TRAFFIC STRIPING (WITH CORRESPONDING RAISED PAVEMENT MARKER DETAIL WITH ALL NEW NON-REFLECTORIZED AND REFLECTORIZED RAISED PAVEMENT MARKERS) AND INSTALLATION OF THERMOPLASTIC PAVEMENT MARKINGS.	L.S.	L.S.	12,000 -	12,000 -
11.	CONSTRUCT ASPHALT CONCRETE CAP (1 ½" & 2")	5,499	TON	68 -	373,932 -

12.	REMOVE EX. SIDEWALK & CURB AND GUTTER AND CONSTRUCT ACCESS RAMP PER CITY OF BANNING STANDARD NO. C-215 (On Nicolet Street by the school)	1	EA	5500 -	5500 -
13.	REMOVE AND REPLACE A.C. PAVEMENT (TO AG. BASE); EXACT LOCATIONS TO BE MARKED BY CITY INSPECTOR (On Nicolet Street Only).	153	TON	150 -	22,950 -
14.	REMOVE AND REPLACE H.C. RAMP PER CITY OF BANNING STANDARD NO. C-214 OR C-215	6	EA	5500 -	33,000 -
15.	REMOVE AND REPLACE P.C.C. SIDEWALK	404	S.F.	9 -	3636 -
16.	REMOVE AND REPLACE P.C.C. CURB & GUTTER	355	L.F.	75 -	26,625 -
17.	ADJUST WATER VALVE TO GRADE	59	EA	215 -	12,685 -
18.	ADJUST SEWER MANHOLE TO GRADE	24	EA	525 -	12,600 -
19.	REPLACE TRAFFIC SIGNAL DETECTOR LOOPS (ON RAMSEY ST W/O SAN GORGONIO AND E/O 4TH ST	12	EA	215 -	2580 -
20.	REMOVE AND REPLACE D/A, C&G, SW AND CONSTRUCT C&G, D/A, RAMP, & SPANDREL PER EXHIBIT A-1 IN THE APPENDIX	L.S.	L.S.	10,000 -	10,000 -
21.	CONSTRUCT P.C.C. SPANDREL AND X-GUTTER PER EXHIBIT A-2 IN THE APPENDIX	L.S.	L.S.	10,000 -	10,000 -
22.	REMOVE P.C.C. X-WALK AND STAMPED BRICK AND REPLACE WITH A.C. PAVEMENT AT RAMSEY STREET AND 1ST STREET (3 TOTAL, EST. THICKNESS=8", EST. AREA=2065 S.F.)	L.S.	L.S.	10,000 -	10,000 -
23.	REMOVE AND REPLACE A.C. PAVEMENT TO EXISTING A.B. FOR THOSE LOCATIONS LISTED ON THE "STREET REPAIR LOCATIONS" LIST IN THE APPENDIX. ESTIMATED OF TONAGE IS FOR BIDDING PURPOSES. CONTRACTOR IS ONLY ALLOW TO COMPLETE THE LIST IF AND ONLY IF BUDGET ALLOWED. UNIT PRICE ADJUSTMENT FOR FINAL QUANITY WILL BE ALLOWED	650	TON	150 -	97,500 -

	PER THE "GREENBOOK".				
24.	INSTALL 770' x 8' OF SIDEWALK AND 220' OF 6" WIDE RETAINING CURB (12" IN HEIGHT) AND H.C. RAMP ON SAN GORGONIO AVE AND BARBOUR ST (PER CALTRANS STANDARD PLAN A88A, DETAIL B) AS SHOWN ON "SITE PLAN A1.10" IN THE APPENDIX. (THIS ITEM WILL REQUIRE A CALTRANS ENCOACHMENT PERMIT. CITY WILL APPLY FOR THE PERMIT AND CONTRACTOR WILL NEED TO APPLY FOR AND PAY FOR A RIDER. (CITY WILL REIMBURSE FOR RIDER COSTS.)	L.S.	L.S.	30,000 -	30,000 -
25.	CONSTRUCT ALL IMPROVEMENTS AS SHOWN ON THE PLAN FOR "SUNSET AVENUE SLOPE FAILURE REPAIRS".	L.S.	L.S.	25,000 -	25,000 -
26.	REMOVE AND REPLACE DRIVEWAY APPROACH, INCLUDING CURB AND GUTTER ON THE FOLLOWING ADDRESS: "1475 FOURTH STREET IN THE CITY OF BANNING".	L.S.	L.S.	5000 -	5000 -

TOTAL BID AMOUNT IN FIGURES: $ 944,900.00
(Bid Item No.'s 1 through 26)

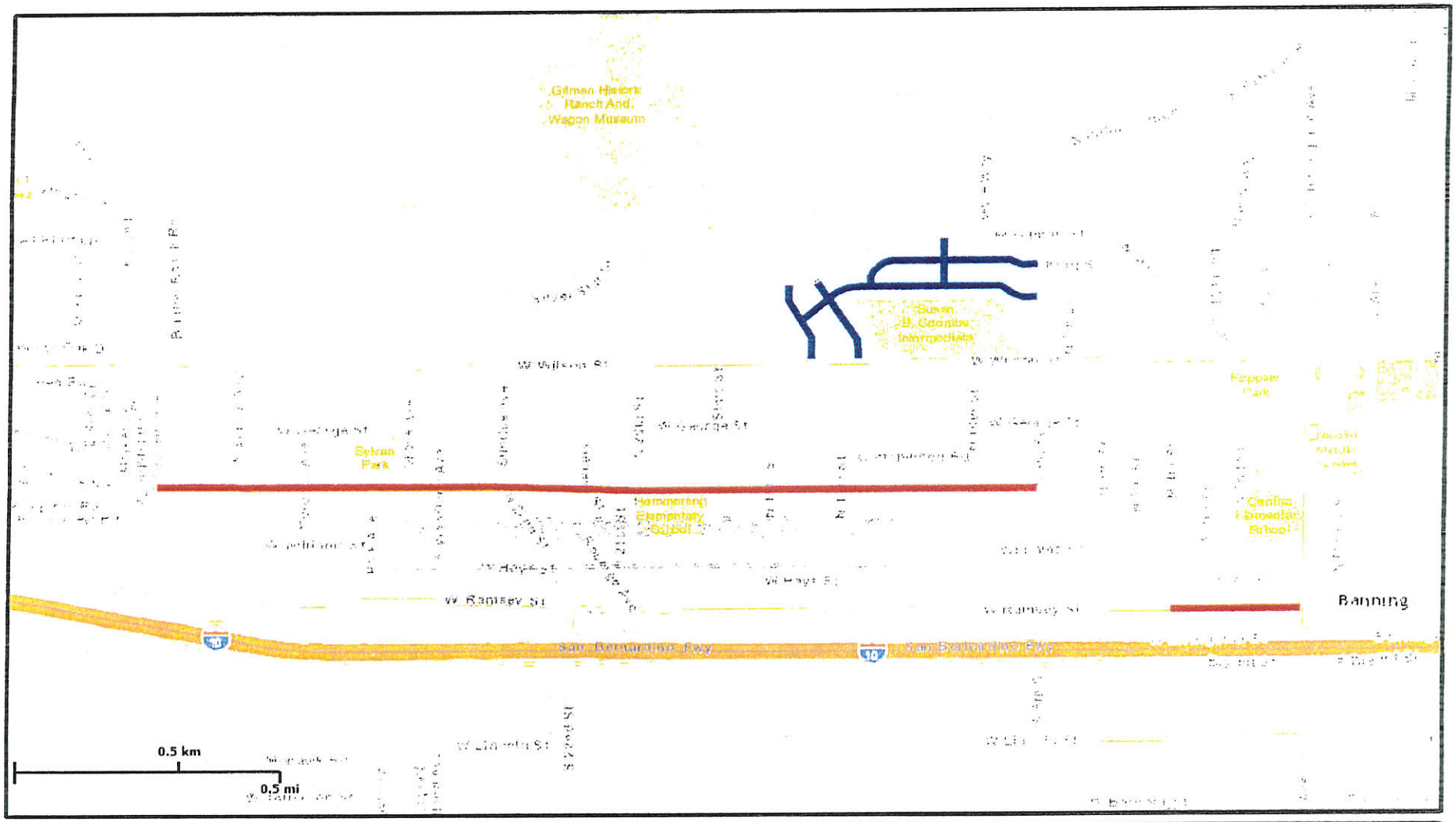
TOTAL BID AMOUNT IN WORDS: nine hundred fourty four THOUSAND nine hundred dollars
(Bid Item No.'s 1 through 26)

NOTE: LIST OF STREETS FOR SLURRY SEAL & A.C. OVERLAY, STREET REPAIR LOCATIONS, EXHIBITS, PLANS AND MAP ARE INCLUDED IN THE APPENDIX.

ATTACHMENT 3

(Project Location Map, Plans and List of Street Improvements)

Locations Map for Slurry Seal & A.C. Overlay Streets



1" = 1,505 ft	Blue - S. Seal Red - A.C. Cap	07/12/2016		

This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy please contact Banning staff for the most up-to-date information.

City of Banning

Public Works Department
Engineering Division

Project No. 2016-03 Street Improvements at Various Locations

List of Streets

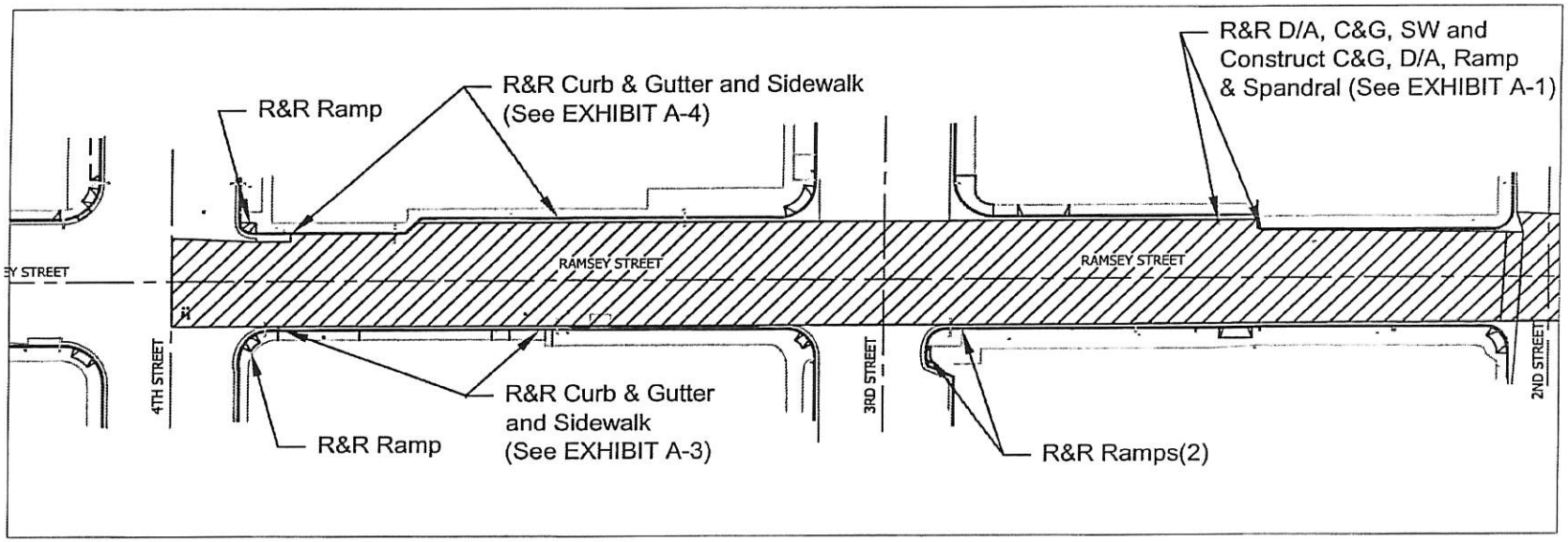
Slurry Seal Streets

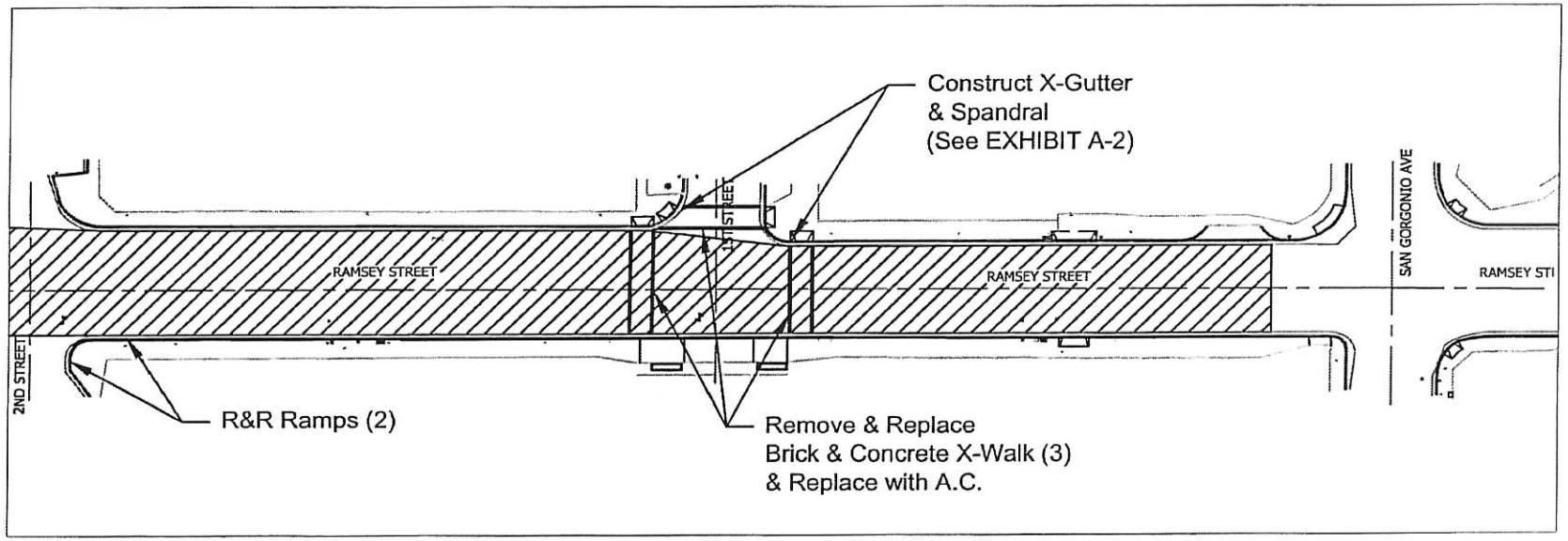
Street Name	Begin	End	Slurry Area (S.F.)	R & R (Ton)	CAP (Ton)
Via Panarama	Wilson Street	North End	35,424	0	n/a
Paseo Del Sol	Wilson Street	North End	32,688	0	n/a
Hoffer Street	Paseo Del Sol	Via Panarama	11,160	0	n/a
Hoffer Street	Via Panarama	8th Street	77,328	0	n/a
King Street	Hoffer Street	8th Street	66,168	0	n/a
11th Street	Hoffer Street	King Street	8,100	0	n/a
11th Street	King Street	Gilman Street	7,920	0	n/a
Total:			238,788		

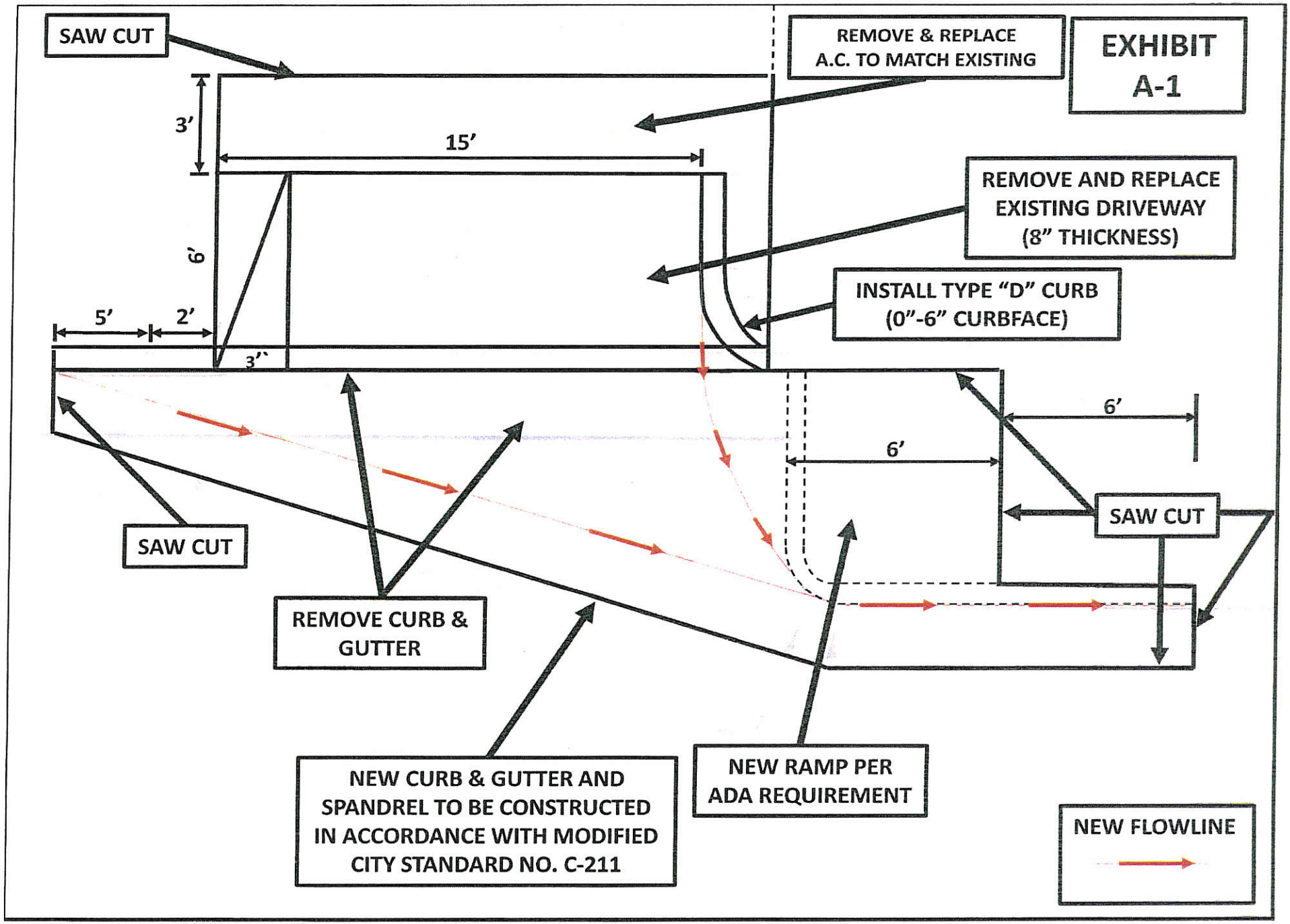
A.C. Overlay Streets

Street Name	Begin	End	CAP Area (S.F.)	R & R (Ton)	CAP (Ton)
Nicolet Street (1 1/2" CAP; Grind Edges Only - 0" to 1 1/4")	McGovern Ave	Sunset Ave	49,500	0	464
Nicolet Street (2" CAP; Grind Edges Only - 0" to 1 1/2")	Sunset Avenue	20th Street	197,640	153	2,470
Nicolet Street (1 1/2" CAP; Grind Full Width - 1 1/4")	20th Street	8th Street	160,548	0	1,505
Ramsey Street (2" CAP; Grind Full Width - 1 1/2")	San Gorgonio Ave	4th Street	69,500	0	1,060
Total:			477,188	153	5,499

Ramsey Street A.C. Overlay Limits






SAW CUT
REMOVE & REPLACE
A.C. TO MATCH EXISTING
EXHIBIT
A-1
3'
15'
REMOVE AND REPLACE
EXISTING DRIVEWAY
(8" THICKNESS)
6'
INSTALL TYPE "D" CURB
(0"-6" CURBFACE)
5'
2'
3"
6'
6'
SAW CUT
SAW CUT
REMOVE CURB &
GUTTER
NEW CURB & GUTTER AND
SPANDREL TO BE CONSTRUCTED
IN ACCORDANCE WITH MODIFIED
CITY STANDARD NO. C-211
NEW RAMP PER
ADA REQUIREMENT
NEW FLOWLINE

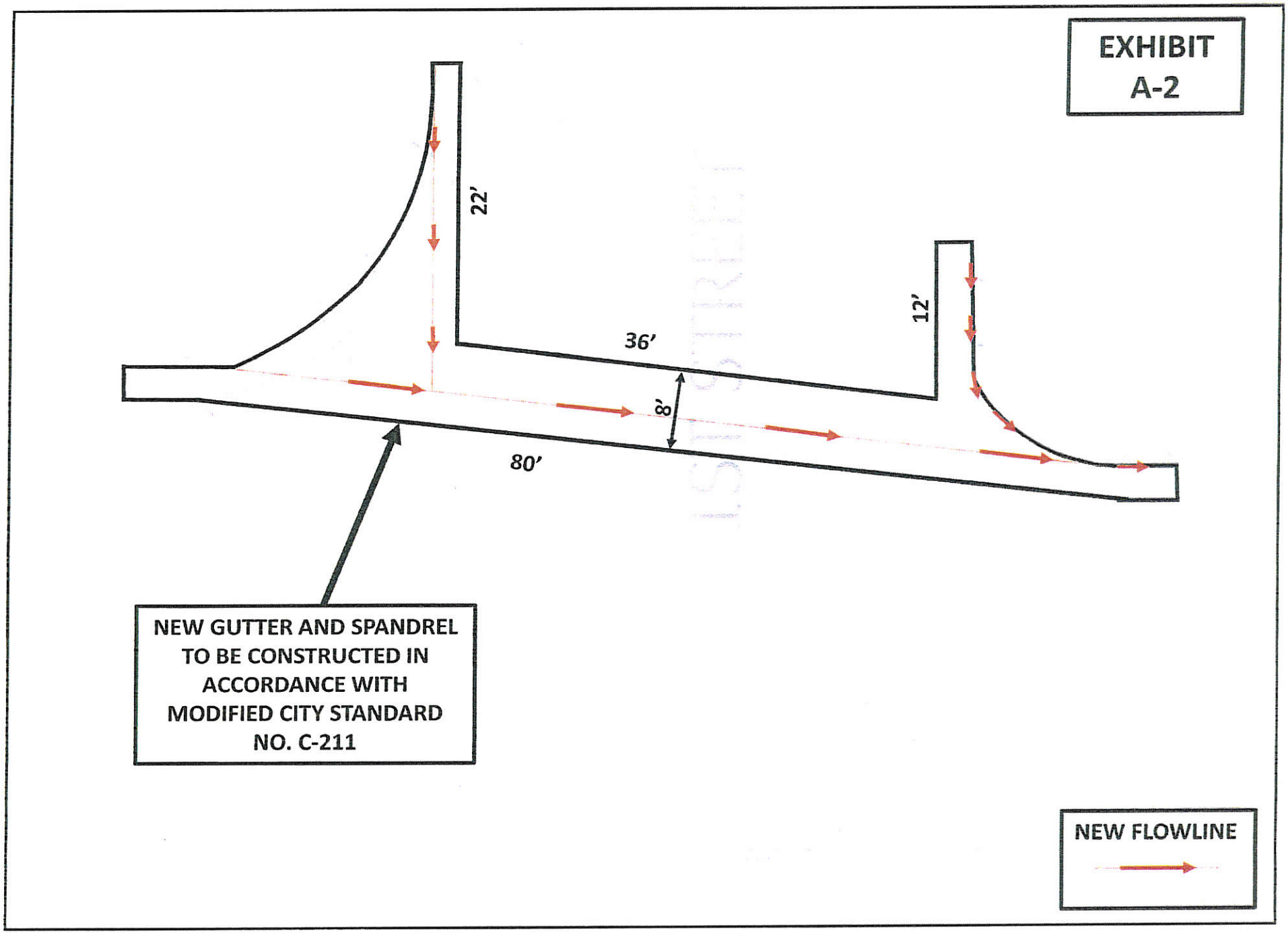


EXHIBIT
A-2
22'
36'
12'
8'
80'
NEW GUTTER AND SPANDREL
TO BE CONSTRUCTED IN
ACCORDANCE WITH
MODIFIED CITY STANDARD
NO. C-211
NEW FLOWLINE

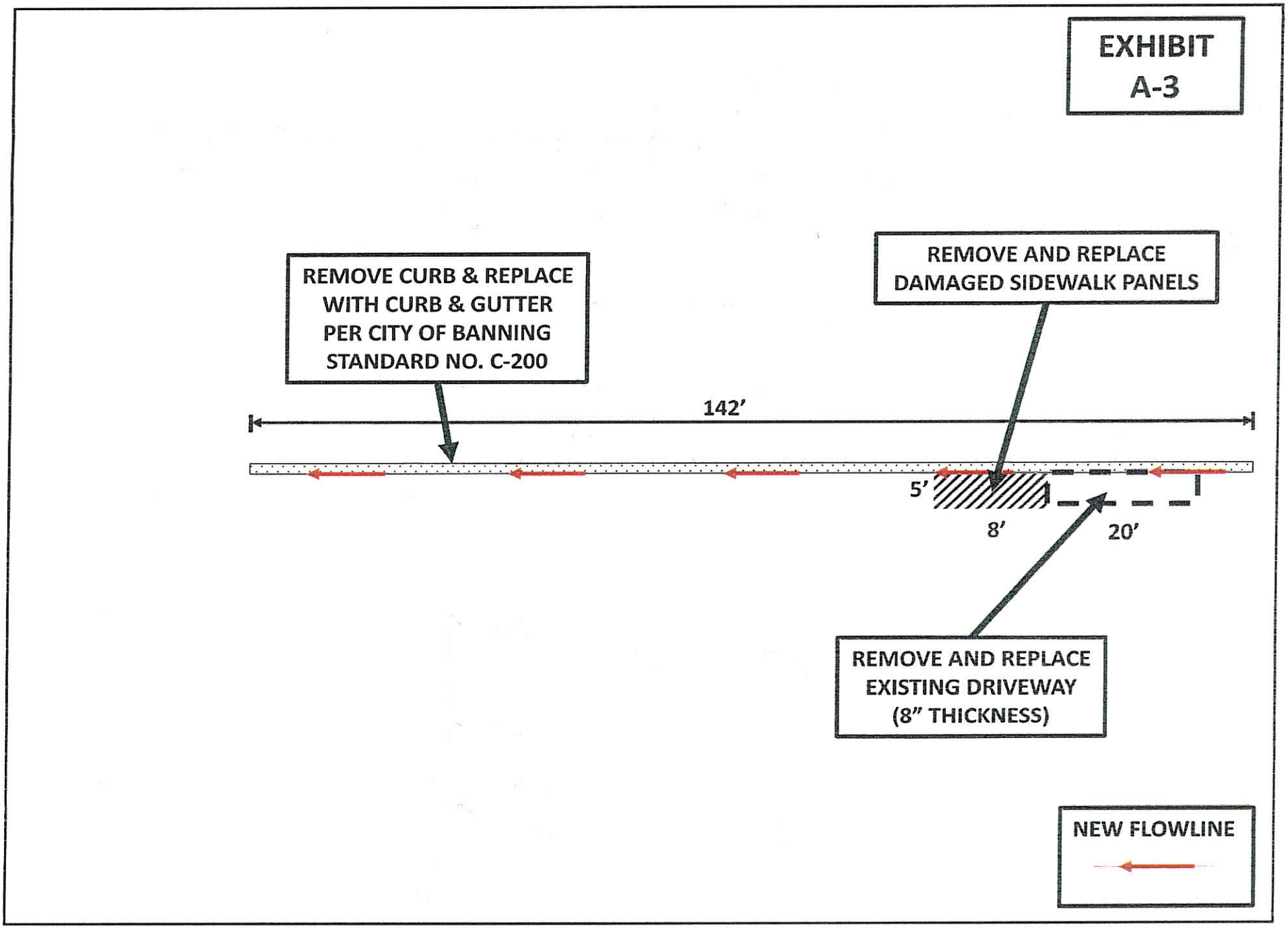
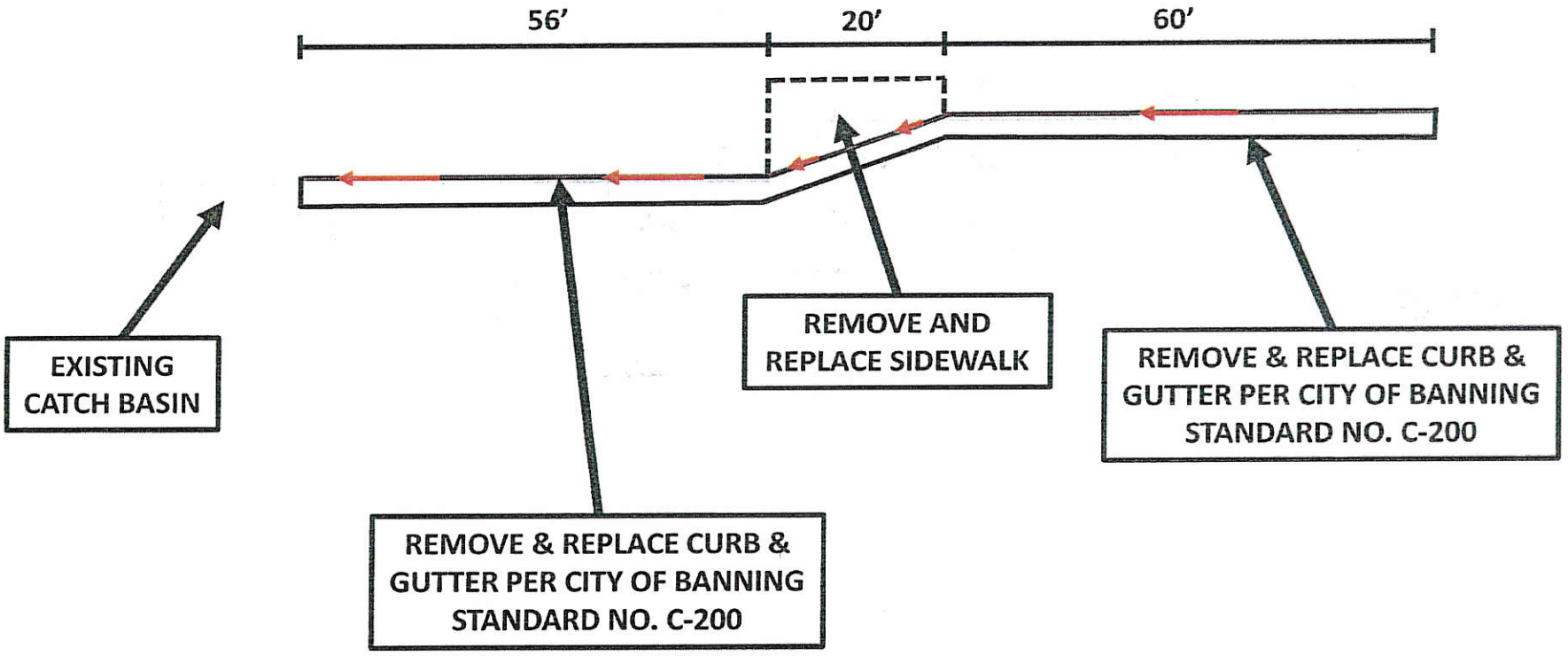


EXHIBIT
A-3
REMOVE CURB & REPLACE WITH CURB & GUTTER PER CITY OF BANNING STANDARD NO. C-200
REMOVE AND REPLACE DAMAGED SIDEWALK PANELS
142'
5'
8'
20'
REMOVE AND REPLACE EXISTING DRIVEWAY (8" THICKNESS)
NEW FLOWLINE

EXHIBIT A-4


56'
20'
60'
EXISTING CATCH BASIN
REMOVE AND REPLACE SIDEWALK
REMOVE & REPLACE CURB & GUTTER PER CITY OF BANNING STANDARD NO. C-200
REMOVE & REPLACE CURB & GUTTER PER CITY OF BANNING STANDARD NO. C-200
NEW FLOWLINE

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
1	1045 N. Elisa Dawn Drive	4	X	8	32	4
2	1050 N. Elisa Dawn Drive	6	X	8	48	4
3	900 W. King Street	6	X	7	42	4
4	Wilson Street and Hargrave Street	5	X	8	40	8
5	1396 N. 8th Street	6	X	8	48	8
6	1396 N. 8th Street	4	X	8	32	8
7	497 Cherokee Circle	5	X	6	30	4
8	497 Sioux Circle	5	X	7	35	4
9	130 E. Charles Street	4	X	9	36	6
10	1381 S. Hermosa Street	5	X	7	35	4
11	George & 2nd Street	7	X	7	49	6
12	1109 W. Nicolet Street	6	X	5	30	6
13	16th Street & George Street	10	X	8	80	6
14	16th Street & George Street	6	X	4	24	6
15	5365 W. Plain Field Drive	5	X	5.5	27.5	4
16	576 Essex Way	4	X	6	24	4
17	1958 Fairway Oaks Drive	9	X	7	63	4
18	368 E. Lombardy Lane	5	X	7	35	4
19	368 E. Lombardy Lane	4	X	9	36	4
20	549 N. 16th Street	5	X	7	35	6
21	5281 W. Riviera Avenue	7	X	6	42	4
22	5913 Oakmont Drive	5	X	7	35	4
23	5717 Riviera Avenue	6	X	9	54	6
24	526 La Costa Drive	8	X	7	56	4
25	1504 W. Williams Street	5	X	9	45	6
26	1504 W. Williams Street	4	X	5	20	6
27	446 N. 20th Street	4	X	6	24	4
28	446 N. 20th Street	4	X	7	28	4
29	3062 Mohawk Road	7	X	9	63	4
30	1802 Masters Drive	5	X	7	35	4
31	7th Street and Williams Street	8	X	7	56	6
32	1535 W. Williams Street	5	X	7	35	6
33	1535 W. Williams Street	5	X	7	35	6
34	1139 W. Hoffer Street	7	X	10	70	4
35	630 S. La Costa Drive	7	X	7	49	4

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
36	631 S. La Costa Drive	6	X	10	60	4
37	1245 W. Nicolet Street	11	X	5	55	6
38	4897 W. Meadow Way	6	X	6	36	4
39	Summitt Drive and Alessandro Street	3	X	7	21	6
40	425 San Andreas Road (hydrant valve)	2	X	3	6	4
41	1559 N. Hargrave Street	8	X	6	48	6
42	Across from 1211 E. Hoffer Street	10	X	6	60	4
43	George Street and Cherry Street (valves)	4	X	5	20	6
44	1268 Wyte Way	5	X	6	30	4
45	946 Via Panorama	8	X	7	56	4
46	906 Via Panorama	4	X	10	40	4
47	1032 W. King Street	6	X	6	36	4
48	693 N. Sims Street	6	X	7	42	4
49	1600 Block N. Hargrave Street	6	X	9	54	6
50	1530 N. Hargrave Street	4	X	13	52	6
51	949 E. Hoffer Street	6	X	9	54	4
52	1444 W. Williams Street	10	X	10	100	6
53	1444 W Williams Street	4	X	7	28	6
54	1376 E. Lincoln Street	5	X	7	35	6
55	1722 W. Lincoln Street	4	X	6	24	6
56	1220 Vista Serena Avenue (Gated)	3	X	3	9	4
57	404 41st Street	4	X	33	132	4
58	674 Grove Avenue	5	X	7	35	4
59	573 Shoal Creek Street	6	X	7	42	4
60	1435 W. Hays Street	8	X	10	80	4
61	1435 W. Hays Street	5	X	13	65	4
62	1435 W. Hays Street	5	X	7	35	4
63	5309 Riviera Avenue	6	X	11	66	4
64	4751 Salem Circle	7	X	10	70	4
65	1308 Pleasant Valley Avenue	9	X	6	54	4
66	6370 Harbour Town Way	9	X	7	63	4
67	1314 S. Laguna Seca Court	7	X	6	42	4
68	5091 Brookside Drive	6	X	7	42	4
69	3333 Bluff Street	15	X	13	195	4

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
70	3333 Bluff Street	5	X	6	30	4
71	5385 W. Plain Field Drive	7	X	7	49	4
72	772 S. Torrey Pines Road	6	X	5	30	4
73	1032 W. King Street	7	X	7	49	4
74	Hargrave Street and Hoffer Street	5	X	6	30	6
75	529 La Quinta Drive	5	X	6.5	32.5	4
76	1274 W. Barbour Street	6	X	6	36	4
77	3333 W. Ramsey Street (back of store)	4	X	8	32	4
78	1178 Weaver Street & Gilman Street	5	X	10	50	4
79	1178 Weaver Street & Gilman Street	5	X	14	70	4
80	Hargrave Street & George Street (60' North of George)	5	X	7	35	6
81	San Gorgonio Avenue & Theodore Street	9	X	9	81	6
82	1135 Linda Vista Drive	4	X	6	24	4
83	1135 Linda Vista Drive	4	X	6	24	4
84	782 Torrey Pines Road	5	X	7	35	4
85	1484 W. Ramsey Street (Back)	6	X	8	48	4
86	1484 W. Ramsey Street (Back)	4	X	6	24	4
87	1510 W. Ramsey Street (Back)	40	X	6	240	4
88	1070 Linda Vista Drive	4	X	9	36	4
89	1070 Linda Vista Drive	4	X	9	36	4
90	1722 Lincoln Street	9	X	10	90	6
91	1308 W. Ramsey Street (Back)	40	X	6	240	4
92	850 Country Club Drive	6	X	6	36	4
93	1502 W. Ramsey Street	40	X	6	240	8
94	5435 Moody Drive	7	X	5	35	4
95	1522 W. Nicolet Street	7	X	4	28	6
96	670 Torrey Pines Road	7	X	7	49	4
97	5323 Rivera Avenue	7	X	12	84	4
98	5577 Moody Drive	7	X	6	42	4
99	1425 W. Hays Street	7	X	11	77	4
100	900 W. King Street	7	X	8	56	4
101	1178 Fairway Oaks Avenue	6.5	X	7	45.5	4
102	725 N Hargrave Street	8	X	8	64	6
103	725 N Hargrave Street	8	X	8	64	6

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
104	654 Allen Street	6	X	8	48	4
105	1425 Hays Street	7	X	8	56	4
106	660 La Costa Drive	6	X	7	42	4
107	2nd Street & Livingston Street	4	X	6	24	4
108	769 E. Theodore Street	3	X	7	21	4
109	769 E. Theodore Street	2	X	27	54	4
110	785 La Costa Drive	6	X	9	54	4
111	5701 Oakmont Drive	7	X	7	49	4
112	5355 Pinehurst Drive	4	X	4	16	4
113	5466 Pinehurst Drive	4.5	X	7	31.5	4
114	466 Maidstone Street	7	X	6	42	4
115	5225 Riviera Avenue	5	X	8	40	4
116	2140 Birdie Drive	5	X	8	40	4
117	5220 Palmer Drive	3	X	3	9	4
118	861 E. Wilson Street	14.5	X	18	261	8
119	861 E. Wilson Street	33	X	9	297	8
120	115 Lombardy Lane	7	X	5	35	4
121	Lombardy Lane & Murray Street	10	X	25	250	4
122	1687 Durward Street	6	X	7	42	4
123	1687 Durward Street	6	X	8	48	4
124	275 E. Lincoln Strret	4	X	8	32	4
125	436 N. 4th Street	5	X	8	40	6
126	6283 Saw Grass Drive	6	X	6	36	4
127	1245 W. Nicolet	4	X	11	44	6
128	1019 Southern Hills Drive	7	X	8	56	4
129	16th Street & Ramsey Street (North of Ramsey Street)	6	X	10	60	6
130	Livingston Street Alley	12	X	9	108	4
131	271 W. Livingston Street	5	X	8	40	4
132	271 W. Livingston Street	3	X	8	24	4
134	Alessandro Street N/O Nicolet Street (School driveway approaches)	2	X	50	100	6
135	3894 W. Ramsey Street	10	X	24	240	8
137	South bound lane Hargrave Street, South of Riverside County entrance	6	X	14	84	6
138	3157 Nicolet Street	15	X	20	300	6
139	1930 W. Ramsey Street	2	X	2	4	8

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
140	Pizza Hut - East Entrance	2	X	2	4	8
141	Sizzler (4) X	2	X	3	6	8
142	1434 W. Ramsey Street (fire line trench)	4	X	56	224	8
143	1481 W. Ramsey Street	4	X	20	80	8
144	Hacienda Inn & Suites (fire line trench)	4	X	56	224	8
145	County building entrance off of Ramsey Street	3	X	4	12	8
151	Hathaway Street close to Williams Street (AL)	12	X	80	960	6
152	1115 W. Ramsey Street (fire line trench)	4	X	56	224	8
153	2301 W. Ramsey Street (AL)	6	X	28	168	8
154	1000 block 4th Street	4	X	4	16	6
155	400 W. block of Hoffer Street and 4th Street (NW of intersection)	2	X	12	24	6
156	295 W. Gilman Street	3	X	3	9	6
157	301 W. Gilman Street	3	X	3	9	6
158	W. Gilman Street and Linda Vista Drive (AL)	12	X	20	240	6
159	94 Gilman Street (W)	2	X	2	4	6
160	609 W. Gilman Street	4	X	6	24	6
161	2850 Nicolet (Tree Roots)	6	X	45	270	6
162	2850 Nicolet (Tree Roots)	6	X	6	36	6
163	2907 George Street. just East of George Street & Sylvan Avenue intersection	3	X	3	9	6
164	510 Sunset Avenue	2	X	2	4	6
165	Adams Avenue & Lincoln Street	3	X	8	24	6
166	1184 Lincoln St. (Water Service)	3	X	25	75	6
169	378 Hargrave West intersection	2	X	47	94	6
170	378 Hargrave West intersection	6	X	8	48	6
171	378 Hargrave West intersection	5	X	24	120	6
172	378 Hargrave West intersection	5	X	16	80	6
173	450 Hargrave	8	X	10	80	6
175	3rd & Ramsey North Intersection	4	X	8	32	6
176	128 3rd Street	2	X	2	4	6
177	2565 W. Nicolet Street (AL)	6	X	80	480	6
178	2778 W. Nicolet Street	6	X	8	48	6
179	434 Grove Avenue, across the street, close to park (tree roots lifting AC)	6	X	10	60	6
180	497 Sixth Street (old utility trenches)	20	X	28	560	6
181	555 Second Street	2	X	2	4	6

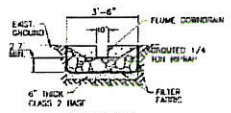
Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
182	515 Second Street (3 in the area, one across the street)	3	X	4	12	6
183	515 Second Street	3	X	4	12	6
184	515 Second Street	2	X	10	20	6
185	Second just North of Nicolet, next to church	2	X	2	4	6
186	Hays Street and Second Street, south intersection	3	X	4	12	6
187	1158 First Street., across the street	2	X	6	12	6
188	815 First Street	2	X	20	40	6
189	Hoffer Street and Seventh Street - intersection (AL)	10	X	20	200	6
190	1036 Elisa Dawn Dr	6	X	8	48	4
191	865 Via Panorama	6	X	7	42	4
192	865 Via Panorama	5	X	15	75	4
193	1358 South Hermosa Avenue	10	X	28	280	4
194	1296 Wyte Way	8	X	5	40	4
195	1296 Wyte Way	4	X	3	12	4
196	1246 Wyte Way	7	X	9	63	4
197	916 Linda Vista Drive	8	X	12	96	4
198	North Hargrave Street (60ft north of East Hoffer Street)	6	X	10	60	6
199	City Corporate Yard (Fuel Island)	2	X	6	12	6
200	City Corporate Yard (Fuel Island)	5	X	16	80	6
201	West Williams Street and N 14th Street	5	X	8	40	6
202	Sunset Avenue (North of Ramsey on West side)	2	X	12	24	6
203	1496 West Ramsey Street (Back)	4	X	8	32	4
204	5370 Palmer Drive	9	X	9	81	4
205	5401 Palmer Drive	7	X	11	77	4
206	1302 Laguna Seca Court	6	X	8	48	4
207	Sunset Avenue and Ramsey Street (SE corner)	4	X	14	56	8
208	Hargrave Street (SB lane South of Reverside County entrance)	6	X	14	84	6
209	1434 West Ramsey (Fine line trench)	4	X	56	224	8
210	3403 West Ramsey (Behind stores in alley - 10x10, in Ramsey - 5x5)				125	6

Line No.	Street Repair Locations	Size Patch			Sq. Ft.	Approx. Depth (inches)
211	Hargrave Street and Nicolet (West side of intersection - 6x8, 5x24, 5x16, 2x47)				342	6
212	490 6th Street (Old utility trench)	20	X	28	560	6
	Total Area (Sq. Ft.)				**15,054**	

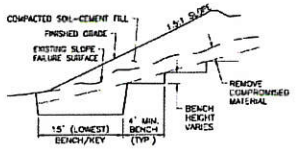
CITY OF BANNING, STATE OF CALIFORNIA
PROJECT NO. 2016-03
SUNSET AVENUE SLOPE FAILURE REPAIR



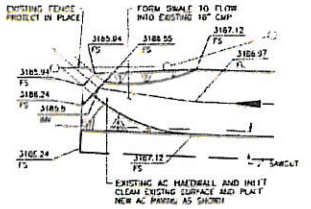
ROAD SECTION
SCALE: 1"=10'
A



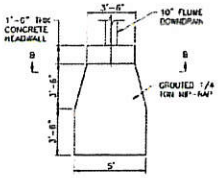
SECTION B-B



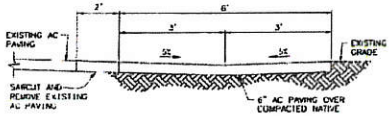
8 KEY AND BENCH DETAIL
N.T.S.



DETAIL
N.T.S.
1



5 RIP-RAP DETAIL
N.T.S.



7 AC GUTTER DETAIL
SCALE: 3/8"=1'-0"

LEGEND

———	SAWCUT LINE
	3" AC OVER 6" AGGREGATE BASE

ABBREVIATIONS

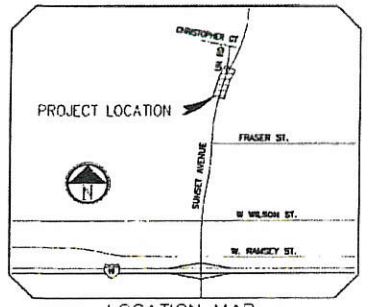
AC	ASPHALTIC CONCRETE
BC	BEGIN CURVE
EC	END CURVE
FL	FLOWLINE
GB	GRADE BREAK
NG	NATURAL GROUND
TD	TOP OF DIKE
( )	EXISTING ITEM

OPINION OF EARTHWORK

CUBIC YARDS OF CUT: 0 C.Y. (RAW) CUBIC YARDS OF FILL: 25 C.Y.(RAW)
THE OPINION OF EARTHWORK QUANTITIES SHOWN ABOVE ARE UNADJUSTED GROSS VOLUMES AND DO NOT INCLUDE THE EFFECTS OF SHRINKAGE, OVEREXCAVATION, RECOMPACTION, SHRINKAGE, SUBSIDENCE OR OTHER FACTORS, AND ARE SUBJECT TO PRE-D CONDITIONS THAT MAY BE SPECIFIED IN THE PRELIMINARY SOILS REPORT AND ARE FOR REFERENCE AND FEE PURPOSES ONLY.
SINCE THE CIVIL ENGINEER CANNOT CONTROL THE EXACT METHOD OR MEANS USED BY THE CONTRACTOR DURING GRADING OPERATIONS, NOR CAN THE CIVIL ENGINEER GUARANTEE THE EXACT SOIL CONDITIONS OVER THE ENTIRE SITE, THE CIVIL ENGINEER ASSUMES NO RESPONSIBILITY FOR FINAL EARTHWORK QUANTITIES.

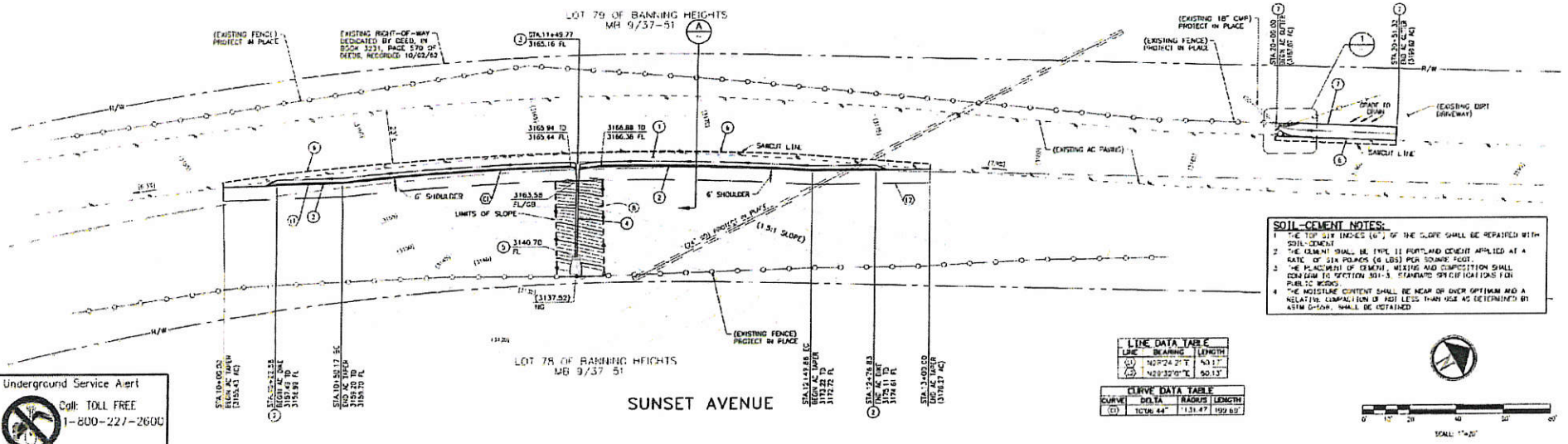
THE CONTRACTOR IS ADVISED TO PREPARE HIS OWN ESTIMATES OF EARTHWORK FOR THE PURPOSES OF BIDDING, CONTRACT AND CONSTRUCTION.

IF DURING CONSTRUCTION IT APPEARS THAT THERE WILL BE AN EXCESS OR SHORTAGE OF MATERIAL, THE CONTRACTOR MAY NOTIFY THE CIVIL ENGINEER TO DETERMINE IF POSSIBLE GRADE ADJUSTMENTS CAN BE MADE WHICH MAY ELIMINATE THE APPARENT EXCESS OR SHORTAGE OF MATERIAL. APPROVAL FROM THE DEPARTMENT OF BUILDING AND SAFETY IS NEEDED FOR ANY CHANGE IN THE APPROVED GRADING PLAN.



LOCATION MAP
N.T.S.

#	CONSTRUCTION NOTES	QUANTITY
1	PLACE AC PAVING, MATCH EXISTING SECTION OR 3" AC OVER 6" AGGREGATE BASE, MINIMUM	1,800 SF
2	INSTALL TYPE D 6" AC DIKE PER CALTRANS RSP A87D.	300 LF
3	INSTALL TAPERED INLET AND FLUME DOWNDRAIN PER CALTRANS STD. D87D.	1 EA.
4	INSTALL CORRUGATED FLUME DOWNDRAIN PER CALTRANS STD D87D.	15 LF
5	INSTALL HIGH-FLOW VELOCITY DISSIPATION DEVICE PER DETAIL ON THIS SHEET	35 SF
6	SAWCUT EXISTING AC PAVEMENT (2' MIN.) AND REMOVE	300 LF
7	CONSTRUCT 6" WIDE AC GUTTER PER DETAIL HEREON	600 SF
8	REPAIR AND GRADE SLOPE PER KEY AND BENCH DETAIL HEREON	75 CY



SOIL-CEMENT NOTES:

1. THE TOP SIX INCHES (6") OF THE SLOPE SHALL BE REPAIRED WITH SOIL-CEMENT
2. THE CEMENT SHALL BE TYPE II PORTLAND CEMENT APPLIED AT A RATE OF SIX POUNDS (6 LBS) PER SQUARE FOOT.
3. THE PLACEMENT OF CEMENT, MIXING AND COMPOSITION SHALL CONFORM TO SECTION 301-3, STANDARD SPECIFICATIONS FOR PUBLIC WORKS.
4. THE MOISTURE CONTENT SHALL BE NEAR OR OVER OPTIMUM AND A RELATIVE COMPACTION OF NOT LESS THAN 95% AS DETERMINED BY ASTM D-1557, SHALL BE OBTAINED

LINE DATA TABLE

LINE	BEARING	LENGTH
(L1)	N29°24'27"E	50.17'
(L2)	N28°32'07"E	50.13'

CURVE DATA TABLE

CURVE	DELTA	RADIUS	LENGTH
(C1)	10°08'44"	1131.47'	199.69'

SCALE: 1"=20'

Underground Service Alert
Call: TOLL FREE 1-800-227-2600
TWO WORKING DAYS BEFORE YOU DIG

NOTE:
WORK CONTAINED WITHIN THESE PLANS SHALL NOT COMMENCE UNTIL AN ENCROACHMENT PERMIT AND/OR A GRADING PERMIT HAS BEEN ISSUED.

The private engineer signing these plans is responsible for ensuring the adequacy and acceptability of the design herein to the extent of approximately ninety (90) days after county approval of public construction. The private engineer shall be responsible for performing an as-built survey and revising the plans for approval by the county.

Engineer

Revisions:

Mark	By	Date	Description	Appr.	Date

Designed By: RLV | Drawn By: RLV | Checked By: EDF

CITY OF BANNING
APPROVED BY:
CITY ENGINEER — Date: 9-7-16

PRINCIPAL ENGINEER

Civil / Structural Engineering, Planning Consultants / Surveying / GPS
Prepared under the supervision of:
Date: 8/31/2016
Robert D. Fox
Registered Civil Engineer No. 57264

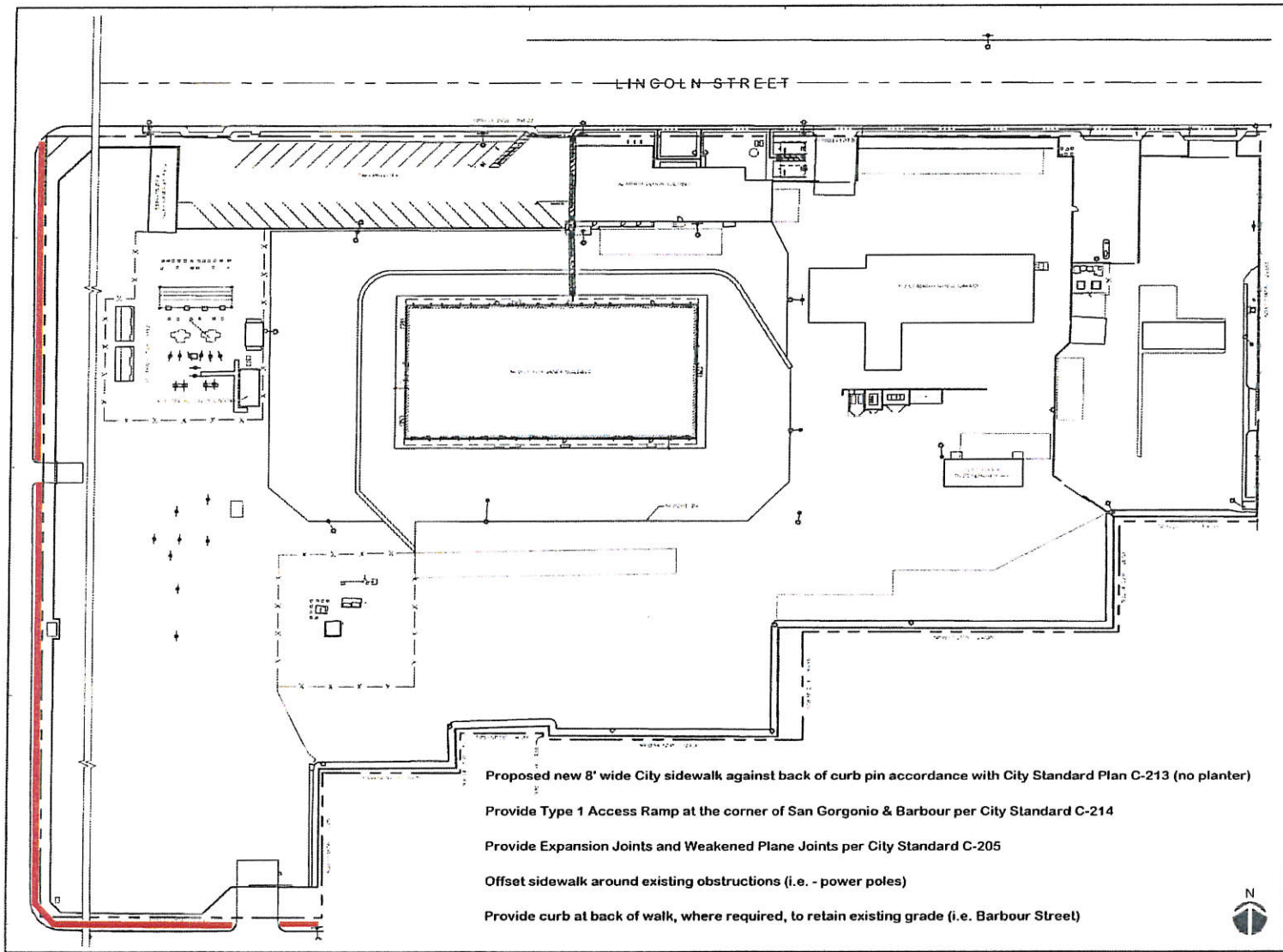
Benchmark:
BENCH MARK NO. C-57 ELEV. 2701.868
1.0 MILES FROM THE INTERSECTION OF HIGHLAND SPRINGS RD. 100 FEET EAST OF THE "T" INTERSECTION OF TWO BARBWIRE FENCES, 5 FEET NORTH OF A DIRT ROAD, IN A BARBWIRE FENCE, 1 POST SOUTH OF 2 MARKED POST, A BRASS DISK IN THE TOP OF A CONCRETE POST AND MARKED C-57-85

SCALE: AS NOTED

CITY OF BANNING
PROJECT NO. 2016-03
SUNSET AVENUE SLOPE FAILURE REPAIR
CONSTRUCTION PLAN

For: CITY OF BANNING | PLAN No.

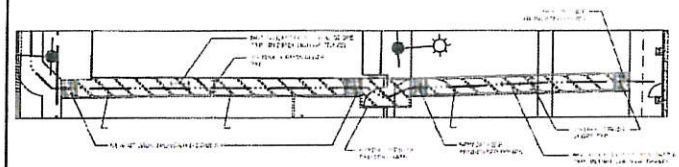
Sheet No. 1 OF 1 SHEETS



SITE PLAN 30' 23

VOID

26



ENLARGED PLAN 10' 29

SITE PLAN KEY NOTES:

PARKING SUMMARY

SITE PLAN LEGEND:

GENERAL NOTES:

HCA

CITY OF BANNING
NEW CORPORATE WAREHOUSE
176 EAST LINCOLN ST
BANNING, CA 92220

METAL BUILDING BID

SITE PLAN

A1.10

CITY OF BANNING
RESOLUTION

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Alejandro Diaz, Chief of Police**
Phil Holder, Captain

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-115: Authorizing the Police Department to lease vehicles through the National Auto Fleet Group.**

RECOMMENDATION:

The City Council adopt Resolution 2016-115, authorizing the Police Department to enter into a three (3) year lease agreement with Ford Credit for one (1) Police Interceptor unmarked sedan, one (1) Police Interceptor CSO sedan, and six (6) Police Interceptor Utility Patrol Explorers through the National Auto Fleet Group in an amount not to exceed $81,804 annually or $245,412 overall.

STRATEGIC PLAN OBJECTIVE:

This request supports the City's strategic goal related to "Public Health and Safety".

JUSTIFICATION:

The requested vehicles will be used to replace four (4) 2006 Ford Crown Victoria patrol sedans with excessive miles and needed repairs ranging from air conditioning to new transmissions, one (1) 2007 Ford Crown Victoria patrol sedan with excessive miles and the need for repairs related to wiring issues, one (1) 2009 Ford Crown Victoria patrol sedan with excessive miles and the need for a new transmission, and one (1) unmarked 2008 Ford Explorer with excessive miles.

The eighth vehicle requested will be used by the department's new Community Service Officer (CSO) to respond to calls for service in the field. The vehicle will be all white in color with distinctive markings identifying it is a "Banning Police Department Community Service Officer" unit.

BACKGROUND:

On November 2, 2016 the Banning Police Department acquired a cooperative bid price for the referenced vehicles through the National Auto Fleet Group under the current NJPA Contract #102811. The National Joint Powers Alliance (NJPA) contract was awarded to the National Auto Fleet Group after a nationwide competitive bid process.

OPTIONS:

1. Adopt Resolution 2016-115.
2. Reject Resolution 2016-115 and provide direction to staff.

FISCAL IMPACT:

The cost of the three-year lease, through Ford Credit, for the eight (8) vehicles is $245,412. This cost includes an APR of 5.25% and a $545 underwriting fee. The first annual installment of $81,804 is due upon delivery of the vehicles. Upon completion of the lease, the City can purchase the vehicles for $1 each. The lease payments will be made through the City's General Fund to Ford Credit from an account to be determined by the City's Finance Department.

ATTACHMENTS:

1. Resolution 2016-115
2. National Joint Powers Alliance RFP
3. Award Letter
4. Annual Renewal Agreement
5. Vehicle quotes (3)
6. Ford Credit financing information

Approved by:

Michael Rock
City Manager

RESOLUTION 2016-115

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE CITY OF BANNING TO ENTER INTO A THREE-YEAR LEASE AGREEMENT WITH FORD CREDIT FOR THE LEASE OF ONE (1) FORD POLICE INTERCEPTOR UNMARKED SEDAN, ONE (1) FORD POLICE INTERCEPTOR CSO SEDAN, AND SIX (6) FORD POLICE INTERCEPTOR UTILITY PATROL EXPLORERS IN AN AMOUNT NOT TO EXCEED $245,412.

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

WHEREAS, the City of Banning Police Department operates a 24 hour a day operation; and,

WHEREAS, it is imperative the Banning Police Department maintain the optimal level of transportation for its officers to complete their assignments; and,

WHEREAS, there is a need to replace high mileage vehicles.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the City of Banning to enter into a three-year lease agreement with Ford Credit for the purchase of one (1) Ford Police Interceptor Unmarked Sedan, one (1) Ford Police Interceptor CSO Sedan and six (6) Ford Police Interceptor Utility Patrol Explorers in an amount not to exceed $245,412. At the term end of the lease agreement the City of Banning is authorized to purchase the eight (8) vehicles at the cost of $1 per vehicle. The Finance Department is hereby authorized to make the necessary budget transfers and adjustments related to this lease agreement through the general fund.

PASSED, APPROVED, AND ADOPTED this 12th day of December 2016.

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the forgoing Resolution 2016-115 was duly adopted by the City Council of the City of Banning at the regular meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Marie A. Calderon, City Clerk
City of Banning, California

National Joint Powers Alliance® (herein NJPA)
REQUEST FOR PROPOSAL (herein RFP)

for the procurement of

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES

RFP Opening

October 28, 2011
8:00 AM Central TIME
At the offices of the
National Joint Powers Alliance®
200 First Street Northeast, Staples, MN 56479

RFP #102811

The National Joint Powers Alliance® (NJPA) issues this request for proposal (RFP) to provide PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES, Specifications and details of this RFP are available beginning September 6, 2011and continuing until October 4, 2011. Details and specifications may be obtained by letter of request to Gregg Meierhofer, NJPA, 200 First Street Northeast, Staples, MN 56479, or by e-mail at RFP@njpacoop.org. Proposals will be received until October 27, 2011 at 4:30 p.m. Central Time at the above address and opened October 28, 2011at 8:00AM Central Time.

The text above is the Public Notice to Proposers to be used by NJPA.

RFP Timeline

September 6, 2011 and September 13, 2011	• *Publication of RFP in the print and online Minneapolis Star Tribune, the NJPA website, and on the website of noticetobidders.com*
October 4, 2011	• *Deadline for RFP requests*
October 7, 2011 AM Central	• *Pre-Proposal Conference (webcast – conference call)*
October 27, 2011 4:30 PM. Central	• *Deadline for Submission of Proposals*
October 28, 20118:00AM Central	• *Public Opening of Proposals*

Direct questions regarding this RFP to:

Gregg Meierhofer at gregg.meierhofer@njpacoop.org or (218)894-1930

RFP Procedures offers the methods for submitting questions.

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A. ABOUT NJPA

1.1 The National Joint Powers Alliance®- (NJPA)- is a public agency serving as a national municipal contracting agency established under the Service Cooperative statute by Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative procurement services to its membership. Eligible membership includes states, cities, counties, governmental agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations. This Minnesota Statute also allows for service to NJPA Member agencies in Minnesota and all other states.

1.2 To this end, NJPA has established a series of procurement contracts with various Vendors of products/services which NJPA Members desire to procure. These procurement contracts are created in compliance with applicable Minnesota Municipal Contracting Laws. A complete listing of NJPA cooperative procurement contracts can be found at www.njpacoop.org.

1.3 NJPA's publicly elected Board of Directors calls for all proposals, awards all Contracts, and hosts those resulting Contracts and offers them for the benefit of its Membership.

1.3.1 Subject to Approval of the Board: Any award of Contract made by an authorized NJPA Employee will be subject to such action by the NJPA Board of Directors.

1.4 NJPA currently serves over 30,000 member agencies. Both membership and utilization of NJPA Contracts continues to expand at exponential rates. The value of our Contracts driven to our Members is reflected in our growth.

B. JOINT EXERCISE OF POWERS LAWS

1.5 NJPA cooperatively shares those contracts with its Members nationwide through various "Joint Exercise of Powers Laws" established in Minnesota and most other States. The Minnesota "Joint Exercise of Powers Law" is Minnesota Statute §471.59 which states "Two or more governmental units…may jointly or cooperatively exercise any power common to the contracting parties…" Similar Joint Exercise of Powers Laws for each State of the United States can be found on our website at http://www.njpacoop.org/LEARN/About/Legal.html and clicking on that state at the bottom of the web-page.

C. WHY RESPOND TO A NATIONAL COOPERATIVE PROCUREMENT CONTRACT

1.6 National Cooperative Procurement Contracts create value for both Municipal buyers and their Vendors of products/services in two ways:

1.6.1 We **save the time and effort** of many municipal buyers bringing individual procurement proposals AND the time and effort of the Vendors in responding individually to those invitations. A single invitation for a cooperatively held contract can replace potentially thousands of invitations for the same items from individual NJPA Members.

1.6.2 We earn **volume purchasing discounts** which are passed on to our Members. A single awarded Proposal is likewise exposed to thousands of potential Municipal purchasing units nationwide creating efficiency and savings to the business community as they sell products and services to government and education agencies.

1.7 State laws that permit or encourage cooperative purchasing contracts do so with the belief that lower prices, better overall value and time savings will be the result.

1.8 The collective purchasing power of thousands of NJPA Members nationwide offers the opportunity for volume pricing discounts. Although no volume is guaranteed by a Contract resulting from this RFP, substantial volume is anticipated and volume pricing is requested and justified.

1.9 NJPA and its Members desire the best value for their procurement dollar as well as a competitive price. Pre-competed procurement contracts offer NJPA and its Members the ability to more directly compare non-price factors in their procurement analysis and it offers Vendors the opportunity to display those attributes without the timing and interpretation constraints of a typical individual proposal process.

D. THE INTENT OF THIS RFP

1.10 The intent of this RFP is to award an Exclusive Single Award Contract to a qualifying manufacturer or distributor Proposer demonstrating a solution which meets and/or exceeds the requirements of NJPA and its Members within the scope of **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES**. Qualifying Proposers must be able to demonstrate the knowledge of any and all applicable industry standards, laws and regulations; and the ability to both market to and service NJPA Members in all 50 states. All proposals received will be evaluated based on (among several other factors) their ability to provide the greatest utility to NJPA and NJPA Members and across the widest spectrum of products and services.

1.11 NJPA desires a relationship with a vendor providing a broad array of equipment, products, supplies, accessories and services anticipated and generally requested and desired by NJPA members from the **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES** industry. Those products and services must include those most commonly used and desired by NJPA and its Members. NJPA is seeking a Prime and Exclusive Vendor relationship to best serve the overall needs of NJPA and NJPA Members nationally.

1.12 Non-Manufacturer Awards: NJPA reserves the right to make an award related to this invitation to a non-manufacturer such as a dealer/distributor if such action is in the best interests of NJPA and its Members.

1.13 Multiple Awards: Although it is NJPA's intent to award a contract to a single Vendor, NJPA reserves the right to award a Contract to multiple Proposers where the responding Proposers are deemed to lack the ability to appropriately service a national contract or such action is deemed to be in the best interests of NJPA and its Members

1.14 Award by Board of Directors: An Award of Contract may be made by the NJPA Board of Directors based on the recommendation of the NJPA Proposal Review Committee and on the best interests of NJPA and its Members. NJPA is seeking a Prime, Exclusive Vendor relationship(s) to meet this need. The goal and intent of this RFP is to follow through with a proposal award and contract to be marketed nationally through a cooperative effort between the awarded vendor(s) and NJPA to its participating members.

1.15 Best Responsive – Responsible Proposer: It is the intent of NJPA to award a Contract to the best responsible and responsive Proposer(s) offering the best overall quality and selection of products/services and services meeting the commonly requested specifications of the NJPA and NJPA Members, provided the Proposer's Response has been submitted in accordance with the requirements of this RFP.

1.16 Sealed Proposals: NJPA will receive sealed proposal responses to this RFP in accordance with accepted standards set forth in the Minnesota Procurement Code and Uniform Municipal Contracting Law. Awards may be made to responsible and responsive Proposers whose proposals are determined in writing to be the most advantageous to NJPA and its current or qualifying future NJPA Members.

1.17 Use of Contract: Any Contract resulting from this solicitation shall be awarded with the understanding that it is for the sole convenience of NJPA and its Members. NJPA and/or its members

reserve the right to obtain like goods and services solely from this Contract or from another contract source of their choice.

1.18 NJPA's interest in a contract resulting from this RFP: Not withstanding its own use, to the extent NJPA issues this RFP and any resulting contract for the use of its Members, NJPA's interests and liability for said use shall be limited to the competitive proposal process performed and terms and conditions relating to said contract and shall not extend to the products, services, or warranties of the Awarded Vendor or the intended or unintended effects of the goods and services procured there from.

1.19 Sole Source of Responsibility- NJPA desires a "Sole Source of Responsibility" Vendor meaning the Vendor will take sole responsibility for the performance of delivered products/services. NJPA also desires sole responsibility with regard to:

1.19.1 Scope of Products/Services: NJPA desires a single provider for the broadest possible scope of the goods and services being proposed over the largest possible geographic area and to the largest possible cross-section of NJPA Members.

1.19.2 Vendor use of sub-contractors in sourcing or delivering goods and services: NJPA desires a single source of responsibility for products/services proposed. Proposer's are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the goods and services being proposed. Vendor assumes all responsibility for the products/services and actions of any such Sub-Contractor.

E. SCOPE OF THIS RFP

1.20 Additional Definition for the scope of this solicitation.

1.20.1 In addition to **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES,** this solicitation should be read to include:

1.20.1.1 OEM Production vehicles from the Manufacturer (OEM)

1.20.1.2 Alt Fuel Vehicles and Vehicles utilizing leading edge technologies.

1.20.1.3 Cab and Chassis Trucks

1.20.1.2 Dump Trucks, Service Bodies, Flat Beds.

1.20.1 NJPA reserves the right to limit the scope of this solicitation for market segments already being serviced by existing NJPA procurement contracts.

1.21 Solutions Based Invitation:

1.21.1 All potential Proposers are assumed to be professionals in their respective fields. As professionals you are deemed to be intimately familiar with the spectrum of NJPA and NJPA Member's needs and requirements with respect to the scope of this RFP.

1.20.2 With this intimate knowledge of NJPA and NJPA Member's needs, Proposers are instructed to provide their proposal response in a format describing their solutions to those current and future needs and requirements. Proposers should take care to be economical in their response to this RFP.

1.21.3 Multiple solutions to the needs of NJPA and NJPA Member's are possible. **Examples could include:**

1.21.3.1 Materials Only Solution: A Materials Only Solution may be appropriate for situations where NJPA or NJPA Members possess the ability, either in-house or through local third party contractors, to properly install and bring to operation those materials being proposed.

1.21.3.2 Turn-Key Solutions: A Turn-Key Solution is combination of materials and services which provides a single price for materials, delivery, and installation to a properly operating status. Generally this is the most desirable solution as NJPA and NJPA Members may not possess, or desire to engage, personnel with the necessary expertise to complete these tasks internally or through other independent contractors

1.20.3.3 Good, Better, Best: Where appropriate and properly identified, Proposers are invited to offer the CHOICE of good – better – best multiple grade solutions to NJPA and NJPA Member's needs.

1.21.3.4 Proven – Accepted – Leading Edge Technology: Where appropriate and properly identified, Proposers are invited to provide the CHOICE of an appropriately identified spectrum of technology solutions to NJPA and NJPA Member's needs both now and into the future.

1.22 Geographic Area to be Proposed: This RFP invites proposals to provide **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES** to NJPA and NJPA Members throughout the entire United States and possibly internationally. Proposers will be expected to express willingness to explore service to NJPA Members located abroad; however the lack of ability to serve Members outside of the United States will not be cause for non-award. The ability to serve Canada, for instance, will be viewed as a value-added attribute.

1.23 Manufacturer as a Proposer: If the Proposer is a Manufacturer or wholesale distributor, the response received will be evaluated on the basis of a response made in conjunction with that Manufacturer's Dealer Network. Unless stated otherwise, a Manufacturer or wholesale distributor Proposer is assumed to have a documented relationship with their Dealer Network where that Dealer Network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this RFP on behalf of the Manufacturer or wholesale distributor Proposer. Any such dealer will be considered a sub-contractor of the Proposer/Vendor. The relationship between the Manufacturer and wholesale distributor Proposer and its Dealer Network may be proposed at the time of the proposed submission if that fact is properly identified.

1.24 Dealer/Re-seller as a Proposer: If the Proposer is a dealer or re-seller of the products and/or services being proposed, the response will be evaluated based on the Proposer's authorization to provide those products and services from their manufacturer. Where appropriate, Proposers must document their authority to offer those products and/or services.

1.25 Contract Term: A contract resulting from this RFP will become effective the date established in the "Offering and Award" (Form D). NJPA is seeking a Contract base term of four years subject to annual renewals as allowed by Minnesota Contracting Law. Full term is expected, however will only occur through successful annual renewals. One additional one-year renewal-extension may be offered by NJPA to Vendor beyond the original four year term if NJPA deems such action to be in the best interests of NJPA and its Members.

1.26 Minimum Contract Value: NJPA anticipates considerable activity resulting from this RFP and subsequent award; however no commitment of any kind is made concerning actual quantities to be acquired. NJPA does not guarantee usage. Usage will depend on the actual needs of the NJPA Members

and the value of the awarded contract.

1.27 Estimated Contract Volume: Estimated quantities and sales volume are based on potential usage by NJPA and NJPA Members.

1.28 Largest Possible Solution: If applicable, Contracts will be awarded to Proposer(s) able to deliver a proposal meeting the entire needs of NJPA and its Members within the scope of this RFP. NJPA prefers Proposers submit their complete product line of products and services described in the scope of this RFP. NJPA reserves the right to reject individual, or groupings of specific products/services proposals as a part of the award.

1.29 Contract Availability: This Contract must be available to all current and potential NJPA Members who choose to utilize this NJPA Contract to include all governmental agencies, public and private primary and secondary education agencies, and all non-profit organizations nationally.

1.30 Proposer's Commitment Period: In order to allow NJPA the opportunity to evaluate each proposal thoroughly, NJPA requires any response to this solicitation be valid and irrevocable for ninety (90) days after the date proposals were opened regarding this RFP.

F. EXPECTATIONS FOR PRODUCTS/SERVICES BEING PROPOSED

1.31 Industry Standards: Except as contained herein, the specifications or solutions for this RFP shall be those accepted guidelines set forth by the **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES** industry, as they are generally understood and accepted within that industry across the nation. Submitted products/services, related services, and their warranties and assurances are required to meet and/or exceed all current, traditional and anticipated needs and requirements of NJPA and its Members.

1.31.1 Deviations from industry standards must be identified by the Proposer and explained how, in their opinion, the products/services they propose will render equivalent functionality, coverage, performance, and/or service. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire proposal.

1.31.2 Technical Descriptions/Specifications. Bidder's must supply **sufficient** information to:

- Demonstrate the Bidder's knowledge of industry standards, and
- identify the products and services being bid, and
- differentiate those products and services from others.

Excessive technical descriptions and specifications which, in the opinion of NJPA, unduly enlarges the bid response may reduce evaluation points awarded on Form G.

1.32 Important note: NJPA does not typically offer specific product and service specifications; rather NJPA is requesting an industry standard or accepted specification for the requested products and services. Where specific line items are specified, those line items should be considered the minimum which can be expanded by the Proposer to deliver the Proposer's "Solution" to NJPA and NJPA Member's needs.

1.33 Commonly used Goods and Services: It is important that the products/services submitted are the products/services commonly used by public sector entities.

1.34 New Current Model Goods: Proposals submitted shall be for new, current model products and services with the exception of certain close-out products allowed to be offered on the Proposer's "Hot List" described herein.

1.35 Compliance with laws and standards: All items supplied on this Contract shall comply with any current applicable safety or regulatory standards or codes.

1.36 Delivered and operational; Products offered herein are to be proposed based upon being delivered and operational at the NJPA Member's site. Exceptions to "delivered and operational" must be explicitly disclosed in the "Total Cost of Acquisition" section of your proposal response.

1.37 Warranty: The Proposer/Vendor warrants that all products, equipment, supplies, and services delivered under this Contract shall be covered by the industry standard or better warranty. All products and equipment should carry a minimum industry standard manufacturer's warranty that includes materials and labor. The Proposer has the primary responsibility to submit, as a part of Tab 7, product specific warranty as required and accepted by industry standards. Dealer/Distributors agree to assist the purchaser in reaching a solution in a dispute over warranty's terms with the manufacturer. Any manufacturer's warranty which is effective past the expiration of the warranty will be passed on to the NJPA member. Failure to submit a minimum warranty may result in the non-award.

1.38 Proposer's Warrants: The Proposer warrants all goods and services furnished hereunder will be free from liens and encumbrances; and defects in design, materials, and workmanship; and will conform in all respects to the terms of this RFP including any specifications or standards. In addition, Proposer/Vendor warrants the goods and services are suitable for and will perform in accordance with the purposes for which they were intended.

G. CERTIFICATION – FIRM OFFER TO CONTRACT

1.39 By execution and delivery of a proposal, Proposer certifies:

1. The submission of the offer did not involve collusion or any other anti- competitive practices;
2. The Proposer/Vendor shall not discriminate against any employee or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246);
3. The Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer (see Gratuities); and,
4. The Proposer agrees to promote and offer to Members only those products/services and/or services as previously stated, allowed, and deemed a resultant of the contract(s) as NJPA contract items or services. This clause shall include any future product or service additions as allowed through Contract additions.

1.40 A response to this RFP is a firm offer to Contract with the NJPA based upon the goals, intent, terms, and conditions and scope of products/services contained in and referenced to in this invitation.

1.41 All stated terms and conditions, expectations to include the goals, intent and scope of this RFP as described as a part of this RFP, are to be considered binding under the signatures of authorized parties and are part of the Contract.

H. PRE-PROPOSAL CONFERENCE

1.42 A Pre-Proposal Conference (Webcast – Conference Call) will be held at the date and time identified on the title page for this proposal.

1.43 An invitation with access instructions will be sent via e-mail to all inquirer's the morning following the deadline for proposal inquiries (the day before the conference).

1.44 The purpose for the conference is to allow for questions from the Potential Bidders AND to allow for input from the Potential Bidders regarding perceived improvements to this RFP.

1. DEFINITIONS

A. PROPOSER - VENDOR

2.1 Exclusive Vendor- A sole Vendor awarded in a product category. NJPA reserves the right to award to an Exclusive Vendor in the event that such an award is in the best interests of NJPA Members. Such a Proposer must exhibit the ability to offer an outstanding overall program and demonstrate the ability and willingness to serve NJPA Members in all 50 states, and comply with all other requirements of this RFP.

2.2 Potential Proposer- A person or entity requesting a copy of this RFP.

2.3 Proposer- A company, person, or entity delivering a timely response to this RFP.

2.4 Vendor- One of a number of Proposers whose proposal has been awarded a contract pursuant to this RFP.

2.5 Request for Proposal- Herein referred to as RFP

B. CONTRACT

2.6 "Contract" as used herein shall mean cumulative documentation consisting of this RFP, an entire Proposer's response, and a fully executed "Acceptance and Award" pursuant to this RFP.

C. TIME

2.7 Periods of time, stated as number of days, shall be in calendar days.

D. PROPOSER'S RESPONSE

2.8 A Proposer's Response is the entire collection of documents as they are received by NJPA from a Potential Proposer in response to this RFP.

E. CURRENCY

2.9 All transactions are payable in U.S. dollars on U.S. sales. All administrative fees are to be paid in U.S. dollars.

F. FOB

2.10 FOB stands for "Freight On Board" and defines the point at which responsibility for loss and damage of goods purchased are transferred from Seller to Buyer. "FOB Destination" defines the transfer of responsibility for loss are transferred from Seller to Buyer at the Buyer's designated delivery point.

2.11 FOB does not identify whom is responsible for the costs of shipping. The responsibility for the costs of shipping is addressed elsewhere in this document.

2. INSTRUCTIONS TO PREPARING YOUR PROPOSAL

A. PRE-PROPOSAL CONFERENCE

3.1 A non-mandatory pre-proposal conference will be held at the date and time specified in the time line on page one of this RFP. Conference call and web connection information will be sent to all Potential Proposers through the same means employed in their inquiry. The purpose of this conference call is to allow Potential Proposers to ask questions regarding this RFP. Only answers issued in writing by NJPA

to questions asked before or during the Pre-proposal Conference shall be considered binding.

B. IDENTIFICATION OF KEY PERSONNEL

3.2 Vendor will designate one senior staff individual who will represent the awarded Vendor to NJPA. This contact person will correspond with members for technical assistance, questions or problems that may arise including instructions regarding different contacts for different geographical areas as needed.

3.3 Individuals should also be identified (if applicable) as the primary contacts for the contents of this proposal, marketing, sales, and any other area deemed essential by the Proposer.

C. PROPOSER'S EXCEPTIONS TO TERMS AND CONDITIONS

3.4 Any exceptions, deviations, or contingencies a Proposer may have to the terms and conditions contained herein must be documented on Form C.

3.5 Exceptions, Deviations or contingencies stipulated in Proposer's Response, while possibly necessary in the view of the Proposer, may result in disqualification of a Proposal Response.

D. FORMAL INSTRUCTIONS TO PROPOSERS

3.6 It is the responsibility of all Proposers to examine the entire RFP package, to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after the deadline for submission of proposals.

3.7 All proposals must be sent to "The National Joint Powers Alliance®, 200 1st ST NE Staples, MN 56479."

3.8 Format for bid response: All proposals must be physically delivered to NJPA® at the above address in the following format:

3.8.1 Hard copy Original signed, completed, and dated forms C,D, E, H, and I from this RFP,
3.8.2 Hard copies of all addenda issued for the RFP with original counter signed by the Proposer,
3.8.3 Certificate of insurance verifying the coverage identified in this RFP,
3.8.4 Two complete copies of your response on A CD (Compact Disc) or flash drive containing completed Forms A,B,C,D,E,H, and I, and your statement of products and pricing together with all appropriate attachments

3.9 All Proposal forms must be legible. All appropriate forms must be executed by an authorized signatory of the Proposer. Blue ink is preferred for signatures.

3.10 Proposal submissions should be submitted using the electronic forms provided. If a Proposer chooses to use alternative documents for their response, the proposer will be responsible for ensuring the content is effectively equal to the NJPA form and the document is in a format readable by NJPA.

3.11 It is the responsibility of the Proposer to be certain the proposal submittal is in the physical possession of NJPA on or prior to the deadline for submission of proposals.

3.11.1 Proposals must be submitted in a sealed envelope or box properly addressed to NJPA and prominently identifying the proposal number, proposal category name, the message **"Hold for Proposal Opening"**, and the deadline for proposal submission. NJPA cannot be responsible for late receipt of proposals. Proposals received by the correct deadline for proposal submission will be opened and the name of each Proposer and other appropriate information will be publicly read.

3.12 Corrections, erasures, and interlineations on a Proposer's Response must be initialed by the

authorized signer in original ink on all copies to be considered.

3.13 Addendums to the RFP: The Proposer is responsible for ensuring receipt of all addendums to this RFP.

3.13.1 Proposer's are responsible for checking directly with NJPA, or checking the NJPA website for addendums to this RFP.

3.13.2 Addendums to this RFP can change terms and conditions of the RFP including the deadline for submission of proposals.

F. QUESTIONS AND ANSWERS ABOUT THIS RFP

3.14 Upon examination of this RFP document, Proposer shall promptly notify the Manager of Bids and Contracts of any ambiguity, inconsistency, or error they may discover. Interpretations, corrections and changes to this RFP must be made by addendum. Interpretations, corrections, or changes made in any other manner will not be binding and Proposer shall not rely upon such.

3.15 Submit all questions about this RFP, in writing, referencing **"PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES** to Gregg Meierhofer, NJPA, 200 First Street NE, Staples, MN 56479 or RFP@njpacoop.org. Those not having access to the Internet may call Gregg Meierhofer at (218) 894-1930 to determine if addenda have been issued or to request copies of the RFP. Requests for additional information or interpretation of instructions to Proposers or technical specifications shall also be addressed to Gregg Meierhofer. NJPA urges Potential Proposers to communicate all concerns well in advance of the deadline to avoid misunderstandings. Questions received less than seven (7) days ending at 4:00 p.m. Central Time of the seventh (7th) calendar day prior to proposal due-date cannot be answered.

3.16 If the answer to a question is deemed by NJPA to have a material impact on other potential proposers or the RFP itself, the answer to the question will become an addendum to this RFP.

3.17 If the answer to a question is deemed by NJPA to be a clarification of existing terms and conditions and does not have a material impact on other potential proposers or the RFP itself, no further documentation of that question is required.

3.18 As used in this solicitation, clarification means communication with a Potential Proposer for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the RFP.

3.19 Addenda are written instruments issued by NJPA that modify or interpret the RFP. All addenda issued by NJPA shall become a part of the RFP. Addenda will be delivered to all Potential Proposers using the same method of delivery of the original RFP material. NJPA accepts no liability in connection with the delivery of said materials. Copies of addenda will also be made available on the NJPA website at www.njpacoop.org by clicking on "Current Proposals" and from the NJPA offices. No addenda will be issued later than five (5) days prior to the deadline for receipt of proposals, except an addendum withdrawing the request for proposals or one that includes postponement of the date of receipt of proposals. Each Potential Proposer shall ascertain prior to submitting a Proposal that it has received all addenda issued, and the Proposer shall acknowledge their receipt in its Proposal Response.

3.20 An amendment to a submitted proposal must be in writing and delivered to NJPA no later than the time specified for opening of all proposals.

G. MODIFICATION OR WITHDRAWAL OF A SUBMITTED PROPOSAL

3.21 A submitted proposal may not be modified, withdrawn from or cancelled by the Proposer for a period of ninety (90) days following the date proposals were opened regarding this RFP. **Prior** to the deadline for submission of proposals, any proposal submitted may be modified or withdrawn by notice to the NJPA Manager of Bids and Contracts. Such notice shall be submitted in writing and include the

signature of the Proposer and shall be delivered to NJPA prior to the deadline for submission of proposals and it shall be so worded as not to reveal the content of the original proposal. However, the original proposal shall not be physically returned to the Potential Proposer until after the official proposal opening. Withdrawn proposals may be resubmitted up to the time designated for the receipt of the proposals if they are then fully in conformance with the Instructions to Proposer.

H. VALUE ADDED ATTRIBUTES, PRODUCTS/SERVICES

3.22 Examples of Value Added Attributes: Value-Added attributes, products and services are items offered in addition to the products and services being proposed which adds value to those items being proposed. The availability of a contract for maintenance or service after the initial sale, installation, and set-up may, for instance, be "Value Added Services" for products where a typical buyer may not have the ability to perform these functions.

3.23 Where to document Value Added Attributes: The opportunity to indicate value added dimensions and such advancements will be available in the Proposer's Questionnaire and Proposer's product and service submittal and must be tabbed under Tab 5.

3.24 Value added products/services and expanded services, as they relate to this RFP, will be given positive consideration in the award selection. Consideration will be given to an expanded selection of PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES, and advances to provide products/services, supplies meeting and/or exceeding today's industry standards and expectations. A value add would include a program or service that further serves the members needs above and possibly beyond standard expectation and complements the products/services and training. Value added could include areas of product and service, sales, ordering, delivery, performance, maintenance, technology, and service that furthers the functionality and effectiveness of the procurement process while remaining within the scope of this RFP.

3.25 Minority, Small Business, and Women Business Enterprise (WMBE) participation: It is the policy of some NJPA Members to involve Minority, Small Business, and WMBE contractors in the purchase of goods and services. Vendors should document WMBE status for their organization AND any such status of their affiliates (i.e. Supplier networks) involved in carrying out the activities invited. The ability of a Proposer to provide "Credits" to NJPA and NJPA Members in these subject areas, either individually or through related entities involved in the transaction, will be evaluated positively by NJPA. NJPA is committed to facilitating the realization of such "Credits" through certain structuring techniques for transactions resulting from this RFP.

3.26 Environmentally Preferred Purchasing Opportunities: There is a growing trend among NJPA Members to consider the environmental impact of the products/services they purchase. Please identify any "Green" characteristics of the goods and services in your proposal and identify the sanctioning body determining that characteristic. Where appropriate, please indicate which products have been certified as "green" and by which certifying agency.

3.27 On-Line Requisitioning systems: When applicable, on-line requisitioning systems will be viewed as a value-added characteristic. Proposer shall include documentation about user interfaces that make on-line ordering easy for NJPA Members as well as the ability to punch-out from mainstream eProcurement or Enterprise Resource Planning (ERP) systems that NJPA Members may currently utilize.

3.28 Financing: The ability of the Proposer to provide financing options for the products and services being proposed will be viewed as a Value Added Attribute.

I. CERTIFICATE OF INSURANCE

3.29 Proposer shall procure and maintain insurance which shall protect the Proposer and NJPA (as an additional insured) from any claims for bodily injury, property damage, or personal injury covered by the indemnification obligations set forth herein. The Proposer shall procure and maintain the insurance

policies described below at the Proposer's own expense and shall furnish to NJPA an insurance certificate listing the NJPA as certificate holder and as an additional insured. The insurance certificate must document that the Commercial General Liability insurance coverage purchased by the Proposer includes contractual liability coverage applicable to this Contract. In addition, the insurance certificate must provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all fifty United States); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of notice of cancellation to the NJPA.

3.30 Proposer is required to maintain the following insurance coverage's during the term of the NJPA Contract:
(1) Workers Compensation Insurance (Occurrence) with the following minimum coverage's: Bodily injury by accident--per employee $100,000; Bodily injury by disease--per employee $100,000; Policy limits $500,000. In addition, Proposer shall require all subcontractors occupying the premises or performing work under the contract to obtain an insurance certificate showing proof of Workers Compensation Coverage with the following minimum coverage's: Bodily injury by accident--per employee $100,000; Bodily injury by disease--per employee $100,000; Policy limits $500,000.

(2) Commercial General Liability Policy per occurrence $1,000,000.

(3) Business Auto Policy to include but not be limited to liability coverage on any owned, non-owned and hired vehicle used by Proposer or Proposer's personnel in the performance of this Contract. The Business Automobile Policy shall have a per occurrence limit of $1,000,000.

3.31 The foregoing policies shall contain a provision that coverage afforded under the policies will not be canceled, or not renewed or allowed to lapse for any reason until at least thirty (30) days prior written notice has been given to NJPA. Certificates of Insurance showing such coverage to be in force shall be filed with NJPA prior to commencement of any work under the contract. The foregoing policies shall be obtained from insurance companies licensed to do business nationally and shall be with companies acceptable to NJPA, which must have a minimum AM Best rating of A-. All such coverage shall remain in full force and effect during the term and any renewal or extension thereof.

3.32 Within ten (10) days of contract award, the Proposer must provide NJPA with two (2) Certificates of Insurance. Certificates must reference NJPA RFP 102811 by number.

J. ORDER PROCESS AND/OR FUNDS FLOW

3.33 Please propose an order process and funds flow in Tab 6 for your proposal. Please choose from one of the following:

3.33.1 B-TO-G: The Business-to-Government order process and/or funds flow model involves NJPA Members issuing Purchase Orders directly to a Vendor and pursuant to a Contract resulting from this RFP.

3.33.3 Other: Please fully identify.

K. ADMINISTRATIVE FEES

3.34 Proposer agrees to authorize and/or allow for an administrative fee payable to NJPA by an Awarded Vendor in exchange for its facilitation and marketing of a Contract resulting from this RFP to current and potential NJPA Members. This Administration Fee shall be:

3.34.1 Calculated as a percentage of the dollar volume of all products/services provided to and purchased by NJPA Members or calculated as reasonable and acceptable method applicable to the contracted transaction, and

3.34.2 Included in, and not added to, the pricing included in Proposer's Response to this RFP, and

3.34.3 Set based on the anticipated costs of NJPA's involvement in facilitating the establishment, Vendor training, and the order/product/funds flow of the Contract resulting from this RFP.

3.34.3.1 Typical administrative fees for a B-TO-G order process and funds flow is 2.0%.

3.35 The opportunity to propose these factors and an appropriate administrative fee is available in the Proposer's Questionnaire, and submitted in Tab 9 of your response.

4. PRICING STRATEGIES

4.1 NJPA requests Potential Proposers respond to this RFP only if they are able to offer a wide array of products/services and at prices lower and better value than what they would ordinarily offer to single government agency, larger school district, or regional cooperative.

4.2 RFP is an "Indefinite Quantity Product/Service Price Request" with potential national sales distribution and service. Proposers are agreeing to fulfill Contract obligations regarding each product/service to which you provide a description and a price. If Proposer's solution requires additional supporting documentation, describe where it can be found in your submission. If Proposer offers the solution in an alternative fashion, describe your solution to be easily understood. All pricing must be tabbed and organized under Tab 9, and copied on a CD along with other requested information as a part of a Proposer's Response.

4.3 Regardless of the payment method selected by NJPA or NJPA Member, a total cost associated with any purchase option of the products/services and being supplied must always be disclosed at the time of purchase.

4.4 Primary Pricing/Secondary Pricing Strategies- All Proposers will be required to submit "Primary Pricing" in the form of either "Line-Item Pricing," or "~~Percentage Discount from Catalog Pricing~~," or a combination of these pricing strategies. Proposers are also encouraged to offer OPTIONAL pricing strategies including "Hot List," "Sourced Goods," and "Volume Discounts," as well as financing options such as leasing.

4.5 Government Price Assistance- It is understood that a component of the pricing to be offered to this solicitation is "Government Price Assistance" from the respective OEM manufacturers. Prices quoted on vehicles including "Government Price Assistance" are available only to NJPA Members qualifying for "Government Pricing Assistance".

4.5.1 For NJPA Members not qualifying for "Governmental Price Assistance" (Non-Profits for example) all other manufacturer rebates applicable at the time of delivery.

A. LINE-ITEM PRICING

4.6 Line-Item pricing- A pricing format where specific individual products and/or services are offered at specific individual Contract prices. Products and/or services are individually priced and described by characteristics such as manufacture name, stock or part number, size, or functionality. This method of pricing offers the least amount of confusion as products and prices are individually identified, however Proposers with a large number of products to propose may find this method cumbersome. In these situations, a ~~percentage discount~~ from catalog or category pricing model may make more sense.

4.7 Format: Line Item vehicle pricing for this RFP must be submitted using attached "Price Form P1". The intent here is to describe and price a "Base" vehicle in each of eight classes AND also offer, on an ala carte basis, options (both Manufacturer Options and Dealer Options) to customize each vehicle offered.

4.8 All Line-Item Pricing items must be numbered, organized, sectioned, including SKU's (when applicable) and easily understood by the Proposal Review Committee and members.

4.9 Line-Item Pricing items are to be submitted in an Excel spreadsheet format provided and are to include all appropriate identification information necessary to discern the line item from other line items in each Proposer's proposal.

4.10 The purpose for the excel spreadsheet format for Line-Item Pricing is to be able to use the "Find" function to quickly find any particular item of interest. For that reason, Proposers are responsible for providing the appropriate product and service identification information along with the pricing information which is typically found on an invoice or price quote for such products and services.

4.11 All products and services typically appearing on an invoice or price quote must be individually priced and identified on the line-item price sheet, including any and all ancillary costs.

4.12 Proposers are asked to provide both a "List" price as well as a "Proposed Contract Price" in their pricing matrix. "List" price will be the standard "quantity of one" price currently available to government and educational customers excluding cooperative and volume discounts

B. MASS PRODUCED PRODUCTION VEHICLES

4.13 Original Equipment from the Manufacturer (OEM) mass production vehicles will be priced using the pricing sheets attached as "Attachment P" and executed according to the instructions contained on the first tab of that attachment.

C. ALL OTHER VEHICLES AND ACCESSORIES.

4.14 Please use the general descriptions for "Line Item Pricing". A format is not specified for these items beyond those provided in "Line Item Pricing". Please use a format which fully identifies and prices the goods and services being offered.

D. TAX AND OTHER CREDITS.

4.15 Tax and other credits accruing to the vehicle being purchased which are not applicable to an NJPA Member will accrue to the benefit of the Awarded Contractor.

E. HOT LIST PRICING

4.16 Where applicable, NJPA also invites the Vendor, at their option, to offer a specific selection of products/services, defined as a Hot List Pricing, at greater discounts than those listed in the standard Contract pricing. All product/service pricing, including the Hot List Pricing, must be submitted in hard copy as well as electronically provided in Excel format. Hot List pricing must be submitted in a Line-Item format. Providing a "Hot List" of products/services is optional. Products/services may be added or removed from the "Hot List" at any time provided that current "Hot List" prices are provided to NJPA at all times.

4.17 Hot List pricing when applicable may also be used to discount and liquidate close-out and discontinued products/services as long as those close-out and discontinued items are clearly labeled as such. Current ordering process and administrative fees apply. This option must be published and made available to all NJPA Members.

4.18 Hot List Pricing is allowed to change at the discretion of the Vendor within the definition of Hot List Pricing. The Vendor is responsible to maintain current Hot List product/service descriptions and Pricing with NJPA.

E. CEILING PRICE

4.19 Proposal pricing is to be established as a ceiling price. At no time may the proposed products/services be offered pursuant to this Contract at prices above this ceiling price without approval by NJPA. Prices may be reduced to allow for volume considerations and to meet the specific and unique needs of an NJPA Member.

4.20 Allowable specific needs may include certain purchase volume considerations or the creation of custom programs based on the individual needs of NJPA Members.

F. VOLUME PRICE DISCOUNTS

4.21 Proposers are free to offer volume discounts from the quantity-of-one pricing documented in a Contract resulting from this RFP. Volume considerations shall be determined between the Vendor and individual NJPA Members on a case-by-case basis.

4.22 Nothing in this Contract establishes a favored member relationship between the NJPA or any NJPA Member and the Vendor. The Vendor will, upon request by NJPA Member, extend this same reduced price offered or delivered to another NJPA Member provided the same or similar volume commitment, specific needs, terms, and conditions, a similar time frame, seasonal considerations and provided the same manufacturer support is available to the Vendor.

4.23 All price adjustments are to be offered equally to all NJPA Members exhibiting the same or substantially similar characteristics such as purchase volume commitments, and timing including the availability of special pricing from the Vendor's suppliers.

G. SOURCED GOODS

4.24 NJPA and NJPA Members may, from time to time, request goods and/or products/services within the scope of this RFP which are not included in an awarded Vendor's line-item product /service listing or "list or catalog" known as Sourced Goods.

4.25 An awarded Vendor resulting from this RFP may "Source" these products/services for NJPA or NJPA Member to the extent they:

4.25.1 Include in their bid response a cost-plus-percentage-of-cost pricing factor for such Sourced goods and services, and

4.25.2 Provide as many quotes for the Member's "Total Cost of Acquisition" for the goods and services to be sourced as may reasonably be required by NJPA Member.

4.25.3 Provide "Sourced Goods" only to the extent that they are incidental to the total transaction being contemplated.

H. COST PLUS A PERCENTAGE OF COST

4.26 Except as provided in "Sourced Goods" above, cost plus a percentage of cost as a primary pricing mechanism is not desirable.

I. TOTAL COST OF ACQUISITION

4.27 The Total Cost of Acquisition for the products/services being proposed, including those payable by NJPA Members to either the Proposer or a third party, shall be disclosed in the Proposer's Response including but not limited to:

- The capitalized cost of the listed products/services being proposed,
- The cost of accessories, alterations, and customizations typically incurred in the acquisition of the

products/services being proposed.

- The cost of delivery, setup and installation (where applicable) of the products/services and any accessories being proposed.
- Other costs, where applicable, typically associated with the purchase, delivery, set-up, and installation of the products/services being proposed and making it operational at the purchaser's site.

4.28 The Total Cost of Acquisition is to be stated "As Proposed." As an example, a materials only proposal, or portions of proposals, must include the total cost of acquisition for those materials delivered. In contrast, the Total Cost of Acquisition for a turn-key proposal must include the total costs to be incurred in the process of delivering that combination of products/services.

J. REQUESTING PRODUCT AND SERVICE ADDITIONS/DELETIONS

4.29 Requests for product, service, and price additions, deletions, or changes must be made in written form and shall be subject to approval by NJPA.

4.30 New products/services may be added to a Contract resulting from this RFP at any time during that Contract to the extent those products/services are within the scope of this RFP. Those requests are subject to review and approval of NJPA. Allowable new products/services generally include new updated models of products/services and or enhanced services previously offered which could reflect new technology and improved functionality.

4.31 Proposers representing multiple manufacturers, or carrying multiple related product lines may also request the addition of new manufacturers or product lines to their Contract to the extent they remain within the scope of this RFP.

4.32 NJPA's due diligence in analyzing any request for change is to determine if approval of the request is 1) within the scope of the original RFP, and 2) in the "Best Interests of NJPA and NJPA Members." We are looking for consistent pricing and delivery mechanisms and an understanding of what value the proposal brings to NJPA and NJPA Members.

4.33 Documenting the "Best Interests of NJPA and NJPA Members" when out-dated equipment is being deleted is fairly straight forward since the product is no longer available and not relevant to the procurement Contract.

4.34 Requests must be in the form of 1) a cover letter to NJPA a) asking to add the product line, b) making a general statement identifying how the products to be added are within the scope of the original RFP, and c) making a general statement identifying that, if appropriate, the pricing is consistent with the existing Contract pricing and 2) the detail as to what is being added at what price will then be an attachment to that cover letter.

4.35 NJPA's intent here is to encourage Proposers to provide and document NJPA's due diligence in a clear and concise one page format on which we can stamp and sign our acknowledgment and acceptance. This information must ultimately come from Proposers, and NJPA is requiring it in this format.

K. REQUESTING PRICING CHANGES

4.36 Price Decreases: Requests for standard Contract price decrease adjustments (~~percentage discount increases~~) are encouraged and will be allowed at any time based on market place efficiencies, market place competitiveness, improved technologies and/or improved methods of delivery or if Vendor engages in innovative procurement practices such as strategic sourcing, aggregate and volume purchasing. NJPA expects Vendors to propose their very best prices and anticipates price reductions due to the advancement of technologies and market place efficiencies. Documenting the "Best Interests of NJPA and NJPA Members" is pretty easy when we are documenting price reductions.

4.37 Price increases: Requests for standard contract price increases (or the inclusion of new generation products/services/services at higher prices) can be made at any time. These requests will again be evaluated by NJPA based on the best interests of NJPA and NJPA Members. As an example, typically acceptable requests for price increases for existing products/services may cite increases to the Vendor of input costs such as petroleum or other applicable commodities. Typically acceptable requests for price increases for new products/services enhance or improve on the current solutions currently offered as well as cite increases in utility of the new compared to the old. Vendors are requested to reasonably document the claims cited in their requests. Your written request for a price increase, therefore, is an exercise in describing what you need, and a justification for why you need it in sufficient detail for NJPA to deem such change to be in the best interests of our self and our Members.

4.37 Price Change Request Format: An awarded Proposer will use the format of a cover letter requesting price increases in general terms (a 5% increase in product line X) and stating their justification for that price increase (due to the recent increase in petroleum costs) by product category. Specific details for the requested price change must be attached to the request letter identifying product/services where appropriate, both current and proposed pricing. Attachments such as letters from suppliers announcing price increases are appropriate for documenting your requests here.

L. PRICE AND PRODUCT CHANGES FORMAT

4.39 NJPA's due diligence regarding product and price change requests is to consider the reasonableness of the request and document consideration on behalf of our members. We would appreciate it if you would send the following documentation to request a pricing change:

4.39.1 A cover letter:

a. Please address the following subjects in your cover letter:

i. What product/service prices are changing?

ii. How much are the prices changing?

iii. Why are the prices changing?

iv. Any additions or deletions from the previous product list and the reason for the changes.

b. The specifics of the product/services and price changes will be listed in the excel spreadsheets indentified below. Please take a more general "Disclosure" approach to identifying changes in the cover letter.

i. If appropriate, **for example**, state, "All paper products/services increased 5 % in price due to transportation costs."

ii. If appropriate, for instance, state, "The 6400 series floor polisher added to the product list is the new model replacing the 5400 series. The 6400's 3% price increase reflects the rate of inflation over the past year. The 5400 series is now included in the "Hot List" at a 20% discount from previous pricing until remaining inventory is liquidated."

4.39.2 An excel spreadsheet identifying all products/services being offered and their pricing. Each subsequent pricing update will be saved using the naming convention of "[Vendor Name] pricing effective XX/XX/XXXX."

a. Include all products/services regardless of whether their prices have changed. By observing this convention we will:

i. Reduce confusion by providing a single, easy to find, current pricing sheet for each Vendor.

ii. Create a historical record of pricing.

M. SINGLE STATEMENT OF PRICING/HISTORICAL RECORD OF PRICING

4.40 Initially; and with each request for product addition, deletion, and pricing change; all

products/services and services available, and the prices for those products/services and services will be stated in an Excel workbook. The request for price changes described above will serve as the documentation for those requested changes. Each complete pricing list will be identified by its "Effective Date." Each successive price listing identified by its "Effective Date" will create a "Product and Price History" for the Contract.

4.41 Proposers may use the multiple tabs available in an Excel workbook to separately list logical product groupings or to separately list product and service pricing as they see fit.

4.42 All products/services together with their pricing, whether changed within the request or remaining unchanged, will be stated on each "Pricing" sheet created as a result of each request for product, service, or pricing change.

4.43 Each subsequent "Single Statement of Product and Pricing" will be archived by its effective date therefore creating a product and price history for any Contract resulting from this RFP.

N. PAYMENT TERMS

4.44 Payment terms will be defined by the Proposer in the Proposer's Response. Proposers are encouraged to offer payment terms through P Card services.

4.45 Leasing- If available, identify any leasing programs available to NJPA and NJPA Members as part of your proposed. Proposers should submit an example of the lease agreement to be used. Proposers should identify:

- General leasing terms such as:
  - The percentage adjustment over/under an index rate used in calculating the internal rate of return for the lease; and
  - The index rate being adjusted; and
  - The "Purchase Option" at lease maturity ($1, or fair market value); and
  - The available term in months of lease(s) available.
- Leasing company information such as:
  - The name and address of the leasing company; and
  - Any ownership, common ownership, or control between the Proposer and the Leasing Company

O. SALES TAX

4.46 Sales and other taxes and all applicable title transfer fees, where applicable, shall not be included in the prices quoted. Vendor will charge state and local sales and other taxes on items for which a valid tax exemption certification has not been provided. Each NJPA Member is responsible for providing verification of tax exempt status to Vendor. When ordering, if applicable, NJPA Members must indicate that they are tax exempt entities. Except as set forth herein, no party shall be responsible for taxes imposed on another party as a result of or arising from the transactions contemplated by a Contract resulting from this RFP.

P. SHIPPING AND SHIPPING PROGRAM

4.47 Shipping program for material only proposals, or sections of proposals, must be defined and tabbed under Tab 9 as a part of the cost of goods. If shipping is charged to NJPA or NJPA Member, only the actual cost of delivery may be added to an invoice. Shipping charges calculated as a percentage of the product price may not be used, unless such charges are lower than actual delivery charges. No COD orders will be accepted. It is desired that delivery be made within ninety-days (90) of receipt of the Purchase Order.

4.48 Any shipping cost charged to NJPA or NJPA Members will be considered to be part of "proposal pricing."

4.49 Additional costs for expedited deliveries or additional goods or services required by the end-user will be at the expense to the NJPA Member/End User.

4.50 Selection of a carrier for shipment will be the option of the party paying for said shipping. Use of another carrier will be at the expense of the requester.

4.51 Proposers must define their shipping programs for Alaska and Hawaii and any location not served by conventional shipping services. Over-size and over-weight items and shipments may be subject to custom freight programs.

4.52 Proposals containing restocking fees are less advantageous than those not containing re-stocking fees. That being said, certain industries cannot avoid restocking fees. Certain industries providing made to order goods may not allow returns. With regard to returns and restocking fees, Proposers will be evaluated based on the relative flexibility extended to NJPA and NJPA Members relating to those subjects. Where used, restocking fees in excess of 15% will not be considered excessive. Restocking fees may be waived, at the option of the Proposer/Vendor. Indicate all shipping and re-stocking fees in price program under Tab 9.

4.53 Proposer agrees shipping errors will be at the expense of the Vendor. For example, if a Vendor ships a product that was not ordered by the member, it is the responsibility of the Vendor to pay for return mail or shipment at the convenience of the member.

4.54 Unless specifically stated otherwise in the "Shipping Program" of a Proposer's Response, all prices quoted must be F.O.B. destination with the freight prepaid by the Vendor. Time is of the essence on this Contract. If completed deliveries are not made at the time agreed, NJPA or NJPA Member reserves the right to cancel and purchase elsewhere and hold Vendor accountable. If delivery dates cannot be met, Vendor agrees to advise NJPA or NJPA Member of the earliest possible shipping date for acceptance by NJPA or NJPA Member.

4.55 Goods and materials must be properly packaged. Damaged goods and materials will not be accepted, or if the damage is not readily apparent at the item of delivery, the goods shall be returned at no cost to NJPA or NJPA Member. NJPA and NJPA Members reserve the right to inspect the goods at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the goods at the time of delivery.

4.56 Vendor shall deliver Contract conforming products in each shipment and may not substitute products without approval from NJPA Member.

4.57 NJPA reserves the right to declare a breach of Contract if the Vendor intentionally delivers substandard or inferior products which are not under Contract and described in its paper or electronic price lists or sourced upon request to any member under this Contract. In the event of the delivery of a non-conforming product, NJPA Member will immediately notify Vendor and Vendor will replace non-conforming product with conforming product.

4.58 Throughout the term of the Contract, Proposer agrees to pay for return shipment on goods that arrive in a defective or inoperable condition. Proposer must arrange for the return shipment of damaged goods.

4.59 Unless contrary to other parts of this solicitation, if the goods or the tender of delivery fail in any respect to conform to this Contract, the purchasing member may: 1) reject the whole, 2) accept the whole or 3) accept any commercial unit or units and reject the rest.

Q. NORMAL WORKING HOURS

4.60 Prices quoted are for products/services delivered during normal business hours. Normal Business hours will be as specifically defined herein, defined through industry standards OR defined through statement contained in the purchase/work order issued pursuant to a Contract resulting from this RFP.

5. MARKETING PLAN

5.1 Internal Marketing Plan: An award of Contract resulting from this RFP is an opportunity for the awarded contractor to pursue commerce with, and deliver value to NJPA and NJPA Members nationwide. An award of Contract is not an opportunity to see how much business NJPA can drive to an awarded Vendor's door. Your internal marketing plan should serve to:

5.1.1 Identify the appropriate levels of sales management whom will need to understand the value of, and the internal procedures necessary to deliver this Contract opportunity to NJPA and NJPA Members through your sales force.

5.1.2 Identify, in general, your national foot print and dedicated feet-on-the-street sales force that will be carrying this Contract message and opportunity in the field to NJPA Members. Outline the sale force in terms of numbers and geographic distribution.

5.1.2.1 Identify whether your sales force are employees or independent contractors.

5.1.3 Identify your plan for delivering training to these individuals.

5.1.3.1 Will you have your sales force gathered at national or regional events in the near future? Does you sales force have the ability to participate in webinar or webcast events?

5.1.3.2 NJPA is prepared to provide our personnel in your location for sales training and/or on a webinar or webcast where sufficient efficiencies can be shown in reaching the appropriate groups within your employee base, and sufficient numbers of personnel trained.

5.1.4 Identify your personnel involved in training.

5.1.4.1 NJPA can provide personnel to deliver training regarding the Contract itself, the authority of NJPA to offer the Contract vehicle to its Members, the value the Contract vehicle delivers to NJPA and NJPA Members, the scope of NJPA Membership, and the authority of NJPA Members to utilize our procurement contracts.

5.1.4.2 Your personnel will be needed to provide training regarding employee compensation and internal procedures when delivering the Contract opportunity, and how this Contract purchasing opportunity relates with other such opportunities available.

5.2 Success in marketing is dependent upon 1) the delivery of value as defined in section 1.4, 2) the delivery of knowledge of the program and its proper use and utility, and 3) the delivery of opportunity and reward which creates a personal commitment to the program. NJPA desires a marketing plan that:

5.2.1 identifies the value delivered in a competitively proposed national cooperative procurement contract by relieving both the NJPA Member and the Vendor/Vendor's sales staff of the responsibility for bringing and answering many similar and individual RFP's; and

5.2.2 identifies the appropriate Vendor personnel from both management and sales staff's who will be trained on the use and utility of such a contract and a general schedule of when and how those individuals will be trained; and

5.2.3 identifies in general how the reward system for the marketing, delivery, and service chain of

the Vendor will be affected by the implementation of the proposed Contract and how that will be proposed to those individuals in terms of the value created for them and their departments in 5.1.1 above.

5.3 External Marketing Plan: NJPA is seeking the ability to serve all our current and potential members nationwide. The Proposer must demonstrate the ability to both market and service their products/services/services nationwide. Please demonstrate your sales and service force contains sufficient people in sufficient proximities, to receive the knowledge, opportunity, and reward in order to make a personal commitment to serving NJPA and NJPA Members nationwide.

5.4 The Proposer must exhibit the willingness and ability to develop marketing materials and participate in marketing venues such as:

5.4.1 Printed Marketing Materials. Proposer will initially produce and thereafter maintain full color print advertisements in camera ready electronic format including company logos, identifying the Vendor, the Vendor's general utility for NJPA and NJPA Members, and contact information to be used by NJPA and NJPA Members in a full page, half page, and quarter page formats. These advertisements will be used in the NJPA Catalog and publications.

5.4.2 Press releases and advertisements. Proposer will identify a marketing plan identifying their anticipated press releases, contract announcements, advertisements in industry periodicals, or other direct or indirect marketing activities.

5.4.3 Proposer's Website. Proposer will identify how an Awarded Contract will be displayed on the Proposer's website. An on-line shopping experience for NJPA and NJPA Members is desired when applicable and will be viewed as a value-added attribute to a Proposer's Response.

5.4.4 Trade Shows. Proposer will outline their proposed involvement in the promotion of a Contract resulting from this RFP through trade shows. Vendors are encouraged to identify trade-show, and other appropriate venues, for the promotion of any such Contract. Vendors are strongly encouraged to participate in cooperation with NJPA at the following NJPA embraced trade shows:

NAEP	National Association of Education Procurement
I-ASBO	International Association of School Business Officials
NIGP	National Institute of Government Purchasing

5.5 Proposer must also work in cooperation with NJPA to develop a marketing strategy and provide avenues to equally market and drive sales through the Contract and program to all NJPA Members nationally. Awarded Vendor agrees to actively market in cooperation with NJPA all available products/services to current and potential NJPA Members. NJPA reserves the right to deem a proposer non-responsive or to waive an award based on an unacceptable marketing plan.

5.6 As a part of this response, submit a complete Marketing Plan on how you would help NJPA rollout this program to current and potential NJPA Members. NJPA requires the Vendor actively promote the Contract in cooperation with the NJPA. Vendors are advised to consider marketing efforts in the areas of 1) Website Link from Vendors website to NJPA's website, 2) Attendance and participation with a display booth at national trade shows as agreed upon/required by NJPA, and 3) Sales team and sales training programs involving both Vendor sales management and NJPA staff. NJPA requires awarded Vendors to offer the NJPA Contract opportunity to all current and qualified NJPA Members.

5.7 Facilitating NJPA Membership: Proposer should express their commitment to determine the membership status of their customers whom are eligible for NJPA Membership, AND their commitment

to establishing that membership.

5.7.1 Membership information: Proposer should further express their commitment to capturing sufficient member information as is deemed necessary by NJPA to appropriately facilitate membership and certain marketing activities as agreed to by NJPA and an Awarded contractor.

6. PROPOSAL OPENING PROCEDURE

6.1 Sealed and properly identified Proposer's Responses for this RFP entitled **"PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES"** will be received by Gregg Meierhofer, Manager of Bids and Contracts, at NJPA Offices, 200 First Street NE, Staples, MN 56479 until the deadline for receipt of, and bid opening identified on page one of this RFP. The NJPA Director of Contracts and Marketing, or Representative from the NJPA Proposal Review Committee, will then read the Proposer's names aloud. A summary of the responses to this RFP will be made available for public inspection in the NJPA office in Staples, MN. A letter or e-mail request is required to receive a complete RFP package. Send or communicate all requests to the attention of Gregg Meierhofer 200 1st Street Northeast Staples, MN 56479 or RFP@njpacoop.org to receive a complete copy of this RFP. Method of delivery needs to be indicated in the request; an email address is required for electronic transmission. Oral, facsimile, telephone or telegraphic Proposal Submissions or requests for this RFP are invalid and will not receive consideration. All Proposal Responses must be submitted in a sealed package. The outside of the package shall plainly identify **"PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES"** To avoid premature opening, it is the responsibility of the Proposer to label the Proposal Response properly.

7. EVALUATION OF PROPOSALS

A. PROPOSAL EVALUATION PROCESS

7.1 NJPA will use a 1,000 Point Evaluation System to help determine the best overall Proposer(s) selection. Bonus points may be available for specific proposal characteristics identified such as "Green Product Certifications."

7.2 NJPA reserves the right to use a "Cost Scoring Evaluation" through a product comparison process of like products/services. This process will establish points for submitted price levels. See Cost Scoring Evaluation.

7.3 NJPA shall use a final overall scoring system to include consideration for best price and cost evaluation. The total possible score is 1,000 points. NJPA reserves the right to assign any number of point awards or penalties it considers warranted if a Proposer stipulates exceptions, exclusions, or limitations of liabilities.

7.4 To qualify for the final evaluation, a Proposer must have been deemed responsive as a result of the criteria set forth under "Proposer Responsiveness."

7.5 Responses will be evaluated first for responsiveness and thereafter for content. The NJPA Board of Directors will make awards to the selected Proposer(s) based on the recommendations of the Proposal Review Committee.

7.6 The procurement activities of the NJPA Proposal Review Committee are limited to document preparation, answering Proposer questions, advertising the solicitation, distribution of this RFP upon request, conducting an evaluation and making recommendation for possible approval to NJPA Board of Directors.

B. PROPOSER RESPONSIVENESS

7.7 Proposer's Responses received after the deadline for submission will be invalid and returned to the Potential Proposer unopened.

7.8 An essential part of the proposal evaluation process is an evaluation to qualify the Proposer being considered. All proposals must contain answers or responses to the information requested in the proposal forms. Any Proposer failing to provide the required documentation may be considered non-responsive.

7.9 Deviations or exceptions stipulated in Proposer's Response may result in the proposal being classified as non responsive.

7.10 To qualify for evaluation, a proposal must have been submitted on time and materially satisfy all mandatory requirements identified in this document. A proposal must reasonably and substantially conform to all the terms and conditions in the solicitation to be considered responsive.

7.11 The Proposal Review Committee shall utilize the following criteria to evaluate all proposals received. Items 1-4 constitute the test for "Level One Responsiveness" and are determined on the proposal opening date. "Level 2" responsiveness is determined through the evaluation of the remaining items listed below. These items are not arranged in order of importance and each item may encompass multiple areas of information requested.

1. The proposal response is received prior to the deadline for submission.
2. The proposal package was properly addressed and identified as a sealed bid with a specific opening date and time.
3. The proposal response contains the required certificate of liability insurance.
4. The proposal response contains original signatures on all documents requiring such.
5. Response's conformance to terms and conditions as described in the solicitation, including documentation.
6. Possesses qualifications as a responding Proposer that meets or exceeds those set within the solicitation.
7. Information from references and past performance information including past member approval.
8. Demonstrates that they offer the most current industry standard products/services and/or services.
9. Demonstrates financial stability and a favorable banking line of credit.
10. Demonstrates their products/services and/or services proposed meet and/or exceed industry standards accepted by educational or governmental institutions.
11. Has demonstrated market place success and their past performance exhibit an acceptable reputation.
12. Demonstrates the company possesses the background, knowledge, capacity, and ability to sell, deliver, and support products/services offered to Members.
13. Has provided documentation defining, outlining, and describing their concept of a national marketing program they will be implementing to facilitate and coordinate the cooperative activities required by an awarded Contract.
14. Has provided all of the required and applicable documentation required i.e. insurance certificates, licenses, and/or registration certificates required to do business nationally.
15. Line-Item Pricing, in approved excel format, listing of all of the proposed products/services and warranty provisions with their associated units of costs.
16. Core List selection of products/services in Line-Item Pricing format
17. Hot List Pricing products/services in a Line-Item Pricing format (where applicable).
18. Contract Pricing submitted as requested to include core list or products/services, Line-Item Pricing and/or ~~Percentage Discount from published gov/ed price list or Catalog~~.

C. PROPOSAL EVALUATION CRITERIA

7.12 If a manufacturer or supplier chooses not to produce or supply goods and services to meet the scope of this RFP, such action will be considered sufficient cause to reduce evaluation points.

7.13 Consideration will be given in the award based on the completion and degree of information provided regarding available products, equipment, and accessories, as well as, applicable parts of the Proposer Information and Questionnaire.

7.14 The fact a manufacturer or supplier chooses not to produce or provide equipment products or services to meet the intent and scope of this RFP will not be considered sufficient cause to adjudge this RFP as restrictive.

7.15 The Proposer is required to have extensive knowledge and at least three (3) years experience with the related activities surrounding the selling of the equipment, service or related products offered.

7.16 NJPA reserves the right to accept or reject newly formed companies solely based on information provided in the proposal and/or its own investigation of the company.

7.17 Consideration will be given in the proposal evaluation based upon the selection, variety, technological advances, and demonstrated quality of products submitted, technological advances, and pricing. The ability of the Proposer to communicate the value of these factors and to demonstrate how the depth and breadth of their product and service offerings provide NJPA and NJPA Members with a sole source of responsibility within the scope of this RFP will be positively reviewed.

7.18 Consideration will also be given to proposals demonstrating technological advances, provide increased efficiencies, expanded service and other related improvements beyond today's NJPA member's needs and applicable standards.

7.19 Strong consideration will be given to a Proposer's past performance, distribution model, and the demonstration their ability to effectively market and service NJPA Membership nationally.

7.20 Strong consideration will be given to the best price as it relates to the quality of the product and service. However, price is ultimately one of the factors taken into consideration in evaluation and award.

7.21 Evaluation of a Proposer's Responses will take into consideration as a minimum response but not necessarily limited to the following:

1. Adherence to all requirements of this RFP as defined by industry standards.
2. Prior knowledge of and experience with a Proposer in terms of past performance and market place success.
3. Capability of meeting or exceeding current and future needs or requirements of NJPA and NJPA Members.
4. Evaluation of Proposer's ability to market to and provide service to all NJPA Members nationally.
5. Financial condition of the Proposer.
6. Nature and extent of company data furnished in Proposer's Response.
7. Quality of products, equipment, and services offered including value added related services.
8. History of member service to NJPA type customers.
9. Overall ability to perform sales, solutions and contract support as submitted.
10. Ability to meet service and warranty needs.
11. History of meeting shipping and delivery expectations of contracted products/ services.
12. Technology advancements and related provisions.
13. Ability to market and promote the Contract within current business practices.
14. Willingness to develop and enter into NJPA Contract and business relations.
15. Favorable bond rating and applicable industry standard licensing ability.

16. Past market place successes and brand recognition.
17. Demonstrated warranty and product/service responsibility.

7.22 The Proposer's ability to follow the proposal preparation instructions set forth in this solicitation will also be considered to be an indicator of the Proposer's ability to follow other future instructions should they receive an award as a result of this solicitation. Any Contract between NJPA and a Proposer requires the delivery of information and data. The quality of organization and writing reflected in the proposal will be considered an indication of the quality of organization and writing which would be prevalent if a Contract was awarded. As a result, the proposal will be evaluated as a sample of data submission.

7.23 Proposer's Financial Statements- The Proposer's financial statements are requested and reviewed to get a general feel for the size, strength, and probable scope of the Proposer.

7.24 NJPA reserves the right to reject the Proposer's Response of the apparent successful Proposer where the available evidence or information does not exhibit the ability or intent to satisfy NJPA that the potential Vendor is unable to properly carry out the terms of this RFP and potential Contract.

7.25 NJPA shall reserve the right to reject any or all proposals. NJPA also reserves the right to reject a proposal not accompanied by required certificate of insurance, other data required by this RFP, or if a Proposer's Response is incomplete or irregular. The NJPA shall reject all proposals where there has been collusion among the Proposers.

7.26 Overall Evaluation (FORM G) - The NJPA Proposal Review Committee will evaluate proposal received based on a 1,000 point evaluation system. The Committee will establish both the evaluation criteria and designate the relative importance of those criteria by assigning possible scores for each category.

7.27 Bonus Evaluation Points- Bonus evaluation points may be awarded by the NJPA Proposal Review Committee based on criteria identified as being both "optional" and "having additional value"

D. COST SCORING EVALUATION

7.28 NJPA reserves the right to use this process in the event the evaluation committee feels it is necessary to make a final determination.

7.29 This process will be based on a point system with points being awarded for being low to high Proposer for each cost evaluation item selected. A "Market Basket" of identical (or substantially similar) products/services may be selected by the NJPA proposal Review Committee and the unit cost will be used as a basis for determining the point value. The "Market Basket:" will be selected by NJPA from all product categories as determined appropriate by NJPA. The low priced Proposer will receive the full point value and all other Proposers will receive points as follows: Lowest price Proposal = 5 (where there are five proposers), and inferior proposals = 4, 3, 2, 1 points each. The Total Score for each proposer will be the sum of all points earned. The result of this process shall not be the sole determination for award.

E. PRODUCT TESTING

7.30 NJPA reserves the right to request and test products/services and/or services from the apparent successful Proposer. Prior to the award of the Contract, the apparent successful Proposer, if requested by NJPA, shall furnish current information and data regarding the Proposer's resources, personnel, and organization within three (3) days.

F. PAST PERFORMANCE INFORMATION

7.31 Past performance information is relevant information regarding a Proposer's actions under

previously awarded contracts to schools, local, state, and governmental agencies and non-profit agencies. It includes the Proposer's record of conforming to specifications and standards of good workmanship. The Proposer's history for reasonable and cooperative behavior and commitment to member satisfaction shall be under evaluation. Ultimately, Past Performance Information can be defined as the Proposer's businesslike concern for the interests of the NJPA Member.

G. WAIVER OF FORMALITIES

7.32 NJPA reserves the right to waive any minor formalities or irregularities in any proposal and to accept proposals, which, in its discretion and according to the law, may be in the best interest of its members.

8. POST AWARD OPERATING ISSUES

A. SUBSEQUENT AGREEMENTS

8.1 Purchase Order- Purchase Orders for goods and services may be executed between NJPA or NJPA Members (Purchaser) and awarded Vendor(s) or Vendor's sub-contractors pursuant to this invitation and any resulting Contract. NJPA Members are instructed to identify on the face of such Purchase orders that "This purchase order is issued pursuant to NJPA procurement contract #XXXXXX." A Purchase Order is an offer to purchase goods and services at specified prices by NJPA or NJPA Members pursuant to a Contract resulting from this RFP. Purchase Order flow and procedure will be developed jointly between NJPA and an Awarded Vendor after an award is made.

8.2 Governing Law- Purchase Orders, as identified above, shall be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the purchaser. Each and every provision of law and clause required by law to be included in the Purchase Order shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either part the Contract shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to Purchase Order(s) shall be a court of competent jurisdiction to the Purchaser.

8.3 Additional Terms and Conditions- Additional terms and conditions to a Purchase Order may be proposed by NJPA, NJPA Members, or Vendors. Acceptance of these additional terms and conditions is OPTIONAL to all parties to the Purchase Order. The purpose of these additional terms and conditions is to, among other things; formerly introduce job or industry specific requirements of law such as prevailing wage legislation. Additional terms and conditions can include specific local policy requirements and standard business practices of the issuing Member. Said additional terms and conditions shall not interfere with the general purpose and intent of this RFP.

8.4 Asset Management Contracts: Asset Management type contracts can be initiated pursuant to a Contract resulting from this RFP at any time during the term of said Contract. The establishment of such Asset Management Contracts cannot exceed the authorized term of a Contract resulting from this RFP; however the Asset Management Contract term may extend beyond the maturity date of a Contract resulting from this RFP.

8.5 Specialized Service Requirements- In the event service requirements or specialized performance requirements such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements not addressed in the Contract resulting from this RFP, NJPA Member and Vendor may enter into a separate, stand alone agreement, apart from a Contract resulting from this RFP. Any proposed service requirements or specialized performance requirements require pre-approval by Vendor. Any separate agreement developed to address these specialized service or performance requirements is exclusively between the NJPA Member and Vendor. NJPA, its agents, Members and employees shall not be made party to any claim for breach of such agreement. Product sourcing is not considered a service. NJPA Members will need to conduct procurements for any specialized services not identified in this Contract.

8.6 Performance Bond- At the request of the member, a Vendor will provide all performance bonds typically and customarily required in their industry. These bonds will be issued pursuant to the requirements of Purchase Orders for goods and services. If a purchase order is cancelled for lack of a required performance bond, it shall be the recommendation of NJPA that pending Purchase Orders with all NJPA Members be considered for cancellation. Each member has the final decision on Purchase Order continuation. ANY PERFORMANCE BONDING REQUIRED BY THE MEMBER OR CUSTOMER STATE LAWS OR LOCAL POLICY IS TO BE MUTUALLY AGREED UPON AND SECURED BETWEEN THE VENDOR AND THE CUSTOMER/MEMBER.

B. NJPA MEMBER SIGN-UP PROCEDURE

8.7 Awarded Vendors will be responsible for familiarizing their sales and service forces with the various forms of NJPA Membership documentation and shall encourage and assist potential Members in establishing Membership

C. REPORTING OF SALE ACTIVITY

8.8 A report of the total gross dollar volume of all products/services purchased by NJPA Members as it applies to this RFP and Contract will be provided quarterly to NJPA. The form and content of this reporting will be developed by NJPA in cooperation with the Vendor to include, but not limited to, name and address of purchasing agency, amount of purchase, and a description of the items purchased.

D. AUDITS

8.9 During the Term, Vendor will, upon not less than fourteen (14) business days' prior written request, make available to NJPA no more than once per calendar year, at Vendor's corporate offices, during normal business hours, the invoice reports and/or invoice documents from Vendor pertaining to all invoices sent by Vendor and payments made by NJPA members for all products/services purchased under this Contract. NJPA may employ an independent auditor or NJPA may choose to conduct such audit on its own behalf. Vendor shall have the right to approve the independent auditor, which approval shall not be unreasonably withheld. Upon approval and after the auditor has executed an appropriate confidentiality agreement, Vendor will permit the auditor to review the relevant Vendor documents. NJPA shall be responsible for paying the auditor's fees. The parties will make every reasonable effort to fairly and equitably resolve discrepancies to the satisfaction of both parties. Vendor agrees that the NJPA may audit their records with a reasonable notice to establish total compliance and to verify prices charged hereunder of the Contract are being met. Vendor agrees to provide verifiable documentation and tracking in a timely manner.

E. HUB PARTNER

8.10 Hub Partner: Where Applicable, NJPA Members may, from time to time, request to be served in some way through a "Hub Partner" for the purposes of complying with a Law, Regulation, or Rule to which that individual NJPA Member deems to be applicable in their jurisdiction. Hub Partners may bring value to the proposed transactions through consultancy, Disadvantaged Business Entity Credits, or other considerations.

8.11 Hub Partner Fees: Fees, costs, or expenses from this Hub Partner levied upon a transaction resulting from this contract, shall be payable by the NJPA Member provide that:

8.11.1 The fees, costs, or expenses levied by the Hub Vendor must be clearly itemized in the transaction. and

8.11.2 To the extent that the he Vendor stands in the chain of title during a transaction resulting from this RFP, the documentation shall be documented to show it is "Executed for the Benefit of [NJPA Member Name]".

F. TRADE-INS

8.12 Where Appropriate, the value in US Dollars, of Trade-ins will be negotiated between NJPA or an NJPA Member, and an Awarded Vendor. That identified "Trade-In" value shall be credited in full against the NJPA purchase price identified in a purchase order issued pursuant to any Awarded NJPA procurement contract. The full value of the trade-in will be consideration to that purchase order.

G. OUT OF STOCK NOTIFICATION

8.13 Vendor shall immediately notify NJPA members upon receipt of order(s) when an out-of -stock occurs. Vendor shall inform the NJPA member regarding the anticipated date of availability for the out-of- stock item(s), and may suggest equivalent substitute(s).

- The ordering organization shall have the option of accepting the suggested equivalent substitute, or canceling the item from the order.
- Under no circumstance is Proposer permitted to make unauthorized substitutions.
- Unfilled or substituted item(s) shall be indicated on the packing list.

H. TERMINATION OF CONTRACT RESULTING FROM THIS RFP

8.14 NJPA reserves the right to cancel the whole or any part of a resulting Contract due to failure by the Vendor to carry out any obligation, term or condition as described in the below procedure. Prior to any termination for cause, the NJPA will provide written notice to the Vendor, opportunity to respond and opportunity to cure according to the steps in the procedure in this Cancellation Section. Some examples of material breach are the following:

- The Vendor provides material that does not meet reasonable quality standards and is not remedied under the warranty;
- The Vendor fails to ship the products or provide the services within a reasonable amount of time;
- NJPA has reason to believe the Vendor will not or cannot perform to the requirements of the Contract and issues a request for assurance as described herein and Vendor fails to respond;
- The Vendor fails to observe any of the material terms and conditions of the Contract; and/or,
- The Vendor fails to follow the established procedure for purchase orders, invoices and/or receipt of funds as established by the NJPA and the Vendor in the Contract.
- The Vendor fails to report quarterly sales volume;
- The Vendor fails to actively market this Contract within the guidelines provided in this RFP and the expectations of NJPA.

8.15 Each party shall follow the below procedure if the Contract is to be terminated for violations or non-performance issues:

Step 1: Issue a warning letter outlining the violations and/or non-performance and state the length of time (10 days) to provide a response and correct the problem(s) if reasonably possible in such time frame.
Step 2: Issue a letter of intent to cancel Contract, if the problem(s) is not resolved within fifty (50) days.
Step 3: Issue letter to cancel Contract for cause.

8.16 Upon receipt of the written notice of concern, the Vendor shall have ten (10) business days to provide a satisfactory response to the NJPA. Failure on the part of the Vendor to reasonably address all issues of concern may result in Contract cancellation pursuant to this Section.

8.17 Any termination shall have no effect on purchases that are in progress at the time the cancellation is received by the NJPA. The NJPA reserves the right to cancel the Contract immediately for convenience,

without penalty or recourse, in the event the Vendor is not responsive concerning the remedy, the performance, or the violation issue within the time frame, completely or in part.

8.18 NJPA reserves the right to cancel or suspend the use of any Contract resulting from this RFP if the Vendor files for bankruptcy protection or is acquired by an independent third party. Prior to commencing services under this Contract, the Proposer/Vendor must furnish NJPA certification from insurer(s) proving level of coverage usual and customary to the specific industry. The coverage is to be maintained in full effect during the Contract period. Vendor must be willing to provide, upon request, certification of insurance to any NJPA member or member using this Contract.

8.19 Either party may execute Contract termination without cause with a required 60-day written notice of termination. Termination of Contract shall not relieve either party of financial, product or service obligations incurred or accrued prior to termination.

8.20 NJPA may cancel any Contract resulting from this solicitation without any further obligation if any NJPA employee significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the NJPA is found to be in collusion with any Proposer to this RFP for their personal gain. Such cancellation shall be effective upon written notice from the NJPA or a later date if so designated in the notice given. A terminated Contract shall not relieve either party of financial, product or service obligations due to participating member or NJPA.

8.21 Events of Automatic termination to include:

- Vendor's or NJPA's voluntary or involuntary bankruptcy or insolvency;
- Vendor's failure to remedy a material breach of a Contract resulting from this RFP within sixty (60) days of receipt of notice from NJPA specifying in reasonable detail the nature of such breach; and/or,
- Receipt of written information from any authorized agency finding activities of Vendors engaged in pursuant to a Contract resulting from this RFP to be in violation of the law.

9. GENERAL TERMS AND CONDITIONS

A. ADVERTISEMENT OF RFP

9.1 As a policy, NJPA shall advertise this solicitation 1) for two consecutive weeks in both the print and on-line editions of the MINNEAPOLIS STAR TRIBUNE, 2) it shall be placed on a national wire service by the MINNEAPOLIS STAR TRIBUNE, 3) it shall be posted on NJPA's website, 4) it shall be posted to the website of "Noticetobidders.com," and 5) it shall be posted to other third-party websites deemed appropriate by NJPA. Other third party advertisers may include Onvia and Bidsync,

B. ADVERTISING OF A CONTRACT RESULTING FROM THIS RFP

9.2 Proposer/Vendor shall not advertise or publish information concerning this Contract prior to the award being announced by the NJPA. Once the award is made, a Vendor is expected to advertise the awarded Contract to both current and potential NJPA Members.

C. APPLICABLE LAW

9.3 NJPA Compliance with Minnesota Procurement Law: Contracts awarded through NJPA are intended to meet the procurement laws of all states and NJPA will exhaust all avenues to comply with as many state laws as possible. It is the responsibility of each participating NJPA member to insure to their satisfaction that these laws are satisfied. An individual NJPA member using these contracts is deemed by their own accord to be in compliance with proposal regulations. NJPA encourages the awarded Vendor to assist NJPA and the NJPA member in this research to the benefit of all involved.

9.4 Governing Law: All applicable portions of the Minnesota Uniform Commercial Code and all other applicable Minnesota laws shall govern contracts with the National Joint Powers Alliance®. Any claims pertaining to this RFP and any resulting Contract that develop between NJPA and any other party must be brought forth only in courts in Todd County in the State of Minnesota.

9.5 Vendor Compliance with applicable law: Vendor(s) shall comply with all federal, state, or local laws applicable to or pertaining to the sale of the products/services resulting from this RFP. All such laws, whether or not herein contained, shall be included by this reference. It shall be Proposer's/Vendor's responsibility to determine the applicability and requirements of any such laws and to abide by them.

9.6 Indemnity: Each party agrees it will be responsible for its own acts and the result thereof to the extent authorized by law and shall not be responsible for the acts of the other party and the results thereof. NJPA's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Section §3.736, and other applicable law.

9.7 Prevailing Wage: It shall be the responsibility of the Vendor to comply, when applicable, with prevailing wage legislation in effect in the jurisdiction of the purchaser (NJPA or NJPA Member). It shall be the responsibility of the Vendor to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of this Contract and adjust wage rates accordingly.

9.8 Patent and Copyright infringement: If an article sold and delivered to NJPA or NJPA Members hereunder shall be protected by any applicable patent or copyright, the Vendor agrees to indemnify and save harmless NJPA and NJPA Members against any and all suits, claims, judgments, and costs instituted or recovered against it by any person whosoever on account of the use or sale of such articles by NJPA or NJPA Members in violation or right under such patent or copyright.

D. ASSIGNMENT OF CONTRACT

9.9 No right or interest in this Contract shall be assigned or transferred by the Proposer/Vendor without prior written permission by the NJPA. No delegation of any duty of the Proposer/Vendor shall be made without prior written permission of the NJPA. The NJPA shall notify the members within fifteen (15) days of receipt of written notice by the Vender. After issuance the awarded Contract may be reassigned to a comparable Vendor at the discretion of NJPA.

9.10 If the original Vendor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. NJPA reserves the right to reject the acquiring person or entity as a Vendor. A simple change of name agreement will not change the contractual obligations of the Vendor.

E. PROPOSERS LIST

9.11 NJPA will not maintain or communicate to a proposers list. All interested proposers must respond to the solicitation as a result of one of the methods of proposal advertisements listed above. Because of the scope of the potential Members and national Vendors, NJPA has determined this to be the best method of fairly soliciting proposals.

F. CAPTIONS, HEADINGS, AND ILLUSTRATIONS

9.12 The captions, illustrations, headings, and subheadings in this solicitation are for convenience and ease of understanding and in no way define or limit the scope or intent of this request.

G. CONFIDENTIAL INFORMATION

9.13 If a Proposer wishes to withhold any part of its proposal from public inspection, then a statement advising the NJPA of this fact shall accompany the submission. NJPA shall review the statement to determine whether the information shall be withheld. If NJPA determines to disclose the information, the Executive Director of NJPA shall inform the Proposer, in writing, of such determination prior to award of Contract to Proposer.

H. DATA PRIVACY

9.14 Proposer agrees to abide by all applicable STATE and FEDERAL laws and regulations including HIPPA concerning the handling and disclosure of private and confidential information regarding individuals. Proposer agrees to hold NJPA harmless from its unlawful disclosure and/or use of private/confidential information.

I. ENTIRE AGREEMENT

9.15 The Contract, as defined herein, shall constitute the entire understanding between the parties to that Contract.

9.16 A Contract resulting from this RFP is formed when the NJPA Board of Directors approves and signs the applicable Acceptance and Award Form document (see Form D).

J. FORCE MAJEURE

9.17 Except for payments of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented due to force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence including, but not limited to, the following: acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, snow, earthquakes, tornadoes or violent wind, tsunamis, wind shears, squalls, Chinooks, blizzards, hail storms, volcanic eruptions, meteor strikes, famine, sink holes, avalanches, lockouts, injunctions-intervention-acts, terrorist events or failures or refusals to act by government authority and/or other similar occurrences where such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with a Contract resulting from this RFP. Force majeure shall not include late deliveries of products/services caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or other similar occurrences. If either party is delayed at any time by force majeure, then the delayed party shall notify the other party of such delay within forty-eight (48) hours.

K. GRATUITIES

9.18 NJPA may cancel this Contract by written notice if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Proposer/Vendor or any agent or representative of the Proposer/Vendor, to any employee of the NJPA are deemed to be excessive with a view toward securing a contract or with respect to the performance of this Contract.

L. HAZARDOUS SUBSTANCES

9.19 Proper Material Safety Data Sheets (MSDS), in compliance with OSHA's Hazard Communication Standard, must be provided by the Vendor to NJPA or NJPA Member at the time of purchase.

M. LEGAL REMEDIES

9.20 All claims and controversies between NJPA and Vendor shall be subject to the laws of the State of Minnesota and are to be resolved in Todd County, Minnesota, the county in which NJPA is domiciled.

N. LICENSES

9.21 Proposer/Vendor shall maintain a current status on all required federal, state, and local licenses, bonds and permits required for the operation of the business conducted by the Proposer/Vendor.

9.22 All responding Proposers must be licensed (where required) and have the authority to sell and distribute offered products/services to NJPA and NJPA Members in all states. Documentation of said licenses and authorities, if applicable, is requested.

O. MATERIAL SUPPLIERS AND SUB-CONTRACTORS

9.23 The apparent successful Vendor shall be required to supply the names and addresses of sourcing suppliers and sub-contractors when requested.

9.24 Awarded Vendors under this RFP will be the sole source of responsibility for transactions originating that award. The Awarded Vendor is solely responsible for products/services and services provided by third party sourcing or service providers.

P. NON-WAIVER OF RIGHTS

9.25 No failure of either party to exercise any power given to it hereunder, nor to insistence upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, nor any payment under a Contract resulting from this RFP shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. Failure by NJPA to take action or assert any right hereunder shall not be deemed as waiver of such right.

Q. PROTESTS OF AWARDS MADE

9.26 Protests shall be filed with the NJPA's Executive Director and shall be resolved in accordance with appropriate state statutes of Minnesota. Protests will only be accepted from Proposers. A protest must be in writing and filed with NJPA. A protest of an award or proposed award must be filed within ten (10) days after the public notice or announcement of the award. No protest shall lie for a claim that the selected Proposer is not a responsible Proposer. A protest must include:

1. The name, address and telephone number of the protester;
2. The original signature of the protester or its representative;
3. Identification of the solicitation by RFP number;
4. Identification f the statute or procedure that is alleged to have been violated;
5. A precise statement of the relevant facts;
6. Identification of the issues to be resolved;
7. The aggrieved party's argument and supporting documentation.

R. PROVISIONS REQUIRED BY LAW

9.27 Proposer/Vendor agrees in the performance of a Contract resulting from this RFP, it has complied with or will comply with all applicable statutes, laws, regulations, and orders of the United States and any State thereof.

S. PUBLIC RECORD

9.28 All proposals submitted to this invitation shall become the property of the NJPA and will become a matter of public record and available for review subsequent to the award notification. Proposals may be viewed by appointment at the NJPA offices Monday through Friday from 8:30 a.m. to 3:30 p.m.

T. RIGHT TO ASSURANCE

9.29 Whenever one party to this Contract has reason to question the other party's intent to perform, he/she may demand a written assurance of this intent. In the event a demand is made and no written assurance is given, the demanding party may treat this failure as an anticipatory repudiation of the Contract provided, however, in order to be effective, any such demand shall be addressed to the authorized signer for the party from whom the assurance is being sought, and sent via U.S. Postal Service, certified mail, return receipt requested or national overnight delivery service with proof of delivery.

U. SUSPENSION OR DISBARMENT STATUS

9.30 If within the past five (5) years, any firm, business, person or Proposer submitting a proposal has been lawfully precluded from participating in any public procurement activity with a federal, state or local government, the Proposer must include a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to disclose pertinent information may result in the cancellation of any Contract. By signing the proposal affidavit, the Proposer certifies that no current suspension or debarment exists.

V. HUMAN RIGHTS CERTIFICATE

9.31 If Proposer is not domiciled in Minnesota and has NOT on any single working day in the past year, employed more than 40 employees in the State of Minnesota, Proposer must provide a statement to that effect.

9.32 If Proposer is not domiciled in Minnesota and has on any single working day in the past year, employed more than 40 employees in the State of Minnesota, Proposer must document their application for a Human Rights Certificate issued by the Minnesota Commissioner of Human Rights. Proposer must also document receipt by the Minnesota Commissioner of Human Rights of that application and the Proposer's affirmative action plan for the employment of minority persons, women, and qualified disabled individuals.

9.33 If Proposer is domiciled in Minnesota and has on any single working day in the past year, employed more than 40 employees in the State of Minnesota, Proposer must provide a copy of their "Certificate of Compliance" from the Commissioner of the Minnesota Department of Human Rights.

W. SEVERABILITY

9.34 In the event that any of the terms of a Contract resulting from this RFP are in conflict with any rule, law, statutory provision or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms shall be deemed stricken from a Contract resulting from this RFP, but such invalidity or unenforceability shall not invalidate any of the other terms of a Contract resulting from this RFP.

X. RELATIONSHIP OF PARTIES

9.35 No Contract resulting from this RFP shall be considered a contract of employment. The relationship between NJPA and an Awarded Contractor is one of independent contractors each free to exercise judgment and discretion with regard to the conduct of their respective businesses. The parties do not

intend the proposed Contract to create, or is to be construed as creating a partnership, joint venture, master-servant, principal–agent, or any other relationship. Except as provided elsewhere in this RFP, neither party may be held liable for acts of omission or commission of the other party and neither party is authorized or has the power to obligate the other party by contract, agreement, warranty, representation or otherwise in any manner whatsoever except as may be expressly provided herein.

PROPOSER QUESTIONNAIRE

Form A

Proposer Name: _____

Questionnaire completed by: _____

Please provide an answer to all questions below and address all requests made in this RFP. Please use the Microsoft Word/Excel document version of this questionnaire to respond to the questions contained herein. Please provide your answer to each question indented below the question. Please supply any applicable supporting information and documentation you feel appropriate in addition to answers entered to the Word document. All information must be typed, organized, and easily understood by evaluators.

Company Information

1) Why did you respond to this RFP?
2) Provide a brief history of your company that includes its goals and philosophy.
3) Provide profiles and an organizational chart for key sales and marketing executives of your company that will oversee the implementation and operation of a Contract resulting from this RFP.
4) How long has your company has been in the **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES,** industry?
5) Is your organization best described as a manufacturer or a distributor/dealer/re-seller for a manufacturer of the products and services being proposed?
   a) If the Proposer is best described as a re-seller, manufacturer aggregate, or distributor, please provide evidence of your authorization as a dealer/re-seller/manufacturer aggregate for the manufacturer of the products you are proposing.
   b) If the Proposer is best described as a manufacturer, please describe your relationship with your sales/service force and/or Dealer Network in delivering the products and services proposed. Are these people your employees, or the employees of a third party?
6) For public companies, provide your most recent annual report to shareholders.
7) For private companies, provide your most recent year-end financial statements, your bond rating, and/or a credit reference from your bank.
8) Provide a discussion of licenses and certifications both required to be held, and actually held by your organization in pursuit of the commerce contemplated by this RFP.
9) Provide a discussion of licenses and certifications both required to be held, and actually held by third parties and sub-contractors to your organization in pursuit of the commerce contemplated by this RFP. If not applicable, please respond with "Not Applicable."

Industry-Marketplace Successes

10) List and document recent industry awards and recognition.
11) Supply three references/testimonials from customers similar to NJPA Members. Please include the customer's name, contact, and phone number.
12) Provide names and addresses of the top five (5) governmental or education customers and dollar volumes from the past year.
13) Provide documentation indicating the total dollar volume for each of your sales to government, education, and non-profit agencies for the last three (3) fiscal years.

Proposer's ability to sell and service nationwide.

14) Please describe your **sales force** in terms of numbers, geographic dispersion, and the proportion of their attention focused on the sale of the products/services contemplated in this RFP? a) Are these individuals your employees, or

are they employees of a third party?

15) Please describe your **service force** in terms of numbers, geographic dispersion, and the proportion of their attention focused on the sale of the products/services contemplated in this RFP? a) Are these individuals your employees, or are they employees of a third party?
16) Describe in detail your customer service program regarding process and procedure. Please include, where appropriate, response time commitments.
17) Identify any geographic areas or NJPA market segments of the United States you will **NOT** be serving through the proposed contract.
18) Identify any of NJPA Member segments you will NOT be serving? (Government, Education, Non-profit)

Marketing Plan

19) Describe your training program for both greet-the-public and sales management levels relating to a NJPA award.
20) Describe your general marketing program strategy to promote the proposed Contract nationally.
21) Describe your marketing material, and overall marketing ability, relating to promoting this type of partnership and contract opportunity. As much as possible, please send marketing materials in electronic format only to save paper.
22) Describe your use of technology and the internet to provide marketing and product awareness.
23) Describe your perception of NJPA's role in marketing the partnership and your products/services.
24) Describe the unique quality of the products/services in your proposal in relationship to others available in the market.

Value Added Attributes

25) Describe any training programs available as options for members.
26) Describe technological advances your proposal products/services offer.
27) Describe your "Green" program as it relates to your company, your products, and your recycling program, including a list of all green products accompanied by the certifying agency for each.
28) Describe any Women or Minority Business Entity (WMBE) or Small Business Entity (SBE) accreditations of your organization directly involved in a Contract resulting from this RFP.
29) Identify any other unique or custom value added attributes.
30) Identify any service contract options included in the proposed price, or offered as a proposed option, for the products or services being offered.
31) Identify your ability and willingness to service Canada specifically and internationally in general.
32) Describe any unique distribution method employed in your proposal.

Payment Terms and Financing Options

33) Identify your payment terms. (Net 30, etc.)
34) Identify any applicable leasing or other financing options as defined herein.
35) Briefly describe your proposed order process for this proposal and contract award. (Note: order process may be modified or refined during an NJPA member's final Contract phase process).

Warranty

36) Describe, in detail, your Warranty Program including conditions to qualify, claims procedure, and overall structure.
37) Do all warranties cover all material and labor?
38) Do warranties impose usage limit restrictions?
39) Do warranties cover the technicians travel time to perform warranty repairs?
40) Please list any other limitations or circumstances that would not be covered under your warranty.
41) Please list any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs. How do NJPA Members in these regions receive warranty work?

Other Cooperative Procurement Contracts Held

42) Identify all cooperative governmental procurement contracts which are marketed in more than one state held or utilized by the Proposer.

43) Identify all government or state procurement contracts held or utilized by the Proposer with any State of the United States.
44) Identify any GSA Contracts held or utilized by the Proposer.
45) If you are awarded the NJPA contract, are there any market segments (e.g., higher education, county governments, etc.) or geographical markets where the NJPA contract will not be your primary contract purchasing vehicle? If so, please identify those markets and which cooperative purchasing agreement will be your primary vehicle.

Products/Services and Pricing

46) Provide a general narrative description of the products/services and services you are offering in your proposal.
47) Provide a general narrative description of your pricing model identifying how the model works (line item ~~and/or percentage discount~~).
48) Propose a strategy, process, and specific method of facilitating "Sourced Goods" solution as defined herein.
49) Provide an overall statement of method of pricing for individual line items, catalogs and category pricing with regard to all products/services and being proposed. Provide a SKU number for each item being proposed.
50) Provide a "CORE LIST" of products/services (as anticipated and defined by Proposer to meet or exceed the NJPA members needs) as a separate and named spreadsheet. Include special pricing, if any, on these items.
51) Provide, if any, your volume rebate programs
52) Identify any Total Cost of Acquisition (as defined herein) cost(s) which is **NOT** included "Pricing" submitted with your proposal response. Identify to whom these items are payable and their relationship to Proposer.
53) As an important part of the evaluation of your offer, you must indicate the level of pricing you are offering.
Prices offered in this proposal are:
_____ a. The same as typically offered to an individual municipality or school district.
_____ b. The same as typically offered to cooperative procurement organizations or state purchasing departments.
_____ c. Better than typically offered to cooperative procurement organizations or state purchasing departments.
(Your proposal will be considered "Non-Responsive" if this question is not answered.)
54) Do you offer quantity or volume discounts? _____ YES _____ NO Outline guidelines and program.
55) Describe your shipping, exchange and return program(s) and policy(s). Also specifically identify those programs as they relate to Alaska and Hawaii.
56) Identify the Proposer's proposal for an administrative fee payable to NJPA for facilitation and promotion of the Contract opportunity invited here. This fee should be calculated as a percentage of Contract sales.

Authorized Signature (Same signature as on Proposal Affidavit Signature and Acceptance Form)

Form B

PROPOSER INFORMATION

Company Name: _____
Address: _____
City/State/Zip: _____

Phone: _____ Fax: _____

Toll Free Number: _____ E-mail: _____

Web site: _____

Voids sometimes exist between management (those who respond to RFPs) and sales staff (those who contact NJPA Members) that result in communication problems. Due to this fact, provide the names of your key sales people, phone numbers, and geographic territories for which they are responsible

COMPANY PERSONNEL CONTACTS

Contract Manager:

_____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

Name: _____ Title: _____

Email: _____ Phone: _____

EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS AND SPECIFICATIONS REQUEST

Form C

Company Name: _____

Note: **Original must be signed** and inserted in the inside front cover pouch. Any exceptions to the Terms, Conditions, Specifications, or Proposal Forms contained herein shall be noted in writing and included with the proposal submittal. Please sign and date the bottom of each page of this document.

RFP Page Number	Section	Term, Condition, or Specification	Exception

Proposal Offering
And Acceptance and Award
RFP #102811

FORM D

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES,

Proposal Offering (To be completed Only by Proposer)

In compliance with the Request for proposal (RFP) for PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES, the undersigned warrants that I/we have examined this RFP and, being familiar with all of the instructions, terms and conditions, general specifications, expectations, technical specifications, service expectations and any special terms, do hereby offer and agree to furnish the defined products/services and services in compliance with all terms, conditions of this RFP, any applicable amendments of this RFP, and all Proposer's Response documentation. Proposer further understands they are the sole offeror herein and that the performance of any sub-contractors employed by the Proposer in fulfillment of this offer is the sole responsibility of the Proposer.

Company Name: _____ Date: _____

Company Address: _____

City: _____ State: _____ Zip: _____

Contact Person: _____ Title: _____

Authorized Signature (ink only): _____
(Name printed or typed)

Contract Acceptance and Award (To be completed only by NJPA)

Your proposal offering is hereby accepted and awarded. As an awarded Proposer, you are now bound to provide the defined goods and services contained in your proposal offering according to all terms, conditions, and pricing set forth in this RFP, any amendments to this RFP, and the Proposer's Response. The effective date of the Contract be _____, _____ and continue for four years thereafter AND which is subject to annual renewal at the option of both parties.

National Joint Powers Alliance® (NJPA)

NJPA Authorized signature: _____
(Name printed or typed)

Title: ____Executive Director NJPA_____

Awarded this _____ day of _____ **Contract Number # 102811**

NJPA Authorized signature: _____
(Name printed or typed)

Title: _____

Executed this _____ day of _____ **Contract Number # 102811**

PROPOSER ASSURANCE OF COMPLIANCE

Form E

Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, representing the persons, firms and corporations joining in the submission of the foregoing proposal (such persons, firms and corporations hereinafter being referred to as the "Proposer"), being duly sworn on his/her oath, states to the best of his/her belief and knowledge:

1. The undersigned certifies the Proposer is submitting their proposal under their true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, that the Proposer possesses, or will posses prior to the delivery of any goods and services, all applicable licenses necessary for such delivery, and that they are authorized to act on behalf of, and encumber the "Proposer" in this Contract, and

2. To the best of my knowledge, no Proposer or Potential Proposer, nor any person duly representing the same, has directly or indirectly entered into any agreement or arrangement with any other Proposers, Potential Proposers, any official or employee of the NJPA, or any person, firm or corporation under contract with the NJPA in an effort to influence either the offering or non-offering of certain prices, terms, and conditions relating to this RFP which tends to, or does, lessen or destroy free competition in the letting of the Contract sought for by this RFP, and

3. The Proposer or any person on his/her behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the manner of the proposal or award of the referenced contract, and

4. Neither I, the Proposer, nor, any officer, director, partner, member or associate of the Proposer, nor any of its employees directly involved in obtaining contracts with the NJPA or any subdivision of the NJPA, has been convicted of false pretenses, attempted false pretenses or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985, and

5. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request and other documents of this solicitation and that any and all exceptions have been noted in writing and have been included with the proposal submittal, and

6. If awarded a contract, the Proposer will provide the products/services and/or services to qualifying members of the NJPA in accordance with the terms, conditions, scope of this RFP, Proposer offered specifications and other documents of this solicitation, and

7. The undersigned, being familiar with expectations and specifications request outlined in this RFP under consideration, hereby proposes to deliver through valid service request, Purchase Orders or forms for NJPA Members per this RFP, only new, unused and first quality products/services and services to designated NJPA Members, and

8. The Proposer has carefully checked the accuracy of all items and listed total price per item in this proposal. In addition, the Proposer accepts all general terms and conditions of this RFP, including all responsibilities of commitment and delivery of services as outlined, and

9. In submitting this proposal, it is understood that the right is reserved by the NJPA to reject any or all proposals and it is agreed by all parties that this proposal may not be withdrawn during a period of 90 days from the date proposals were opened regarding this RFP, and

10. The Proposer certifies that in performing this Contract they will comply with all applicable provisions of the federal, state, and local laws, regulations, rules, and orders, and

11. If Proposer has more than 40 employees in the state in which their principal place of business is located, Proposer

hereby certifies their compliance with federal affirmative action requirements.

Company Name: _____

Contact Person for Questions: _____ Phone: _____
(Must be individual who is responsible for filling out this Proposer's Response form)

Address: _____

City/State/Zip: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Authorized Signature: _____

Authorized Name (typed): _____

Title: _____

Date: _____

Notarized

Subscribed and sworn to before me this _____ the day of _____ , 20_____

Notary Public in and for the County of _____ State of _____

My commission expires: _____

Signature: _____

Form G. OVERALL EVALUATION AND CRITERIA

In accordance with accepted standards of competitive sealed proposal awards as set forth in the Minnesota Procurement Code, competitive sealed proposals/awards will be made to responsible Proposers whose proposals are determined in writing to be responsive and also be the most advantageous to NJPA and its NJPA Members. To qualify for the final evaluation, a Proposer must have been deemed responsive as a result of the criteria set for "Proposer Responsiveness." A proposal must have been submitted on time and materially satisfy all mandatory requirements identified in this document.

Evaluation for:_____

For the Proposed Subject **PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES,**

The evaluation criteria for this solicitation, **not** arranged in order of importance:

	Available Points	Points Awarded
Conformance to terms and conditions to include documentation	75	
Pricing	300	
Industry and Marketplace Successes	50	
Bidder's Ability to Sell and Service Contract Nationally	100	
Bidder's Marketing Plan	75	
Value Added Attributes	75	
Invoicing Payment Terms and Financing Options	25	
Warranty Coverages and Information.	100	
Selection and Variety of Products and Services Offered	200	
Total Points	1000	0
Bonus Points awarded for:		
Bidders "Green" characteristics	50	
Bidders Dissadvantaged Business Entity Charactoristics	50	
Overall Evaluation Points	1100	0

Proposed

Reviewed by: _____ Its_____

_____ Its_____

FORM H **State Of Minnesota – Affirmative Action Certification**

If your response to this solicitation is or could be in excess of $100,000, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. **It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date and time of the proposal or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification BOX A** – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to **BOX B.**

Your response will be rejected unless your business:

has a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR)

–or–

has submitted an affirmative action plan to the MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- ❑ We have a current Certificate of Compliance issued by the MDHR. **Proceed to** BOX C. **Include a copy of your certificate with your response.**
- ❑ We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on _____ (date). [If the date is the same as the response due date, indicate the time your plan was received: _____ (time). **Proceed to** BOX C.
- ❑ We do not have a Certificate of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. **We acknowledge that our response will be rejected. Proceed to** BOX C. **Contact the Minnesota Department of Human Rights for assistance.** (See below for contact information.)

Please note: Certificates of Compliance must be issued by the Minnesota Department of Human Rights. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed, and approved by the Minnesota Department of Human Rights before a certificate can be issued.

BOX B – **For those companies not described in** BOX A

Check below.

- ❑ We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to** BOX C.

BOX C – **For all companies**

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: ___ Date _____

Authorized Signature: _ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services Section

Mail:	190 East 5th St., Suite 700 St. Paul, MN 55101	TC Metro:	(651) 296-5663	Toll Free:	800-657-3704
Web:	www.humanrights.state.mn.us	Fax:	(651) 296-9042	TTY:	(651) 296-1283

Form I

State of Minnesota — Immigration Status Certification

By order of the Governor's Executive Order 08-01, vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

E-Verify program information can be found at http://www.dhs.gov/ximgtn/programs.

If any response to a solicitation is or could be in excess of $50,000, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the contract. All subcontractor certifications must be kept on file with the contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and

2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone Number: _____

Printed Name: _____ Title: _____

If the contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the contract, and/or suspending or debarring the contract vendor from state purchasing.

For assistance with the *E-Verify* Program
Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833).

For assistance with this form, contact:
Mail: 112 Administration Bldg, 50 Sherburne Ave. St. Paul, MN 55155
E-mail: MMDHelp.Line@state.mn.us
Telephone: 651.296.2600
Persons with a hearing or speech disability may contact us by dialing 711 or 1.800.627.3529

Pre-submission Checklist

- Have you read and understood the RFP?
- Have you attended the Pre-Bid Conference for this RFP?
- Have you completed the questionnaire (Form A) to the best of your ability?
- Have you submitted pricing for all of the goods and services you offer within the scope of this RFP?
- Have you submitted a "Sourced Goods Multiplier?
- Have you packaged your bid submission identifying conspicuously "Competitive Bid Enclosed, Please hold for public opening XX-XX-XXX".
- Have you sent your package in sufficient time for physical delivery at 200 1st ST NE Staples, MN 56479 will occur prior to the deadline for delivery?
- Have you submitted original completed and executed forms C,D,E,H, and I from this RFP?
- Have you submitted verification of liability insurance with the coverage and limits required in the RFP?
- Have you provided an electronic copy (saved on a CD or flash drive) of your **entire** proposal including, but not limited to, Forms A,B,C, D,E,H, and I in your proposal?

CORRECTED Addendum 083111

To that certain
RFP#112811
Issued by

The National Joint Powers Alliance®

For the procurement of:

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES.

Please read this solicitation to include the following:

- The deadline for submission of proposals shall be extended from October 27, 2011 at 4:30 PM Central Time to November 17, 2011 at 4:30PM Central Time.
- The public opening of proposals received shall be extended from October 28, 2011 at 8:00 AM Central Time to November 18, 2011 at 8:00 AM Central Time.
- With respect to compliance with the general baseline specifications issued on the Excel pricing spreadsheet, please identify the compliant equipment you are proposing for the parameter identified and identify it as complaint. In the event you do not have a compliant option please identify the equipment you want to propose for the parameter identified and identify it as "Non-Compliant" with that specification.
- NJPA has moved. Please update all addresses. We have moved from 200 1st ST NE Staples, MN to 202 12 Street NE Staples, MN 56479. This change will affect and include the address for delivery of your proposal to NJPA.

Addendum 100511

To that certain
RFP#102811
Issued by

The National Joint Powers Alliance®
For the procurement of:

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES.

Please read this solicitation to include the following:

The deadline for RFP Requests for this solicitation will be changed from Tuesday October 4, 2011 to Tuesday October 11, 2011.

Gregg Meierhofer 10-5-11

CORRECTED Addendum 101411

To that certain
RFP#112811
Issued by

The National Joint Powers Alliance®
For the procurement of:

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES.

Please read this solicitation to include the following:

- The deadline for submission of proposals shall be extended from October 27, 2011 at 4:30 PM Central Time to November 17, 2011 at 4:30PM Central Time.
- The public opening of proposals received shall be extended from October 28, 2011 at 8:00 AM Central Time to November 18, 2011 at 8:00 AM Central Time.
- With respect to compliance with the general baseline specifications issues on the Excel pricing spreadsheet, please identify the compliant equipment you are proposing for the parameter identified and identify it as complaint. IN the event you do not have a compliant option please identify the equipment you want to propose for the parameter identified and identify it as "Non-Compliant" with that specification.
- NJPA has moved. Please update all addresses. We have moved from 200 1st ST NE Staples, MN to 202 12 Street NE Staples, MN 56479. This change will affect and include the address for delivery of your proposal to NJPA.

CORRECTED Addendum 101811

To that certain
RFP#112811
Issued by

The National Joint Powers Alliance®
For the procurement of:

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES.

Please read this solicitation to include the following:

QUESTION:

I will address the current situation for Government agency Members in the State of Washington alone, just to give you an idea of the complexity.

- Sales tax must be paid by (even State) Government agencies. In the case where the selling dealer is located in the state, the sales tax charged is applicable to that which is charged at the location of the selling dealer.
- Sales taxes vary by county (and, in some cases, by city...so it's actually by Zip Code!), and if the selling dealer is located outside the state, then the Member must pay the sales tax that is applicable at their site.
    - In the case of vehicles that are purchased but as yet not complete vehicles (such as, cab/chassis that must have a service body installed), the sales tax must include the completed vehicle. If a Member chooses to purchase the chassis from me, and have someone else complete the truck, sales tax cannot be determined/collected until the unit is complete.
    - In addition, the licensing cannot be completed until the completed unit is weighed, and a weight slip is included in the licensing app.
    - The only way a dealer might be able to take on these responsibilities would be to:
        - Add a fee to consider the cost of flooring these vehicles through this extra time the vehicle is "on their inventory books."
        - Add an additional fee for a business, such as RoadReady (www.roadreadyregs.com) to take care of all the complexities of this task, ensuring the dealer has not erred in the process of serving the Members. The cost of a service such as this is $105/vehicle, and we will have to consider this cost in the rendering of our bid.
- Licensing is typically carried out by the Member for their vehicles.

I would hazard a guess that every state has different sales tax and licensing policies...although Washington is decidedly complex.

I would suggest to you that the Members would be best served to take the responsibility for taking care of the sales tax (where due), and the licensing as well. The alternative is for the supplier to require that the Member indicate the sales tax

that will be due to their purchase, as well as the cost of licensing, with the understanding that if the actual cost incurred has a variance, they will be charged (or reimbursed) for any difference.

ANSWER:

You can make your proposal any way you want it to be, however you need to disclose your exceptions to the "total cost of acquisition" costs which are not included in your proposed pricing. Sales tax and licensing are to be included in the total cost of acquisition.

Prior to working for NJPA I worked in banking. In our bank was a leasing department where we leased equipment in the underground directional boring industry nationwide. To accomplish this we purchased software which ensured our compliance with state and local sales taxes and helped us file sales tax returns in every state in the nation. My point is that there are solutions out there for this problem. If you want to play on a national scale, this may be something you want to look into investing in.

With regard to the titling issues, a motor vehicle, designed for use on a roadway, which cannot be legally operated on a roadway because it is not legally titled, is less valuable to NJPA Members than one that can. Our Members have not likely needed to be licensing experts in the past and do not likely desire to become an expert to utilize your contract. Therefore a proposal including titling will likely be superior to a proposal excluding titling from the Proposer's responsibilities.

Proposal Offering
And Acceptance and Award
RFP #102811

FORM D

PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES,

Proposal Offering (To be completed Only by Proposer)

In compliance with the Request for proposal (RFP) for PASSENGER CARS, LIGHT DUTY, MEDIUM DUTY, AND HEAVY DUTY TRUCKS WITH RELATED ACCESSORIES, the undersigned warrants that I/we have examined this RFP and, being familiar with all of the instructions, terms and conditions, general specifications, expectations, technical specifications, service expectations and any special terms, do hereby offer and agree to furnish the defined products/services and services in compliance with all terms, conditions of this RFP, any applicable amendments of this RFP, and all Proposer's Response documentation. Proposer further understands they are the sole offeror herein and that the performance of any sub-contractors employed by the Proposer in fulfillment of this offer is the sole responsibility of the Proposer.

Company Name: National Auto Fleet Group Date: 11-14-11

Company Address: 490 Auto Center Drive

City: Watsonville State: CA Zip: 95076

Contact Person: Clarke Cooper Title: National Fleet Manager

Authorized Signature (ink only): _____ Clarke Cooper
(Name printed or typed)

Contract Acceptance and Award (To be completed only by NJPA)

Your proposal offering is hereby accepted and awarded. As an awarded Proposer, you are now bound to provide the defined goods and services contained in your proposal offering according to all terms, conditions, and pricing set forth in this RFP, any amendments to this RFP, and the Proposer's Response. The effective date of the Contract be Jan 17, 2012 and continue for four years thereafter AND which is subject to annual renewal at the option of both parties.

National Joint Powers Alliance® (NJPA)

NJPA Authorized signature: _____ Todd Lysclo
(Name printed or typed)

Title: Executive Director NJPA

Awarded this 17TH day of January 2012 **Contract Number # 102811-NAF**

NJPA Authorized signature: _____
(Name printed or typed)

Title: Board Clerk

Executed this 17th day of January 2012 **Contract Number # 102811-NAF**

5th YEAR RENEWAL OF AGREEMENT

Made by and Between

National Auto Fleet Group (Vendor)
490 Auto Center Drive
Watsonville, CA 95076

and

National Joint Powers Alliance® (NJPA)
202 12th Street NE
Staples, MN 56479
Phone: (218) 894-1930

Whereas:

"Vendor" and "NJPA" have entered into an "Acceptance and Award #102811-NAF" for the procurement of Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories, and having a maturity date of January 17, 2016, and which are subject to annual renewals and a 5th year extension at the option of both parties.

Now therefore:

Members of NJPA would benefit from exercising the fifth year option. "Vendor" and "NJPA" hereby desire and agree to exercise the 5th year renewal option for the above defined contract for the period of January 17, 2016 to January 17, 2017.

National Joint Powers Alliance® (NJPA)

By: _____, Its: Executive Director/CEO

Name printed or typed: Chad Coauette

Date 7/20/15

National Auto Fleet Group

By: _____, Its: Manager

Name printed or typed: Jesse Cooper

Date 7-26-15

National Auto Fleet Group

A division of Chevrolet of Watsonville
490 Auto Center Drive, Watsonville, CA 95076
855 BUY-NJPA 626-457-5590
855 289-6572 626-457-5593

November 15, 2016

Lt. Phil Holder
Banning Police Department
321 W Ramsey St
Banning, CA 92220
United States of America
Delivery Via Email

Dear Lt. Holder,

In response to your inquiry, we are pleased to submit the following for your consideration:

National Auto Fleet Group will sell, service and deliver at Banning, new/unused 2015 Police Interceptor CSO sedan responding to your requirement with the attached specifications for $ 21436.66 plus State Sales Tax, and $8.75 tire tax (non-taxable). These vehicles are available under the NJPA master vehicle contract# 102811.

Terms are net 30 days.

National Auto Fleet Group welcomes the opportunity to assist you in your vehicle requirements.

John Oviyach
National Account Law Enforcement Manager
National Auto Fleet Group

National Auto Fleet Group

A division of Chevrolet of Watsonville
490 Auto Center Drive, Watsonville, CA 95076
855 BUY-NJPA 626-457-5590
855 289-6572 626-457-5593

November 15, 2016

Lt. Phil Holder
Banning Police Department
321 W Ramsey St
Banning, CA 92220
United States of America
Delivery Via Email

Dear Lt. Holder,

In response to your inquiry, we are pleased to submit the following for your consideration:

National Auto Fleet Group will sell, service and deliver at Banning, new/unused 2017 Police Interceptor Utilities responding to your requirement with the attached specifications for $ 28,259.00 plus State Sales Tax, and $8.75 tire tax (non-taxable). These vehicles are available under the NJPA master vehicle contract# 102811. Pricing includes black and white paint to your paint scheme.

Terms are net 30 days.

National Auto Fleet Group welcomes the opportunity to assist you in your vehicle requirements.

John Oviyach
National Account Law Enforcement Manager
National Auto Fleet Group

Prepared By:
Administrator
Your Dealership Name Here

• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

SELECTED MODEL

Code	Description
P2M	*2017 Ford Sedan Police Interceptor AWD Base*

SELECTED VEHICLE COLORS

Code	Description
-	*Interior: CHARCOAL BLACK*
-	*Exterior 1: NORSEA BLUE METALLIC*
-	*Exterior 2: No color has been selected.*

SELECTED OPTIONS

Code	Description	Class
	PACKAGES	
500A	*Preferred Equipment Package 500A* *(99K) Engine: 3.7L Ti-VCT V6 (FFV); (44J) Transmission: 6-Speed Automatic : Exclusively police calibrated for maximum acceleration and faster closing speed.; (STDTR) Tires: P245/55R18 AS BSW : Includes full size spare tire with TPMS.; (STDWL) Wheels: 18" x 8" Steel w/Hub Cover : 5-spoke painted black. Includes hub cover and full-size spare wheel.; (R) Heavy-Duty Cloth Front Bucket Seats/Vinyl Rear : Includes 6-way power driver with manual recline and lumbar, passenger 2-way manual with recline and built-in steel intrusion plates in both front seatbacks.; (STDRD) Radio: AM/FM/CD/MP3 Capable : Includes clock, 4 speakers and 4.2" color center stack*	*OPT*
	EMISSIONS	
422	*California Emissions System* *Required code for California Emissions States - California, Connecticut, Delaware, Massachusetts, Maryland, Maine, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington registration unless codes 936 or 423 are applicable. Optional code for Cross Border State dealer orders - Arizona, District of Columbia, Idaho, New Hampshire, Nevada, Ohio, Virginia and West Virginia*	*OPT*
	POWERTRAIN	
99K	*Engine: 3.7L Ti-VCT V6*	*OPT*

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

SELECTED OPTIONS

Code	Description	Class
	POWERTRAIN (Continued)	
44J	Transmission: 6-Speed Automatic Exclusively police calibrated for maximum acceleration and faster closing speed.	INC
	WHEELS & TIRES	
STDTR	Tires: P245/55R18 AS BSW Includes full size spare tire with TPMS.	INC
642	Wheels: 18" Painted Aluminum 18" Conventional Police Black Steel Spare Wheel	OPT
	SEATS & SEAT TRIM	
C	Heavy-Duty Cloth Front Bucket Seats/Cloth Rear Includes 6-way power driver with manual recline and lumbar, passenger 2-way manual with recline and built-in steel intrusion plates in both front seatbacks.	INC
	OTHER OPTIONS	
PAINT	Monotone Paint Application	STD
STDRD	Radio: AM/FM/CD/MP3 Capable Includes clock, 4 speakers and 4.2" color center stack smart display.	INC
12P	Police Interior Upgrade Package (C) Heavy-Duty Cloth Front Bucket Seats/Cloth Rear : Includes 6-way power driver with manual recline and lumbar, passenger 2-way manual with recline and built-in steel intrusion plates in both front seatbacks.; Front & Rear Floor Mats; (17I) 1st & 2nd Row Carpet Floor Covering : Includes front and rear floor mats.; Full Floor Console w/Unique Police Finish Panels. Includes rear grab handles with coat hook	OPT
13P	Front Headlamp/Police Interceptor Housing Only Includes pre-drilled hole for side marker police use, does not include LED installed lights (eliminates need to drill housing assemblies) and pre-molded side warning LED holes with standard twist lock sealed capability (does not include LED installed lights).	OPT
90T	Tail Lamp/Police Interceptor Housing Only Pre-existing holes with standard twist lock sealed capability (does not include LED installed lights) (eliminates need to drill housing assemblies).	OPT
153	Front License Plate Bracket	OPT
13C	Dark Car Feature Courtesy lamps and chimes disabled when any door is opened (trunk not included).	OPT

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

SELECTED OPTIONS

Code	Description	Class
	OTHER OPTIONS (Continued)	
53M	*SYNC Basic Voice-Activated Communications System* *Includes 911 Assist, VHR, SYNC Services, AppLink, Bluetooth, steering wheel controls, USB port and auxiliary input jack.*	*OPT*
47K	*4 Remappable Steering Wheel Switches w/Voice*	*OPT*
17I	*1st & 2nd Row Carpet Floor Covering* *Includes front and rear floor mats.*	*INC*
43B	*Keyed Alike - 1284x*	*OPT*
76R	*Reverse Sensing*	*OPT*
20P	*Noise Suppression Bonds*	*OPT*
	INTERNAL OPTIONS	
PNTTBL	*Paint Table : Primary*	*OPT*
	INTERIOR COLORS FOR : PRIMARY	
CW	*Charcoal Black*	*OPT*
	EXTERIOR COLORS FOR : PRIMARY	
KR	*Norsea Blue Metallic*	*OPT*

OPTIONS TOTAL

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Powertrain

- *300hp 3.7L DOHC 24 valve V-6 engine with variable valve control, SMPI*
- *Recommended fuel : regular unleaded*
- *Emissions Type: ULEV II*
- *6 speed automatic transmission with overdrive*
- *All-wheel drive*
- *Fuel Economy City: 18mpg*
- *Fuel Economy Highway: 25mpg*
- *Fuel Tank Capacity: 19.0gal.*

Suspension/Handling

- *Front independent strut suspension with anti-roll bar, gas-pressurized shocks*
- *Rear independent multi-link suspension with anti-roll bar, gas-pressurized shocks*
- *Electric power-assist rack-pinion steering*
- *Front and rear 18" x 8" painted aluminum wheels*
- *P245/55VR18.0 BSW AS front and rear tires*

Body Exterior

- *4 doors*
- *Driver and passenger power remote door mirrors*
- *Black door mirrors*
- *Body-colored bumpers*
- *1 skid plate*

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Body Exterior (Continued)

- *Clearcoat paint*

Convenience

- *Manual air conditioning with air filter*
- *Cruise control with steering wheel controls*
- *Power windows*
- *Driver 1-touch down*
- *Driver 1-touch up*
- *Power door locks with 2 stage unlock*
- *Manual tilt steering wheel*
- *Manual telescopic steering wheel*
- *Day-night rearview mirror*
- *Power adjustable pedals*
- *911 Assist emergency communication system*
- *Wireless phone connectivity*
- *1 1st row LCD monitor*
- *Front cupholders*
- *Dual visor vanity mirrors*
- *Full floor console*
- *Driver and passenger door bins*

Seats and Trim

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Seats and Trim (Continued)

- *Seating capacity of 5*
- *Front bucket seats*
- *8-way (6-way power) driver seat adjustment*
- *Manual driver lumbar support*
- *Power height adjustable driver seat*
- *4-way passenger seat adjustment*
- *60-40 folding rear bench seat*
- *Cloth seat upholstery*
- *Carpet front and rear floor mats*

Entertainment Features

- *AM/FM stereo radio*
- *Single CD player*
- *MP3 decoder*
- *SYNC external memory control*
- *Steering wheel mounted radio controls*
- *4 speakers*
- *Integrated roof antenna*

Lighting, Visibility and Instrumentation

- *Halogen projector beam headlights*
- *Variable intermittent front windshield wipers*

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Lighting, Visibility and Instrumentation (Continued)

- *Rear window defroster*
- *Light tinted windows*
- *Front reading lights*
- *Tachometer*
- *Low tire pressure warning*
- *Trip computer*
- *Parking sensors*
- *Trip odometer*
- *Rear camera*

Safety and Security

- *4-wheel ABS brakes*
- *Brake assist*
- *4-wheel disc brakes*
- *AdvanceTrac electronic stability*
- *ABS and driveline traction control*
- *Dual front impact airbag supplemental restraint system*
- *Dual seat mounted side impact airbag supplemental restraint system*
- *Safety Canopy System curtain 1st and 2nd row overhead airbag supplemental restraint system*
- *Airbag supplemental restraint system occupancy sensor*
- *Power door locks with 2 stage unlock*

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Safety and Security (Continued)

- *Manually adjustable front head restraints*

Specs and Dimensions

- *Engine displacement: 3.7L*
- *Engine horsepower: 300hp @ 6,250RPM*
- *Engine torque: 280 lb.-ft. @ 4,500RPM*
- *Bore x stroke : 3.76" x 3.41"*
- *Compression ratio: 10.80:1*
- *Gear ratios (1st): 4.48*
- *Gear ratios (2nd): 2.87*
- *Gear ratios (3rd): 1.84*
- *Gear ratios (4th): 1.41*
- *Gear ratios (5th): 1.00*
- *Gear ratios (6th): 0.74*
- *Gear ratios (reverse): 2.88*
- *Curb weight: 4,325lbs.*
- *Exterior length: 202.9"*
- *Exterior body width: 76.2"*
- *Exterior height: 61.3"*
- *Wheelbase: 112.9"*
- *Front track: 65.3"*

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• VEHICLE REPORT

2017 Ford Sedan Police Interceptor P2M AWD Base

STANDARD EQUIPMENT

Specs and Dimensions (Continued)

- *Rear track: 65.5"*
- *Turning radius: 19.8'*
- *Front legroom: 41.9"*
- *Rear legroom: 39.9"*
- *Front headroom: 39.0"*
- *Rear headroom: 36.7"*
- *Front hiproom: 56.3"*
- *Rear hiproom: 55.9"*
- *Front shoulder room: 57.9"*
- *Rear shoulder room: 56.9"*
- *Passenger volume: 102.9cu.ft.*
- *Interior cargo volume: 16.6cu.ft.*
- *Interior maximum cargo volume: 16.6cu.ft.*

Report content is based on current data version referenced. Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions. PC Carbook®. Data Version: 5.0. Data updated 07/17/2014 07:13:22 PM ©Copyright 1986-2012 Chrome Data Solutions, LP. All rights reserved.

FORD CREDIT

Municipal Finance Department
1 American Road, MD 7500
Dearborn, Michigan 48126

November 02, 2016

John Oviyach
Wondries Fleet Group
john.oviyach@verizon.net

RE: **City of Banning, CA, Quote #86385**

Ford Credit Municipal Finance is pleased to present the following financing options for your review and consideration.

Option	Quantity	Description				Price
A	1	2015 Police Interceptor CSO Sedan				$21,436.66
	1	2017 Ford Police Interceptor UC Sedan				$24,525.00
	6	2017 Ford Police Interceptor Untilities				$28,259.00
	1	Sales Tax				$1,962.00
	1	Sales Tax				$1,714.94
	6	Sales Tax				$2,260.72
	8	Tire Tax				$8.75
	Total Amount Financed*	Number of Payments	Payment Timing	APR	Payment Factor	Payment Amount
	$233,371.92	3	Annual in Advance	5.25%	0.350527	$81,803.16

Option	Quantity	Description				Price
B	1	2015 Police Interceptor CSO Sedan				$21,436.66
	1	2017 Ford Police Interceptor UC Sedan				$24,525.00
	6	2017 Ford Police Interceptor Untilities				$28,259.00
	1	Sales Tax				$1,962.00
	1	Sales Tax				$1,714.94
	6	Sales Tax				$2,260.72
	8	Tire Tax				$8.75
	Total Amount Financed*	Number of Payments	Payment Timing	APR	Payment Factor	Payment Amount
	$233,371.92	4	Annual in Advance	5.20%	0.269319	$62,851.49

Option	Quantity	Description				Price
C	1	2015 Police Interceptor CSO Sedan				$21,436.66
	1	2017 Ford Police Interceptor UC Sedan				$24,525.00
	6	2017 Ford Police Interceptor Untilities				$28,259.00
	1	Sales Tax				$1,962.00
	1	Sales Tax				$1,714.94
	6	Sales Tax				$2,260.72
	8	Tire Tax				$8.75
	Total Amount Financed*	Number of Payments	Payment Timing	APR	Payment Factor	Payment Amount
	$233,371.92	5	Annual in Advance	5.20%	0.220773	$51,522.22

*$545.00 underwriting fee included

EXPIRATION DATE: 02/28/2017

This quotation, until credit approved, is not a commitment by Ford Credit Municipal Finance. It has been prepared assuming that the lease qualifies for Federal Income Tax Exempt Status for Ford Credit Company LLC under Section

Ford Motor Credit Company ("FMCC") is providing the information contained in this document for discussion purposes only in connection with a proposed arm's length commercial leasing transaction between you and FMCC. FMCC is acting for its own interest and has financial and other interests that differ from yours. FMCC is not acting as a municipal advisor or financial advisor to you, and has no fiduciary duty to you. The information provided in this document is not intended to be and should not be construed as "advice" within the meaning of Section 15B of the Securities Exchange Act of 1934 and the municipal advisor rules of the SEC. FMCC is not recommending that you take an action and you should discuss any actions with your own advisors as you deem appropriate.

103 of the IRS Code. Financing is subject to credit review and approval of acceptable documentation by Ford Credit Municipal Finance.

Ford Credit Municipal Finance Program

- There is no security deposit, no prepayment penalty, and no mileage penalty.
- At inception, the new equipment title/registration indicates the municipality as Registered Owner, with Ford Motor Credit Company LLC as first lien holder.
- At term end, the municipality buys the equipment for $1.

Thank you for allowing Ford Credit Municipal Finance the opportunity to provide this quotation. If you have any questions regarding the option presented, need additional options, or would like to proceed with the approval process, please contact me at (800) 241-4199, option 1.

Sincerely,

Joe Girard

Joe Girard
Marketing Coordinator
jgirar15@ford.com



We look forward to assisting you as we have other customers.

"I purchase Fords through Ford Credit as an easy alternative to conventional financing. Good product, good rate, easy process, great support staff." J.J. Randall – Frankfort Park District, IL 02/15/2016

Ford Motor Credit Company ("FMCC") is providing the information contained in this document for discussion purposes only in connection with a proposed arm's length commercial leasing transaction between you and FMCC. FMCC is acting for its own interest and has financial and other interests that differ from yours. FMCC is not acting as a municipal advisor or financial advisor to you, and has no fiduciary duty to you. The information provided in this document is not intended to be and should not be construed as "advice" within the meaning of Section 15B of the Securities Exchange Act of 1934 and the municipal advisor rules of the SEC. FMCC is not recommending that you take an action and you should discuss any actions with your own advisors as you deem appropriate.

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CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Brian Guillot, Community Development Director**
Sandra Calderon, Development Project Coordinator

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-121 Requesting approval of the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedemann & Girard for the Rancho San Gorgonio Development Agreement.**

RECOMMENDATION:

That City Council Adopt Resolution 2016-121 (Attachment 1) approving the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedemann & Girard for additional legal services for the Rancho San Gorgonio Development Agreement.

JUSTIFICATION:

It is necessary to amend the Professional Services Agreement with Kronick, Moskovitz, Tiedemann & Girard to include additional services due to an extended schedule in the amount of $18,562.01.

BACKGROUND:

On June 9, 2016, the City entered into an agreement approving the award of a Professional Services Agreement to Kronick, Moskovitz, Tiedemann & Girard in connection with the preparation of a development agreement for the Rancho San Gorgonio Specific Plan development. The entire contract sum was in the amount of $14,250 (Attachment 2).

On September 7, 2016 the development agreement was presented to the Planning Commission for approval and thereafter presented to the City Council. Ordinance 1499 was approved on October 11, 2016.

The schedule of performance table provides a summary of the project timeline and expenditures as of September 16, 2016.

OPTIONS:

1. Approve the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedemann & Girard for additional legal services for the Rancho San Gorgonio Development Agreement in the amount of $18,562.01.

2. Do not approve the First Amendment to the Professional Services Agreement for Legal Services between the City of Banning and Kronick, Moskovitz, Tiedemann & Girard for additional legal services and advise Staff.

FISCAL IMPACT:

The professional services provided by Kronick, Moskovitz, Tiedemann & Girard will be funded by Rancho San Gorgonio, LLC not to exceed the amount of $32,812.01 Account No. 002-2800-441.30-33 (Rancho San Gorgonio-Legal Services).

ATTACHMENTS:

1. Resolution 2016-121
2. Original Professional Services Agreement with Kronick, Moskovitz, Tiedemann & Girard
3. Schedule of Performance

Approved by:



Michael Rock
City Manager

Attachment 1
Resolution 2016-121

RESOLUTION 2016-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR LEGAL SERVICES BETWEEN THE CITY OF BANNING AND KRONICK, MOSKOVITZ, TIEDEMAN & GIRARD FOR THE RANCHO SAN GORGONIO SPECIFIC PLAN DEVELOPMENT.

WHEREAS, on June 9, 2016, the City entered into an agreement approving the ward of a Professional Services Agreement to Kronick, Moskovitz, Tiedemann & Girard in connection with the preparation of a development agreement for the Rancho San Gorgonio Specific Plan development. The entire contract sum was in the amount of $14,250.; and

WHEREAS, On September 7, 2016 the development agreement was presented to the Planning Commission for approval and there after presented to the City Council. Ordinance No. 1499 was approved on October 11, 2016

WHEREAS, It is necessary to amend the Professional Services Agreement with Konick, Moskovitz, Tiedemann & Girard to include additional services due to extended schedule in the amount of $18,562.01.

WHEREAS, the professional services provided by Kronick, Moskovitz, Tiedemann & Girard will be funded by Rancho San Gorgonio, LLC not to exceed the amount of $32,812.01. Account No. 002-2800-441.30-33 (Rancho San Gorgonio-Legal Services).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Council approves Amendment #1 of the Professional Services Agreement to Kronick, Moskovitz, Tiedemann & Girard for legal services for the Rancho San Gorgonio Development Agreement.

SECTION 2. The City Manager is authorized to make the necessary appropriations and account transfers to fund this agreement, and appropriate funds deposited by Rancho San Gorgonio LLC for the purpose of funding the said Professional Services Agreement.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2016.

_____

, Mayor

City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2016-121 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of December, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Marie A. Calderon, City Clerk
City of Banning, California

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Attachment 2

Original Professional Services Agreement with Kronick, Moskovitz, Tiedemann & Girard

CITY OF BANNING

PROFESSIONAL SERVICES AGREEMENT FOR

LEGAL SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT (herein "Agreement") is made and entered into this 9th day of June 2016, by and between the CITY OF BANNING, a California municipal corporation herein ("City") and Kronick, Moskovitz, Tiedemann & Girard, A Professional Corporation ("KMTG").

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Consultant shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Consultant warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner. Exhibit "B" shall list any exclusions or special requirements that supersede this contract boilerplate.

1.2 Compliance With Law. All work and services rendered hereunder shall be provide in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 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 the Agreement.

1.4 Warranty. The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence. Consultant warrants all work under the Agreement to be of good quality and free from any defective or faulty material and workmanship. Consultant agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Consultant shall within ten (10) days after being notified in writing by the City of any defect in the work or nonconformance of the work to the Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at his sole cost and expense. The 1-year warranty may be waived in Exhibit "A" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

2. 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 Fourteen Thousand Two Hundred Fifty Dollars ($14,250.00) ("Contract Sum").

2.2 Invoices. Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Deputy City Manager. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Consultant contracts. Sub-Consultant charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City. City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.3 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 ten percent (10%) of the Contract Sum, but not exceeding a totally contract amount of $25,000 or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City.

3. 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" 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 Inspection and Final Acceptance. City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Article 5, pertaining to indemnification and insurance, respectively.

3.5 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4. COORDINATION OF WORK

4.1 Representative of Consultant. Jon E. Goetz is hereby designated as being the representative of Consultant authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Consultant and any authorized agents shall be under the exclusive direction of the representative of Consultant. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-consultants, and shall keep City informed of any changes.

4.2 Contract Officer. Michael Rock, City Manager is hereby designated as being the representative the City authorizes 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 by providing written notice to Consultant.

4.3 Prohibition Against Subcontracting or Assignment. Consultant 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.

4.4 Independent Consultant. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth. Consultant shall perform all services required herein as an independent Consultant of City with 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, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The 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 which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(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 Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of $100,000 per person and $300,000 per occurrence and property damage liability limits of $150,000 per occurrence or (ii) combined single limit liability of $1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and

their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City

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's Risk Manager or other designee of the City due to unique circumstances.

5.2 Indemnification. To the full extent provided by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents against, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Consultant, its officers, agents, employees, agents, sub-consultants, or invitees, provided for herein ("indemnors"), or arising from Consultant's indemnors' negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, except claims or liabilities to the extent caused by the negligence or willful misconduct of the City indemnitees.

5.3 General Insurance Requirements. All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records. Consultant shall keep, and require sub-consultants to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "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 and shall keep such records for a period of three years following completion of the services hereunder. 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.

6.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed 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.

7.2 Disputes; Default. In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time

as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Agency, except that where termination is due to the fault of the Agency, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered 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 or such as may be approved by the Contract Officer. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit B. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 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.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Consultant 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. Consultant shall take affirmative action to ensure 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.

8.2 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.

8.3 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 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, at City of Banning City Hall, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement.

8.4 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.

8.5 Severability. In the event that part of 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 portions 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.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by 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.

8.7 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made 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 any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 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.

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

CITY:

CITY OF BANNING, a municipal corporation

Michael Rock, City Manager

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

John C. Cotti, Interim City Attorney

CONSULTANT:

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD, A Professional Corporation

By:
Name: Jon E. Goetz
Title:

By:
Name: ~~Hene G. Block~~ Jeffrey Mitchell
Title: vice president

Address: 223 W. Foothill Blvd.
Claremont, CA 91711

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

_____
TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER_____

_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"

SCOPE OF SERVICES

I. **Consultant will perform the following Services on an on-call basis:**

A. Kronick, Moskovitz, Tiedemann & Girard, A Professional Corporation ("KMTG") to provide legal services to the City of Banning in connection with the preparation of a development agreement for the Rancho San Gorgonio Specific Plan development.

II. **Consultant must perform all on-call Services in compliance with the following requirements:**

A. Each task shall be indicated by a written request produced by the Contract Officer with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.

B. Consultant must prepare a written description of the requested tasks including all components and subtasks; the costs to perform the task ("Task Project"); explain how the cost was determined; and a schedule for completion of the task ("Task Completion Date"); which shall all collectively be referred to as the "Task Proposal".

C. Contract Officer shall in writing approve, modify or reject the Task Proposal, and may issue a Notice to Proceed. The task shall be performed at a cost not to exceeding the Task Budget. Consultant shall complete the task and deliver all deliverables to Contract Officer by the Task Completion Date.

III. **In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:**

A. As needed by the Contract Officer or his designee.

IV. **All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.**

V. **Consultant will utilize the following personnel to accomplish the Services:**

A. Jon Goetz, with backup from others at the firm if needed.

VI. **As allowed in Section 1.4, City waives the 1-year warranty requirement.**

EXHIBIT "B"

SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

Section 2.4, entitled Prevailing Wages, is deleted in its entirety.

EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Consultant shall establish a Task Budget for each Task identifying the subtasks, based on the time and rates of the personnel performing the subtasks, and itemizing all materials and equipment utilized and the costs thereof. If payment is to be made other than at completion of the services, then the phases of the performance and percentage of payment due shall also be shown in the Task Proposal.

II. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-consultant labor, supplies, equipment, materials, and travel properly charged to the Services.

III. The total compensation for the Services shall not exceed $14,250.00, as provided in Section 2.1 of this Agreement.

IV. The City will compensate Consultant for work performed on a time-and-materials basis at a rate of $275.00 per hour plus expenses for basic services, including copying and delivering charges for U.S. Mail, Federal Express and third-party courier services charged at KMTG's actual cost upon submission of a valid invoice.

EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Consultant shall perform Services on an on-call basis as set forth in Exhibit A.

II. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

III. At this time is anticipated that the subject development agreement will be presented to Planning Commission on September 7, 2016, and hereafter to the City Council for review and approval. This schedule is subject to change without notice.

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Attachment 3
Schedule of Performance

Entries for City of Banning, Rancho San Gorgonio Specific Plan Development: 14906-2

Attorney Name	Accounting Date	Description	Hours	Rate	Amount
Baranoff, Constantine C	8/24/2016	Review/comments of development agreement public financing issues; call with J. Goetz and developer's counsel.	2.0	275	550.00
Baranoff, Constantine C	8/25/2016	Further review/analysis of financing section of DA.	0.8	275	206.25
Baranoff, Constantine C	8/26/2016	Review/edit finance section of Development Agreement.	1.5	275	412.50
Baranoff, Constantine C	8/29/2016	Continue review of finance section of Development Agreement.	1.0	275	275.00
Baranoff, Constantine C Total			**5.3**		**1,443.75**
Goetz, Jon E	6/16/2016	Attend meeting re Development Agreement issues; review of development materials.	4.0	275	1,100.00
Goetz, Jon E	6/21/2016	Review of prior development agreement and RSG specific plan.	3.0	275	825.00
Goetz, Jon E	6/23/2016	Attend meeting regarding project; preparation of changes to Development Agreement; review of TUMF Fee Credit Agreement.	3.5	275	962.50
Goetz, Jon E	6/24/2016	Preparation of TUMF Agreement; preparation of revisions to Development Agreement.	2.3	275	632.50
Goetz, Jon E	7/12/2016	Preparation of revisions to Development Agreement.	5.5	275	1,512.50
Goetz, Jon E	7/13/2016	Preparation of revisions to Development Agreement.	1.2	275	330.00
Goetz, Jon E	7/15/2016	Preparation of revisions to Development Agreement.	3.5	275	962.50
Goetz, Jon E	7/20/2016	Preparation of revisions to Development Agreement.	4.2	275	1,155.00
Goetz, Jon E	7/21/2016	Attend meeting re Development Agreement; preparation of revisions to Development Agreement.	3.2	275	880.00
Goetz, Jon E	7/22/2016	Preparation of revisions to Development Agreement.	6.0	275	1,650.00
Goetz, Jon E	7/25/2016	Preparation of revisions to Development Agreement.	3.4	275	935.00
Goetz, Jon E	7/28/2016	Attend meeting re Development Agreement.	3.0	275	825.00
Goetz, Jon E	7/29/2016	Prepare and transmit revised Development Agreement; research re Riverside County building permits.	3.5	275	962.50
Goetz, Jon E	7/1/2016	Review and comment re Development Agreement.	2.2	275	605.00
Goetz, Jon E	8/16/2016	Review of developer changes to Development Agreement.	2.4	275	660.00
Goetz, Jon E	8/17/2016	Meet re Development Agreement; review of Developer change.	4.1	275	1,127.50
Goetz, Jon E	8/23/2016	Review and comment re Development Agreement public notice.	0.3	275	82.50
Goetz, Jon E	8/24/2016	Attend meetings re Development Agreement; reviews of TUM F Agreement and assignment provisions.	6.2	275	1,705.00
Goetz, Jon E	8/25/2016	Review and comment re Development Agreement deal points; research re master community developers.	1.2	275	330.00
Goetz, Jon E	8/4/2016	Meeting re Development Agreement.	3.0	275	825.00
Goetz, Jon E	8/10/2016	Review of comments to Development Agreement.	0.5	275	137.50
Goetz, Jon E	8/11/2016	Meeting re Development Agreement, review of comments to agreement.	3.0	275	825.00
Goetz, Jon E	8/18/2016	Meeting re Development Agreement; review of P. Pittasi comments re assignment provisions.	2.5	275	687.50
Goetz, Jon E	8/26/2016	Preparation of revisions to Development Agreement.	4.6	275	1,265.00

Attorney Name	Accounting Date	Description	Hours	Rate	Amount
Goetz, Jon E	8/31/2016	Review and comment re Development Agreement proposals, preparation of revisions to agreement.	1.1	275	302.50
Goetz, Jon E	9/19/2016	Preparation of revisions to Development Agreement; review and discuss Development Agreement comments.	1.2	275	330.00
Goetz, Jon E	9/20/2016	Telephone conference with R. Clayton re RSG; preparation of revisions to Development Agreement.	3.1	275	852.50
Goetz, Jon E	9/21/2016	Preparation of final draft of Development Agreement, review and comment re changes, conference call.	3.2	275	880.00
Goetz, Jon E	9/7/2016	Review comments to Development Agreement.	2.0	275	550.00
Goetz, Jon E	9/27/2016	Attend City Council Workshop and Public Hearing.	8.5	275	2,337.50
Goetz, Jon E	9/1/2016	Prepare revisions to Development Agreement, transmit to R. Clayton.	3.5	275	962.50
Goetz, Jon E	9/2/2016	Review of comments to Development Agreement.	3.3	275	907.50
Goetz, Jon E	9/12/2016	Attend meeting re Development Agreement.□	3.0	275	825.00
Goetz, Jon E	9/14/2016	Attend meeting re Development Agreement; review of comments to Development Agreement.	3.0	275	825.00
Goetz, Jon E	9/15/2016	Review of comments to Development Agreement.	0.5	275	137.50
Goetz, Jon E	9/16/2016	Preparation of revisions to Development Agreement, review and comment re developer changes.	4.2	275	1,155.00
Goetz, Jon E Total			**112.9**		**31,047.50**
Grand Total			**118.2**		**32,491.25**

Payee	Cost Code	Amount	Description
Jon Goetz	TRAV	29.16	Mileage to Banning on 08-04-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 08-11-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 08-17-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 08-25-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 7-14-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 7-21-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 7-28-16 (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 9-08-16. (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 9-1-16. (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 9-14-16. (54mi)
Jon Goetz	TRAV	29.16	Mileage to Banning on 9-27-16. (54mi)
		320.76	

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Natalie C. Karpeles, Interim Deputy City Attorney**

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Municipal Code amendments to expressly prohibit all commercial marijuana land uses throughout the City as an urgency measure**

RECOMMENDATION:

1. After the City Attorney reads the title, adopt Urgency Ordinance 1505 amending Section 8.48.330 (Cultivation, Manufacture, or Sale of Drugs) and adding Chapter 5.34 ("Marijuana Cultivation") to regulate the cultivation of marijuana for personal use by creating a Marijuana Cultivation Permit; amending Chapter 8.68 (Medical Marijuana Prohibited) to conform to state law;
2. Introduce on first reading non-urgency Ordinance 1506, related to the regulation of marijuana cultivation for personal use, and the prohibition of commercial marijuana activities (including commercial delivery, dispensing and non-personal cultivation); and
3. Direct staff to schedule the second reading and adoption of non-urgency Ordinance 1506 for the January 24, 2017, regular City Council meeting.

JUSTIFICATION:

An oral report will be provided by the City Council Ad-Hoc committee.

BACKGROUND:

On November 8, 2016, the voters of the State of California passed the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Upon its passage, certain provisions of the AUMA took effect as of November 9, 2016. These provisions include the legalization of the use of nonmedical marijuana by persons 21 years of age or older, and the personal cultivation of up to six (6) marijuana plants. Specifically, the AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of un-concentrated marijuana or 8 grams of concentrated marijuana; and (3) possess, plant,

cultivate, harvest, dry or process up to six living marijuana plants for personal use. Until recently, it was unnecessary for the City's land use regulations to address the recreational use of marijuana because it was not legal pursuant to federal, state or local law[1].

Commercial marijuana activities can adversely affect the health, safety and well-being of City residents. For instance, the exterior cultivation of marijuana requires large amounts of space and may result in a large quantity of plants being cultivated on a single parcel of land. As these "crops" begin to flower, they produce a strong odor that is detectable far beyond the property boundaries. Not only is the odor of flowering marijuana plants offensive, it also alerts persons to the location of these valuable plants and creates an increased risk of nuisance activity, including crime. Furthermore, the indoor cultivation and processing of marijuana has also resulted in damages to buildings; such damages include improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, as well as an increase in the frequency of home-invasion robberies and similar crimes. The City anticipates that the cultivation of non-medical marijuana exposes itself to the same inherent risks. Marijuana cultivation or other concentration of marijuana in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively impacted.

Even though the Compassionate Use Act, the Medical Marijuana Program, and the AUMA provide limited immunity from specified State marijuana laws, this immunity does not grant any land use rights or create the right to maintain a public nuisance. With that said, the Banning Municipal Code does not currently expressly and separately prohibit the delivery or mobile dispensing of marijuana within the City. Furthermore, the BMC currently bans personal cultivation of marijuana in contravention to the AUMA.

URGENCY ORDINANCE:

In conjunction with the proposed ordinance, staff has also provided a substantively identical urgency ordinance. Pursuant to Government Code section 36937, urgency ordinances for the immediate preservation of the public peace, health or safety take effect immediately, subject to a four-fifths (4/5) vote of approval by the City Council. Commercial marijuana activities and unregulated personal cultivation can adversely affect the safety and peace of City residents by creating situations which may result in an increase of fire hazards, nuisance and crime. Upon approval by the City Council, the urgency ordinance would go into effect immediately and will essentially be replaced by the non-urgency ordinance once the non-urgency ordinance goes into effect after a second reading and thirty-day waiting period.

Currently, the BMC prohibits medical marijuana dispensaries[2] and the cultivation of marijuana[3]. Pursuant to the recent passage of the AUMA in November, personal

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[1] Division II of Title 17 of the Banning Municipal Code ("BMC") does not currently expressly and separately prohibit the cultivation or delivery of marijuana within the City. While Chapter 8.68 prohibits medical marijuana dispensaries and Section 8.48.330 prohibits the cultivation of marijuana within the City, the City's Zoning Code is silent as to these uses.

[2] Specifically, Section 8.68.030 makes it unlawful to open, operate, manage or be employed by, or conduct business with a medical marijuana dispensary and other similar uses.

cultivation of marijuana is no longer prohibited by state law; persons who are 21 years or older may immediately cultivate up to six (6) marijuana plants for personal use. Attached to this report are proposed amendments to Section 8.48.330 and the proposed addition of a new Chapter 5.34 to regulate the cultivation of marijuana for personal use.

If adopted, the urgency ordinance will:

- Create a new chapter solely dedicated to the regulation of marijuana cultivation. The proposed addition of Chapter 5.34 – "Marijuana Cultivation" would require all persons wishing to engage in cultivation of marijuana for personal use to first obtain a City-issued Marijuana Cultivation Permit.
- Permit issuance would be subject to the discretion of the City's enforcement officers and would allow the City to monitor those locations where personal cultivation will be conducted.
- Most importantly, this proposed chapter would include provisions regulating the development, location and operation standards for the personal cultivation of marijuana. For instance, personal cultivation would be limited to the City's residential zones; fully-enclosed structures[4] more than 1,000 feet from any school, childcare center, government building, public park, or religious institution; and six (6) marijuana plants per Marijuana Cultivation Permit holder.
- Furthermore, this chapter would prohibit evidence of personal cultivation from the public right-of-way, and would designate as a nuisance certain activities related to the cultivation of marijuana, including outdoor cultivation, chemical extractions, and the use of generators.
- Amend Section 8.48.330 to conform to state law so as not to prohibit the cultivation of marijuana for personal use.

NON-URGENCY ORDINANCE & PLANNING COMMISSION RESOLUTION:

On October 9, 2015, Governor Brown signed three bills into law – Assembly Bills 266 and 243, and Senate Bill 643 – collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA became effective on January 1, 2016 and contains provisions that govern the cultivating, processing, transporting, testing, and distributing of medical marijuana to qualified patients. The MMRSA states that if a city or county has not adopted land use regulations to either regulate or ban delivery of marijuana for medicinal purposes, the State will be the sole authority that issues licenses for such purposes in that jurisdiction, meaning no local license will be required.

Within the Counties of Los Angeles and Orange, mobile dispensaries have been the targets of armed robbers seeking cash and drugs. As a result, many drivers reportedly carry weapons or have armed guards as protection. For instance, in June of 2011, a marijuana delivery from a Los Angeles mobile dispensary turned deadly in Orange County when four individuals reportedly ambushed the mobile dispensary driver and his armed security guard and tried to rob them. One of the suspects approached the

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[3] Pursuant to Section 8.48.330 it is a nuisance to use any real or personal property in the manufacture, cultivation, sales or storage of any drug which is illegal under state or federal law, including marijuana.
[4] Note that the AUMA includes language purporting to repeal any ordinance that bans personal outdoor cultivation upon the Attorney General's determination that nonmedical use of marijuana is lawful under federal law; therefore, regulations in the BMC which prohibit outdoor personal cultivation may be rendered unenforceable in the future.

delivery vehicle and confronted the driver; a struggle ensued. A second suspect, armed with a handgun, approached the security guard, who fired at the suspect shooting him multiple times.

Staff has prepared Resolution 2017-01 for the Planning Commission's consideration. Resolution 2017-01 proposes to define "marijuana cultivation" in the City's Zoning Ordinance in such a way to obviate any distinction between medical and recreational marijuana cultivation and thereby applying the term "marijuana cultivation" to either recreational or medicinal marijuana. Additionally, Resolution 2017-01 proposes to define "marijuana dispensaries" to include traditional medical marijuana dispensaries, in addition to recreational marijuana businesses and mobile dispensaries. With these definitions in place, Resolution 2017-01 would prohibit *marijuana dispensaries* within every zone in the City and would permit the personal *marijuana cultivation* solely within the City's residential zones; these changes would render Chapter 8.68 superfluous, which is why staff is recommending that Chapter 8.68 be repealed. It is anticipated that Resolution 2017-01 and the non-urgency ordinance will go to Planning Commission during the regularly scheduled meeting for January 4, 2017.

OPTIONS:

1. Approve Staffs' recommendations;
2. Do not approve staffs' recommendations and provide staff with alternative direction.

FISCAL IMPACT:

None, if approved as proposed.

ATTACHMENT:

1. Urgency Ordinance 1505
2. Non-urgency Ordinance 1506
3. Planning Commission Resolution 2017-01

Approved by:

Michael Rock
City Manager

ATTACHMENT 1
Ordinance 1505

ORDINANCE 1505

AN URGENCY ORDINANCE OF THE CITY OF BANNING AMENDING SECTION 8.48.330 ("CULTIVATION, MANUFACTURE, OR SALES OF DRUGS") AND ADDING CHAPTER 5.34 ("MARIJUANA CULTIVATION") TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE TO REGULATE THE CULTIVATION OF MARIJUANA FOR PERSONAL USE BY CREATING A MARIJUANA CULTIVATION PERMIT; AND DECLARING THE URGENCY THEREOF.

The City Council of the City of Banning does hereby ordain as follows:

Section 1. A new Chapter 5.34, entitled "Marijuana Cultivation" is added to Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows:

Chapter 5.34
MARIJUANA CULTIVATION

Sections:

5.34.010 – Purpose
5.34.020 – Definitions
5.34.030 – Site Location, Operation, and Development Standards
5.34.040 – Other Applicable Regulations
5.34.050 – Marijuana Cultivation Permit
5.34.060 – Revocation of Marijuana Cultivation Permit
5.34.070 – Appeals
5.34.080 – Prohibited Activities Declared a Public Nuisance

5.34.010 – Purpose

A. The purpose of this Chapter is to prevent community-wide adverse impacts including, but not limited to, increased criminal activity, fire and chemical hazards, objectionable odors, late night traffic, and the general deterioration of neighborhoods associated with marijuana cultivation.

B. Marijuana cultivation in the City can adversely affect the health, safety and well-being of City residents. Therefore, reasonable regulation of marijuana cultivation is proper and necessary to avoid the concentration of substantial amounts of marijuana in one place and to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation.

5.34.020 – Definitions

For the purposes of this Chapter, the following definition shall apply:

"Childcare Center" shall mean any licensed childcare center, daycare center, childcare home, or any preschool.

"Church" shall mean any structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Commercial Cannabis Activity" shall mean the possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, dispensing, mobile dispensing, mobile delivery, or sale of more than 28.5 grams of un-concentrated marijuana or more than eight (8) grams of concentrated marijuana.

"Community Center" shall mean any facility open to the public at which classes, social activities, recreational activities, educational activities, support and public information are offered for all residents of the community.

"Detached accessory structure" shall mean a building completely detached from a residence that complies with the California Building Code and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with nontransparent material. Plastic sheeting, regardless or gauge, or similar products do not satisfy this requirement.

"Enforcement Officer" shall mean the chief of police, building official, code enforcement official, environmental health department director, public health officer, agricultural commissioner, fire chief, clerk of the board of supervisors, or their designees.

"Indoors" shall mean within a fully enclosed and secure building.

"Marijuana Cultivation" or "Marijuana Cultivation Activities" shall mean the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof.

"Marijuana Cultivation Permit" shall mean a permit issued by the City to a person over the age of 21 for the purposes of engaging in marijuana cultivation activities pursuant to this Chapter.

"Marijuana Cultivation Permit Holder" shall mean the applicant named on the application for a Massage Cultivation Permit.

"Marijuana Plant" shall mean any mature or immature marijuana plant, or any marijuana seedling.

"Park" shall mean any public playground, public recreation center or area, and other public areas created, established, designed, maintained, provided, or set aside by the county, and city or any other public entity or agency, for the purposes of public rest, play, recreation, enjoyment or assembly, and all buildings and structures located thereon or therein.

"Premises" shall mean a single parcel of property. Where contiguous parcels are under common ownership or control, such contiguous parcels shall be counted as a single "premises" for purposes of this Chapter.

"Primary Caregiver" shall have the same meaning as set forth in Health and Safety Code sections 11362.5 and 11362.7, et seq.

"Qualified Patient" shall have the same meaning as set forth in Health and Safety Code sections 11326.5 and 11362.7, et seq.

"Rear Yard" shall mean the rear open space portion of any premises, whether fenced or unfenced.

"Residential Unit" means any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.

"Responsible Party" shall mean: (1) each person committing the violation or causing a condition on a premises located within the jurisdiction of the City which violates this Chapter; (2) each person who has an ownership interest in that premises; or (3) each person who, although not an owner, nevertheless occupies or has a legal right or a legal obligation to exercise possession or control over that premises. In the

event a person who commits the violation or causes the violation is a minor, then the minor's parents or legal guardian shall be deemed the responsible party.

"School" shall mean any institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education; excluding home school, vocational or professional institution of higher education, including a community college, junior college, college or university.

5.34.030 – Site Location, Operation, and Development Standards

Non-commercial cultivation of small amounts of marijuana for personal use is only permitted in the Ranch Agriculture (R/A), Ranch Agriculture –Hillside (R/A/H), Rural Residential (RR), Rural Residential – Hillside (RR/H), Very Low Density Residential (VLDR), Low Density Residential (LDR), Medium Density Residential (MDR) and High Density Residential (HDR) zones when all of the following conditions and standards are met:

A. *Generally*.

1. Marijuana cultivation is permitted only on parcels with residential units where the Marijuana Cultivation Permit Holder resides full-time. Marijuana Cultivation Permit Holders shall not participate in marijuana cultivation in more than one location within the City. Marijuana cultivation activities may only occur within a residential unit, garage or self-contained accessory structure that is secured, locked and fully enclosed.
2. From the public right-of-way, there shall be no exterior evidence of marijuana cultivation.
3. Prior to the commencement of any marijuana cultivation, the person responsible for the marijuana cultivation shall provide the City with adequate proof of a City Marijuana Cultivation Permit.
4. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to the use of storage of materials, processes, products or waste.
5. Cultivation shall not exceed six (6) marijuana plants of any size per Marijuana Cultivation Permit holder. The maximum number of plants shall be limited regardless of the number of qualified patients or primary caregivers residing on the property.

6. Marijuana cultivation activities shall not be upon any property or parcel containing a childcare center, school or church. Furthermore, the marijuana cultivation activities do not take place within 1,000 feet of any school, childcare center, public park, government building, or church. The 1,000 feet shall be measured from the closest property line of the school, childcare center, public park, government building or church, to the closest property line of the cultivation parcel.
7. Indoor grow lights shall not exceed 1,200 watts and shall comply with the California Building, Electrical and Fire Codes as adopted by the City.
8. Any location used for marijuana cultivation must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and shall comply with California Building Code section 402.3 (Mechanical Ventilation). The ventilation and filtration system must be approved by the enforcement officer and installed prior to the commencement of marijuana cultivation activities.
9. Marijuana cultivation activities shall not be accessible to persons under 18 years of age.

B. *Marijuana cultivation within residential units, specifically*. In addition to those requirements listed in Subsection A of this section, marijuana cultivation activities within a residential unit shall also comply with the following requirements:

1. The residential unit shall, at all times, maintain a kitchen, bathroom and primary bedroom(s) for their intended purpose, and shall not be used for marijuana cultivation.
2. Any marijuana cultivation activities shall not create humidity, mold, or other nuisance condition.

C. *Marijuana cultivation within detached accessory structures, specifically*. In addition to those requirements listed in Subsection A of this section, marijuana cultivation activities within a detached accessory structure shall also comply with the following requirements:

1. The structure shall be no smaller than 120 square feet in size.
2. The structure shall be located within the rear yard area of any legal parcel or premises.
3. The structure shall maintain a minimum setback of 10-feet from any property line.
4. The structure shall be fully-enclosed and the area surrounding the structure must be enclosed by a solid fence at least six (6) feet in height. The fence must be adequately secure to prevent unauthorized entry.

Bushes, hedgerows, plastic sheeting, tarps or cloth material shall not constitute an adequate fence under this subsection.

5. The structure shall maintain adequate mechanical or electronic security systems, approved by the enforcement officer, and shall install such systems prior to the commencement of cultivation.

6. Any accessory structure used for marijuana cultivation must have a valid building permit issued by the City building official. The building official shall consult with the planning director and enforcement officers in consideration of any building permit application seeking a building permit for the construction or alteration of any detached accessory structure to be used for marijuana cultivation.

5.34.040 – Other Applicable Regulations

A. There shall be no variances or deviations permitted to any standards or requirements within this Chapter.

B. Nothing in this Chapter is intended to authorize the cultivation, possession, or use of marijuana in violation of state or federal law.

5.34.050 – Marijuana Cultivation Permit

A. Prior to commencing any marijuana cultivation, the person(s) owning, leasing, renting, occupying, or having charge or possession of any legal parcel or premises where marijuana cultivation is proposed to occur must apply for a Marijuana Cultivation Permit within the City. The following information will be required with the initial Permit application and subsequent Permit extensions:

1. Adequate proof that the permit holder is 21 years of age or older;

2. Notarized signature from the owner of the property consenting to the cultivation of marijuana at the premises on a form acceptable to the City;

3. The name of each person owning, leasing, occupying or having charge of any legal parcel or premises where marijuana will be cultivated;

4. The physical site address of where marijuana will be cultivated;

5. A signed consent form, acceptable to the City, authorizing enforcement officers to conduct an inspection of the detached accessory structure used for marijuana cultivation upon 24 hours' notice;

B. The Permit shall be valid for no more than one (1) year and may be extended in increments of two (2) years.

C. The enforcement officer may, in his or her discretion, deny any application for a Marijuana Cultivation Permit, or extension thereof, where he or she finds, based on articulated facts, that the issuance of such Permit, or extension thereof, would be

detrimental to the public health, safety, or welfare. The enforcement officer shall deny an application for a Marijuana Cultivation Permit, or extension thereof, which does not demonstrate satisfaction of the minimum requirements of this Chapter. The denial of any Permit application or extension shall be subject to appeal by the City Council.

D. The City Council may establish a fee or fees required to be paid upon filing of an application for a Marijuana Cultivation Permit, as provided by this Chapter, which fees shall not exceed the reasonable costs of administering this Chapter.

5.34.060 – Revocation of Marijuana Cultivation Permit

A. Any Marijuana Cultivation Permit granted by the City shall become null and void if the City receives and substantiates two (2) complaints of noxious odors resulting from indoor marijuana cultivation within a twelve (12) month period. These complaints must originate from at least two (2) separate individuals and two (2) separate properties adjoining, or within proximity to, the property engaging in marijuana cultivation.

B. Upon revocation of a Marijuana Cultivation Permit, the property owner, tenant, or Permittee shall remove all marijuana plants from the premises within 30 days of official notice from any enforcement officer.

5.34.070 – Appeals

Any person aggrieved by the requirements of this Chapter may file an appeal pursuant to the requirements of Chapter 5.04 of the Banning Municipal Code.

5.34.080 – Prohibited Activities Declared a Public Nuisance

A. It is unlawful and a public nuisance for any person owning, leasing, renting, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cause or allow such parcel or premises to be used for the outdoor cultivation of marijuana plants.

B. It is unlawful and a public nuisance for any person to cultivate marijuana inside any residential building or structure without a marijuana cultivation permit issued by the City.

C. It is unlawful and a public nuisance for any person to engage in Commercial Cannabis Activity in any area of the City.

D. It is unlawful and a public nuisance for any person to use gas products, such as CO2, butane, propane, and natural gas, for the cultivation, extraction, or processing of marijuana.

E. It is unlawful and a public nuisance for any person to use generators for marijuana cultivation activities.

F. In addition to the foregoing, any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be abated by the City or subject to any available legal remedies, including but not limited to, civil injunctions. The prohibitions outlined in this Chapter shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

Section 2. Section 8.48.330 ("Cultivation, manufacture, or sales of drugs") of Chapter 8.48 (Nuisances), of Title 8 (Health and Safety) of the Banning Municipal Code is hereby amended to read as follows:

8.48.330 - ~~Cultivation, m~~Manufacture~~,~~ or sales of drugs.

Any real or personal property utilized in the manufacture~~, cultivation~~, sales, or storage of any drug which is illegal under any state or federal law~~, including marijuana,~~ is declared a nuisance.

Section 3. Urgency Findings. On November 8, 2016, the voters of the State of California passed the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Upon its passage, certain provisions of the AUMA took effect as of November 9, 2016. These provisions include the legalization of use of nonmedical marijuana by persons 21 years of age or older, and the personal cultivation of up to six (6) marijuana plants. Specifically, the AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of un-concentrated marijuana or 8 grams of concentrated marijuana; and (3) possess, plant, cultivate, harvest, dry or process up to six (6) living marijuana plants for personal use. The exterior cultivation of marijuana requires large amounts of space and may result in a large quantity of plants being cultivated on a single parcel of land. As these "crops" begin to flower, they produce a strong odor that is detectable far beyond the property boundaries. Not only is the odor of flowering marijuana plants offensive, it also alerts persons to the location of these valuable plants and creates an increased risk of nuisance activity, including crime. The cultivation and processing of medical cannabis has also resulted in damages to buildings containing indoor medical cannabis cultivation facilities; such damages include improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, as well as an increase in the frequency of home-invasion robberies and similar crimes. The City

anticipates that the cultivation of non-medical marijuana exposes itself to the same inherent risks. This urgency ordinance would confirm that marijuana cultivated for personal use is restricted to six (6) living plants and that marijuana must be grown indoors, in compliance with fire, health and building codes. There exists a current and immediate threat to public health and safety in the absence of the City adopting an ordinance expressly prohibiting establishment, operation or use of commercial marijuana activities, and regulating the personal cultivation of marijuana. The City desires to enact this urgency ordinance to expressly make clear that cultivation for personal use is only permitted in the City's residential zones and subject to reasonable regulations. Cultivation of marijuana for personal use can adversely affect the health, safety and welfare of City residents. The prohibitions outlined in this Urgency Ordinance are necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards which may result from personal cultivation of marijuana. This ordinance must be adopted immediately to comply with state law and clarify that personal use and cultivation of marijuana must be conducted safely and subject to reasonable regulations in order to prevent the negative and dangerous secondary effects associated with these uses.

Section 4. Effective Date. This is an urgency ordinance adopted pursuant to Government Code Section 36937 and shall take effect immediately upon adoption.

Section 5. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and **ADOPTED** this 12th day of December 2016.

VOTE: AYES:
NOES:
ABSTAIN:
ABSENT:

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

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ATTACHMENT 2

Ordinance 1506

ORDINANCE NO. 1506

AN ORDINANCE OF THE CITY OF BANNING AMENDING SECTION 8.48.330 ("CULTIVATION, MANUFACTURE, OR SALES OF DRUGS") TO CONFORM TO STATE LAW; ADDING CHAPTER 5.34 ("MARIJUANA CULTIVATION") TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE TO REGULATE THE CULTIVATION OF MARIJUANA FOR PERSONAL USE BY CREATING A MARIJUANA CULTIVATION PERMIT; AND REPEALING CHAPTER 8.68 ("MEDICAL MARIJUANA PROHIBITED") OF TITLE 8 (HEALTH AND SAFETY) OF THE BANNING MUNICIPAL CODE IN ITS ENTIRETY TO PROMOTE CONSISTENCY WITH PROPOSED CHAPTER 5.34 AND EFFICIENCY OF REGULATION.

The City Council of the City of Banning does hereby ordain as follows:

Section 1. A new Chapter 5.34, entitled "Marijuana Cultivation" is added to Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows:

Chapter 5.34
MARIJUANA CULTIVATION

Sections:

5.34.010 – Purpose
5.34.020 – Definitions
5.34.030 – Site Location, Operation, and Development Standards
5.34.040 – Other Applicable Regulations
5.34.050 – Marijuana Cultivation Permit
5.34.060 – Revocation of Marijuana Cultivation Permit
5.34.070 – Appeals
5.34.080 – Prohibited Activities Declared a Public Nuisance

5.34.010 – Purpose

A. The purpose of this Chapter is to prevent community-wide adverse impacts including, but not limited to, increased criminal activity, fire and chemical hazards, objectionable odors, late night traffic, and the general deterioration of neighborhoods associated with marijuana cultivation.

B. Marijuana cultivation in the City can adversely affect the health, safety and well-being of City residents. Therefore, reasonable regulation of marijuana cultivation is

proper and necessary to avoid the concentration of substantial amounts of marijuana in one place and to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation.

5.34.020 – Definitions

For the purposes of this Chapter, the following definition shall apply:

"Childcare Center" shall mean any licensed childcare center, daycare center, childcare home, or any preschool.

"Church" shall mean any structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Commercial Cannabis Activity" shall mean the possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, dispensing, mobile dispensing, mobile delivery, or sale of more than 28.5 grams of un-concentrated marijuana or more than eight (8) grams of concentrated marijuana.

"Community Center" shall mean any facility open to the public at which classes, social activities, recreational activities, educational activities, support and public information are offered for all residents of the community.

"Detached accessory structure" shall mean a building completely detached from a residence that complies with the California Building Code and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with nontransparent material. Plastic sheeting, regardless or gauge, or similar products do not satisfy this requirement.

"Enforcement Officer" shall mean the chief of police, building official, code enforcement official, environmental health department director, public health officer, agricultural commissioner, fire chief, clerk of the board of supervisors, or their designees.

"Indoors" shall mean within a fully enclosed and secure building.

"Marijuana Cultivation" or "Marijuana Cultivation Activities" shall mean the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof.

"Marijuana Cultivation Permit" shall mean a permit issued by the City to a person over the age of 21 for the purposes of engaging in marijuana cultivation activities pursuant to this Chapter.

"Marijuana Cultivation Permit Holder" shall mean the applicant named on the application for a Massage Cultivation Permit.

"Marijuana Plant" shall mean any mature or immature marijuana plant, or any marijuana seedling.

"Park" shall mean any public playground, public recreation center or area, and other public areas created, established, designed, maintained, provided, or set aside by the county, and city or any other public entity or agency, for the purposes of public rest, play, recreation, enjoyment or assembly, and all buildings and structures located thereon or therein.

"Premises" shall mean a single parcel of property. Where contiguous parcels are under common ownership or control, such contiguous parcels shall be counted as a single "premises" for purposes of this Chapter.

"Primary Caregiver" shall have the same meaning as set forth in Health and Safety Code sections 11362.5 and 11362.7, et seq.

"Qualified Patient" shall have the same meaning as set forth in Health and Safety Code sections 11326.5 and 11362.7, et seq.

"Rear Yard" shall mean the rear open space portion of any premises, whether fenced or unfenced.

"Residential Unit" means any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.

"Responsible Party" shall mean: (1) each person committing the violation or causing a condition on a premises located within the jurisdiction of the City which violates this Chapter; (2) each person who has an ownership interest in that premises; or (3) each person who, although not an owner, nevertheless occupies or has a legal right or a legal obligation to exercise possession or control over that premises. In the event a person who commits the violation or causes the violation is a minor, then the minor's parents or legal guardian shall be deemed the responsible party.

"School" shall mean any institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education; excluding home school, vocational or professional institution of higher education, including a community college, junior college, college or university.

5.34.030 – Site Location, Operation, and Development Standards

Non-commercial cultivation of small amounts of marijuana for personal use is only permitted in the Ranch Agriculture (R/A), Ranch Agriculture –Hillside (R/A/H), Rural Residential (RR), Rural Residential – Hillside (RR/H), Very Low Density Residential (VLDR), Low Density Residential (LDR), Medium Density Residential (MDR) and High Density Residential (HDR) zones when all of the following conditions and standards are met:

A. *Generally*.

1. Marijuana cultivation is permitted only on parcels with residential units where the Marijuana Cultivation Permit Holder resides full-time. Marijuana Cultivation Permit Holders shall not participate in marijuana cultivation in more than one location within the City. Marijuana cultivation activities may only occur within a residential unit, garage or self-contained accessory structure that is secured, locked and fully enclosed.
2. From the public right-of-way, there shall be no exterior evidence of marijuana cultivation.
3. Prior to the commencement of any marijuana cultivation, the person responsible for the marijuana cultivation shall provide the City with adequate proof of a City Marijuana Cultivation Permit.
4. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to the use of storage of materials, processes, products or waste.

5. Cultivation shall not exceed six (6) marijuana plants of any size per Marijuana Cultivation Permit holder. The maximum number of plants shall be limited regardless of the number of qualified patients or primary caregivers residing on the property.
6. Marijuana cultivation activities shall not be upon any property or parcel containing a childcare center, school or church. Furthermore, the marijuana cultivation activities do not take place within 1,000 feet of any school, childcare center, public park, government building, or church. The 1,000 feet shall be measured from the closest property line of the school, childcare center, public park, government building or church, to the closest property line of the cultivation parcel.
7. Indoor grow lights shall not exceed 1,200 watts and shall comply with the California Building, Electrical and Fire Codes as adopted by the City.
8. Any location used for marijuana cultivation must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and shall comply with California Building Code section 402.3 (Mechanical Ventilation). The ventilation and filtration system must be approved by the enforcement officer and installed prior to the commencement of marijuana cultivation activities.
9. Marijuana cultivation activities shall not be accessible to persons under 18 years of age.

B. *Marijuana cultivation within residential units, specifically*. In addition to those requirements listed in Subsection A of this section, marijuana cultivation activities within a residential unit shall also comply with the following requirements:

1. The residential unit shall, at all times, maintain a kitchen, bathroom and primary bedroom(s) for their intended purpose, and shall not be used for marijuana cultivation.
2. Any marijuana cultivation activities shall not create humidity, mold, or other nuisance condition.

C. *Marijuana cultivation within detached accessory structures, specifically*. In addition to those requirements listed in Subsection A of this section, marijuana cultivation activities within a detached accessory structure shall also comply with the following requirements:

1. The structure shall be no smaller than 120 square feet in size.
2. The structure shall be located within the rear yard area of any legal parcel or premises.
3. The structure shall maintain a minimum setback of 10-feet from any property line.

4. The structure shall be fully-enclosed and the area surrounding the structure must be enclosed by a solid fence at least six (6) feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, tarps or cloth material shall not constitute an adequate fence under this subsection.
5. The structure shall maintain adequate mechanical or electronic security systems, approved by the enforcement officer, and shall install such systems prior to the commencement of cultivation.
6. Any accessory structure used for marijuana cultivation must have a valid building permit issued by the City building official. The building official shall consult with the planning director and enforcement officers in consideration of any building permit application seeking a building permit for the construction or alteration of any detached accessory structure to be used for marijuana cultivation.

5.34.040 – Other Applicable Regulations

A. There shall be no variances or deviations permitted to any standards or requirements within this Chapter.

B. Nothing in this Chapter is intended to authorize the cultivation, possession, or use of marijuana in violation of state or federal law.

5.34.050 – Marijuana Cultivation Permit

A. Prior to commencing any marijuana cultivation, the person(s) owning, leasing, renting, occupying, or having charge or possession of any legal parcel or premises where marijuana cultivation is proposed to occur must apply for a Marijuana Cultivation Permit within the City. The following information will be required with the initial Permit application and subsequent Permit extensions:

1. Adequate proof that the permit holder is 21 years of age or older;
2. Notarized signature from the owner of the property consenting to the cultivation of marijuana at the premises on a form acceptable to the City;
3. The name of each person owning, leasing, occupying or having charge of any legal parcel or premises where marijuana will be cultivated;
4. The physical site address of where marijuana will be cultivated;
5. A signed consent form, acceptable to the City, authorizing enforcement officers to conduct an inspection of the detached accessory structure used for marijuana cultivation upon 24 hours' notice;

B. The Permit shall be valid for no more than one (1) year and may be extended in increments of two (2) years.

C. The enforcement officer may, in his or her discretion, deny any application for a Marijuana Cultivation Permit, or extension thereof, where he or she finds, based on articulated facts, that the issuance of such Permit, or extension thereof, would be detrimental to the public health, safety, or welfare. The enforcement officer shall deny an application for a Marijuana Cultivation Permit, or extension thereof, which does not demonstrate satisfaction of the minimum requirements of this Chapter. The denial of any Permit application or extension shall be subject to appeal by the City Council.

D. The City Council may establish a fee or fees required to be paid upon filing of an application for a Marijuana Cultivation Permit, as provided by this Chapter, which fees shall not exceed the reasonable costs of administering this Chapter.

5.34.060 – Revocation of Marijuana Cultivation Permit

A. Any Marijuana Cultivation Permit granted by the City shall become null and void if the City receives and substantiates two (2) complaints of noxious odors resulting from indoor marijuana cultivation within a twelve (12) month period. These complaints must originate from at least two (2) separate individuals and two (2) separate properties adjoining, or within proximity to, the property engaging in marijuana cultivation.

B. Upon revocation of a Marijuana Cultivation Permit, the property owner, tenant, or Permittee shall remove all marijuana plants from the premises within 30 days of official notice from any enforcement officer.

5.34.070 – Appeals

Any person aggrieved by the requirements of this Chapter may file an appeal pursuant to the requirements of Chapter 5.04 of the Banning Municipal Code.

5.34.080 – Prohibited Activities Declared a Public Nuisance

A. It is unlawful and a public nuisance for any person owning, leasing, renting, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cause or allow such parcel or premises to be used for the outdoor cultivation of marijuana plants.

B. It is unlawful and a public nuisance for any person to cultivate marijuana inside any residential building or structure without a marijuana cultivation permit issued by the City.

C. It is unlawful and a public nuisance for any person to engage in Commercial Cannabis Activity in any area of the City.

D. It is unlawful and a public nuisance for any person to use gas products, such as CO2, butane, propane, and natural gas, for the cultivation, extraction, or processing of marijuana.

E. It is unlawful and a public nuisance for any person to use generators for marijuana cultivation activities.

F. In addition to the foregoing, any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be abated by the City or subject to any available legal remedies, including but not limited to, civil injunctions. The prohibitions outlined in this Chapter shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

Section 2. Section 8.48.330 ("Cultivation, manufacture, or sales of drugs") of Chapter 8.48 (Nuisances), of Title 8 (Health and Safety) of the Banning Municipal Code is hereby amended to read as follows:

8.48.330 - ~~Cultivation, m~~Manufacture~~,~~ or sales of drugs.

Any real or personal property utilized in the manufacture~~, cultivation~~, sales, or storage of any drug which is illegal under any state or federal law~~, including marijuana,~~ is declared a nuisance.

Section 3. Chapter 8.68 (Medical Marijuana Prohibited) of Title 8 (Health and Safety) of the Banning Municipal Code is hereby repealed in its entirety.

Section 4. Effective Date. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

Section 5. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and **ADOPTED** this 12th day of December 2016.

VOTE: AYES:
NOES:
ABSTAIN:
ABSENT:

_____
, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

ATTACHMENT 3
PC Resolution 2017-01

RESOLUTION 2017-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING RECOMMENDING THAT THE CITY COUNCIL AMEND TITLE 17 OF THE BANNING MUNICIPAL CODE BY AMENDING SECTIONS 17.04.040, 17.08.020, 17.12.020, 17.16.020, AND 17.20.020 OF THE ZONING CODE IN ORDER TO EXPRESSLY PERMIT PERSONAL CULTIVATION SOLELY WITHIN THE CITY'S RESIDENTIAL ZONES AND TO EXPRESSLY PROHIBIT THE DELIVERY, DISPENSING, AND NON-PERSONAL COMMERCIAL CULTIVATION OF MARIJUANA WITHIN THE CITY.

The Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

Section 1. The City of Banning initiated amendments to the Zoning Ordinance, Article 17 of the Municipal Code to regulate cultivation of marijuana for personal use, and to expressly prohibit deliveries, dispensaries, mobile dispensaries, and the commercial cultivation of marijuana within the City.

Section 2. A public hearing was duly noticed for the Planning Commission meeting of_ _____, 2017 by publication in _____.

Section 3. The zone text changes are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that 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.

Section 4. The Planning Commission does hereby find and declare as follows:

A. On October 9, 2015, Governor Brown signed three bills into law – Assembly Bills 266 and 243, and Senate Bill 643 – collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA became effective on January 1, 2016 and contains provisions that govern the cultivating, processing, transporting, testing, and distributing of medical marijuana to qualified patients. The MMRSA states that if a city or county has not adopted land use regulations to either regulate or ban cultivation of marijuana for medicinal purposes, the State will be the sole authority that issues cultivation licenses in that jurisdiction, meaning no local license will be required.

B. On November 8, 2016, the voters of the State of California passed the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Upon its passage, certain provisions of the AUMA took effect as of November 9, 2016.

These provisions include the legalization of the use of nonmedical marijuana by persons 21 years of age or older, and the personal cultivation of up to six (6) marijuana plants. Specifically, the AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of un-concentrated marijuana or 8 grams of concentrated marijuana; and (3) possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use.

C. Commercial medical marijuana activities can adversely affect the health, safety and well-being of City residents. The cultivation and processing of medical cannabis has resulted in damages to buildings containing indoor medical cannabis cultivation facilities; such damages include improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, as well as an increase in the frequency of home-invasion robberies and similar crimes. The City anticipates that the cultivation of non-medical marijuana exposes itself to the same inherent risks. Marijuana cultivation or other concentration of marijuana in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively impacted.

D. The Banning Municipal Code (BMC) does not currently expressly and separately prohibit the delivery or mobile dispensing of marijuana within the City. Furthermore, the BMC currently bans personal cultivation of marijuana in contravention to the AUMA.

E. The Zoning Ordinance text amendments are consistent with the goals, policies and objectives of the General Plan because it is in the public interest and there are community benefits resulting from the regulation of marijuana, such as preventing crime associated with marijuana activities, while still allowing for responsible and lawful access to marijuana in the City.

Section 5. Based on the foregoing, the Planning Commission of the City of Banning hereby recommends approval to the City Council of Zoning Text Amendment Title 17, which is attached hereto as Attachment A.

PASSED, APPROVED and **ADOPTED** this ____ day of _____ 2017.

VOTE: AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Joe Shaw, Chairman
Banning Planning Commission

ATTEST:

_____
Sandra Calderon, Recording Secretary
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section 1094.6.

ATTACHMENT A

Amend Title 17(Zoning) of the Banning Municipal Code as follows:

1. The alphabetized list of definitions provided for in Section 17.04.070 (Definitions) of Chapter 17.04 (Basic Provisions) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the following definitions:

"Marijuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant that are incapable of germination.

"Marijuana Cultivation" shall mean the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof. Marijuana Cultivation shall not exceed six (6) marijuana plants of any size per Marijuana Cultivation Permit holder. See Chapter 5.34 for provisions.

"Marijuana Dispensary" shall mean any association, cooperative, club, co-op, delivery service, mobile dispensary, dispensary, collective, and any other similar use that manufactures, laboratory tests, labels, distributes, delivers, dispenses, sells or makes marijuana available in the City.

2. Table 17.08.020 of Section 17.08.020 (Permitted, conditional and prohibited uses) of Chapter 17.08 (Residential Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the following uses:

Zone	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Residential Uses									
Marijuana Cultivation [6]	P	P	P	P	P	P	P	P	P
Marijuana									

Dispensary	X	X	X	X	X	X	X	X	X

[6] Marijuana Cultivation requires a Marijuana Cultivation License. See Chapter 5.34 for provisions.

3. Table 17.12.020 of Section 17.12.020 (Permitted, conditional and prohibited commercial and industrial uses) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the following uses:

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
Resource and Open Space Uses								
Marijuana Cultivation	X	X	X	X	X	X	X	X
Marijuana Dispensary	X	X	X	X	X	X	X	X

4. Table 17.16.020 of Section 17.16.020 (Permitted, conditional and prohibited public facilities uses) of Chapter 17.16 (Public Facilities Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the following uses:

Zone	PF-A	PF-G	PF-F	PF-S	PF-H
Marijuana Cultivation	X	X	X	X	X
Marijuana Dispensary	X	X	X	X	X

5. Table 17.20.020 of Section 17.20.020 (Permitted, conditional and prohibited open space uses) of Chapter 17.20 (Open Space Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the following uses:

Zone	OS-R	OS-PA	OS-PU	OS-H
Marijuana Cultivation	X	X	X	X
Marijuana Dispensary	X	X	X	X

CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: **Banning Utility Authority**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Director of Public Works**
Perry Gerdes, Water/Wastewater Utilities Superintendent

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-21 UA, Approving an Agreement in the Amount of $57,533 with Cla-Val for the Servicing of the City's Cla-Val Water Valves**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution 2016-21 UA:

1. Approving an Agreement with Cla-Val for the servicing of the City's Cla-Val water valves in an amount "Not to Exceed" $57,533.

2. Authorizing the City Manager or his designee to execute the Agreement with Cla-Val of Perris, CA.

JUSTIFICATION:

The City owns and operates several Cla-Val valves including automated pump control, pressure reducing and altitude valves that are part of the City's water distribution system. It is necessary to have Cla-Val perform repair and maintenance services on the Cla-Val valves in order to avoid voiding valve warranties and to have the required service performed by trained personnel.

BACKGROUND:

The City has approximately 45 automated Cla-Val valves that range from 2" to 30" throughout the water system. These valves are used for various activities including automated pump control, reducing pressures between pressure zones and altitude valves which regulate the high water levels in reservoirs. The valves are rebuilt on a

one, two or three year schedule depending on the operational role they play in the water system. This year all 45 valves are scheduled to be inspected, serviced and rebuilt.

Cla-Val field service personnel are the only personnel that are recognized by Cla-Val to have the appropriate training to provide the required service without voiding valve warranties.

Cla-Val services are competitive to similar services performed by other companies on non Cla-Val valves.

OPTIONS:

1. Adopt Resolution 2016-21 UA
2. Reject Resolution 2016-21 UA. Rejecting the resolution will result in not performing the necessary inspection and repair to the Cla-Val valves which could lead to major failures in the water transmission, distribution and storage systems.

FISCAL DATA:

The Agreement with Cla-Val is in an amount "Not to Exceed" $57,533, which has been included in the 2016/2017 budget and is available in Account No. 660-6300-471.45-08 (Water Distribution System Exp).

ATTACHMENTS:

1. Resolution 2016-21 UA
2. Service Authorization Letter
3. Cla-Val Co. Quotes

Approved by:

Michael Rock,
City Manager

ATTACHMENT 1

(Resolution 2016-21 UA)

RESOLUTION 2016-21 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, APPROVING AN AGREEMENT IN THE AMOUNT OF $57,533 WITH CLA-VAL FOR THE SERVICING OF THE CITY'S CLA-VAL WATER VALVES

WHEREAS, the City of Banning owns and operates a public water system that supplies domestic water to approximately 26,500 people through approximately 10,500 service connections; and

WHEREAS, the City is required to follow the California Regional Water Quality Control Board Permit Number 05-20-06P-004 which requires the City to maintain and operate the potable water system in accordance with the American Water Works Association standards; and

WHEREAS, the City owns and operates approximately 45 automated Cla-Val valves that range from 2 inches to 30 inches throughout the water distribution system; and

WHEREAS, Cla-Val field service personnel are the only personnel that are recognized by Cla-Val to have the appropriate training to provide the required service without voiding valve warranties; and

WHEREAS, Cla-Val services are competitive to similar services performed by other companies on non Cla-Val valves.

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution 2016-21 UA Approving an Agreement with Cla-Val of Perris, CA for the servicing of the City's Cla-Val water valves in an amount "Not to Exceed" $57,533.

SECTION 2. The City Manager or his designee is authorized to execute the Agreement with Cla-Val of Perris, CA in an amount "Not to Exceed" $57,533.

PASSED, ADOPTED AND APPROVED this 12th day of December, 2016.

_____

, Chairman
Banning Utility Authority

ATTEST:

_____
Marie A. Calderon, Secretary

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CERTIFICATION:

I, Marie Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution 2016-21 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

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ATTACHMENT 2

(Service Authorization Letter)

CLA-VAL AUTOMATIC CONTROL VALVES

The Cla-Val valve you purchased was designed to be reliable, durable, and easy to operate.

Cla-Val Field Service is your only authorized factory maintenance source.

Our Field Service Technicians are highly trained professionals that have a thorough, in-depth knowledge of the workings of each valve and products Cla-Val manufactures. Our factory-trained sales and service personnel are the only people authorized to perform any repairs, start-up service, or maintenance on these valves. We do not recognize or authorize any other service organization to perform repairs on our valves. As an ISO 9001 certified company, we maintain the highest standard for quality assurance. Also, unauthorized repairs will result in voiding the valve warranty.

Our Field Service Technicians have an average of over 12 years of experience and our fleet of service vehicles are fully stocked with spare and factory replacement parts to ensure that on-site maintenance and repair services are executed in a timely manner. We also have two dedicated service warehouses at our Western Regional Service Centers in Southern California and Northern California (855-512-6965).

For more than 30 years, we have provided the following categories of services:
- Start-up assistance
- Periodic maintenance
- Diagnostic services
- Valve repairs
- Field retrofits
- Actuator repair and maintenance

On call 24 hours a day, 7 days a week, 365 days per year, Cla-Val Field Service is there when you need it, backed by more than 80 years of valve design and manufacturing experience.

Regards,

Mike Trosper
Service Manager
24100 Water Street
Perris, CA 92570
(951) 657-1718 Ext. 288
(951) 657-8540 Fax
(949) 923-0649 Cell
mtrosper@cla-val.com

ATTACHMENT 3

(Quotes)

CLA-VAL CO. WESTERN REGIONAL SERVICE
QUOTATION

QUOTE NUMBER:	061716MT1	**DATE:**	11/10/2016	**PAGE:**	1
CUSTOMER:	City of Banning				
CONTACT:	Perry Gerdes				
ADDRESS:	Banning			**PHONE:**	951-232-9236
JOB NAME:	*Cla-Val Rebuild*			**FAX:**	

ITEM NO.	QTY	SIZE	DESCRIPTION	NET EA.	TOTAL
01)	1	3"	**Model 50-01 / Hargrave & John St.** *Main Valve & Pilot Rubber Rebuild Kit*	$ 367.00	$ 367.00
02)	1	4"	**Model 90-01 / Hargrave & John St.** *Main Valve & Pilot Rubber Rebuild Kit*	$ 400.00	$ 400.00
03)	1	6"	**Model 90-01 / Hargrave & John St.** *Main Valve & Pilot Rubber Rebuild Kit*	$ 454.00	$ 454.00
04)	1	8"	**Model 90-01 / Hargrave & John St.** *Main Valve & Pilot Rubber Rebuild Kit*	$ 491.00	$ 491.00
05)	1	3"	**Model 50-01 / San Gorgonio & Lincoln** *Main Valve & Pilot Rubber Rebuild Kit*	$ 367.00	$ 367.00
06)	1	4"	**Model 90-01 / San Gorgonio & Lincoln** *Main Valve & Pilot Rubber Rebuild Kit*	$ 400.00	$ 400.00
07)	1	6"	**Model 90-01 / San Gorgonio & Lincoln** *Main Valve & Pilot Rubber Rebuild Kit*	$ 454.00	$ 454.00
08)	1	2"	**Model 50-01 / San Gorgonio Tank** *Main Valve & Pilot Rubber Rebuild Kit*	$ 354.00	$ 354.00
09)	1	2"	**Model 90-01 / San Gorgonio Tank** *Main Valve & Pilot Rubber Rebuild Kit*	$ 344.00	$ 344.00
10)	1	6"	**Model 90-01 / San Gorgonio Tank** *Main Valve & Pilot Rubber Rebuild Kit*	$ 454.00	$ 454.00
11)	1	2"	**Model 50-01 / Ring of Trees Reg. Station** *Main Valve & Pilot Rubber Rebuild Kit*	$ 354.00	$ 354.00
12)	1	2"	**Model 90-01 / Ring of Trees Reg. Station** *Main Valve & Pilot Rubber Rebuild Kit*	$ 244.00	$ 244.00
13)	1	6"	**Model 90-01 / Ring of Trees Reg. Station** *Main Valve & Pilot Rubber Rebuild Kit*	$ 454.00	$ 454.00
14)	1	8"	**Model 131-01 Modified / K Mart Reg. Station** *Main Valve & Pilot Rubber Rebuild Kit*	$ 639.00	$ 639.00
15)	1	8"	**Model 81-01 / K Mart Reg. Station** *Main Valve Rebuild Kit*	$ 602.00	$ 602.00
16)	1	6"	**Model 50-01 / Well #2** *Main Valve & Pilot Rubber Rebuild Kit*	$ 464.00	$ 464.00
17)	1	8"	**Model 50-01 / Well #3** *Main Valve & Pilot Rubber Rebuild Kit*	$ 502.00	$ 502.00
18)	1	10"	**Model 49-01 / Beaumont Interconnection** *Main Valve & Pilot Rubber Rebuild Kit*	$ 718.00	$ 718.00
19)	1	4"	**Model 210-01 / Mountain Tank** *Main Valve & Pilot Rubber Rebuild Kit*	$ 530.00	$ 530.00
20)	1	4"	**Model 210-09 / Mountain Tank** *Main Valve & Pilot Rubber Rebuild Kit*	$ 664.00	$ 664.00
21)	2	16"	**Model 131-01 / Brinton Reservoir** *Main Valve Rubber Rebuild Kit*	$ 977.00	$ 1,954.00
22)	5	4"	**Model 60-31 / C2 Booster** *Main Valve & Pilot Rubber Rebuild Kit*	$ 569.00	$ 2,845.00
23)	1	4"	**Model 50-01 / C2 Booster Relief** *Main Valve & Pilot Rubber Rebuild Kit*	$ 410.00	$ 410.00
24)	1	6"	**Model 60-11 Modified / C3 Booster** *Main Valve & Pilot Rubber Rebuild Kit*	$ 461.00	$ 461.00
25)	1	12"	**Model 81-02 / C4 Well Check Valve** *Main Valve Rubber Rebuild Kit*	$ 630.00	$ 630.00
26)	2	12"	**Model 60-46 Modified / Booster Pump Control** *Main Valve & Pilot Rubber Rebuild Kit*	$ 916.00	$ 1,832.00
27)	1	8"	**Watts Pump Control Valve / C6 Booster** *Main Valve Rubber Rebuild Kit*	$ 690.00	$ 690.00
28)	1	6"	**Model 50-01 / C6 Booster Relief** *Main Valve & Pilot Rubber Rebuild Kit*	$ 464.00	$ 464.00
29)	1	6"	**Model 61-02 / M3 Pump Control** *Main Valve Rubber Rebuild Kit*	$ 441.00	$ 441.00
30)	1	3"	**Model 52-03 / M3 Surge Anticipator** *Main Valve & Pilot Rubber Rebuild Kit*	$ 524.00	$ 524.00
31)	1	6"	**Model 61-02 / M10 Pump Control** *Main Valve Rubber Rebuild Kit*	$ 441.00	$ 441.00
32)	1	3"	**Model 52-03 / M10 Surge Anticipator** *Main Valve & Pilot Rubber Rebuild Kit*	$ 524.00	$ 524.00
33)	1	6"	**Model 61-02 / M11 Pump Control** *Main Valve Rubber Rebuild Kit*	$ 441.00	$ 441.00
34)	1	3"	**Model 52-03 / M11 Surge Anticipator** *Main Valve & Pilot Rubber Rebuild Kit*	$ 524.00	$ 524.00
35)	1	6"	**Model 61-02 / M12 Pump Control** *Main Valve Rubber Rebuild Kit*	$ 441.00	$ 441.00
36)	1	10"	**Model 790-01 & 58-01 / Well #1** *Main Valve & Pilot Rubber Rebuild Kit*	$ 1,190.00	$ 1,190.00
37)	1	10"	**Model 790-01 & 58-01 / Well #4** *Main Valve & Pilot Rubber Rebuild Kit*	$ 1,190.00	$ 1,190.00
38)	1	8"	**Model 750-01 / Well #7** *Main Valve & Pilot Rubber Rebuild Kit*	$ 447.00	$ 447.00
39)	65		**Labor / Prevailing Wage / 1 Man**	$ 150.00	$ 9,750.00
40)	51		**Labor / Prevailing Wage / 2 Men**	$ 290.00	$ 14,790.00
41)	34		**Travel / 17 Days**	$ 86.00	$ 2,924.00
				TOTAL / WITHOUT TAX	$ 52,169.00

NOTES: Main Valve Rebuild Kit Consists of Disc, Diaphragm, & Spacer Washers

Any hard parts are extra!!

This quotation is valid for 30 days from the above date.
After 30 days Cla-Val reserves the right to change the pricing due to material cost increases.
All prices are **NET**

CLA-VAL
Innovation since 1936

AUTHORIZED BY:		**SALESPERSON:**	Mike Trosper
TERRITORY:	3900		

CLA-VAL CO. WESTERN REGIONAL SERVICE
QUOTATION

QUOTE NUMBER:	100416MT1	**DATE:**	11/10/2016	**PAGE:**	1
CUSTOMER:	City of Banning				
CONTACT:	Perry Gerdes				
ADDRESS:	Banning			**PHONE:**	951-232-9236
JOB NAME:	***Park Regulators***			**FAX:**	

ITEM NO.	QTY	SIZE	DESCRIPTION	NET EA.	TOTAL
01)	1	4"	**Model 90-01 / Dysart Park** **Main Valve & Pilot Rubber Rebuild Kit**	$ 400.00	$ 400.00
02)	1	4"	**Model 90-01 / Sylvan Park** **Main Valve & Pilot Rubber Rebuild Kit**	$ 400.00	$ 400.00
03)	1	4"	**Model 90-01 / Pass Valley Park** **Main Valve & Pilot Rubber Rebuild Kit**	$ 400.00	$ 400.00
04)	1	6"	**Model 90-01 / Swimming Pool** **Main Valve & Pilot Rubber Rebuild Kit**	$ 454.00	$ 454.00
05)	1	3"	**Complete New Valve Model 90-01 / Replier Park** **Stainless Steel Trim, Tubing & Fittings, Ball Valves and Epoxy Coated**	$ 2,338.00	$ 2,338.00
06)	8		**Labor / Prevailing Wage / 1 Man**	$ 150.00	$ 1,200.00
07)	2		**Travel**	$ 86.00	$ 172.00
08)			**Fuel Surcharge Per Mile**	$ -	$ -
				TOTAL / WITHOUT TAX	$ 5,364.00

NOTES: Main Valve Rebuild Kit Consists of Disc, Diaphragm, & Spacer Washers

Any hard parts are extra!!

CLA-VAL
Innovation since 1936

This quotation is valid for 30 days from the above date.
After 30 days Cla-Val reserves the right to change the pricing due to material cost increases.
All prices are **NET**

AUTHORIZED BY:	**SALESPERSON:** Mike Trosper
TERRITORY: 3900	

QUOTATION EFFECTIVE FOR **30 DAYS FROM** *See Quote Number*

MESSAGES: Quote is for estimating only, Cla-Val Service is billed on an actual time & materials used basis.

If you have any questions regarding this quotation please contact Mike Trosper - Cell (949)-923-0649

24100 Water St. mtrosper@cla-val.com
Perris,CA. 92570
P. 951-657-1718 Ext.288 / Fax 951-657-8540

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CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITY AUTHORITY**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Public Works Director**
Luis Cardenas, Senior Civil Engineer

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-19 UA, "Awarding a Professional Services Agreement to Carollo Engineers, Inc. of Costa Mesa, CA for the Integrated Master Plan for Water, Wastewater, and Recycled Water Systems in the amount of $392,131 and include a 10% contingency for a total project budget of $431,344"**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution 2016-19 UA:

1. Approving a Professional Services Agreement with Carollo Engineers, Inc. of Costa Mesa, California in an amount not to exceed $392,131 and include a 10% contingency for a total project budget of $431,344.

2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the project and to approve change orders within the 10% contingency.

3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with Carollo Engineers, Inc.

JUSTIFICATION:

In order to provide the highest level of service to the community, ensure adequate planning for future growth, and coordinate Capital Improvement Programs among the three interrelated product lines, the City needs to develop an Integrated Master Plan for Water, Wastewater, and Recycled Water Systems. The City of Banning does not have available staff to perform the required work in a reasonable amount of time and

therefore, requires the services of a professional engineering firm to prepare the Integrated Master Plan.

BACKGROUND:

The City of Banning Water, Wastewater, and Recycled Water Master Plans were last updated in 2006 as separate documents. The water model was partially updated in 2015 by Carollo Engineers in a study titled Water System Storage Analysis, but this focused primarily on the anticipated demands for Rancho San Gorgonio and Butterfield specific plans and did not include the comprehensive studies and updates typical of a master plan update.

The Sewer Master Plan was prepared in 1994 by NBS Lowry and updated in 2006 by Carollo Engineers. No updates have been completed for the Sewer Master Plan since 2006.

The Recycled Water Master Plan was last updated in 2006 by Carollo Engineers and was based on the initial work by CM Engineering Associates who completed a report titled Irrigation Water Project Feasibility Study in 1991.

Because of the relationships between water demands and sewer flows; between sewer flows and the availability of recycled water; and between the use of recycled water and the corresponding decrease in potable water demand, the Public Works staff determined that an Integrated Master Plan would be the most appropriate planning tool as it provides a roadmap to meet near term and long term demands and develops replacement schedules for existing infrastructure.

Among the deliverables of the Integrated Master Plan is a CIP planning tool which will help the City of Banning spread out capital expenditures and determine exactly when various improvements will be needed. The resulting cost estimates for the necessary facilities are necessary information for the completion of the on-going Rate Study and Development Impact Fee Study.

Public Works staff in coordination with Purchasing staff advertised a Request for Proposals (RFP) on September 16, 2016 in The Record Gazette and The Press Enterprise and on the City's website. A copy of the RFP is included as Attachment 2. Five proposals were subsequently received and a committee consisting of three members was assembled to evaluate the proposals based on qualifications, project approach, price, and innovation. Carollo Engineers, Inc. was determined to be the most qualified proposer and their proposal is included as Attachment 3. Below is a summary of the total scores and ranking:

Proposer	Total Score	Rank
Carollo Engineers, Inc.	1257.5	1
KWC Engineers	1085	2
Hazen & Sawyer	985	3
Albert A. Webb Associates	892.5	4

TKE Engineering, Inc.	630	5

The tentative schedule provided by Carollo Engineers anticipates seven months from the "Notice to Proceed" to completion of the final report.

FISCAL IMPACT:

The total project budget is $431,344 which includes a 10% contingency. There is currently $225,000 allocated to this project in the 2016/2017 budget. The following appropriations are requested in order to fully fund the project:

Water Fund (660)	$160,350
Sewer Fund (680)	$142,343
Irrigation Water Fund (662)	$128,651

OPTIONS:

1. Adopt Resolution 2016-19 UA.
2. Reject Resolution 2016-19 UA. By rejecting this resolution staff will continue to utilize the existing and outdated master plans, which may hinder staff from making fully informed decisions related to short term and long term development of the water, wastewater and recycled water utility systems.

ATTACHMENTS:

1. Resolution 2016-19 UA
2. Request for Proposals (RFP)
3. Carollo Engineers Proposal
4. Professional Services Agreement

Approved by:

Michael Rock,
City Manager

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ATTACHMENT 1

(Resolution 2016-19 UA)

RESOLUTION 2016-19 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT TO CAROLLO ENGINEERS, INC. OF COSTA MESA, CA FOR THE INTEGRATED MASTER PLAN FOR WATER, WASTE WATER, AND RECYCLED WATER SYSTEMS IN THE AMOUNT OF $392,131 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $431,344

WHEREAS, the City of Banning wishes to develop an Integrated Master Plan for Water, Waste Water, and Recycled Water Systems; and

WHEREAS, on September 16, 2016 staff advertised the Request for Proposals in The Record Gazette and The Press Enterprise, in addition to, advertising the project on the City's website; and

WHEREAS, five proposals were received and as a result staff recommends a Professional Services Agreement be awarded to the most qualified proposer, Carollo Engineers, Inc., in the amount of $392,131; and

WHEREAS, the scope of work for this project will include data review, field investigations, and the development of an Integrated Master Plan for Water, Waste Water, and Recycled Water Systems; and

WHEREAS, the total project budget is $431,344 which includes a 10% contingency. There is currently $225,000 allocated to this project in the 2016/2017 budget. The following appropriations are required in order to fully fund the project: Water Fund ($160,350), Wastewater Fund ($142,343) and Irrigation Water Fund ($128,651).

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution 2016-19 UA Awarding a Professional Services Agreement for Integrated Master Plan for Water, Waste Water, and Recycled Water Systems to Carollo Engineers, Inc. of Costa Mesa, CA in the amount of $392,131 and authorize an additional 10% contingency in the amount of $39,213 to cover any unforeseen conditions.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments and appropriations and transfers related to the Integrated Master Plan for Water, Waste Water and Recycled Water Systems and approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Carollo Engineers, Inc. in the amount of $392,131.

PASSED, ADOPTED AND APPROVED this 12th day of December, 2016.

_____
, Chairman
Banning Utility Authority

ATTEST:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

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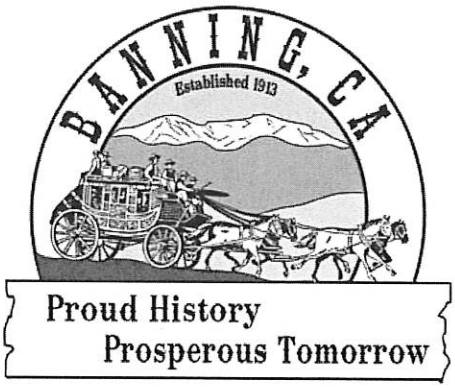
ATTACHMENT 2

(Request for Proposals)

Proud History
Prosperous Tomorrow



REQUEST FOR PROPOSAL

FOR

16-009

INTEGRATED MASTER PLAN FOR WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

CITY OF BANNING

Public Works Department

99 East Ramsey Street

Banning, California 92220

Released on September 16, 2016

REQUEST FOR PROPOSAL (RFP)

INTEGRATED MASTER PLAN FOR WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

Dear Proposers:

The City of Banning (hereinafter referred to as the "City") is requesting proposals from a qualified public entity or private firm, to establish a contract with a consultant for the Integrated Master Plan for Water, Wastewater and Recycled Water Systems.

Sealed proposals shall be received by the City of Banning to wit: The City Clerk, 99 E. Ramsey St., Banning, California 92220, on or before the hour of **2:00 p.m. on October 6, 2016**.

It shall be the responsibility of the proposer to deliver his proposal to the City Clerk's office by the announced time. Delivery Location: City of Banning, City Hall, 99 East Ramsey St. (City Clerk's Office), Banning, California 92220.

The Proposals shall be to the attention of City Clerk in a sealed envelope identified on the outside with the Proposer's Business Name, Proposer Identity— Request for Proposals for Integrated Master Plan for Water, Wastewater and Recycled Water Systems and the due date. Proposals will not be publicly opened.

The Request for Proposals (RFP No. 16-009) may be downloaded from the City of Banning website at http://ci.banning.ca.us/bids.aspx.

A **Pre-Proposal Meeting will be held on September 20, 2016 @ 2:00 p.m.** at 99 E. Ramsey St., Banning, CA 92220 to discuss the Description of Work.

1. BACKGROUND

The City of Banning is strategically located astride Interstate 10 between the Inland Empire and the Coachella Valley in the San Gorgonio Pass. The City, incorporated in 1913, has a rich and colorful history.

Initially Banning served as a stagecoach and railroad stop between the Arizona territories and Los Angeles. This history has contributed to the present day spirit of pioneer resourcefulness and "can do" attitude that is so prevalent in the community.

Banning is a friendly and wholesome place to work and raise a family. Desirable executive housing is available, as well as moderate and lower income housing. Clean air, ample water supplies and the memorable and inspiring scenic vistas of both Mt. San Gorgonio and Mt. San Jacinto, the 2 tallest peaks in Southern California, are additional amenities which make the City of Banning a logical choice as a development opportunity in the Southern California area.

2. SCHEDULE OF EVENTS

This request for proposal will be governed by the following schedule:

Release of RFP	September 16, 2016
Pre-Proposal Meeting	September 20, 2016 at 2:00 p.m.
Deadline for Written Questions	September 23, 2016 by 3:30 p.m.
Responses to Questions Posted on Web	September 28, 2016 by 5:00 p.m.
Proposals are Due	October 6, 2016 at 2:00 p.m.
Interview (if held)	The Week of October 18, 2016
Approval of Contract	November 2016 (Tentative)

All dates are subject to change at the discretion of the City

3. SCOPE OF WORK

Task 1. Basis of Planning

Task 1.1 - Data Collection and Review

The Consultant shall collect and review the City's relevant planning documents and data related to potable water, sewer and recycled water systems.

Task 1.2 - Potable Water Demand Projections

Land Use and Population Projections

The Consultant shall review and update the population projections through the near-term (year 2020) and long-term planning horizon (year 2040). As part of this task, a meeting with the City's planning department shall take place to establish a planning basis for future land use and development changes anticipated through year 2040. In addition, documents such as the City's 2015 Urban Water Management Plan (UMWP), general plan, as well as other pertinent planning documents shall be used to describe the current and future land use within the City's service area and to forecast the future population.

Existing Customers Demand

The Consultant shall collect and analyze the City's demand data. These demands shall then be summarized by pressure zone and land use classification. For future demands, the water demands of the existing customers shall be adjusted to account for water conservation.

Growth Projections

The Consultant shall prepare future demand projections based on the City's projected growth under a near-term and long-term planning horizon. A potable water demand projection envelop shall be developed, consisting of a medium, low, and high forecast considering a combination of future developments and water conservation scenarios. Future development include a combination of already approved or pending developments (such as Pardee Butterfield), as well as more preliminary development concepts for areas such as RSG and Loma Linda. The demand forecasting envelop shall be presented and discussed with City staff in a workshop to establish the baseline forecast. A sensitivity analysis shall be conducted in Task 3 to determine the infrastructure impacts of the other growth scenarios.

Unaccounted-for Water

The Consultant shall review and compare historical consumption and production data to establish the unaccounted-for water factor consistent with the AWWA guidelines.

Seasonal Peaking Factors

Historical billing data shall be used to develop system-wide seasonal peaking factors for minimum day demands (MinDD), maximum month demands (MMD), and maximum day demands (MDD).

Incorporation of Recycled Water Demands

Based on a list of the potential recycled water demands provided by the City staff, the potable water demand reduction from potential conversions shall be considered in the water demand projections used for the water system analysis.

Task 1.3 - Sewer Flow Projections

The Consultant shall analyze the historical or current flow monitoring data to estimate sewer return ratios and existing flows in the system. Commercial, industrial, and/or institutional users, which may contribute significantly to wastewater flows, shall be identified and investigated individually through discussions with City staff.

In addition, wastewater generation factors for various land use categories shall be analyzed to project future sewer flows under the near-term and long-term scenario identified. The impact of indoor water conservation on sewer generation rates shall be considered in the flow estimation.

A wastewater flow projection envelop shall be developed, consisting of a medium, low, and high forecast considering a combination of future developments and water conservation scenarios impacting indoor water use. The wastewater flow forecasting envelop shall be presented and discussed with City staff in a workshop to establish the baseline forecast. A sensitivity analysis shall be conducted in Task 3 to determine the infrastructure impacts of the other growth scenarios.

Task 1.4 - Recycled Water Demand Projections

The Consultant shall review and summarize the City's projected near-term and long-term recycled water demands listed in the 2015 UWMP and other relevant planning documents. New demand estimates shall be prepared for development not covered in existing planning documents that do need to be considered for the water demand forecasting envelop.

A recycled water demand forecasting envelop shall be developed, consisting of a medium, low, and high forecast considering a combination of future developments and outdoor water demand assumptions. This recycled water demand forecasting envelop shall be presented and discussed with City staff in a workshop to establish the baseline forecast. A sensitivity analysis shall be conducted in Task 3 to determine the infrastructure impacts of the other growth scenarios.

Task 1.5 - Review and Update Evaluation Criteria

The Consultant shall review and compare the City's existing water, sewer, and recycled water system sizing and evaluation criteria with industry standards and similar agencies and make recommendations on revisions to these criteria, as necessary.

Task Deliverables:

- Tables summarizing existing and future demand and flow conditions (5 copies)
- One full-size GIS Map depicting land use categories for discussion with City staff
- Draft Chapter 1 - Introduction (5 copies)
- Draft Chapter 2 - Land Use and Population Projections (5 copies)
- Draft Chapter 3 - Demand and Flow Forecast Projection (5 copies)
- Draft Chapter 4 - Evaluation Criteria (5 copies)

Task 2. Potable Water, Sewer, and Recycled Water Model Updates

Task 2.1 - Potable Water Model Update

Update Model Pipeline Network and Facilities

The Consultant shall update the City's existing hydraulic model in the latest version of InfoWater (from Innovyze, Inc.), which shall include the new water system facilities constructed since the previous model update. The updated model shall include all pipelines 4-inches in diameter and larger, excluding service laterals. Pipeline diameters, materials, and age shall be included where data is available.

Water Demand Allocation

Allocate existing and future water demands in the hydraulic model. Demand sets shall be created for existing, near-term, and long-term ADD and MDD conditions.

Future Water Model Update

Future modeling scenarios shall be created to reflect near-term (year 2020 or 2025) and long-term conditions (year 2040). Four (4) future water system demand sets shall be created that represent the near-term and long- term demands for both average day demand (ADD) and maximum day demand (MDD) conditions. As necessary, backbone transmission mains, reservoirs, and booster stations shall be added to the future scenarios.

Task 2.2. Potable Water Hydraulic Model Calibration

Pressure Zone Diurnal Curves

The Consultant shall develop a diurnal pattern for the City's entire water system to represent the hourly demand fluctuations on the selected calibration day using the City's SCADA data. In addition, separate diurnal curves shall be developed for individual pressure zones.

Model Calibration

The Consultant shall prepare a model calibration plan that outlines the field gathering activities and data requirements to conduct the model calibration. The plan shall be submitted to the City for review and commenting. Upon approval, the Consultant shall calibrate the model to mimic existing system conditions and run without errors. Pipeline roughness coefficients (C-factor) should be adjusted for various groups of pipelines based on age, material, and diameters. In addition, facility controls should be adjusted to obtain a model that mimics system operations over extended periods.

The accuracy of the calibration results shall be summarized in tabular and graphical format

Task 2.3 - Sewer Model Update

Update Model Sewer Network and Facilities

The Consultant shall convert the City's existing hydraulic model to the latest version of InfoSWMM (from Innovyze, Inc.), which shall include the new sewer system facilities constructed since the previous model update. The updated model shall include all sewers 10-inches in diameter and larger, excluding service laterals. Sewer attributes such as manhole invert and rim elevations, pipeline invert elevations and diameters, materials, and age shall be fully populated using GIS and as-built drawings. Where needed, City staff shall provide manhole depths to derive invert elevations from ground elevation topography for critical manholes without invert elevations. Field surveying is not part of this task

Wastewater Flow Allocation

The Consultant shall allocate wastewater flow loadings for dry and wet weather conditions under near-term and long-term conditions. A minimum of four flow data sets shall be created to simulate dry and wet year flow conditions for the existing and future system.

Future Sewer Model Update

Future modeling scenarios shall be created to reflect near-term (2020 or 2025) and long-term (2040) conditions. Four (4) future water system demand sets shall be created that represent the near-term and long- term dry and wet weather conditions. As necessary, main trunks and lift stations shall be added to the future scenarios to serve new development areas.

Task 2.4. Sewer Hydraulic Model Calibration

Flow Monitoring and Model Calibration

A flow monitoring plan shall be prepared and presented to City staff, which shall list flow monitoring locations. Upon the City's approval of the plan, the Consultant shall perform flow monitoring for up to a two week period at the selected sites.

The Consultant shall use the flow monitoring data to develop land-use specific diurnal loading patterns for the base wastewater inflows tributary to each flow monitoring location. A wet or dry weather model calibration shall then be performed.

The accuracy of the calibration results shall be summarized in tabular and graphical format for each of the metered sites. The results shall be presented for both dry and wet weather, average and peak flows to indicate the accuracy to the model.

Task 2.5 - Recycled Water Model Update

The Consultant shall convert the City's existing hydraulic model in the latest version of InfoWater (from Innovyze, Inc.). In addition, projects that have been identified in the near-term and long-term planning horizon shall be added to the model.

Task Deliverables:

- Potable Water Calibration Plan (5 copies)
- Sewer Flow Monitoring Plan (5 copies)
- Field gathering data (5 copies)
- Potable Water Calibration results presented in a table and graphical format (5 copies)
- Sewer Model Calibration results presented in a table and graphical format (5 copies)
- Up to three (3) full-size GIS maps depicting the system layouts for Water, Sewer, and Recycled Water for discussions with City staff

- Draft Chapter 5 - Hydraulic Modeling (5 copies)

Task 3. Potable Water, Sewer, and Recycled Water System Analysis

Task 3.1 - Potable Water System Analysis

Existing System Description and Update

The Consultant shall describe the existing water system characteristics. This description shall include the service area, water supply sources and emergency interconnections, pressure zone service elevations and demands, water system pipeline distribution by material and size, and water system facilities characteristics.

Existing and Future System Capacity Evaluation

Utilizing the approved evaluation criteria, the following analysis shall be performed for existing and future build-out conditions:

- *Storage and Pumping Capacity Evaluation by Pressure Zone*
- *Distribution System Capacity Evaluation*
    - System Pressure Analysis under Minimum Day Demand (MinDD), Peak Hour Demand (PHD), and Maximum Day Demands (MDD) with Fire Flow Conditions
    - Velocity Analysis under Peak Hour Demand (PHD), Maximum Day Demand (MDD) with Fire Flow, and Average Day Demand (ADD) Conditions
    - Fire Flow Analysis by Land Use Type
- *Potable Water Supply Analysis*
    - Identify existing and future supply sources, water rights, and supply allocations
    - Compare allowable operational supply available with projected demands

If any pressure, velocity, or fire deficiencies are identified, the model shall be used to identify and size improvements to meet the criteria. In addition, potential supply deficiencies shall be identified under average annual and maximum day demand conditions for each planning period.

Growth Forecast Sensitivity Analysis

A sensitivity analysis shall be performed for the low and high ranges of the potable water demand forecasting envelope that considers a combination of future developments and water conservation assumptions. This sensitivity analysis shall determine the water infrastructure impacts of the high and low growth scenarios. Findings shall be tabulated such that infrastructure sizing adjustments are clearly linked to flow forecasting triggers.

A list and GIS map of the proposed improvement projects shall be developed utilizing consistent project IDs that also correspond to the project IDs in the CIP. The findings of this task shall be presented in the Integrated Master Plan Report (Task 5).

Documentation

The findings of this task shall be presented in the Integrated Master Plan Report (Task 5).

Task 3.2. Sewer System Analysis

Existing System Description and Update

The Consultant shall review, update, and describe existing wastewater collection system characteristics including service area, wastewater basins, lift stations, diversion structures, force mains, and pump stations.

Existing and Future System Capacity Evaluation

Utilizing the approved evaluation criteria, the following analysis shall be performed for existing and future build-out conditions:

- *Gravity and Force Main Capacity Evaluation under Peak Dry-Weather and Wet-Weather Conditions*
- *Lift Station Capacity Evaluation under Peak Dry-Weather and Wet-Weather Conditions*

If any capacity deficiencies are identified, the model shall be used to identify and size improvements to meet the criteria.

Growth Forecast Sensitivity Analysis

A sensitivity analysis shall be performed for the low and high ranges of the wastewater flow forecasting envelope that considers a combination of future developments and water conservation assumptions affecting indoor use. This sensitivity analysis shall determine the wastewater infrastructure impacts of the high and low growth scenarios. Findings shall be tabulated such that infrastructure sizing adjustments are clearly linked to flow forecasting triggers.

A list and GIS map of the proposed improvement projects shall be developed utilizing consistent project IDs that also correspond to the project IDs in the CIP.

Documentation

The findings of this task shall be presented in the Integrated Master Plan Report (Task 5).

Task 3.3. Recycled Water System Analysis

Proposed System Description

The Consultant shall describe the proposed recycled water system within the City. This description shall include the service area, supply sources, proposed pressure zone service elevations, potential recycled water distribution system alternatives to maximize the usage of recycled water within the City's service area, projected demands, and the proposed recycled

water system facilities needed to deliver recycled water to the most cost-effective customer locations.

Future System Capacity Evaluation

Utilizing the approved evaluation criteria, the following analysis shall be performed for future build-out conditions:

- *Storage and Pumping Capacity Evaluation by Pressure Zone*
- *Distribution System Capacity Evaluation*
    - System Pressure Analysis under Minimum Day Demand (MinDD) and Peak Hour Demand (PHD)
    - Velocity Analysis under Peak Hour Demand (PHD) and Average Day Demand (ADD) Conditions
- *Recycled Water Supply Analysis*
    - Identify existing and future supply sources and supply allocations
    - Compare allowable operational supply available with projected demands
- *Feasibility Alternatives Analysis*
    - Evaluate up to three (3) package plant/satellite facility alternatives that would provide a new/local recycled water supply source to serve non-potable demands in lieu of treatment at the regional plant in order to reduce pumping cost when delivering recycled water to the end users. A cost/benefit analysis shall be include that compares satellite plants alternatives to improvements to regional plant. The analysis will take into consideration Special Provisions as identified in Waste Discharge Requirements Board Order R7-2016-0015 for the City's Wastewater Treatment Plant.
    - Analyze up to four (4) alternatives to site future recycled water storage tank(s). This analyze shall consider the future system hydraulic gradelines, property ownership, and energy cost.

Growth Forecast Sensitivity Analysis

A sensitivity analysis shall be performed for the low and high ranges of the recycled water demand forecasting envelope that considers a combination of future developments and outdoor water demand assumptions. This sensitivity analysis shall determine the infrastructure impacts of the high and low growth scenarios. Findings shall be tabulated such that recycled water infrastructure sizing adjustments are clearly linked to demand forecasting triggers, such as specific developments.

A list and GIS map of the proposed improvement projects shall be developed utilizing consistent project IDs that also correspond to the project IDs in the CIP.

Documentation

The findings of this task shall be presented in the Integrated Master Plan Report (Task 5).

Task Deliverables:

- A table listing deficiencies and improvement projects for the water system (5 copies)
- A GIS map depicting the location of the proposed water improvement projects.
- A table listing deficiencies and improvement projects for the sewer system (5 copies)
- A GIS map depicting the location of the proposed sewer improvement projects.
- A table listing potential projects for the recycled water system (5 copies)
- A GIS map depicting the location of the proposed recycled water projects.

Task 4. Integrated Master CIP

Task 4.1 - Integrated CIP

Cost Assumptions Development

The Consultant shall develop the cost assumptions with input from City staff that shall be utilized to develop the water, sewer, and recycled water planning level cost estimates. These unit costs shall reflect the most current market conditions in the region. In addition, a table with typical contingency and mark-up cost factors shall be prepared.

Water, Sewer, and Recycled Water System CIPs

The Consultant shall develop planning-level cost estimates for each project within the existing, near-term, and long-term planning horizon.

A CIP tracking tool shall be developed that links project triggers (such as flows, demands, EDU's, development stage) with the proposed projects. This tool shall be easy to use for City staff to help prioritize project implementation. A baseline implementation schedule shall be developed that prioritizes the improvements required for existing, near-term and long-term (or build-out) conditions. The timing of CIP projects shall be determined based on the projected water or recycled water demands or projected sewer flows in the area that the project is located or serves and/or other project triggers.

Integrated Master CIP

Once the draft water, sewer, and recycled water CIPs are developed, they shall be integrated into a single master CIP. Based on an overlay of the three CIPs, an integrated phasing plan shall be developed that align project phasing.

Task Deliverables:

- Water, Sewer, and Recycled Water CIP Tables (5 copies)
- Up to three (3) full-size GIS maps depicting the proposed improvement projects for Water, Sewer, and Recycled Water for discussions with City staff

- Integrated CIP Table (5 copies)

Task 5. Integrated Master Plan Documentation

The Consultant shall prepare the task deliverables listed above on the major topics for each chapter in the Integrated Master Plan. These task deliverables shall be submitted to City staff at the completion of subject work for review prior to submittal Draft Master Plan document. It is assumed that up to five (5) copies shall be provided for each task deliverable listed under Tasks 1 through Task 5 and that comments received shall be incorporated into the Draft Master Plan.

Task 5.1 – Draft Integrated Master Plan Report

The report chapters prepared as part of Tasks 1 through Task 5 shall be compiled into an Integrated Master Plan report. The Draft Master Plan shall summarize the assumptions, analysis criteria, report findings, and recommendations of the City's system facilities evaluations. In addition, an executive summary shall be prepared as part of this task.

Anticipated chapters of the Integrated Master Plan include: 0) Executive Summary, 1) Introduction, 2) Land Use and Population Projections, 3) Demand and Flow Projections, 4) Evaluation Criteria, 5) Hydraulic Modeling, 6) Water System Analysis, 7) Wastewater System Analysis, 8) Recycled Water System Analysis, 9) Capital Improvement Plan, and appropriate appendices.

Three hard copies and one electronic copy of the Draft Integrated Master Plan Report shall be submitted to the City for review and comment.

Task 5.2 – Final Integrated Master Plan Report

The City's comments on the Draft Report shall be reviewed and incorporated into the Final Integrated Master Plan Report. Ten hard copies and one electronic copy of the Final Master Plan Report shall be submitted to the City.

Task Deliverables:

- Draft Integrated Master Plan Report (5 hard copies+ 1 electronic copy)
- Final Integrated Master Plan Report (10 hard copies + 1 electronic copy)
- Electronic files of the water, recycled water, and sewer system hydraulic models.
- Draft Executive Summary (5 hard copies)
- Final Executive Summary (10 hard copies + 1 electronic copy)

Task 6. Project Management and Meetings

This task includes general project management and coordination activities such as project communications, and invoicing for up to six (6) months. In addition, this task includes a kick-off project meeting to discuss project objectives of Tasks 1 through 5, as well as five (5) in-person project meetings and six (6) conference calls to discuss project progress.

4. PROPOSAL FORMAT GUIDELINES

Interested entities or contractors are to provide the City of Banning with a thorough proposal using the following guidelines:

Proposal should be typed and should contain no more than 20 typed pages using a 12-point font size, including transmittal letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graphic exhibits. Each proposal will adhere to the following order and content of sections. Proposal should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected. The following proposal sections are to be included in the Proposer's response:

- **Vendor Application Form and Cover Letter**

Complete Appendix A, "Request for Proposal-Vendor Application Form" and attach this form to the cover letter. A cover letter, not to exceed three pages in length, should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 180 days. Indicate the address and telephone number of the contractor's office located nearest to Banning, California and the office from which the project will be managed.

- **Background and Project Summary Section**

The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to Scope of Work of this RFP.

- **Methodology Section**

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

1. An implementation plan that describes in detail (i) the methods, including controls by which your firm or entity manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.

2. Detailed description of efforts your firm or entity will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.

3. Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion, including a complete transition plan. Include your plan to deal with fluctuation in service needs and any associated price adjustments.

4. Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

5. Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, cost-effective operations or increased performance capabilities. In addition, the City will consider proposals that offer alternative service delivery means and methods for the services desired.

6. Proposers are also requested to identify any City owned facilities or property which Proposer would propose to use or lease, purchase, or rent from the City in connection with the services to be performed, including information about the terms of any proposed lease, purchase or use of such equipment and facilities, and how this proposed structure affects the overall cost proposal to the City, if applicable.

- **Staffing**

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform and anticipated hours of service of each individual.[1] Include a resume for each designated individual.

Upon award and during the contract period, if the contractor chooses to assign different personnel to the project, the Contractor must submit their names and qualifications including information listed above to the City for approval before they begin work.

- **Qualifications**

The information requested in this section should describe the qualifications of the firm or entity, key staff and sub-contractors performing projects within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.

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[1] Hourly rates for the proposed personnel shall be set forth on Appendix D.

A summary of your firm's or entity's demonstrated capability, including length of time that your firm has provided the services being requested in this Request for Proposal.

For private Proposers, provide at least three references that received similar services from your firm. The City of Banning reserves the right to contact any of the organizations or individuals listed. Information provided shall include:

- Client Name
- Project Description
- Project start and end dates
- Client project manager name, telephone number, and e-mail address.

Any public entity which submits a proposal should describe in detail how it currently performs services like those identified in the scope of work within its or other jurisdictions, including photographs, written policies and/or video of services provided. If you have performed these services under contract for another public entity, please provide references for those entities as set forth above for private Proposers.

- **Financial Capacity**

Provide the Proposer's latest audited financial statement or other pertinent information such as internal unaudited financial statements and financial references to allow the City to reasonably formulate a determination about the financial capacity of the Proposer. Describe any administrative proceedings, claims, lawsuits, or other exposures pending against the Proposer.

- **Fee Proposal**

All Proposers are required to use the form in Appendix D to be submitted with their proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Proposals shall be valid for a minimum of 180 days following submission.

- **Disclosure**

Please disclose any and all past or current business and personal relationships with any current Banning elected official, appointed official, City employee, or family member of any current Banning elected official, appointed official, or City employee. ***Any past or current business relationship may not disqualify the firm from consideration.***

- **Sample Agreement**

The firm selected by the City will be required to execute an Agreement for Services (Agreement) with the City. The form of the Agreement is enclosed as Appendix B, but may be modified to suit the specific services and needs of the City. If a Proposer has any exceptions or conditions to the Agreement, these must be submitted for consideration with

the proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. See Section 13, below.

- **Checklist of Forms to Accompany Proposal**

As a convenience to Proposers, following is a list of the forms, included as appendices to this RFP, which should be included with proposals

(1) Vendor Application Form

(2) Ex Parte Communications Certificate

(2) Price Proposal Form

(3) Disclosure of Government Positions

(4) Disqualifications Questionnaire

5. PROCESS FOR SUBMITTING PROPOSALS

- **Content of Proposal**

The proposal must be submitted using the format as indicated in the proposal format guidelines.

- **Preparation of Proposal**

Each proposal shall be prepared simply and economically, avoiding the use of elaborate promotional material beyond those sufficient to provide a complete, accurate and reliable presentation.

- **Number of Proposals**

Submit one original, Five (5) hard copies plus one disk copy of flash drive of your proposal in sufficient detail to allow for thorough evaluation and comparative analysis. In the event of a conflict between the original and any hard copy or disk copy, the original shall control.

- **Submission of Proposals**

*Complete written proposals must be submitted in sealed envelopes marked and received no later than **2:00 p.m. (P.S.T) on October 6, 2016** to the address below. Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted.*

City of Banning

City Hall

Office of the City Clerk

99 E. Ramsey St.

Banning, CA 92220-0998

RE: **16-009 – Integrated Master Plan for Water, Wastewater and Recycled Water Systems**

- **Inquiries**

Questions about this RFP must be directed in writing, via e-mail to:

Jennifer McCoy, RFP Facilitator

jmccoy@ci.banning.ca.us

The City reserves the right to amend or supplement this RFP prior to the proposal due date. All amendments, responses to questions received, and additional information will be posted to the Banning Procurement Registry, Banning - Official City Web Site - Business - Bids & RFP's; Proposers should check this web page daily for new information. The City will endeavor to answer all written questions timely received no later than **3:30 p.m. on September 23, 2016**. The City reserves the right not to answer all questions.

From the date that this RFP is issued until a firm or entity is selected and the selection is announced, firms or public entities are not allowed to communicate outside the process set forth in this RFP with any City employee other than the contracting officer listed above regarding this RFP. The City reserves the right to reject any proposal for violation of this provision. No questions other than written will be accepted, and no response other than written will be binding upon the City.

- **Conditions for Proposal Acceptance**

This RFP does not commit the City to award a contract or to pay any costs incurred for any services. The City, at its sole discretion, reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified source(s), or to cancel this RFP in part or in its entirety. The City may waive any irregularity in any proposal. All proposals will become the property of the City of Banning, USA. If any proprietary information is contained in the proposal, it should be clearly identified.

6. EVALUATION CRITERIA

The City's evaluation and selection process will be conducted in accordance with Article 4, Section 5-105 of the City's Purchasing and Procedures Policy (Policy). In accordance with the Policy, the lowest responsible bidder will be determined based on evaluation of qualitative factors in addition to price. At all times during the evaluation process, the following criteria will be used. Sub-criteria are not necessarily listed in order of importance. Additional sub criteria that logically fit within a particular evaluation criteria may also be considered even if not specified below.

1. Qualifications of Entity and Key Personnel-------30%

Includes ability to provide the requested scope of services, the Proposer's financial capacity, recent experience conducting work of similar scope, complexity, and magnitude for other public agencies of similar size, references.

2. Approach to Providing the Requested Scope of Services-------20%

Includes an understanding of the RFP and of the project's scope of services, knowledge of applicable laws and regulations related to the scope of services.

3. Price Proposal-----35%

Price Proposals will be evaluated on the basis of the Total Estimated Annual Price submitted in Appendix D.

4. Innovative and/or creative approaches to providing the services that provide additional efficiencies or increased performance capabilities. ----15%

7. EVALUATION OF PROPOSALS AND SELECTION PROCESS

In accordance with its Policy, the City will adhere to the following procedures in evaluating proposals. An Evaluation/Selection Committee (Committee), which may include members of the City's staff and possibly one or more outside experts, will screen and review all proposals according to the weighted criteria set forth above. While price is one basic factor for award, it is not the sole consideration.

A. Responsiveness Screening

Proposals will first be screened to ensure responsiveness to the RFP. The City may reject as non-responsive any proposal that does not include the documents required to be submitted by this RFP. At any time during the evaluation process, the City reserves the right to request clarifications or additional information from any or all Proposers regarding their proposals.

B. Initial Proposal Review

The Committee will initially review and score all responsive written proposals based upon the Evaluation Criteria set forth above. The Committee may also contact Proposer's references. Proposals that receive the highest evaluation scores may be invited to the next stage of the evaluation process. The City may reject any proposal in which a Proposer's approach, qualifications, or price is not considered acceptable by the City. An unacceptable proposal is one that would have to be substantially rewritten to make it acceptable. The City may conclude the evaluation process at this point and recommend award to the lowest responsible bidder. Alternatively, the City may elect to negotiate

directly with one or more Proposers to obtain the best result for the City prior to making a recommendation or selection.

C. **Interviews, Reference Checks, Revised Proposals, Discussions**

Following the initial screening and review of proposals, the Proposers included in this stage of the evaluation process may be invited to participate in an oral interview. Interviews, if held, are tentatively scheduled for **the week of October 18, 2016** and will be conducted at City of Banning City Hall, 99 E. Ramsey St., Banning, CA 92220. This date is subject to change. The individual(s) from Proposer's firm or entity that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview. The oral interview may, but is not required to, use a written question/answer format for the purpose of clarifying the intent of any portions of the proposal.

In addition to conducting an oral interview, the City may during this stage of the evaluation process also contact and evaluate the Proposer's references, contact any Proposer to clarify any response or request revised or additional information, contact any current users of a Proposer's services, solicit information from any available source concerning any aspect of a proposal, and seek and review any other information deemed pertinent to the evaluation process.

Following conclusion of this stage of the evaluation process, the Committee will again rank all Proposers according to the evaluation criteria set forth above. The Committee may conclude the evaluation process at this point, and make a recommendation for award, or it may request Best and Final Offers from Proposers. The City may accept the proposal or negotiate the terms and conditions of the agreement with the highest ranked firm, which shall be determined to be the lowest responsible bidder. The City may recommend award without Best and Final Offers, so Proposers should include their best proposal with their initial submission.

Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully within a time period determined by the City, the City may terminate negotiations and commence negotiations with the next highest scoring Proposer or withdraw the RFP.

8. PROTEST PROCEDURES

Failure to comply with the rules set forth herein may result in rejection of the protest. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the RFP Facilitator at least 10 calendar days prior to the deadline for receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the RFP Facilitator, within forty-eight hours from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The RFP Facilitator will respond to the protest in writing at least three days prior to the meeting at which staff's recommendation to the City Council will be considered. Should Proposer decide to appeal the response of the RFP Facilitator, and pursue its protest at the Council meeting, it will notify the RFP Facilitator of its intention at least two days prior to the scheduled meeting.

9. CONFIDENTIALITY

The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to this RFP, protest, or any other written communication between the City and Proposer, shall be available to the public. The City intends to release all public portions of the proposals following the evaluation process at such time as a recommendation is made to the City Council.

If Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire proposal as confidential nor designate its Price Proposal as confidential.

Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

10. EX PARTE COMMUNICATIONS

Proposers and Proposers' representatives should not communicate with the City Council members about this RFP. In addition, Proposers and Proposers' representatives should not communicate outside the procedures set forth in this RFP with an officer, employee or agent of

the City, including any member of the evaluation panel, with the exception of the RFP Facilitator, regarding this RFP until after Contract Award. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

A "Proposer" or "Proposer's representative" includes all of the Proposer's employees, officers, directors, consultants and agents, any subcontractors or suppliers listed in the Proposer's proposal, and any individual or entity who has been requested by the Proposer to contact the City on the Proposer's behalf. Proposers shall include the Ex Parte Communications form (Appendix C) with their proposals certifying that they have not had or directed prohibited communications as described in this section.

11. CONFLICT OF INTEREST

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

12. DISCLOSURE OF GOVERNMENTAL POSITION

In order to analyze possible conflicts that might prevent a Proposer from acting on behalf of the City, the City requires that all Proposers disclose in their proposals any positions that they hold as directors, officers, or employees of any governmental entity. Additional disclosure may be required prior to contract award or during the term of the contract. Each Proposer shall disclose whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months using the attached "Disclosure of Government Positions Form." (See Appendix F.)

13 CONDITIONS TO AGREEMENT, IF ANY.

The selected Proposer will execute an Agreement for Services with the City describing the Scope of Services to be performed, the schedule for completion of the services, compensation, and other pertinent provisions. The contract shall follow the sample form of Agreement provided as Appendix B to this RFP, which may be modified by City. All Proposers are directed to particularly review the indemnification and insurance requirements set forth in the sample Agreement.

The terms of the agreement, including insurance requirements have been mandated by the City and can be modified only if extraordinary circumstances exist. Submittal of a proposal shall be deemed acceptance of all the terms set forth in this RFP and the sample Agreement for Services unless the Proposer includes with its proposal, in writing, any conditions or exceptions requested

by the Proposer to the proposed Agreement. In accordance with the Municipal Code, the City may consider the scope and number of conditions in evaluation proposals and determining the lowest responsible bidder.

14. DISQUALIFICATION QUESTIONNAIRE

Proposers shall complete and submit, under penalty of perjury, a standard form of questionnaire inquiring whether a Proposer, any officer of a proposer, or any employee of a Proposer who has a proprietary interest in the Proposer, has ever been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of a violation of law or safety regulation and if so, to explain the circumstances. A proposal may be rejected on the basis of a Proposer, any officer or employee of such Proposer, having been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local project because of a violation of law or a safety regulation. See Appendix E.

15. STANDARD TERMS AND CONDITIONS

Addendums

The City reserves the right to amend or supplement this RFP prior to the proposal due date. All addendums and additional information will be posted to the Banning Procurement Registry, Banning - Official City Web Site - Business - Bids & RFP's; Proposers should check this web page daily for new information.

Cost for Preparing Proposal

The cost for developing the proposal is the sole responsibility of the Proposer. All proposals submitted become the property of the City.

Insurance Requirements

City requires that licensees, lessees, and vendors have an ***approved*** Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Proposer must furnish the City with the Certificates of Insurance proving coverage as specified within Appendix B.

APPENDIX A



REQUEST FOR PROPOSAL

16-009 – INTEGRATED MASTER PLAN FOR WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

VENDOR APPLICATION FORM

TYPE OF APPLICANT: ☐ NEW ☐ CURRENT VENDOR

Legal Contractual Name of Corporation: _____

Contact Person for Agreement: _____

Corporate Mailing Address: _____

City, State and Zip Code: _____

E-Mail Address: _____

Phone: _____ Fax: _____

Contact Person for Proposals: _____

Title: _____ E-Mail Address: _____

Business Telephone: _____ Business Fax: _____

Is your business: (check one)

☐ NON PROFIT CORPORATION ☐ FOR PROFIT CORPORATION

Is your business: (check one)

☐ CORPORATION ☐ LIMITED LIABILITY PARTNERSHIP

☐ INDIVIDUAL ☐ SOLE PROPRIETORSHIP

☐ PARTNERSHIP ☐ UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members
(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone

Federal Tax Identification Number: _____

City of Banning Business License Number: _____

(If none, you must obtain a Banning Business License upon award of contract.)

City of Banning Business License Expiration Date: _____

APPENDIX B

CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF BANNING
AND
_____

This AGREEMENT is entered into this ___ day of _____, 20__, by and between the CITY OF BANNING, a general law city a municipal corporation ("CITY") and _____, a California corporation ("CONSULTANT").

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this agreement.

B. Therefore, the City desires to contract out for consulting services for certain projects relating to preparation of documents in connection with a design project.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, based on the foregoing recitals, the City and the Consultant agree as follows:

1. CONSIDERATION AND COMPENSATION

A. As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, attached as EXHIBIT A;

B. As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;

C. As additional consideration, CITY agrees to pay CONSULTANT a total of $_____, for CONSULTANT's services, unless otherwise specified by written amendment to this Agreement.

D. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager or his designee.

E. CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

2. SCOPE OF SERVICES.

A. CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICE attached hereto as Exhibit A and incorporated herein by this reference.

B. Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

3. PAYMENTS. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

4. TIME OF PERFORMANCE. The services of the CONTRACTOR are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY's reasonable satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.

5. FAMILIARITY WITH WORK. By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

6. KEY PERSONNEL. CONSULTANT's key person assigned to perform work under this Agreement is _____. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City.

7. TERM OF AGREEMENT. The term of this Agreement shall commence upon execution by both parties and shall expire on _____, 20__ unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

8. CHANGES. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

9. TAXPAYER IDENTIFICATION NUMBER. CONSULTANT will provide CITY with a Taxpayer Identification Number.

10. PERMITS AND LICENSES. CONTRACTOR will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

11. TERMINATION.

A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.

B. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.

C. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY's option, become CITY's property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.

D. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

12. INDEMNIFICATION.

A. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY'S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should CITY in its sole discretion find CONSULTANT'S legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

B. The requirements as to the types and limits of insurance coverage to be maintained

by CONSULTANT as required by Section 17, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

13. ASSIGNABILITY. This Agreement is for CONSULTANT's professional services. CONSULTANT's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.

14. INDEPENDENT CONTRACTOR. CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which is it performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

15. AUDIT OF RECORDS.

A. CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

B. CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

16. CORRECTIVE MEASURES. CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

17. INSURANCE REQUIREMENTS.

A. The CONSULTANT, at the CONSULTANT's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective

employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, agents, employees, and volunteers for losses arising from work performed by the CONTRACTOR for City.

2. General Liability Coverage. The CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. The CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. The CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONSULTANT'S operations under this Agreement, whether such operations be by the CONSULTANT or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a "claims made basis," CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability, automobile liability and professional liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by City, and shall be endorsed as follows. CONSULTANT also agrees to require all contractors, and subcontractors to do likewise.

1. "The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations."

2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance

maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' written notice has been received by the CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against Contractor arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY's option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. The CONSULTANT shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement.

F. Failure on the part of the CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 11 above.

18. USE OF OTHER CONSULTANTS. CONSULTANT must obtain CITY's prior written approval to use any consultants while performing any portion of this Agreement. Such approval must include approval of the proposed consultant and the terms of compensation.

19. FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE. The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of the CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of the CITY'S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the CITY shall not constitute, nor be deemed, a release of the responsibility and liability of the

CONSULTANT, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the CITY for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

20. CORRECTIONS. In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the CITY, and the cost thereof shall be charged to the CONSULTANT. In addition to all other available remedies, the City may deduct the cost of such correction from any retention amount held by the City or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

21. NON-APPROPRIATION OF FUNDS. Payments to be made to CONSULTANT by CITY for services preformed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT'S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT'S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

22. NOTICES. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

CITY	CONSULTANT
City of Banning 99 East Ramsey Street Banning, CA 92220 ATTN: City Manager	_____ _____ _____ ATTN: _____

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

23. SOLICITATION. CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT's bona fide employee, to solicit or secure this Agreement. Further, CONSULTANT warrants that it has not paid nor has it agreed to pay any company or person, other than CONSULTANT's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.

24. THIRD PARTY BENEFICIARIES. This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT's or CITY's obligations under this Agreement.

25. INTERPRETATION. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

26. ENTIRE AGREEMENT. This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.

27. RULES OF CONSTRUCTION. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

28. AUTHORITY/MODIFICATION. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY's city administrator, or designee, may execute any such amendment on behalf of CITY.

29. ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

30. FORCE MAJEURE. Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

31. TIME IS OF ESSENCE. Time is of the essence to comply with dates and schedules to be provided.

32. ATTORNEY'S FEES. The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

33. STATEMENT OF EXPERIENCE. By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to

perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

34. DISCLOSURE REQUIRED. (City and Consultant initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a "consultant" for the purposes of the California Political Reform Act because Consultant's duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18701(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City's Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City's Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant's disclosure obligations in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials _____

OR

By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a "consultant" for the purpose of the California Political Reform Act because Consultant's duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18701(a)(2)(A) and is otherwise not serving in staff capacity in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials _____

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

_____
MICHAEL ROCK, CITY MANAGER

CONSULTANT

By: _____
NAME:
TITLE:

By: _____
NAME:
TITLE:

ATTEST:

_____
Marie Calderon, City Clerk

_____
Tax ID No.

APPROVED AS TO FORM:

_____
John C. Cotti, Interim City Attorney

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other oj cer completing this certiÄcate veriÄes only the identity of the individual who signed the document to which this certiÄcate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,

Date Here Insert Name and Title of the Officer

personally appeared _____

Name(s) of Signer(s)

_____,

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 the instrument.

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

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

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APPENDIX C

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the Integrated Master Plan for Water, Wastewater and Recycled Water Systems RFP at any time after September 16, 2016

_____

OR

I certify that Proposer or Proposer's representatives have communicated after September 16, 2016 with a City Councilmember concerning the Integrated Master Plan for Water, Wastewater and Recycled Water Systems RFP. A copy of all such communications is attached to this form for public distribution.

_____

APPENDIX D

PRICING PROPOSAL FORM

INTEGRATED MASTER PLAN FOR WATER, WASTEWATER AND RESYCLED WATER SYSTEMS

Provide hourly rates, along with estimated annual pricing in accordance with the City's current requirements, as set forth in section 3 Scope of Work. Also provide your firm's proposed Staffing Plan on a separate sheet of paper. Proposer should use a separate form to state pricing for any added value.

Pricing shall remain firm for a minimum of two (2) years. Any and all requests for pricing adjustments for follow-on contract renewal periods shall be provided no later than sixty (60) days prior to the end of the contract period. Any such proposed price adjustments shall not exceed The Bureau of Labor Statistics Consumer Price Index (CPI) data for Los Angles-Riverside-Orange County, CA, All Items, Not Seasonally Adjusted, "annualized change comparing the original proposal month and the same month in the subsequent year. (This information may be found on the U.S. Department of Labor's website at www.bls.gov.)

Employee	Hourly Rate	Hours worked	Total Cost	Overtime rate
	$		$	$
	$		$	$
	$		$	$
	$		$	$
	$		$	$

Total Estimated Annual Price	$

ADD ANY ADDITIONAL COST PROPOSAL SHEETS HERE

APPENDIX E

DISQUALIFICATION QUESTIONNAIRE

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space.

APPENDIX F

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."



REQUEST FOR PROPOSAL

FOR

INTEGRATED MASTER PLAN WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

RFP No. 16-009

PUBLIC WORKS DEPARTMENT

CITY OF BANNING

Released on September 16, 2016

The referenced document has been modified as per the attached Addendum No. 1

Please sign this Addendum where designated and return the executed copy with submission of your proposal. This Addendum is hereby made part of the referenced proposal as through fully set forth therein. Any questions regarding this Addendum should be addressed to Jennifer McCoy, email jmccoy@ci.banning.ca.us

RFP Clarification

4. PROPOSAL FORMAT GUIDELINES

Interested entities or contractors are to provide the City of Banning with a thorough proposal using the following guidelines:

Proposal should be typed and should contain no more than 20 typed pages using a 12-point font size, including checklist forms, transmittal letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graphic exhibits. Each proposal will adhere to the following order and content of sections. Proposal should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected. The following proposal sections are to be included in the Proposer's response:

Questions & Answers

1. Describe the compatibility of water billing records with GIS.
    a. None.
2. Is the City interested in a traditional recycled water purple-pipe system for irrigation uses, or a more comprehensive IPR/DPR concept for recycled water?
    a. Recycled water for irrigation uses only.
3. In what software formats are the existing hydraulic models? When were the models last updated?
    a. The existing model was developed using H20Net. The model was last updated in 2015.
4. How often are potable water customers billed?
    a. Once per month.
5. How frequently is City SCADA data captured (for reservoir level, pump flow, etc.)?
    a. Varies, depending on facility. Reservoir levels every 5 minute and pump flow every minute.
6. Does the City wish to capture both dry weather and wet weather sewer data with flow monitoring? If so, a single two week period may not be sufficient to accomplish this.
    a. Yes, the City does wish to capture both dry weather and wet weather data and should be reflected in the proposed schedule.
7. Does the recycled water model need to be updated and/or calibrated?
    a. Updated, not calibrated.
8. Does the City possess a current topographical contour elevation data file or .dtm for the entire service area?
    a. No
9. Please confirm that a condition assessment is not required.
    a. Not required in the base scope. A condition assessment should be identified as an additional optional task and included in the proposal and schedule.

10. For the CIP tracking tool, does the City prefer a specific software or is the City opposed to using any specific software?
    a. The City does not have a preference or is opposed to using a specific software. The software chosen shall be one that is widely used and approved by the City Engineer.
11. Does the City have any users on septic systems? If so, please confirm those are excluded from this work.
    a. Yes, a small amount of residents are on septic systems and shall be excluded from the project.
12. Please confirm the planning horizon (in years) for the CIP.
    a. 20 Years
13. Please confirm that no water age/quality modeling is required.
    a. Not required.
14. Do you have a budget set for this project?
    a. No.

All other provisions of the invitation of this proposal shall remain in their entirety.

Vendors hereby acknowledge receipt and understanding of the above Addendum. Complete and submit this Addendum with your proposal.

_____ _____

Signature Date Company Name

_____ _____

Typed Name and Title

_____

Address



REQUEST FOR PROPOSAL

FOR

INTEGRATED MASTER PLAN WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

RFP No. 16-009

PUBLIC WORKS DEPARTMENT

CITY OF BANNING

Released on September 16, 2016

The referenced document has been modified as per the attached **Addendum No. 2**

Please sign this Addendum where designated and return the executed copy with submission of your proposal. This Addendum is hereby made part of the referenced proposal as through fully set forth therein. Any questions regarding this Addendum should be addressed to Jennifer McCoy, email jmccoy@ci.banning.ca.us

This Addendum is formally issued to extend the RFP due date. Please see changes below in RED.

2. SCHEDULE OF EVENTS

This request for proposal will be governed by the following schedule:

Release of RFP	September 16, 2016
Pre-Proposal Meeting	September 20, 2016 at 2:00 p.m.
Deadline for Written Questions	September 23, 2016 by 3:30 p.m.
Responses to Questions Posted on Web	September 28, 2016 by 5:00 p.m.
Proposals are Due	~~October 6, 2016~~ October 20, 2016 at 2:00 p.m.
Interview (if held)	The Week of ~~October 18, 2016~~ November 8, 2016
Approval of Contract	~~November~~ December 2016 (Tentative)

All dates are subject to change at the discretion of the City

All other provisions of the invitation of this proposal shall remain in their entirety.

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_____ _____

Signature Date Company Name

_____ _____

Typed Name and Title

_____

Address

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ATTACHMENT 3

(Carollo Engineers Proposal)

PROPOSAL FOR

Integrated Master Plan for Water, Wastewater and Recycled Water Systems

(RFP NO. 16-009)



October 2016

carollo

Engineers...Working Wonders With Water®

carollo
Engineers...Working Wonders With Water®

WATER
OUR FOCUS
OUR BUSINESS
OUR PASSION

October 20, 2016

City Clerk's Office
City of Banning
99 E. Ramsey Street
Banning, California 92220-0998

Subject: RFP-16-009 – Integrated Master Plan for Water, Wastewater, and Recycled Water Systems

Dear Selection Committee:

We are excited to present our proposal and project team to assist the City with the preparation of your Integrated Master Plan. As you will notice in our proposal, we have assembled a team that is very familiar with your water, wastewater, and recycled water systems through our long history working for the City on multiple plans, studies, and value engineering services ranging in size and complexity since 2002.

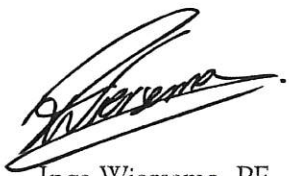
We understand the objectives of this important project and bring the depth and breadth of experience that is a direct match for your project needs. Some of the key benefits that Carollo brings to the City are:

- **Institutional Knowledge:** Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems. This allows us to build upon previous planning work that our team has been involved in since 2002, which will provide cost savings for the City.
- **On-Time Project Delivery:** Our team's extensive institutional knowledge allows us to hit the ground running without any learning curve to ensure that we can meet your aggressive schedule without compromising work quality.
- **Team of Integrated Planning Experts:** The team members selected for this project have worked together on many similar integrated master plans. We have developed a proven integrated master planning methodology that properly aligns and coordinate the individual plans in an efficient manner.
- **Dynamic CIP Planning Tool:** Carollo will develop a dynamic CIP planning tool that links actual development progress (in EDUs) with critical infrastructure improvements to adjust project phasing based on actual capacity needs. Carollo's trigger-based dynamic CIP tools allows easy adjustments to project sizing and timing after the master plan is complete to "right-size" projects and minimize cost.

We want to thank you for the opportunity to submit our proposal and welcome the opportunity to discuss any questions you may have. Our fee estimate listed in the proposal will be valid for 180 days from the receipt of this proposal. The project will be managed from Carollo's Costa Mesa office (shown below).

Sincerely,

CAROLLO ENGINEERS, INC.



Inge Wiersema, PE
Project Manager

3150 Bristol Street, Suite 500, Costa Mesa, California 92626
P. 714.593.5100 F. 714.593.5101
carollo.com

10. For the CIP tracking tool, does the City prefer a specific software or is the City opposed to using any specific software?
    a. The City does not have a preference or is opposed to using a specific software. The software chosen shall be one that is widely used and approved by the City Engineer.
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    a. Yes, a small amount of residents are on septic systems and shall be excluded from the project.
12. Please confirm the planning horizon (in years) for the CIP.
    a. 20 Years
13. Please confirm that no water age/quality modeling is required.
    a. Not required.
14. Do you have a budget set for this project?
    a. No.

All other provisions of the invitation of this proposal shall remain in their entirety.

Vendors hereby acknowledge receipt and understanding of the above Addendum. Complete and submit this Addendum with your proposal.



October 20, 2016

Signature Date

Carollo Engineers, Inc.

Company Name

Inge Wiersema, Vice President

Typed Name and Title

3150 Bristol Street, Suite 500

Costa Mesa, CA 92626

Address

This Addendum is formally issued to extend the RFP due date. Please see changes below in RED.

2. SCHEDULE OF EVENTS

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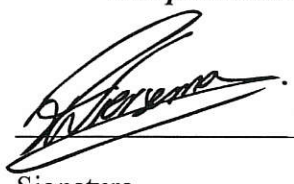

October 20, 2016

Signature Date

Carollo Engineers, Inc.

Company Name

Inge Wiersema, Vice President

Typed Name and Title

3150 Bristol Street, Suite 500

Costa Mesa, CA 92626

Address

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Methodology

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Qualifications

Financial Capacity

Fee Proposal

Appendix

Appendix C: Ex Parte Communications Certification

Appendix E & F: Disqualification Questionnaire and Disclosure of Government Positions

Sample Agreement

REQUEST FOR PROPOSAL

16-009 – INTEGRATED MASTER PLAN FOR WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

VENDOR APPLICATION FORM

TYPE OF APPLICANT: ☐ NEW ☑ CURRENT VENDOR

Legal Contractual Name of Corporation: Carollo Engineers, Inc.

Contact Person for Agreement: Inge Wiersema

Corporate Mailing Address: 2700 Ygnacio Valley Road, Suite 300

City, State and Zip Code: Walnut Creek, California 94598

E-Mail Address: iwiersema@carollo.com

Phone: 213-279-3320 Fax: 213-572-0361

Contact Person for Proposals: Inge Wiersema

Title: Vice President E-Mail Address: iwiersema@carollo.com

Business Telephone: 213-279-3320 Business Fax: 213-572-0361

Is your business: (check one)

☐ NON PROFIT CORPORATION ☑ FOR PROFIT CORPORATION

Is your business: (check one)

☑ CORPORATION ☐ LIMITED LIABILITY PARTNERSHIP

☐ INDIVIDUAL ☐ SOLE PROPRIETORSHIP

☐ PARTNERSHIP ☐ UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
Carollo Board Members		
Balakrishnan Narayanan, Ph.D., P.E.	President/Chief Executive Officer	925-977-3014
Louis J Carella, P.E.	Executive Vice President	925-977-3003
James P Hagstrom, P.E.	Executive Vice President	714-593-5151
Russell Wachter, P.E., BCEE	Executive Vice President	602-474-4116
Ashwani K Wason, P.E., PMP	Executive Vice President	714-593-5170

Persons with Written Authorization/Resolution to Sign Contracts

Carollo has over 170 employess with written authorization/resolution to sign contracts.
For this proposal, there are two people:

Graham Juby, Ph.D., P.E.	Vice President	714-593-5134
Inge Wiersema, P.E.	Vice President	213-279-3320

Federal Tax Identification Number: 86-0899222

City of Banning Business License Number: 020089

(If none, you must obtain a Banning Business License upon award of contract.)

City of Banning Business License Expiration Date: March 31, 2017

Background & Project Summary

The City of Banning (City) encompasses 37 square miles and currently provides water and sewer services to approximately 30,000 residents. The City would like to extend its services to include recycled water for irrigation. The City has determined the need to update its water, sewer, and recycled water master plans in an Integrated Master Plan to obtain accurate and usable documents that can guide the City with the budgeting and implementation of capital improvement projects. Based on our extensive experience preparing integrated master plans, three critical success factors include:

1. Meet the Aggressive Schedule with Proper Alignment of All Three Master Plans.
2. Utilization of Demand and Flow Forecasting Envelops Provides Flexibility for CIP Implementation.
3. Carollo's Dynamic Trigger-based CIPs Optimize Project Sizing and Timing.

1. Meet the Aggressive Schedule with Proper Alignment of All Three Master Plans.

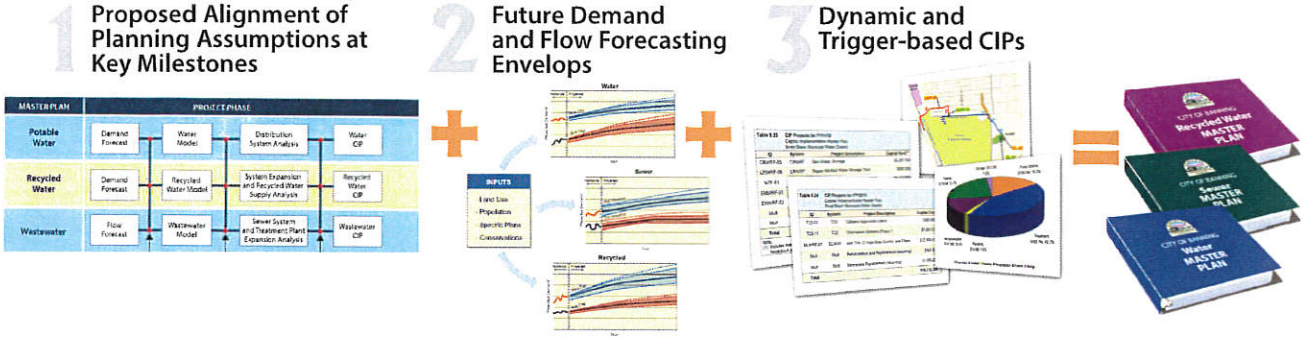
Integration is the process of planning various utility type infrastructures based on a common set of planning criteria that involves coordinating the development of the master plans and proposed CIPs to maximize the public's investment. Based on our extensive planning experience, we know exactly where information between the different plans needs to be coordinated (demand/flow projections, hydraulic model setup, and CIP phasing) to efficiently deliver sound planning documents that are completed on schedule.

2. Utilization of Demand and Flow Forecasting Envelops Provides Flexibility for CIP Implementation.

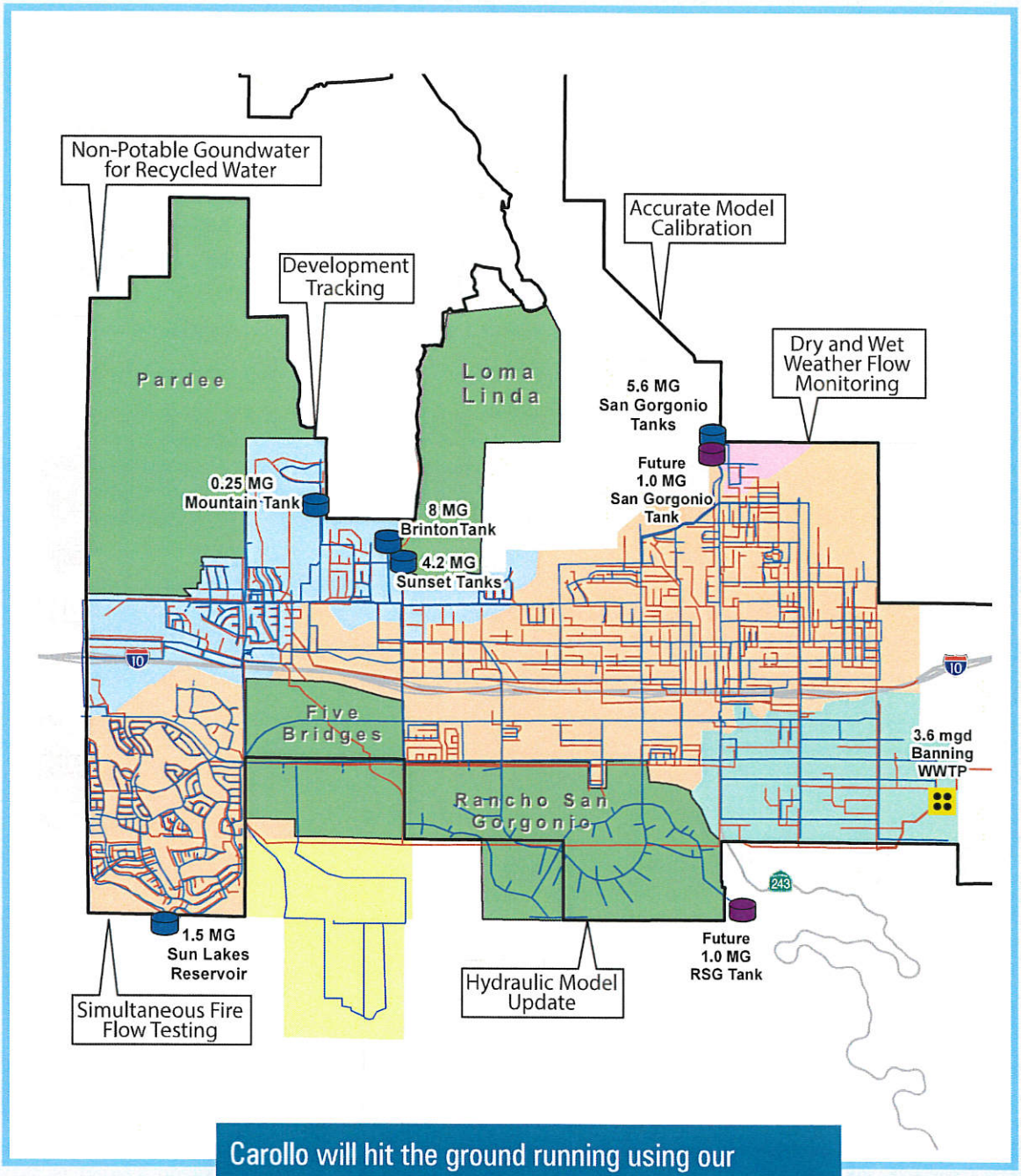
There is no question that demand/flow forecasts are the foundation of every master plan. It defines system operation requirements, which in turn highlights system weakness that ultimately set the basis for the CIP. To plan for the uncertainty in projected growth due to changes in conservation and development timing, demand/flow forecast envelops will be developed to provide the City flexibility for CIP implementation. A baseline forecast will be selected with City staff and a sensitivity analysis will be conducted to determine the infrastructure impacts of other growth scenarios.

3. Carollo's Dynamic Trigger-based CIPs Optimize Project Sizing and Timing.

One of the key objectives of this project is to develop CIPs for the City's water, wastewater, and recycled water systems that are sized just right so that CIPs are affordable and oversized facilities, stranded assets, and excessive developer fees are avoided. Carollo's dynamic trigger-based CIP tool provides the City with a complete summary of all CIP projects, which are linked to development progress (in EDUs) to match infrastructure timing with actual capacity needs.



Carollo's extensive integrated planning experience and in depth institutional knowledge results in on-time completion of sound master plans with a dynamic CIP to guide the City for the next decades.



Carollo will hit the ground running using our institutional knowledge of your water, wastewater, and future recycled water systems and an understanding of the City's current needs.

Methodology

Project Understanding

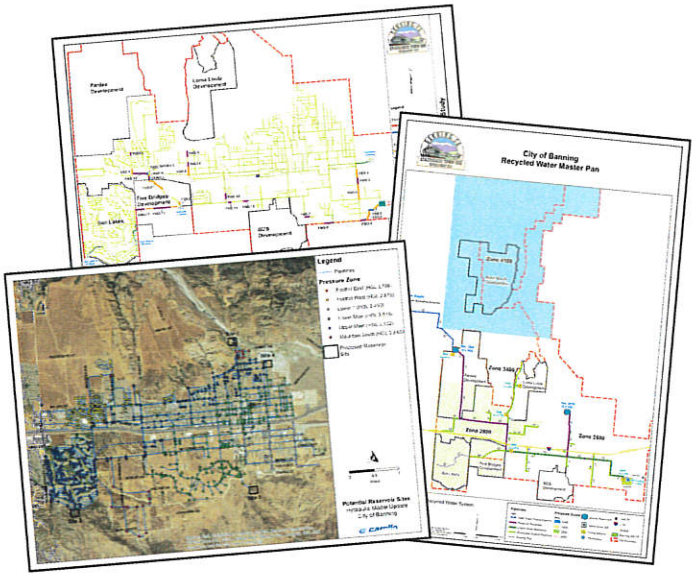
Based on our project understanding, we have identified three key project challenges that must be addressed to deliver an Integrated Master Plan that meets your expectations and that will successfully serve as a roadmap for the City during the next two decades. We then tailored an approach to address these challenges and meet your unique project needs. The key components of our project approach are:

1. Building upon Previous Reports Provides an Integrated Plan that Results in Consistent and Sound Planning Documents.
2. Proper Alignment of Key Assumptions at Critical Project Milestones Results in Sound Master Plans.
3. Carollo's Dynamic Trigger-based CIP Planning Tool Puts the City in the Driver's Seat.

Our overarching approach to your Integrated Master Plan and how we plan to address several key challenges is discussed below. The approach and methodology builds upon the scope of work listed in the RFP. The schedule to complete the major milestones along with the City's staff involvement is listed at the end of this section.

1. Building upon Previous Reports Provides an Integrated Plan that Results in Consistent and Sound Planning Documents.

Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems since 2002. The team members selected for this project have been involved in the preparation of your previous 2002 Hydraulic System Analysis Study (Inge Wiersema and Matt Huang worked on this project while at MWH), Wastewater System Master Plan, Recycled Water Feasibility Study, and Water System CIP update, which were completed in 2006. Since then,



Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems.

the City has requested assistance to conduct a storage analysis on the potable water system and requested value engineering services to review studies for the Pardee Butterfield Development in 2011 and the Rancho San Gorgonio Development in 2015.

Our team's in-depth institutional knowledge of the City's water, wastewater, and recycled water systems provides cost savings due to the lack of any learning curve. Additionally, it allows our team to hit the ground running and meet the aggressive project schedule.

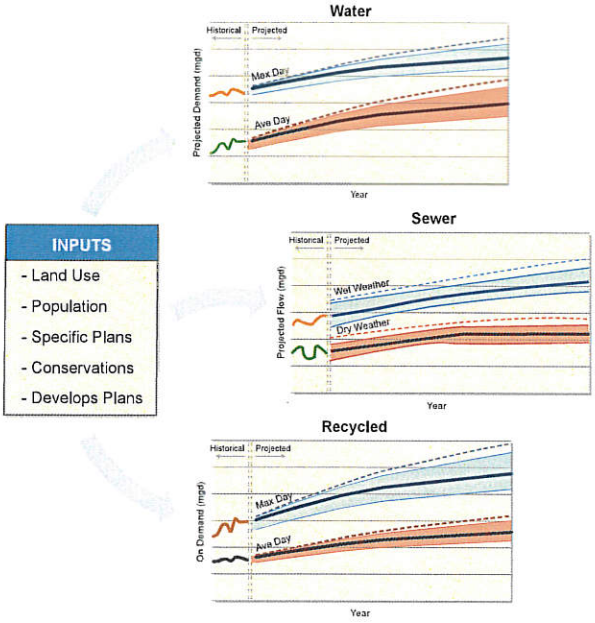
2. Proper Alignment of Key Assumptions at Critical Project Milestones Results in Sound Master Plans.

Based on our extensive experience, we know exactly where information between the different plans needs to be coordinated to deliver sound planning documents that are based on consistent assumptions and that result in cost savings. Some of the project tasks that need to be closely coordinated include:

- Potable water, recycled water, and wastewater demand and flow projections.

- Land use analysis and GIS integration.
- Hydraulic models setup.
- CIP development and project phasing.

With our integrated planning approach, the City will obtain an integrated master planning document that is based on consistent planning assumptions and can be trusted when making long-term infrastructure decisions and investments.



Carollo's customized demand/flow forecasting tool results in consistent projections for various planning scenarios.

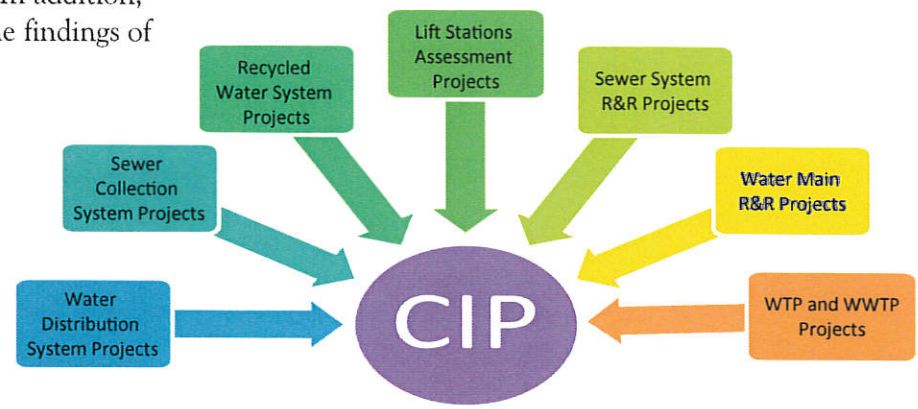
3. Carollo's Dynamic Trigger-based CIP Planning Tool Puts the City in the Driver's Seat.

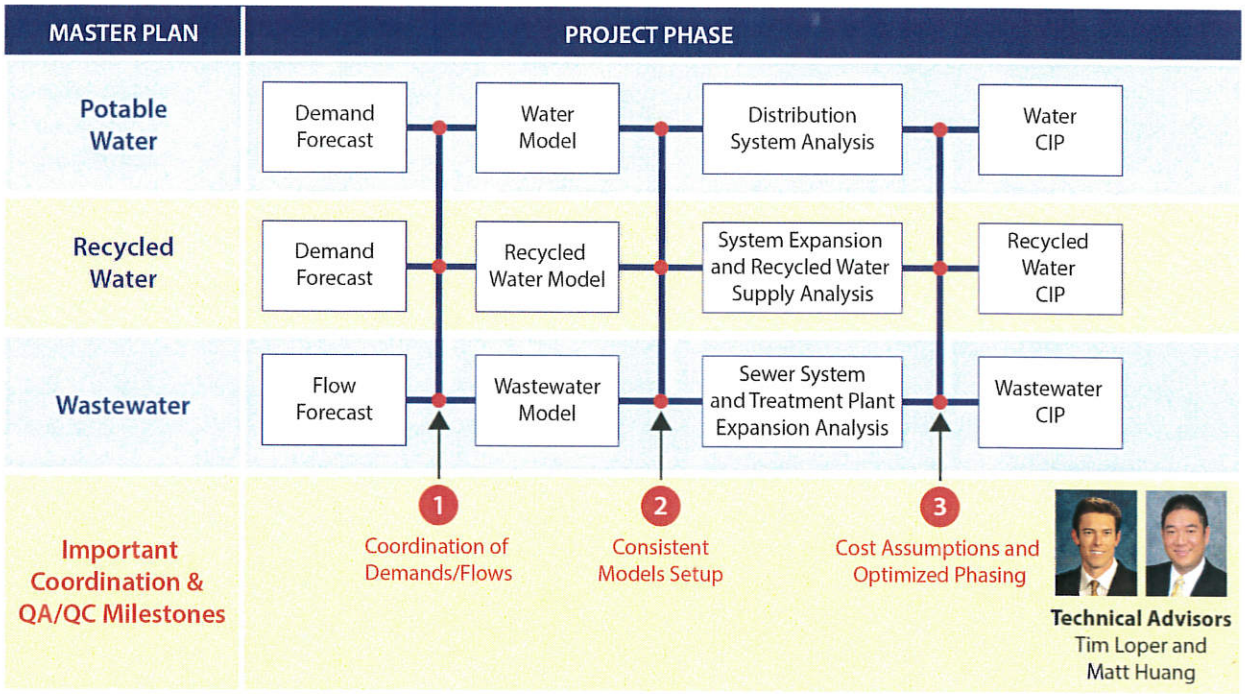
System evaluations will be performed to identify conveyance system improvements to meet near-term and build-out conditions of the water, sewer, and recycled water systems. In addition, the City may decide to integrate the findings of the condition assessment recommendations in the master plan CIPs. A comprehensive CIP will then be developed that defines project prioritizes and phasing.

The CIP needs to identify **what** projects are needed, **where** they should be located, and **why** they are needed. Identification of EDU-based trigger points is very important to understand the basis of sizing and timing. The development of an integrated CIP is much more than just a compilation of projects as the phasing needs and priorities are not necessarily going to align with the City's available CIP cash flow.

Carollo's **dynamic trigger-based CIP planning tool** provides the City with a complete summary of all the CIP projects identified by improvement type, development, and pressure zone/tributary area. The proposed projects are each identified in separate worksheets, complete with a project summary, why the project is needed, the cost, and the trigger points for project implementation. All of the individual project summary sheets are linked to an integrated CIP master summary table. The tool offers the City a significant advantage because you can adjust your CIP by refining the implementation schedule based on actual number of EDUs constructed in each planned development and year. The proposed project phasing will not only be presented by planning year, but also list the associated water demand or wastewater flow forecast to provide a more transparent link between growth forecast and CIP planning. Most important to you, the tool will update the annual capital budget needs by simply updating the target completion dates and/or cost-estimating factors to account for bidding changes in

Our comprehensive CIP is more than a compilation of multiple project categories. Carollo will coordinate phasing of projects between the three systems to avoid unnecessary construction disruptions and large fluctuations in capital expenditures.





Carollo's integrated planning approach results in consistent and sound Master Plans through proper alignment of planning assumptions and QA/QC milestones.

environment. All of these changes are seamless, and automatically reflected in the CIP summary table.

Project Approach to Scope of Work and Implementation Plan

We will complete the entire scope of work described in the RFP. Key approaches that either supplement the scope or describe our methodology are highlighted below. Our QA/QC team will provide reviews at key milestones (coordination of demand/flows, model setup, and CIP development) to avoid re-do work later. Carollo will collaboratively work with City staff to confirm major assumptions on key milestones as well as planning field visits for fire flow tests and the condition assessment field visit. Progress meetings and conference calls will be scheduled throughout the duration of the project to get a consensus on demand projections, screening and evaluation criteria, and initial results and recommendations. The anticipated schedule for major tasks is presented at the end of this section. It is assumed that the deliverable reviews (primarily the Draft Report) will be completed by City staff within a 2-week period. This can be adjusted as-needed.

Task 1 - Basis of Planning

To get everyone on the same page from the start of the project, a kick-off meeting will be scheduled to define key planning assumptions and project objectives.

- **Task 1.1 - Data Collection and Review:** Carollo will prepare a prioritized data collection list to track the status of various documents.
- **Task 1.2 - Potable Demand Projections:** The acreage for each land use classification for the existing and build-out conditions will be summarized for use in the water and recycled water demands and wastewater flow projections. In addition, the 2010 Census Data will be used to analyze the existing demands. Carollo will use 2015 billing records and GIS data to spatially distribute the existing water demands based on meter location or street address. A growth projection envelop will be developed for low, medium, and high scenarios. Seasonal peaking factors will also be developed. Unaccounted for water and potential recycled water demands that offset potable water demand projections will be considered.

- **Task 1.3 - Sewer Flow Projections:** We will analyze the water billing data prepared in Task 1.2 in combination with the flow monitoring data obtained during Task 2.4 to estimate sewer return ratios and existing flows in the system. Carollo will develop a flow projection envelop, consisting of low, medium, and high forecast considering a combination of future developments and conservations scenarios.
- **Task 1.4 - Recycled Water Demand Projections:** Carollo will review and summarize the City's projected near-term and long-term recycled water demands listed in the 2015 UWMP and other planning documents.
- **Task 1.5 - Review and Update Evaluation Criteria:** Carollo will review and update the City evaluation criteria with industry standards and similar agencies. The criteria will be discussed with City staff at a progress meeting to get input prior to proceeding with the system analysis.

Task 2 - Potable Water, Sewer, and Recycled Water Model Updates

To provide accurate hydraulic models that will result in defensible recommendations, Carollo has developed the following processes to update and calibrate the hydraulic models.

- **Task 2.1 - Potable Water Model Update:** Carollo will convert the City's existing model to InfoWater. The pipeline network will be skeletonized to maintain model nodes only where pipelines intersect or changes in diameter, material, or year of installation occur. It is assumed that the pipeline diameter and material information is complete in the GIS. Junction node elevations will be interpolated from ground elevation topography data. For budgeting purposes, it is assumed that up to 15 miles of additional pipelines will be added to the model, including areas of redevelopment. Carollo will incorporate the potable water system layouts from for up to five new developments. Existing and future water demands will be allocated within the hydraulic model to obtain a spatial distribution of the demands, which will account for potable water offsets due to the use of recycled water and conservation. The model will be updated to include potable water system layouts from the latest planning documents. It is assumed that the City will provide all necessary maps in GIS format to facilitate the model update.
- **Task 2.2 - Potable Water Hydraulic Model Calibration:** Pressure zone diurnal pattern for the City's entire water system to represent the hourly demand fluctuations on the selected calibration day as well diurnal curves for individual pressure zones. In addition, Carollo will develop a calibration plan, which will include the SCADA data needed from the City as well as identifying test sites for a fire flow calibration. The calibration plan is a three step process, which includes:
  - **Macro Calibration:** An initial macro calibration will be conducted to make the model run without errors. Carollo will verify that facilities operate properly and static system pressures fall within acceptable levels.
  - **Fire Flow Calibration:** The purpose of this stage is to adjust pipeline roughness coefficients (C-factors) for various groups of pipelines by age, material, and diameter. Static and residual pressures from up to 20 fire flow tests will be compared and model adjustments will be made to closely match model and field results. Carollo will coordinate with the City to schedule and participate in the fire flow testing. Carollo will also provide up to 16 pressure loggers to attach to fire hydrants to measure system pressures throughout the distribution system.
  - **Extended Period Simulation (EPS) Calibration:** The purpose of EPS calibration is to adjust facility controls to obtain a model that mimics system operations over extended periods, such as 24 hours or even multiple months for water age and quality analysis. SCADA output in 15-minute or hourly intervals from the City's water reservoir levels and pump station flows will be compared with the model results in the same time intervals. The model will then be

calibrated for a 24-hour period selected for the 1-week period.

- **Task 2.3 - Sewer Model Update:** Carollo will convert the City existing model to InfoSWMM. The sewer network will be skeletonized to maintain model nodes only where pipelines intersect or changes in diameter, material, or year of installation occur. It is assumed that the pipeline diameter and material information is complete in the GIS. Junction node elevations will be interpolated from ground elevation topography data.

  The new sewer system facilities constructed since the last model update will be added into the model based on available information and input from City staff. For budgeting purposes, it is assumed that up to 15 miles of additional pipelines will be added to the model, including areas of redevelopment. Carollo will assign dry and wet weather flow to model subbasins using a parcel-based approach. Flow loadings will only be applied to sewers 10 inches in diameter or greater and 8 inch sewers that are considered to be trunks.

  Carollo will create dry and wet weather model scenarios to reflect near-term and long-term conditions (total of four scenarios) to be used for the CIP development. Carollo will incorporate the sewer system layouts from planning documents for up to five new developments.

- **Task 2.4 - Sewer Hydraulic Model Calibration:** Carollo will prepare a flow monitoring plan and install flowmeters at 15 strategic locations to collect wastewater flow information for a two week period to establish the baseline and quantify the distribution of sewer flows within the collection system. Dry periods within the monitoring period, as well as historical records of the wastewater treatment plants, will be used to establish dry weather flow factors, while flow data captured during wet weather events will be used to determine inflow/infiltration (I/I) rates and help establish I/I parameters for model development and calibration. Carollo will work with the City to select the flow monitoring sites. Once completed, Carollo will collect, review, and organize the data for use during sewer model calibration. A flow monitoring and I&I summary report will be prepared.

  Flow monitoring data will be used to develop land-use specific diurnal loading patterns for the base wastewater inflows tributary to each flow monitoring location. The wet or dry weather calibration will be developed by creating customized unit hydrographs for each tributary area and comparing the simulation results to flow-monitoring data. Carollo will calibrate the wet -weather model using the events captured throughout the two-week monitoring period, while the dry-weather model will be calibrated using data from the dry days in the flow monitoring period. If sufficient wet weather data is not obtained during the monitoring period, historical precipitation data and historical wastewater flows from the wastewater treatment plants will be reviewed to evaluate the impact of I/I on the collection system.

- **Task 2.5 - Recycled Water Model Update:** Carollo will incorporate the recycled water system layouts from planning documents for up to five (5) new developments. It is assumed that the City will provide all necessary maps in GIS format to facilitate the model update. The recycled water demands projected will be allocated to the model nodes, ground elevations will be assigned, and the system will be connected with the proper facilities and valves.

Task 3 - Potable Water, Sewer, and Recycled Water System Analysis

Using the calibrated hydraulic models and data collected, the Carollo team will conduct an existing and future system analysis for the water and wastewater systems. A future system analysis along with alternatives evaluation will be performed for the recycled water system. Findings from the system analysis and condition assessment will be discussed with City staff prior to the final preparation of the Draft Master Plan Report.

- **Task 3.1 - Potable Water System Analysis:** Carollo will describe the existing water system characteristics. Utilizing the approved evaluation criteria and calibrated hydraulic model, the following system analysis will be performed:
  - **Storage and Pumping Capacity Evaluation:** Carollo will perform mass balance capacity analyses (using a spreadsheet model) to evaluate pumping and storage capacities within each pressure zone for existing and future build-out conditions.
  - **Distribution System Capacity Evaluation:** The hydraulic model will be used to evaluate system pressures and pipeline velocities to identify areas that do not meet the minimum pressure, velocity, or fire flow requirement. The model will be used to size improvements to meet the criteria. For budgeting purposes, up to 20 fire flow projects are included in the scope of work. The evaluation will be conducted for existing and future build-out conditions.
  - **Sizing and Location of Proposed Facilities:** Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed storage facilities, booster stations, and the sizing and layout of distribution pipelines. In addition, the utilization of excess capacity within existing infrastructure will be considered.
  - **Potable Water Supply Analysis:** Carollo will describe the City's existing and potential future water supply sources, water rights, and supply allocations. The allowable operational supply availability will be compared with the projected water demands for each planning period.
  - **Growth Forecast:** A sensitivity analysis shall be performed for the low and high ranges of the potable water demand forecasting envelop that considers a combination of future developments and water conservation assumptions.
- **Task 3.2 - Sewer System Analysis:** Carollo will describe the existing sewer system characteristics. Utilizing the approved evaluation criteria, the following system analysis will be performed:
  - **Gravity and Force Main Capacity Evaluation:** Carollo will review the capacity of the gravity and force mains under peak dry-weather and wet-weather conditions under both existing and future build-out conditions. The maximum flow depth to pipeline diameter d/D ratio for gravity sewers will be analyzed.
  - **Lift Station Capacity Evaluation:** Carollo will review the capacity of lift stations under peak dry-weather and wet-weather conditions under both existing and future build-out conditions.
  - **Sizing and Location of Proposed Facilities:** Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed lift stations and force mains. In addition, the utilization of excess capacity within existing infrastructure will be considered.
    - Sizing and location of lift stations (if any)
  - **Growth Forecast:** A sensitivity analysis shall be performed for the low and high ranges of the wastewater flow forecasting envelop that considers a combination of future developments and water conservation assumptions.
- **Task 3.3 - Recycled Water System Analysis:** Carollo will describe the proposed recycled water system characteristics. Utilizing the approved evaluation criteria, the following system analysis will be performed:
  - **Storage and Pumping Capacity Evaluation:** Carollo will perform mass balance capacity analyses (using a spreadsheet model) to evaluate pumping and storage capacities within each pressure zone. The evaluation will be conducted for the future build-out conditions.
  - **Distribution System Capacity Evaluation:** The hydraulic model will be used to evaluate

system pressures and pipeline velocities and to identify areas that do not meet the minimum pressure and velocity requirement. The model will be used to size improvements to meet the criteria. The evaluation will be conducted for existing and future build-out conditions.

- **Sizing and Location of Proposed Facilities:** Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed storage facilities, booster stations, and the sizing and layout of distribution pipelines. In addition, the utilization of excess capacity within existing infrastructure will be considered.
- **Recycled Water Supply Analysis:** Carollo will describe the City's existing and future recycled water supply sources and supply allocations.
- **Feasibility Alternative Analysis:** Carollo will review up to (3) package plant/satellite alternatives that would provide a new/local supply source to serve non-potable demands. In addition, up to four (4) alternatives will be developed to site future recycled water storage tank(s).
- **Growth Forecast:** A sensitivity analysis shall be performed for the low and high ranges of the recycled water demand forecasting envelop that considers a combination of future developments and water conservation assumptions.

- **Task 3.4 - (Optional) Condition Assessment:** Carollo will conduct cursory condition assessments on key facilities and identify possible existing deficiencies that may require future correction. For budgeting purposes, it is assumed all facilities of concern can be inspected in one day. Field inspections will be conducted by Carollo's lead field inspector who will be assisted by a senior mechanical or structural engineer, depending on the type of facilities requiring field inspection. Findings will be documented in field notes, questionnaires, measurements, and/or photos for each inspected facility.

Task 4 - Integrated Master CIP

Utilizing Carollo's dynamic CIP tool, planning level cost estimates will be prepared for system recommendations.

- **Task 4.1 - Integrated CIP:** Carollo will develop planning-level V cost assumptions for potable water, wastewater collection, and recycled water infrastructure components. Cost estimates will be prepared for each project, which will be summarized in tabular format by project ID, facility type and by type of customers served (existing, near-, and long-term). Once the draft water, sewer, and recycled water CIPs are developed, they will be integrated into a single master CIP. Based on an overlay of the three CIPs, an integrated phasing plan will be developed that align project phasing. The initial results will be discussed with City staff prior to the final preparation of the Draft Master Plan Report.

Task 5 - Integrated Master Plan Document

Carollo will compile the system descriptions and results from the system analysis into the Integrated Master Plan document. Prior to submitting the document to the City, a QA/QC will be conducted.

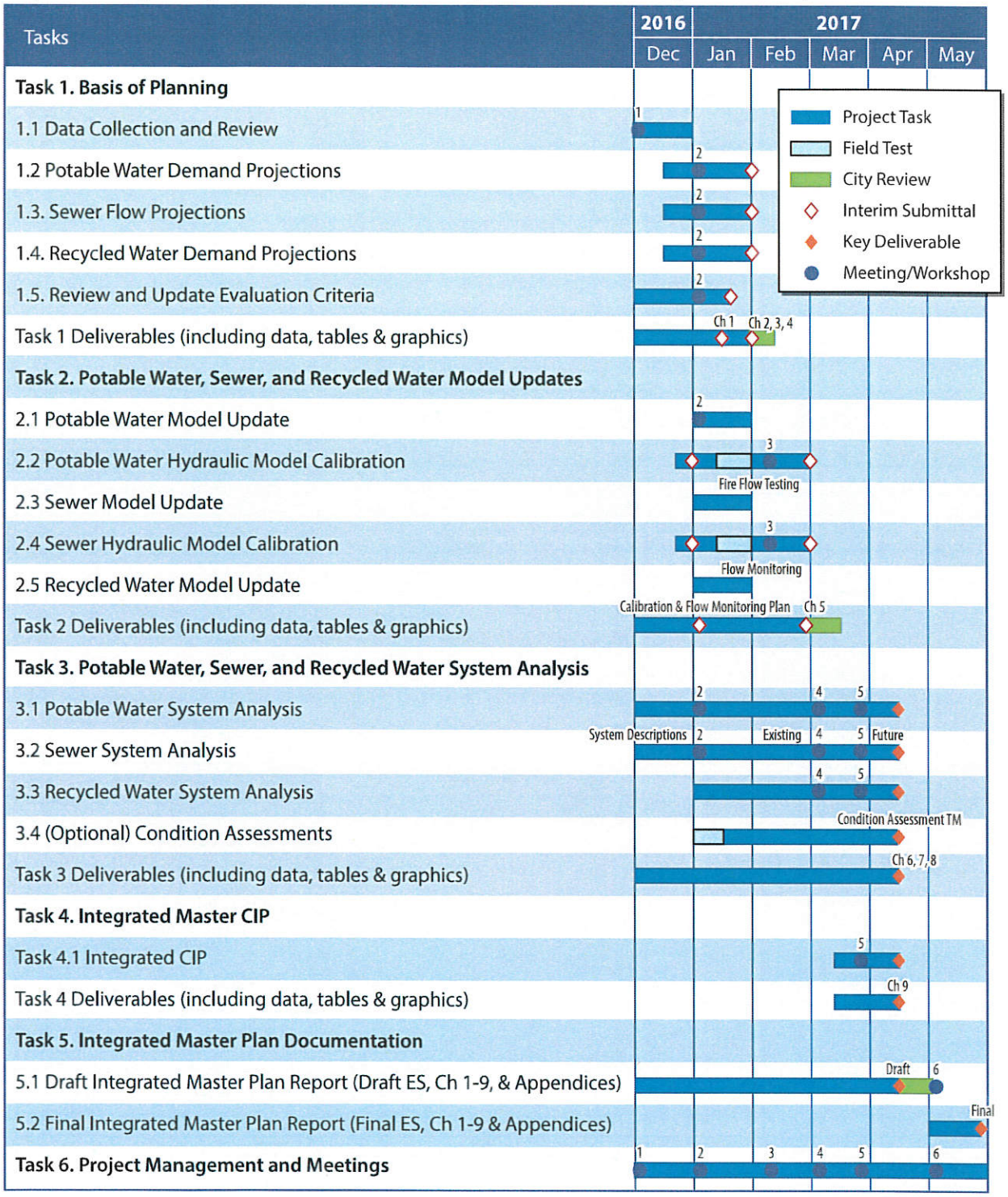
- **Task 5.1 - Draft Integrated Master Plan Report:** The report chapters prepared as part of Tasks 1 through Task 5 shall be compiled into a report. An internal QA/QC will be conducted prior to submitting the report to the City.
- **Task 5.2 - Final Integrated Master Plan Report:** The City's final comments will be reviewed and incorporated into the Final Master Plan.

Task 6 - Project Management and Meetings

Carollo will attend up to six (6) meetings in person and participate in six (6) conference calls throughout the duration of the project. The anticipated timeline of the meetings and conference calls is presented on the project schedule.

Project Schedule

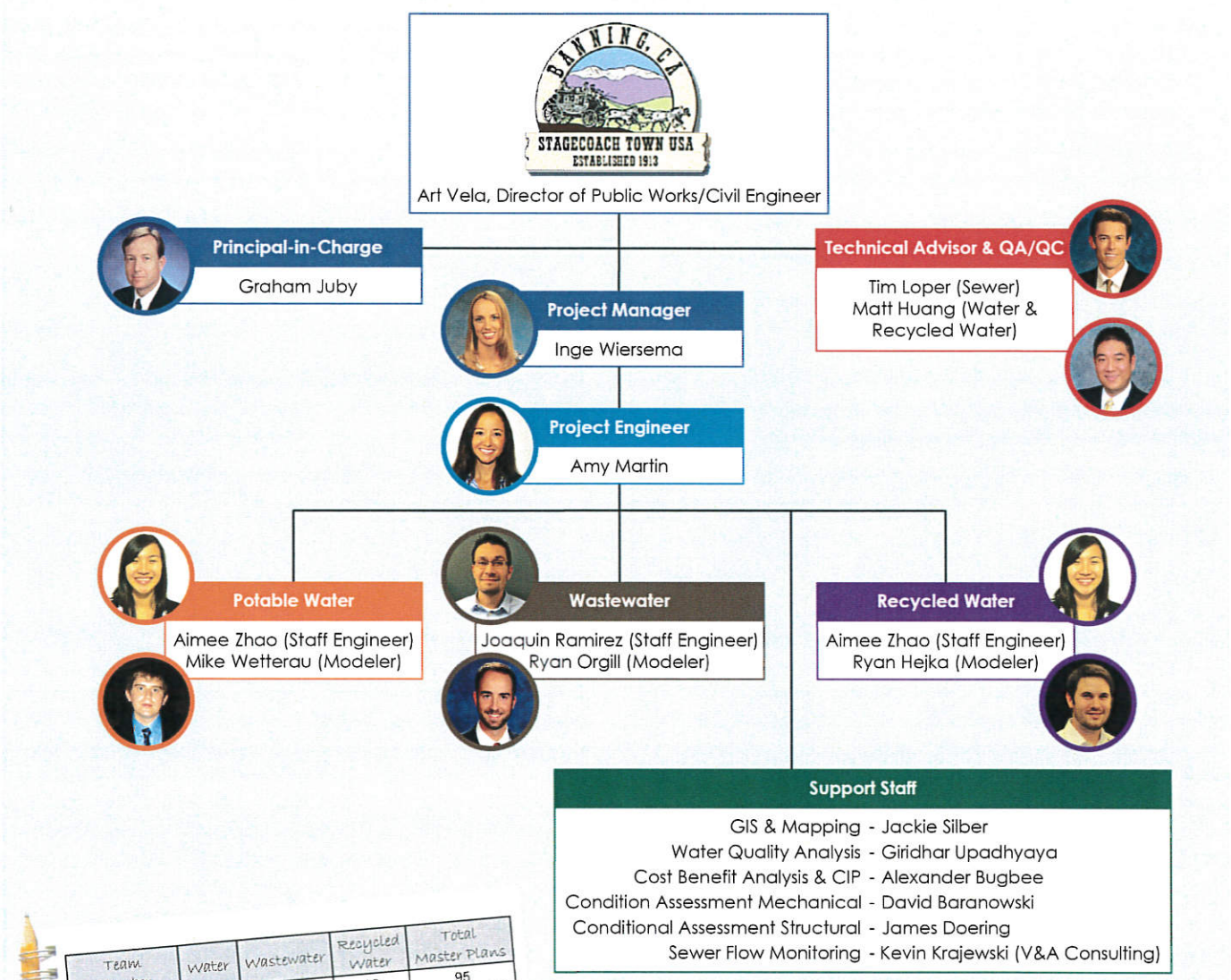
City of Banning - Integrated Master Plan For Water, Wastewater and Recycled Water Systems



Note:
Six (6) project meetings are aligned with critical project milestones.
Six (6) conference calls will be scheduled on an as-needed basis.

Staffing

Our team of Master Planning experts provides the depth and breadth of experience the City needs to complete this project in 6 months.



Team Member	Water	Wastewater	Recycled Water	Total Master Plans
Inge Wiersema	62	11	22	95
Graham Juby	8	3	5	16
Tim Loper	10	24	4	38
Matt Huang	66	8	19	93
Amy Martin	10	1	9	20
Ryan Orgill	14	20	4	38
Aimee Zhao	5	0	4	9
Mike Wetterau	4	2	1	7
Joaquin Ramirez	2	4	1	7
Ryan Hejka	10	0	5	15
TOTALS	**191**	**73**	**74**	**338**

Strength in numbers - Our team has extensive experience developing master plans, totalling more than 300 projects combined.

Project Team Experience

The success of your master plan update will rely on your consultant's ability to provide a thorough analysis and sound planning tools to allow you to develop improvements when and where you need them. The table below provides brief resumes that summarize our team's qualifications and their roles on the project.

Team Table	
Inge Wiersema, P.E. **Project Manager** Carollo Engineers MSc/BS Environmental Engineering Civil Engineer: CA 21 Years of Experience Anticipated Hours: 96	Inge is an expert in developing comprehensive water, wastewater, and recycled water master plans for public utilities. She will lead our project team and be the primary contact with the City. Her experience includes: • Project manager for the technical review of the proposed Water Distribution System layout for the Butterfield Development in the City of Banning, CA. • Project manager for a Sewer Master Plan for the City of Banning, CA. • Project manager for the Recycled Water Master Plan for the City of Banning, CA. • Project manager for the Hydraulic Water System and Pressure Zone Analysis for the City of Banning, CA. • Project manager for the Technical Review of the Water and Sewer Master Plans prepared for the Rancho San Gorgonio Development in the City of Banning, CA. • Project manager for the 2015 Water and Recycled Water Master Plan for the City of Glendale, CA. • Project manager for the 2015 Integrated Water, Wastewater, and Recycled Water Master Plan for the City of Oceanside, CA. • Project manager for the 2015 Comprehensive Facilities Master Plan for Padre Dam Municipal Water, CA. • Project manager for the Hydraulic Model Update Project for the City of Santa Barbara, CA. • Project manager for the 2014 Comprehensive Water Master Plan for Mesa Water District, CA.
Graham Juby, Ph.D., P.E. **Principal-in-Charge** Carollo Engineers PhD Engineering BS Eng Hons Water Utilization Engineering BS Hons Biomedical Engineering BS Chemical Engineering Civil Engineer: CA 33 Years of Experience Anticipated Hours: 24	Graham will be responsible for overall project delivery, resource allocation, and contractual matters. His experience includes: • Principal-in-charge for the ongoing 2014 Water System Master Plan for Mesa Water District, CA. • Principal-in-charge for Carollo's portion of the work for the 2015 Wastewater Facilities Master Plan Update Report for the Inland Empire Utilities Agency (IEUA), CA. • Project manager for the Feasibility Study of Recycled Water Interconnections for IEUA, CA. • Principal-in-charge for the Stormwater Master Plan for the City of Torrance, CA. • Technical advisor for a master planning study for the City of Redlands, CA. • Project manager for planning investigations for Poseidon Resources Corporation, CA, to provide desalinated seawater to a Southern California county. • Project manager for the preparation of a Water System Master Plan for the Mesa Consolidated Water District, CA.

Team Table	
Tim Loper, P.E. **Sewer Technical Advisor & QA/QC** Carollo Engineers MS Environmental Engineering BS Civil Engineering Civil Engineer: CA 15 Years of Experience Anticipated Hours: 24	Tim will be responsible for the technical review of the sewer model and hydraulic analysis. His experience includes: • Project engineer for the 2015 Comprehensive Facilities Master Plan for the Padre Dam Municipal Water District, CA. • Lead for the Collection System Modeling and Alternative Analysis Tasks for Wastewater Facilities Master Plan for IEUA, CA. • Project engineer for the 2013 Integrated Master Plan for the City of Oceanside, CA. • Project engineer for the City of Santa Barbara, CA, Sewer Capacity Studies. • Project manager for the City of Tulare, CA, Water Model Update, and Calibration. • Project engineer for the City of Hughson, CA. Wastewater Collection System Master Plan.
Matt Huang, P.E. **Water and Recycled Water Technical Advisor & QA/QC** Carollo Engineers MS Civil and Environmental Engineering BS Applied Ecology Civil Engineer: CA 15 Years of Experience Anticipated Hours: 40	Matt will be responsible for the technical review of the water and recycled water models and hydraulic analysis. His experience includes: • Senior hydraulic modeler for the 2016 Water Master Plan for Cucamonga Valley Water District, CA. • Technical manager for the Los Angeles County Department of Public Works District 29 Water System Master Plan, covering the communities of Malibu and Topanga, CA. • Project manager on Los Angeles Department of Water & Power's (LADWP) Planning Hydraulic Model Update, CA. • Project manager for the Tejon-Castac Water District Master Plan, CA. • Technical manager for the Elsinore Valley Metropolitan Water District, Temescal Valley Pipeline Hydraulic Evaluation Project, CA. • Project manager for the LADWP Hydraulic Model Training Project, CA. • Technical manager for the development of an all-pipe water system hydraulic model in InfoWater for the water distribution system operated by Doyon Utilities serving the Fort Richardson (US Army) portion of the Joint-Base Elmendorf-Richardson, located outside of Anchorage, AK.
Amy Martin **Project Engineer** Carollo Engineers BS Civil Engineering 10 Years of Experience Anticipated Hours: 286	Amy will be responsible for the technical content of the master plans. Her experience includes: • Project engineer for the 2016 Water Master Plan for the City of Glendale, CA. • Water system master planning lead for the 2015 Comprehensive Facilities Master Plan for Padre Dam Municipal Water District, CA. • Water system master plan lead for the 2015 Integrated Water, Wastewater, and Recycled Water Master Plan for the City of Oceanside, CA. • Project planning lead for the 2015 Recycled Water Feasibility Study to increase interconnection between the City of Pomona, Monte Vista Water District, and IEUA. • Water system master planning lead for the 2016 Water Master Plan for Cucamonga Valley Water District, CA.

Team Table	
Aimee Zhao **Potable Water & Recycled Water Staff Engineer** Carollo Engineers MS Environmental Engineering BS Earth and Environmental Sciences 1 Year of Experience Anticipated Hours: 340	Aimee will be the staff engineer on the potable and recycled water systems. Her experience includes: • Staff engineer for the 2016 Water Master Plan for the City of Glendale, CA. • Staff engineer for the Potable Water and Hydraulic Modeling studies for the City of Santa Barbara, CA. • Staff engineer for On-Call Hydraulic Modeling Services for the expansion of the Los Angeles International Airport, CA. • Staff engineer for the 2016 Water Master Plan for Cucamonga Valley Water District, CA. • Staff engineer for the 2016 Water Master Plan for the City of Colton, CA. • Staff engineer for the 2016 Recycled Water Master Plan for Moulton Niguel Water District, CA.
Joaquin Ramirez **Wastewater Staff Engineer** Carollo Engineers MS Civil Engineering BA Mathematics 2 Years of Experience Anticipated Hours: 224	Joaquin will be the staff engineer for the sewer system. His experience includes: • Staff engineer for IEUA, CA, Wastewater Facilities Master Plan. • Staff engineer for the 2015 Padre Dam Municipal Water District, CA, Comprehensive Facilities Master Plan. • Staff engineer for the City of Oceanside, CA, Integrated Master Plan. • Staff engineer for the City of Modesto, CA, River Trunk Realignment, Beard Brook Siphon, and Cannery Segregation Project.
Mike Wetterau **Potable Water Modeler** Carollo Engineers BS Environmental Engineering 1 Year of Experience Anticipated Hours: 185	Mike will be completing the potable water model updates and calibration. His experience includes: • Staff professional for the 2016-2026 Water Master Plan Update for the City of Shasta Lake, CA. • Staff professional for the Collection System Master Plan for the Central Contra Cosa Sanitary District, CA. • Staff professional for the Sewer Master Plan for the City of Colton, CA. • Staff professional for the Water Master Plan for the City of Colton, CA.
Ryan Orgill, P.E. **Wastewater Modeler** Carollo Engineers BS Civil Engineering Civil Engineer: CA 12 Years of Experience Anticipated Hours: 220	Ryan will be the sewer modeler, and will also lead the development of the sewer system analysis. His experience includes: • Hydraulic modeling lead for the City of Santa Barbara, CA, Water Model Update project. • Engineer for the City of Oceanside, CA, Water System Master Plan. • Wastewater system master planning lead for the 2015 Comprehensive Facilities Master Plan for Padre Dam Municipal Water District, CA. • Hydraulic modeling lead for the City of West Sacramento, CA, Water System Master Plan Update. • Project engineer for the City of Shasta Lake, CA, 2016-2026 Water Master Plan. • Staff engineer for the Los Angeles International Airport (LAX), CA, Phase I fire flow analysis for the Central Terminal Area.

Team Table	
Ryan Hejka **Recycled Water Modeler** Carollo Engineers BS Civil Engineering 3 Years of Experience Anticipated Hours: 119	Ryan will be conducting the recycled water model updates. His experience includes: • Staff engineer/modeler for the ongoing One Water LA Plan, which is being coordinated by the City of Los Angeles, Bureau of Sanitation, CA. • Staff engineer/modeler for the 2016 Water Master Plan for the City of Colton, CA. • Staff engineer for the City of Oceanside, CA, Water System Master Plan. • Staff engineer/modeler for the 2015 Comprehensive Facilities Master Plan for Padre Dam Municipal Water District, CA. • Staff engineer/modeler for the On-Call Hydraulic Modeling Services for the Expansion of the Los Angeles International Airport, CA.

Qualifications

Firm Background

Carollo is a national environmental engineering firm specializing in the planning, design, and construction of municipal water, wastewater, and reclaimed water facilities for over 83 years. We currently maintain 39 offices across the nation and have over 900 employees, including more than 415 registered engineers. We are a full service company with the experience and qualified professionals to successfully manage projects of any size. Our staff includes civil, sanitary, environmental, electrical, mechanical, chemical, structural, control system, and corrosion control engineers, as well as architects, planners, and specialists in other areas.



Master Planning

Carollo has established itself as a leader in the development of integrated master plans for cities and agencies facing a variety of complex issues. Our project team has completed multiple integrated water, wastewater, recycled water, and stormwater master plans for many agencies in California. This integrated planning experience allows us to deliver a high-quality integrated master plant in an efficient manner.

We have prepared comprehensive master plans for more than 100 municipal clients with service area populations from 5,000 to over 1 million. We have demonstrated our ability to successfully address complex technical, regulatory, and institutional issues to produce clear, cost-effective, and practical recommendations. Our projects range from small planning studies to comprehensive, regional master plans.

We have also assisted many of our clients with subsequent rate studies and prepared presentations/attended many City Council meetings to assist with the stakeholder outreach, public acceptance, and adoption process of the master plans.

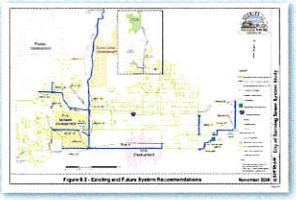
Past Record of Performance

Carollo takes pride in the continuing relationships that we have developed with our clients. On the following pages, we provide references for both our firm and project manager. We invite you to contact the individuals listed as references. They will be happy to attest to the quality of services and responsiveness provided by our team members on similar projects within the last 5 years.

Carollo has completed more water and wastewater master plans in California than any other firm.

Our proposed project team brings extensive experience in Integrated Planning projects in California. Here are some examples from our project team:

Client/Project	Water	Recycled Water	Sewer	Condition Assessments
City of Anaheim – Central Area Sanitary Sewer Study			•	•
City of Anaheim – Recycled Water Feasibility Study		•		
City of Banning – Pressure Zone Analysis		•		
City of Banning – Wastewater Collection and Recycled Water Systems Master Plans and Water Master Plan Review	•	•	•	
City of Banning – Water and Sewer Master Plan Reviews for San Gorgonio Development	•		•	
City of Carlsbad – 2010 Recycled Water Master Plan		•		
City of Colton – Water and Wastewater Master Plans	•		•	•
Cucamonga Valley Water District – Water System Master Plan	•			•
East Orange County – Water Master Plan	•			•
City of El Centro – Water, Sewer, and Storm Drainage Master Plans	•		•	
Elsinore Valley Municipal Water District – Wastewater Master Plan and SSMP			•	
City of Galt – Water, Sewer, and Storm Drainage Master Plans	•		•	
City of Garden Grove – Water Master Plan	•			
City of Glendale – Water & Recycled Master Plan	•	•		•
City of Hesperia – Water, Wastewater, and Recycled Water Master Plans and UWMP	•	•	•	
City of Hughson – Water, Wastewater, and Storm Drainage Master Plans	•		•	
Inland Empire Utilities Agency – Feasibility Study of Recycled Water Interconnection		•		
Los Angeles World Airport – Hydraulic Model Development, Master Plan, and On-call Support	•			
City of Los Banos – Water, Wastewater,and Storm Drainage Master Plans	•		•	
Mesa Water District – Comprehensive Master Plan	•			•
City of Oceanside – Water, Wastewater, and Recycled Water Master Plans	•	•	•	•
Padre Dam MWD – Comprehensive Facilities Master Plan	•	•	•	•
Port of Oakland – SSMP and Sewer Condition Assessment			•	•
City of Riverside – Integrated Water Management Plan	•	•		
City of Santa Barbara – El Estero WWTP and Lift Stations Asset Management			•	•
City of Santa Barbara – Water Supply Planning Study and Recycled Water System Assessment	•	•		
City of Tulare – Water, Wastewater,and Storm Drainage Master Plans	•		•	
University of California, Irvine – Water & Recycled Water System Assessment	•	•		
City of Upland – Water System Master Plan and Model Update	•			
West Basin Municipal Water District – Capital Implementation Master Plan for Recycled Water Systems		•		•
Yorba Linda Water District – Asset Management Plan	•		•	•



Sewer and Recycled Water Master Plans and Water Master Plan CIP Update

City of Banning, CA

Reference:

Mr. Art Vela, Public Works Director/Civil Engineer
Ph: 951-922-3130 | avela@ci.banning.ca.us

Project Description & Relevance:

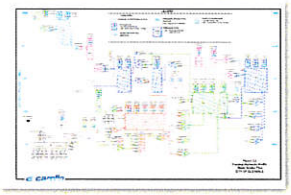
Carollo prepared sewer and recycled water master plans in response to five large development projects proposed within the City of Banning's service area. Some of the key project elements that are similar to the City's upcoming project include:

- Wastewater treatment plant location analysis comparing both regional and satellite treatment plants for one or more developments.
- Demand and flow projections by growth area.
- Development of a new recycled water hydraulic model using GIS and a market demand assessment analysis.
- Model update and calibration of sewer model.
- Development of separate but coordinated master plan reports..

Project Cost: $361,200

Start and End Dates: Mar. - Sept. 2006

Team Involvement: Inge Wiersema, Project Manager (PM)



Water and Recycled Water Master Plan

City of Glendale, CA

Reference:

Mr. Raja Takidin, Senior Civil Engineer
Ph: 818-548-3906 | rtakidin@glendaleca.gov

Project Description & Relevance:

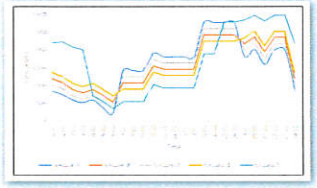
The City of Glendale Water and Power Department retained Carollo to develop their 2016 Water and Recycled Water Master Plan. Some of the key project elements that are similar to the City's upcoming project include:

- Development of closely coordinated and consistent Master Plans for the City's water and future recycled water systems
- Updates to the potable and recycled water hydraulic models.
- Conducted a thorough condition assessment of the City's critical water facilities. Cost estimates were prepared for recommended improvements, which were included in the CIP.
- Development of detailed CIP using our dynamic CIP tool.

Project Cost: $250,800

Start and End Dates: Feb. 2015 - Apr. 2016

Team Involvement: Inge Wiersema, PM; Amy Martin, Project Engineer (PE); Aimee Zhao, Staff Engineer; Ryan Hejka, Model Training



Recycled Water System Model Update/ Calibration and On-Call Modeling Support

City of Santa Barbara, CA

Reference:

Mr. Philip Maldonado, Supervising Engineer
Ph: 805-560-7544 | pmaldonado@santabarbaraca.gov

Project Description & Relevance:

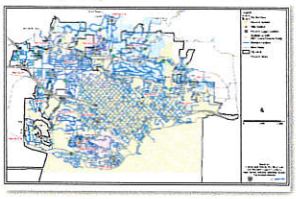
The City of Santa Barbara contracted with Carollo to provide recycled water modeling services to update and calibrate the existing recycled water model, verify the need of new facilities and supply sources, and develop control strategies that will improve operational conditions. Some of the key project elements that are similar to the City's upcoming project include:

- Recycled water hydraulic model update and calibration.
- System analysis to review system conditions and pressure fluctuations without the operation of the El Estero WWTP, which would involve reverse directional flow from higher pressure zones where storage exists into lower pressure zones.
- Provided a recommendation to support the design of new booster pump station that will address substantial pressure fluctuations.

Project Cost: $39,550

Start and End Dates: May - Oct. 2014

Team Involvement: Inge Wiersema, PM; Amy Martin, PE/Modeler; Ryan Orgill, PE



Potable Water System Model Calibration and On-Call Support

City of Santa Barbara, CA

Reference:

Ms. Catherine Taylor, Water System Manager
Ph: 805-564-5379 | ctaylor@santabarbaraca.gov

Project Description & Relevance:

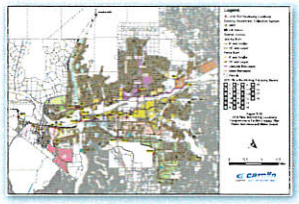
The City of Santa Barbara contracted with Carollo to provide water modeling services to update and calibrate the City's existing water model, develop a summary report, provide hydraulic model training, and to conduct a limited amount of on-call hydraulic modeling support. Some of the key project elements that are similar to the City's upcoming project include:

- Collection of pressure recordings from Carollo's 20 remote pressure loggers supplemented the City's SCADA data.
- Fire flow testing throughout the distribution system that was used to calibrate the model under steady state conditions.
- Utilization of SCADA data to calibrate the model for EPS.
- Developed an accurate model that is still used to analyze various scenarios, including multiple distribution system configurations to convey water from the City's desalination plan that was in the process of being reactivated.

Project Cost: $118,500

Start and End Dates: Oct. 2013 - June 2014

Team Involvement: Inge Wiersema, PM; Ryan Orgill, Hydraulic Modeling Lead; Aimee Zhao, Staff Engineer



Comprehensive Facilities Master Plan

Padre Dam Municipal Water District, CA

Reference:

Mr. Mark Niemiec, Manager of District Projects
Ph: 619-258-4766 | mniemiec@padre.org

Project Description & Relevance:

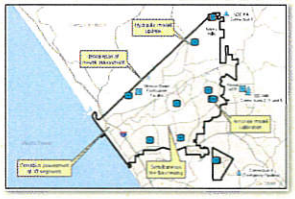
Padre Dam Municipal Water District (District) contracted with Carollo to update the 2001 Integrated Facilities Plan (IFP) to address significant changes in water use and wastewater flows within the District's service area. Some of the key project elements that are similar to the City's upcoming project include:

- Development of closely coordinated and consistent Master Plans for the City's water, sewer, and future recycled water systems.
- Development of detailed CIP using the dynamic CIP tool.
- Demand and flow projections for new developments.
- Defendable plan that provides an accurate roadmap for project implementation through the next 20 years.

Project Cost: $592,000

Start and End Dates: Sept. 2013 - Dec. 2014

Team Involvement: Inge Wiersema, PM; Tim Loper, PE; Ryan Orgill, Hydraulic Modeling Lead; Amy Martin, Water System Master Plan Lead; Aimee Zhao, Staff Engineer; Ryan Hejka, Water System Modeler



Integrated Water, Wastewater, and Recycled Water Master Plans

City of Oceanside, CA

Reference:

Ms. Cari Dale, Utilities Director
Ph: 760-435-3065 | cdale@ci.oceanside.ca.us

Project Description & Relevance:

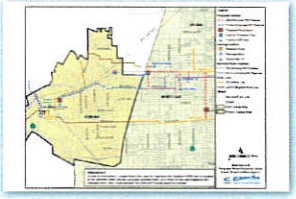
Carollo prepared the City of Oceanside's Water, Sewer, and Recycled Water Master Plans to account for proposed updates, improvements, and expansions to the water and sewer systems and facilities. Some of the key project elements that are similar to the City's upcoming project include:

- Update and calibration of sewer hydraulic model for dry and wet weather conditions using flow monitoring data from V&A.
- Update of water system hydraulic model and EPS calibration with fire flow tests and remote pressure loggers.
- Development of a recycled water model and system layout based on potential customer locations and treatment (source) locations.
- Development of detailed CIP using our dynamic CIP tool.

Project Cost: $1.2 Million

Start and End Dates: Mar. 2013 - June 2015

Team Involvement: Inge Wiersema, PM; Tim Loper, Sewer Master Plan PE



Feasibility Study of Recycled Water Interconnections

Inland Empire Utilities Agency, City of Pomona, Monte Vista Water District, CA

Reference:

Mr. Joshua Aguilar, Senior Engineer
Inland Empire Utilities Agency
Ph: 909-993-1694 | jaguilar@ieua.org

Project Description & Relevance:

Inland Empire Utilities Agency (IEUA) selected Carollo to provide engineering services for the Feasibility Study of Recycled Water Interconnections between the City of Pomona, Monte Vista Water District (MVWD), and

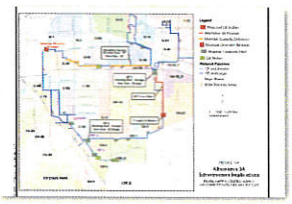
IEUA. Some of the key project elements that are similar to the City's upcoming project include:

- Analysis of potential treatment options and locations to maximize the use of recycled water within the region.
- Alternative analysis to identify the most cost-effective alternative.
- Conducted a cursory review of IEUA's existing recharge permit to determine the steps needed to amend or modify the permit to include the use of advanced treated recycled water and advanced treated flow IEUA's brine pipelines for groundwater recharge or direct injection.

Project Cost: $97,800

Start and End Dates: Sept. 2015 - Jan. 2016

Team Involvement: Graham Juby, PM; Inge Wiersema, PE; Amy Martin, Alternatives Analysis; Aimee Zhao, Staff Engineer



Wastewater Facilities Master Plan

Inland Empire Utilities Agency, CA

Reference:

Mr. Chris Berch, Manager of Planning & Environmental Compliance
Ph: 909-993-1600 | cberch@ieua.org

Project Description & Relevance:

Carollo worked, as a team member, on the Wastewater Facilities Master Plan for IEUA. Some of the key project elements that are similar to the City's upcoming project include:

- The evaluation of the capacity of IEUA's collection system.
- Modeling and planning for future upgrades to address system deficiencies to meet the forecasted system flows.
- Development of flow diversion alternatives to optimize the use of recycled water within the service area for groundwater recharge.
- The project included planning for infrastructure needs for the Agency's collection and treatment systems through the year 2035, with flow projections up to 2060.

Project Cost: $221,900

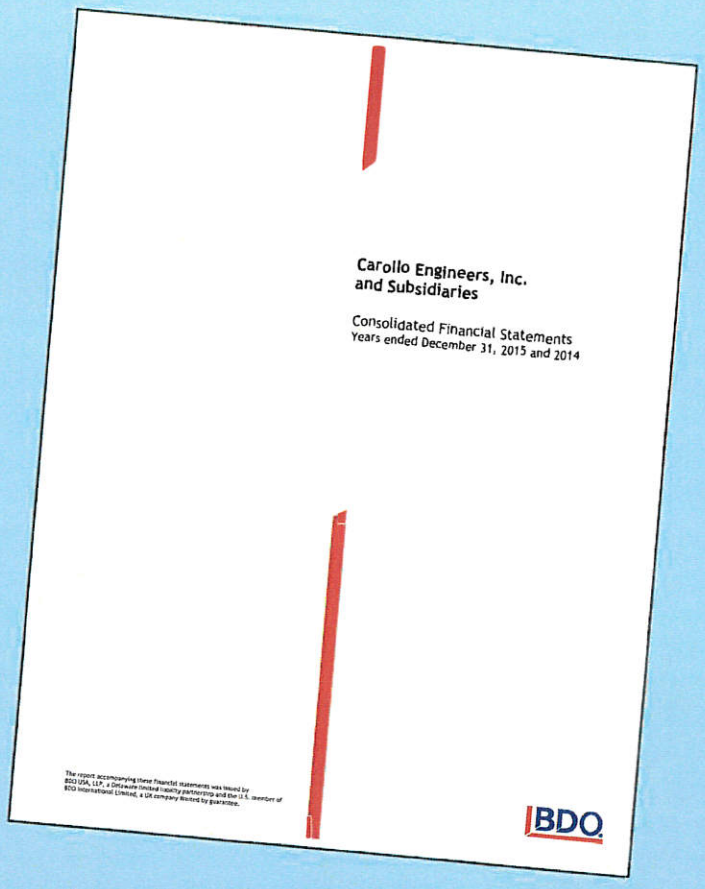
Start and End Dates: Sept. 2013 - Apr. 2015

Team Involvement: Graham Juby, Principal-in-Charge; Tim Loper, Lead for the Collection System Modeling and Alternative Analysis

FINANCIAL CAPACITY

Below you will find reference information from the National Bank of Arizona, Carollo's banking partner.

Each year Carollo undergoes a full audit, which can be provided to the client upon request.



Carollo Engineers, Inc. (Carollo), has been in operation since 1933. Carollo's professional engineering services extend throughout the United States with offices in 28 cities, including major design centers in Walnut Creek, California; Orange County, California; and Phoenix, Arizona.

The firm has demonstrated a high level of fiscal responsibility throughout the years. Borrowings are on a short-term basis to meet cash requirements at peak times of the year.

The company has a banking relationship with National Bank of Arizona.

National Bank of Arizona
6001 N 24th St
Phoenix, AZ 85016
Rob Maver, Vice President
Office (602) 235-6000
Direct (602) 212-8810

Some information indicating the capacity of the firm to handle large jobs is:

	2009	2010	2011	2012	2013	2014	2015
Gross Revenue (000)	165,441	147,765	146,215	148,542	154,924	173,142	211,667
ENR Ranking	73	70	77	73	79	57	69
# of Employees (avg.)	716	662	625	618	654	709	771

Legal

In the normal course of business, Carollo is party of various claims and lawsuits incidental to its business. In the opinion of management, the ultimate resolution of these matters, individually and in the aggregate, is not expected to have material adverse effect on Carollo's results of operations or financial position.

Appendix D. Pricing Proposal Form Table

Total Labor Cost					
Employee	**Hourly Rate**	**Hours worked**	**Total Cost**		**Overtime rate**
Graham Juby	$ 281	24.00	$	6,744	N/A
Inge Wiersema	$ 259	96.00	$	24,864	N/A
Matt Huang	$ 240.00	39.50	$	9,480	N/A
Tom Loper	$ 240.00	23.50	$	5,640	N/A
Giridhar Upadhyaya	$ 240	80.00	$	19,200	N/A
Amy Martin	$ 202	286.33	$	57,839	N/A
Ryan Orgill	$ 202	219.67	$	44,373	N/A
Alex Bugbee	$ 202	42.00	$	8,484	N/A
David Baranowski (Optional Task)	$ 202	40.00	$	8,080	N/A
James Doering (Optional Task)	$ 259	16.00	$	4,144	N/A
Aimee Zhao	$ 166	340.00	$	56,440	N/A
Ryan Hejka	$ 166	118.67	$	19,699	N/A
Joaquin Ramirez	$ 166	223.67	$	37,129	N/A
Mike Wetterau	$ 166	184.67	$	30,655	N/A
Jackie Silber	$ 174	88.00	$	15,312	N/A
Document Processing	$ 109	45.00	$	4,905	N/A
Total Estimated Labor Fee (with Optional Task)	**N/A**	**1,867.00**	**$**	**352,987**	**N/A**
Total Estimated Labor Fee (without Optional Task)	**N/A**	**1,811.00**	**$**	**340,763**	**N/A**

Other Direct Costs	**Total Cost**
Subconsultant Fee	$ 15,000
PECE	$ 21,189
PECE (for Optional Task)	$ 655
Travel & Printing	$ 2,000
Travel & Printing (for Optional Task)	$ 300
Other Direct Costs (without Sub)	$ 24,144
Other Costs Total (with Optional Task)	**$ 39,144**
Other Costs Total (without Optional Task)	**$ 38,189**

Total Project Fee (with Optional Task)	**$ 392,131**
Total Project Fee (without Optional Task)	**$ 378,952**

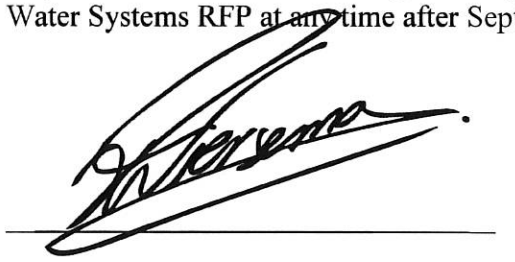
Detailed Manhours and Fee Estimate Table

Task	Senior Professional (Graham Juby)	Lead Professional (Inge Wiersema)	Project Professional (Matt Huang/Tim Loper/Giridhar Upadhyaya)	Professional (Amy Martin/ Ryan Orgill)	Professional (Alex Bugbee)	Mechanical Engineer (David Baranowski)	Structural Engineer (James Doering)	Ass. Professional (Aimee Zhao/Mike Wetterau/Ryan Hejka/ Joaquin Ramirez)	GIS Senior Technician (Jackie Silber)	Document Processing/ Clerical	Total Labor Hours	Carollo Labor Fee	Other Direct Costs & Subconsultant Fee	Total Project Fee
Task 1 - Basic Planning	0	8	7	67	0	0	0	192	4	4	282	$50,290	$3,449	$53,739
Task 1.1 - Data Collection and Review (Water, Sewer and RW)	0	0	0	4	0	0	0	16	0	0	20	$3,464	$234	$3,698
Task 1.2 - Potable Water Demand Projections	0	4	2	22	0	0	0	80	4	0	112	$19,936	$1,310	$21,246
Task 1.3 - Sewer Flow Forecast	0	0	2	24	0	0	0	20	0	0	46	$8,648	$538	$9,186
Task 1.4 - Recycled Water Demand Projections	0	0	2	8	0	0	0	40	0	0	50	$8,736	$585	$9,321
Task 1.5 - Review and Update Evaluation Criteria	0	0	1	1	0	0	0	4	0	0	6	$1,106	$70	$1,176
Task 1 Deliverables (Up to 5 Copies)	0	4	0	8	0	0	0	32	0	4	48	$8,400	$712	$9,112
Task 2 - Potable Water, Sewer, and RW Model Update & Calibration	0	4	18	181	0	0	0	295	20	4	522	$94,804	$21,257	$116,061
Task 2.1 - Potable Water Hydraulic Model Update	0	0	3	10	0	0	0	56	0	0	69	$12,036	$807	$12,843
Task 2.2 - Potable Water Hydraulic Model Calibration	0	0	7	31	0	0	0	118	8	0	164	$28,922	$1,919	$30,841
Task 2.3 - Sewer Hydraulic Model Update	0	0	3	20	0	0	0	8	0	0	31	$6,088	$363	$6,451
Task 2.4 - Sewer Hydraulic Model Calibration	0	0	3	88	0	0	0	41	0	0	132	$25,302	$16,544	$41,846
Task 2.5 - Recycled Water Hydraulic Model Update	0	0	2	24	0	0	0	40	4	0	70	$12,664	$819	$13,483
Task 2 Deliverables (Up to 5 Copies)	0	4	0	8	0	0	0	32	8	4	56	$9,792	$805	$10,597
Task 3 - Potable Water, Sewer, & Recycled Water System Analysis	0	28	102	170	0	40	16	192	24	9	581	$115,325	$7,248	$122,573
Task 3.1 - Potable Water System Analysis	0	8	8	50	0	0	0	80	8	2	156	$28,982	$1,825	$30,807
Task 3.2 - Sewer System Analysis	0	6	6	60	0	0	0	32	0	2	106	$20,644	$1,240	$21,884
Task 3.3 - Recycled Water System Analysis	0	12	88	56	0	0	0	64	8	4	232	$47,992	$2,714	$50,706
Task 3.4 - (Optional) Condition Assessment & TM	0	0	0	0	0	40	16	0	0	0	56	$12,224	$955	$13,179
Task 3 Deliverables (Up to 5 Copies)	0	2	0	4	0	0	0	16	8	1	31	$5,483	$513	$5,996
Task 4 - Integrated Master CIP	0	4	4	18	18	0	0	56	0	0	100	$18,564	$1,320	$19,884
Task 4 Deliverables (Up to 5 Copies)	0	4	0	2	0	0	0	16	0	0	22	$4,096	$407	$4,503
Task 5 - Integrated Master Plan	0	16	12	40	16	0	0	120	40	16	260	$46,960	$3,842	$50,802
Task 6 - Project Management and Meetings	24	36	0	30	8	0	0	12	0	12	122	$27,044	$2,027	$29,071
Grand Total (with Optional Task)	24	96	143	506	42	40	16	867	88	45	1867	$352,987	$39,144	$392,131
Grand Total (without Optional Task)	24	96	143	506	42	0	0	867	88	45	1811	$340,763	$38,189	$378,952

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning the Integrated Master Plan for Water, Wastewater and Recycled Water Systems RFP at anytime after September 16, 2016



OR

I certify that Proposer or Proposer's representatives have communicated after September 16, 2016 with a City Councilmember concerning the Integrated Master Plan for Water, Wastewater and Recycled Water Systems RFP. A copy of all such communications is attached to this form for public distribution.

DISQUALIFICATION QUESTIONNAIRE

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No ✓

If the answer is yes, explain the circumstances in the following space.

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

We reviewed the District's Sample Contract for Professional Services included as Appendix B of the RFP. While we do not have any exceptions, we do respectively ask the City to consider the modifications listed below:

Section 12, Indemnification A: As written, the indemnification and defense obligations under this section are not insurable under any professional liability insurance policy. To rectify that we would like to suggest the following modifications:

- Starting in the 5th line, delete the remainder of the sentence and replace it with the following: "to the extent caused by the CONSULTANT's negligent performance of work under this AGREEMENT."
- Add the following before the last sentence of this section: "Notwithstanding the foregoing, in the event the subject action alleges negligence on the part of CONSULTANT and/or CITY, or any third party not under contract with CONSULTANT, CONSULTANT's obligations regarding CITY's defense under this paragraph include only the reimbursement of CITY's reasonable defense costs incurred to the extent of CONSULTANT's negligence as expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution."

We would like to add the following to the end of Section 12 (new subsection C):

- "C. CONSULTANT shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental or consequential damages to CITY or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, CONSULTANT shall not be responsible for acts and decisions of third parties, including governmental agencies, other than CONSULTANT's subconsultants, that impact project completion and/or success."

Section 17, Insurance Requirements B: It is not possible to name additional insureds on professional liability insurance policies. To make that clear, the following change should be made to the first line: "...general liability, automobile liability and professional liability" should be replaced with "general liability and automobile liability."

Section 17, Insurance Requirements C: In the 2nd line "Contractor" should be replaced with "CONSULTANT."

Section 24, Third Party Beneficiaries: Please add the following to the end of this section: "No person or entity not a signatory to this AGREEMENT shall be entitled to rely on CONSULTANT's performance of its services hereunder, and no right to assert a claim against CONSULTANT by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this AGREEMENT or the performance of CONSULTANT's services hereunder."

Section 33, Statement of Experience:

- In the 3rd line, please add "reasonable" before "satisfaction."
- Please add the following to the end of this paragraph: "Notwithstanding the foregoing, CONSULTANT shall only be required to perform the services required hereunder in accordance with the prevailing standard of care by exercising the skill and ability ordinarily required of consultants performing the same or similar services, under the same or similar circumstances, in the State of California."

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ATTACHMENT 4

(Professional Services Agreement)

CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF BANNING
AND
CAROLLO ENGINEERS, INC.

This AGREEMENT is entered into this 12th day of December, 2016, by and between the CITY OF BANNING, a general law city a municipal corporation ("CITY") and CAROLLO ENGINEERS, INC., a California corporation ("CONSULTANT").

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this agreement.

B. Therefore, the City desires to contract out for consulting services for certain projects relating to preparation of documents in connection with a design project.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, based on the foregoing recitals, the City and the Consultant agree as follows:

1. CONSIDERATION AND COMPENSATION

A. As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, attached as EXHIBIT A;

B. As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;

C. As additional consideration, CITY agrees to pay CONSULTANT a total of $392,131.00, for CONSULTANT's services, unless otherwise specified by written amendment to this Agreement.

D. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager or his designee.

E. CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

2. SCOPE OF SERVICES.

A. CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICE attached hereto as Exhibit A and incorporated herein by this reference.

B. Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

3. PAYMENTS. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

4. TIME OF PERFORMANCE. The services of the CONTRACTOR are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY's reasonable satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.

5. FAMILIARITY WITH WORK. By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

6. KEY PERSONNEL. CONSULTANT's key person assigned to perform work under this Agreement is Inge Wiersema. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City.

7. TERM OF AGREEMENT. The term of this Agreement shall commence upon execution by both parties and shall expire on December 11, 2017 unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

8. CHANGES. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

9. TAXPAYER IDENTIFICATION NUMBER. CONSULTANT will provide CITY with a Taxpayer Identification Number.

10. PERMITS AND LICENSES. CONTRACTOR will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

11. TERMINATION.

A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.

B. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.

C. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY's option, become CITY's property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.

D. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

12. INDEMNIFICATION.

A. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature to the extent caused by CONSULTANT's negligent performance of the work under this AGREEMENT. Should CITY in its sole discretion find CONSULTANT'S legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

B. The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by Section 17, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement,

including, without limitation, to the provisions concerning indemnification.

13. ASSIGNABILITY. This Agreement is for CONSULTANT's professional services. CONSULTANT's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.

14. INDEPENDENT CONTRACTOR. CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which is it performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

15. AUDIT OF RECORDS.

A. CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

B. CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

16. CORRECTIVE MEASURES. CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

17. INSURANCE REQUIREMENTS.

A. The CONSULTANT, at the CONSULTANT's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers,

agents, employees, and volunteers for losses arising from work performed by the CONTRACTOR for City.

2. General Liability Coverage. The CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. The CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. The CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONSULTANT'S operations under this Agreement, whether such operations be by the CONSULTANT or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a "claims made basis," CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability and automobile liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by City, and shall be endorsed as follows. CONSULTANT also agrees to require all contractors, and subcontractors to do likewise.

1. "The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations."

2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' written notice has been received by the CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY's option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. The CONSULTANT shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement.

F. Failure on the part of the CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 11 above.

18. USE OF OTHER CONSULTANTS. CONSULTANT must obtain CITY's prior written approval to use any consultants while performing any portion of this Agreement. Such approval must include approval of the proposed consultant and the terms of compensation.

19. FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE. The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of the CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of the CITY'S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the CITY shall not constitute, nor be deemed, a release of the responsibility and liability of the CONSULTANT, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be

an assumption of such responsibility or liability by the CITY for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

20. CORRECTIONS. In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the CITY, and the cost thereof shall be charged to the CONSULTANT. In addition to all other available remedies, the City may deduct the cost of such correction from any retention amount held by the City or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

21. NON-APPROPRIATION OF FUNDS. Payments to be made to CONSULTANT by CITY for services preformed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT'S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT'S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

22. NOTICES. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

CITY	CONSULTANT
City of Banning 99 East Ramsey Street Banning, CA 92220 ATTN: City Manager	Carollo Engineers, Inc. 2700 Ygnacio Valley Rd, Ste. 300 Walnut Creek, CA 94598 ATTN: Inge Wiersema

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

23. SOLICITATION. CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT's bona fide employee, to solicit or secure this Agreement. Further, CONSULTANT warrants that it has not paid nor has it agreed to pay any company or person, other than CONSULTANT's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.

24. THIRD PARTY BENEFICIARIES. This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT's or CITY's

obligations under this Agreement. No person or entity not a signatory to this AGREEMENT shall be entitled to rely on CONSULTANT's performance of its services hereunder, and no right to assert a claim against CONSULTANT by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this AGREEMENT or the performance of CONSULTANT's services hereunder.

25. INTERPRETATION. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

26. ENTIRE AGREEMENT. This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.

27. RULES OF CONSTRUCTION. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

28. AUTHORITY/MODIFICATION. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY's city administrator, or designee, may execute any such amendment on behalf of CITY.

29. ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

30. FORCE MAJEURE. Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

31. TIME IS OF ESSENCE. Time is of the essence to comply with dates and schedules to be provided.

32. ATTORNEY'S FEES. The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

33. STATEMENT OF EXPERIENCE. By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner reasonable and satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency. Notwithstanding the foregoing, CONSULTANT shall only be required hereunder in accordance with the prevailing standard of care by exercising the skill and ability ordinarily required of consultants performing the same or similar services, under the same or similar circumstances, in the State of California.

34. DISCLOSURE REQUIRED. (City and Consultant initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a "consultant" for the purposes of the California Political Reform Act because Consultant's duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18701(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City's Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City's Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant's disclosure obligations in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials _____

OR

By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a "consultant" for the purpose of the California Political Reform Act because Consultant's duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18701(a)(2)(A) and is otherwise not serving in staff capacity in accordance with the City's Conflict of Interest Code.

City Initials _____
Consultant Initials GM

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

By: _____

MICHAEL ROCK, CITY MANAGER

ATTEST:

_____

Marie A. Calderon, City Clerk

APPROVED AS TO FORM:

_____

John C. Cotti, Interim City Attorney

CONSULTANT

By: _____

NAME: Gary Meyerhoffel
TITLE: Senior Vice President

By: _____

NAME: Troy Hedlund
TITLE: Assoc. Vice President

86-0899222
Tax ID No.

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 Orange)

On December 2, 2016 before me, Leanne G. Hendricks, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Gary Meyerhofer and Troy Hedlund
Name(s) of Signer(s)

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 the instrument.

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

WITNESS my hand and official seal.

LEANNE G. HENDRICKS
Commission # 2097875
Notary Public - California
Orange County
My Comm. Expires Jan 24, 2019

Signature Leanne G. Hendricks
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Contract for Professional Services
Document Date: 12/12/2016 Number of Pages: 10 + Exhibit A
Signer(s) Other Than Named Above: none

Capacity(ies) Claimed by Signer(s)

Signer's Name: Gary Meyerhofer	Signer's Name: Troy Hedlund
☒ Corporate Officer — Title(s): Senior V.P.	☒ Corporate Officer — Title(s): Assoc. V.P.
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing: Carollo Engineers, Inc	Signer Is Representing: Carollo Engineers, Inc.

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EXHIBIT A

CITY OF BANNING - PUBLIC WORKS

RFP NO. 16-009 INTEGRATED MASTER PLAN WATER, WASTEWATER AND RECYCLED WATER SYSTEMS

		CAROLLO ENGINEERS, INC.			
	EMPLOYEE/LABOR CLASSIFICATION	Hourly Rate	Hours Worked	Total Cost	Overtime Rate
1	Clerical	$ 109.00	45	$ 4,905.00	
2	Cost Benefit Analysis & CIP	$ 202.00	42	$ 8,484.00	
3	GIS - Mapping	$ 174.00	88	$ 15,312.00	
4	PECE	$ 21,189.00		$ 21,189.00	
5	Principal-In-Charge	$ 281.00	24	$ 6,744.00	
6	Project Engineer	$ 202.00	286	$ 57,772.00	
7	Project Manager	$ 259.00	96	$ 24,864.00	
8	QA/QC	$ 240.00	80	$ 19,200.00	
9	Staff Engineer - Hydraulic Modeling	$ 202.00	220	$ 44,440.00	
10	Staff Engineer - Hydraulic Modeling - Recycled Water	$ 166.00	119	$ 19,754.00	
11	Staff Engineer - Hydraulic Modeling - Wastewater	$ 166.00	224	$ 37,184.00	
12	Staff Engineer - Hydraulic Modeling - Water/Potable Water	$ 166.00	525	$ 87,150.00	
13	Sub consultant Fee	$ 15,000.00		$ 15,000.00	
14	Technical Advisor	$ 240.00	64	$ 15,360.00	
15	Travel & Printing; Expenses; Reimbursable	$ 2,000.00		$ 2,000.00	
	Total Estimated Annual Price	**$379,358.00**			

Comments:
Price corrected in tabulation.

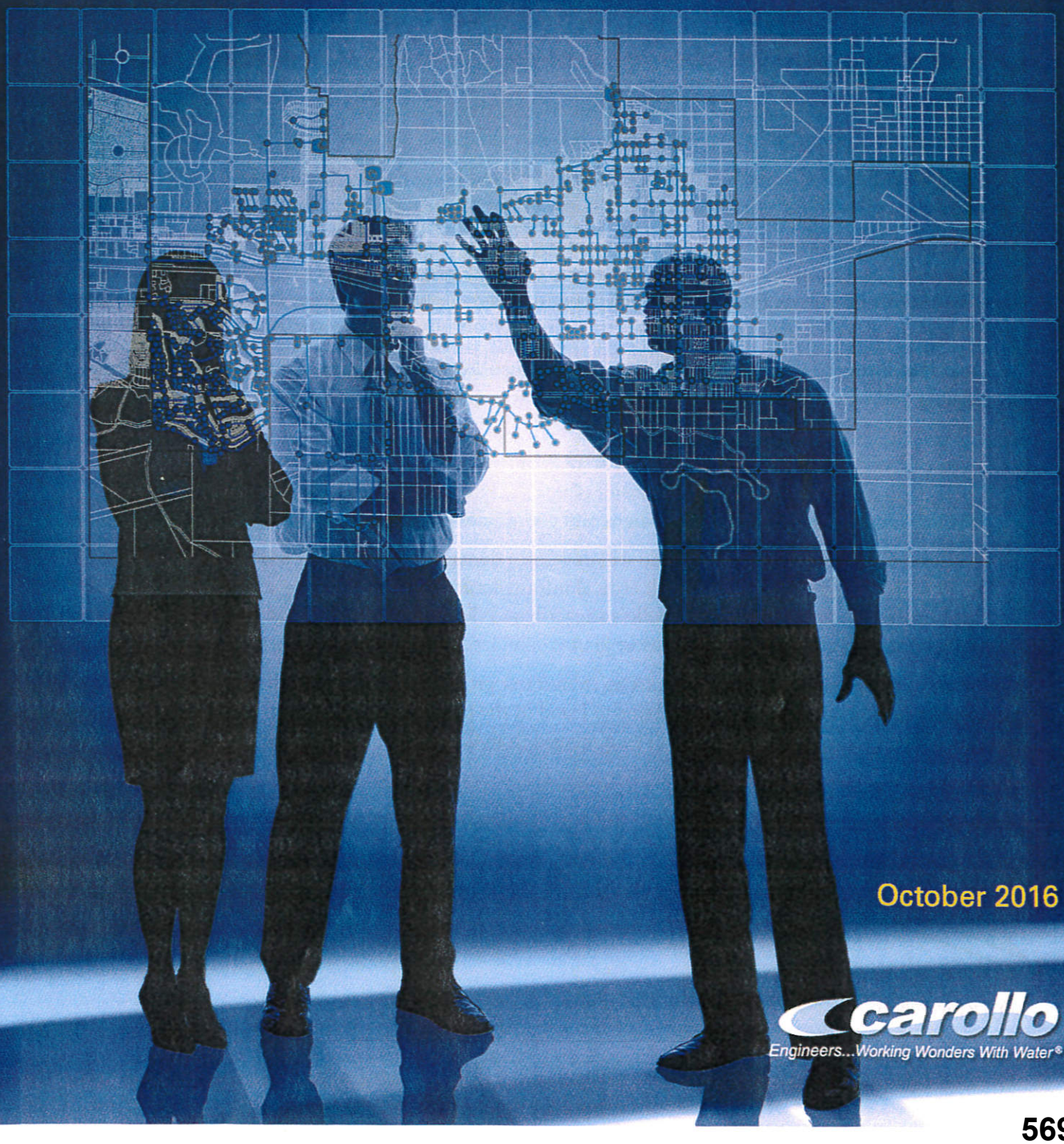
11/18/2016

Jennifer McCoy, Purchasing Manager

PROPOSAL FOR

Integrated Master Plan for Water, Wastewater and Recycled Water Systems

(RFP NO. 16-009)



October 2016

carollo

Engineers...Working Wonders With Water®

carollo
Engineers...Working Wonders With Water®

WATER
OUR FOCUS
OUR BUSINESS
OUR PASSION

October 20, 2016

City Clerk's Office
City of Banning
99 E. Ramsey Street
Banning, California 92220-0998

Subject: RFP-16-009 – Integrated Master Plan for Water, Wastewater, and Recycled Water Systems

Dear Selection Committee:

We are excited to present our proposal and project team to assist the City with the preparation of your Integrated Master Plan. As you will notice in our proposal, we have assembled a team that is very familiar with your water, wastewater, and recycled water systems through our long history working for the City on multiple plans, studies, and value engineering services ranging in size and complexity since 2002.

We understand the objectives of this important project and bring the depth and breadth of experience that is a direct match for your project needs. Some of the key benefits that Carollo brings to the City are:

- **Institutional Knowledge:** Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems. This allows us to build upon previous planning work that our team has been involved in since 2002, which will provide cost savings for the City.
- **On-Time Project Delivery:** Our team's extensive institutional knowledge allows us to hit the ground running without any learning curve to ensure that we can meet your aggressive schedule without compromising work quality.
- **Team of Integrated Planning Experts:** The team members selected for this project have worked together on many similar integrated master plans. We have developed a proven integrated master planning methodology that properly aligns and coordinate the individual plans in an efficient manner.
- **Dynamic CIP Planning Tool:** Carollo will develop a dynamic CIP planning tool that links actual development progress (in EDUs) with critical infrastructure improvements to adjust project phasing based on actual capacity needs. Carollo's trigger-based dynamic CIP tools allows easy adjustments to project sizing and timing after the master plan is complete to "right-size" projects and minimize cost.

We want to thank you for the opportunity to submit our proposal and welcome the opportunity to discuss any questions you may have. Our fee estimate listed in the proposal will be valid for 180 days from the receipt of this proposal. The project will be managed from Carollo's Costa Mesa office (shown below).

Sincerely,

CAROLLO ENGINEERS, INC.

Inge Wiersema, PE
Project Manager

3150 Bristol Street, Suite 500, Costa Mesa, California 92626
P. 714.593.5100 F. 714.593.5101
carollo.com

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Financial Capacity

Fee Proposal

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Appendix E & F: Disqualification Questionnaire and Disclosure of Government Positions

Sample Agreement

Background & Project Summary

The City of Banning (City) encompasses 37 square miles and currently provides water and sewer services to approximately 30,000 residents. The City would like to extend its services to include recycled water for irrigation. The City has determined the need to update its water, sewer, and recycled water master plans in an Integrated Master Plan to obtain accurate and usable documents that can guide the City with the budgeting and implementation of capital improvement projects. Based on our extensive experience preparing integrated master plans, three critical success factors include:

1. Meet the Aggressive Schedule with Proper Alignment of All Three Master Plans.
2. Utilization of Demand and Flow Forecasting Envelops Provides Flexibility for CIP Implementation.
3. Carollo's Dynamic Trigger-based CIPs Optimize Project Sizing and Timing.

1. Meet the Aggressive Schedule with Proper Alignment of All Three Master Plans.

Integration is the process of planning various utility type infrastructures based on a common set of planning criteria that involves coordinating the development of the master plans and proposed CIPs to maximize the public's investment. Based on our extensive planning experience, we know exactly where information between the different plans needs to be coordinated (demand/flow projections, hydraulic model setup, and CIP phasing) to efficiently deliver sound planning documents that are completed on schedule.

2. Utilization of Demand and Flow Forecasting Envelops Provides Flexibility for CIP Implementation.

There is no question that demand/flow forecasts are the foundation of every master plan. It defines system operation requirements, which in turn highlights system weakness that ultimately set the basis for the CIP. To plan for the uncertainty in projected growth due to changes in conservation and development timing, demand/flow forecast envelops will be developed to provide the City flexibility for CIP implementation. A baseline forecast will be selected with City staff and a sensitivity analysis will be conducted to determine the infrastructure impacts of other growth scenarios.

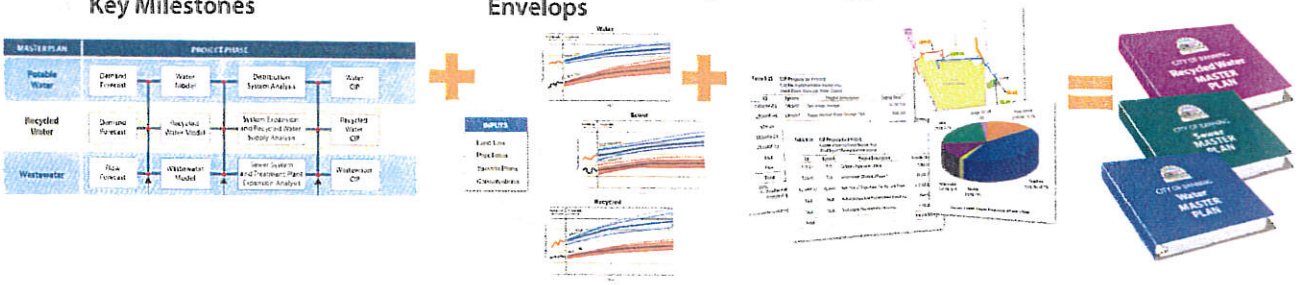
3. Carollo's Dynamic Trigger-based CIPs Optimize Project Sizing and Timing.

One of the key objectives of this project is to develop CIPs for the City's water, wastewater, and recycled water systems that are sized just right so that CIPs are affordable and oversized facilities, stranded assets, and excessive developer fees are avoided. Carollo's dynamic trigger-based CIP tool provides the City with a complete summary of all CIP projects, which are linked to development progress (in EDUs) to match infrastructure timing with actual capacity needs.

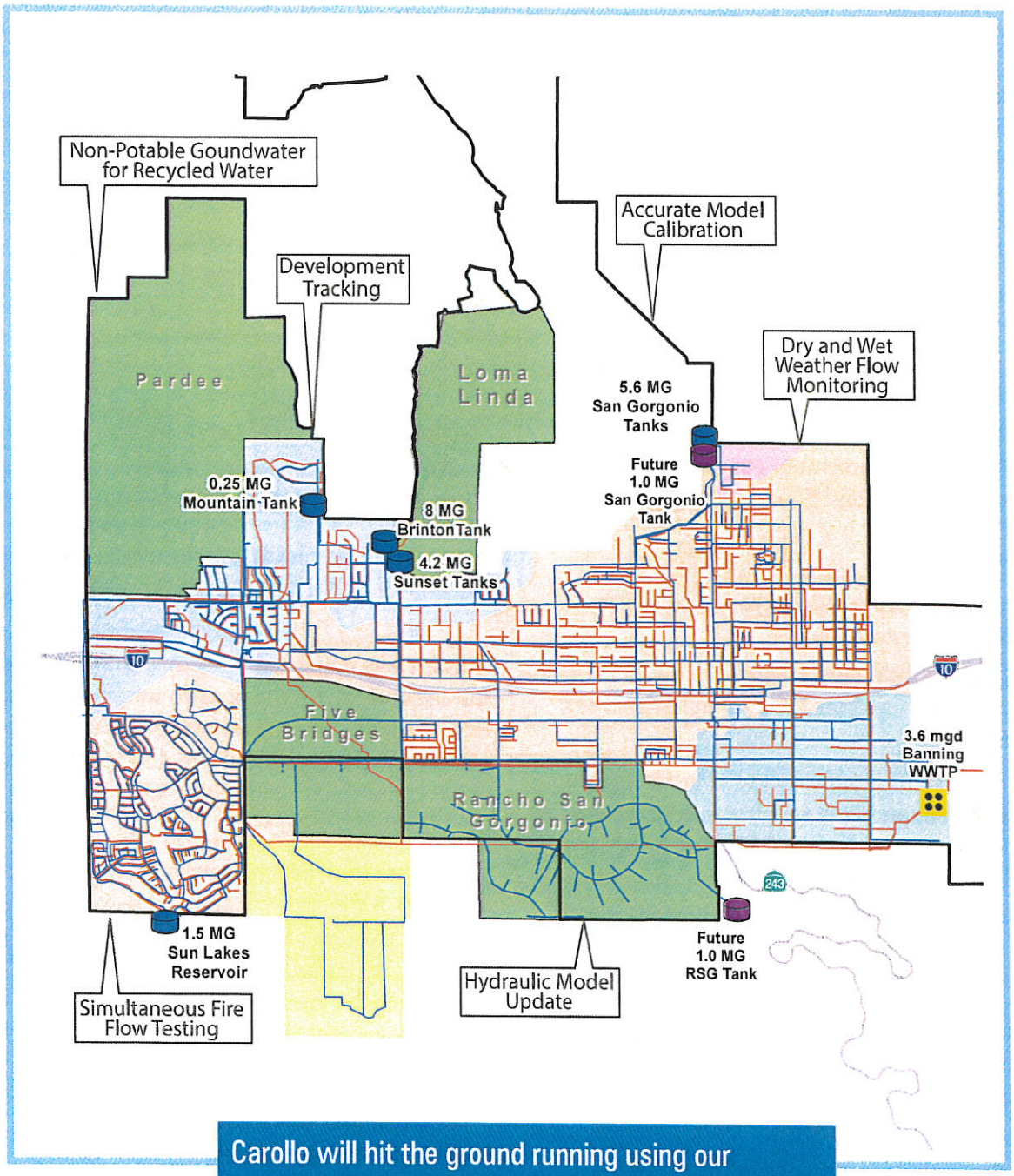
Proposed Alignment of Planning Assumptions at Key Milestones

Future Demand and Flow Forecasting Envelops

Dynamic and Trigger-based CIPs



Carollo's extensive integrated planning experience and in depth institutional knowledge results in on-time completion of sound master plans with a dynamic CIP to guide the City for the next decades.



Carollo will hit the ground running using our institutional knowledge of your water, wastewater, and future recycled water systems and an understanding of the City's current needs.

Methodology

Project Understanding

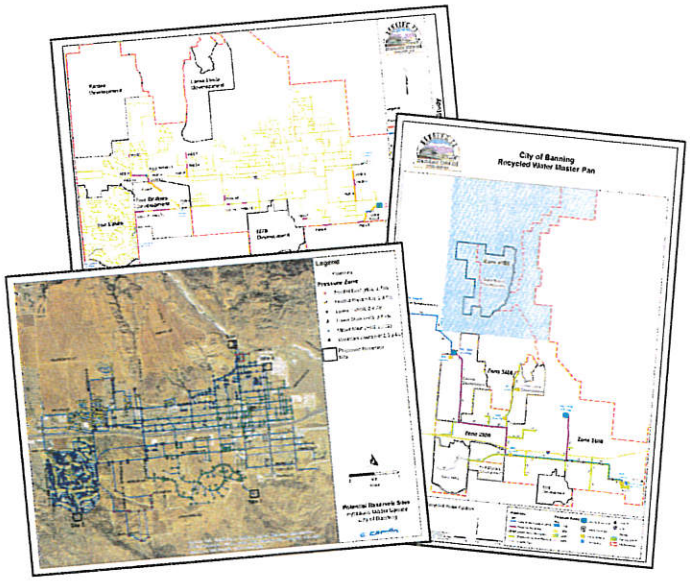
Based on our project understanding, we have identified three key project challenges that must be addressed to deliver an Integrated Master Plan that meets your expectations and that will successfully serve as a roadmap for the City during the next two decades. We then tailored an approach to address these challenges and meet your unique project needs. The key components of our project approach are:

1. Building upon Previous Reports Provides an Integrated Plan that Results in Consistent and Sound Planning Documents.
2. Proper Alignment of Key Assumptions at Critical Project Milestones Results in Sound Master Plans.
3. Carollo's Dynamic Trigger-based CIP Planning Tool Puts the City in the Driver's Seat.

Our overarching approach to your Integrated Master Plan and how we plan to address several key challenges is discussed below. The approach and methodology builds upon the scope of work listed in the RFP. The schedule to complete the major milestones along with the City's staff involvement is listed at the end of this section.

1. Building upon Previous Reports Provides an Integrated Plan that Results in Consistent and Sound Planning Documents.

Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems since 2002. The team members selected for this project have been involved in the preparation of your previous 2002 Hydraulic System Analysis Study (Inge Wiersema and Matt Huang worked on this project while at MWH), Wastewater System Master Plan, Recycled Water Feasibility Study, and Water System CIP update, which were completed in 2006. Since then,



Our team brings a long history of working with the City and has an in-depth knowledge of your water, wastewater, and future recycled water systems.

the City has requested assistance to conduct a storage analysis on the potable water system and requested value engineering services to review studies for the Pardee Butterfield Development in 2011 and the Rancho San Gorgonio Development in 2015.

Our team's in-depth institutional knowledge of the City's water, wastewater, and recycled water systems provides cost savings due to the lack of any learning curve. Additionally, it allows our team to hit the ground running and meet the aggressive project schedule.

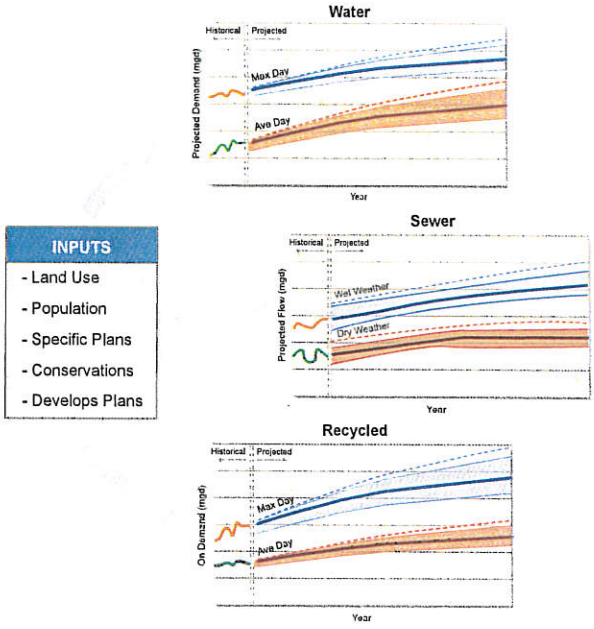
2. Proper Alignment of Key Assumptions at Critical Project Milestones Results in Sound Master Plans.

Based on our extensive experience, we know exactly where information between the different plans needs to be coordinated to deliver sound planning documents that are based on consistent assumptions and that result in cost savings. Some of the project tasks that need to be closely coordinated include:

- Potable water, recycled water, and wastewater demand and flow projections.

- Land use analysis and GIS integration.
- Hydraulic models setup.
- CIP development and project phasing.

With our integrated planning approach, the City will obtain an integrated master planning document that is based on consistent planning assumptions and can be trusted when making long-term infrastructure decisions and investments.



Carollo's customized demand/flow forecasting tool results in consistent projections for various planning scenarios.

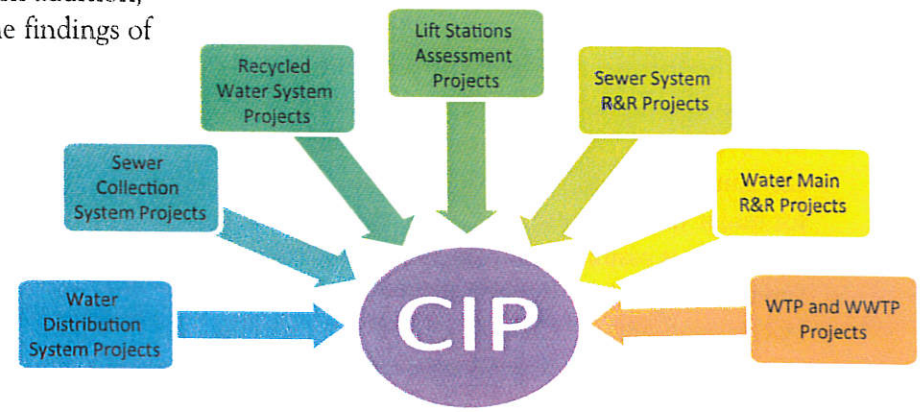
3. Carollo's Dynamic Trigger-based CIP Planning Tool Puts the City in the Driver's Seat.

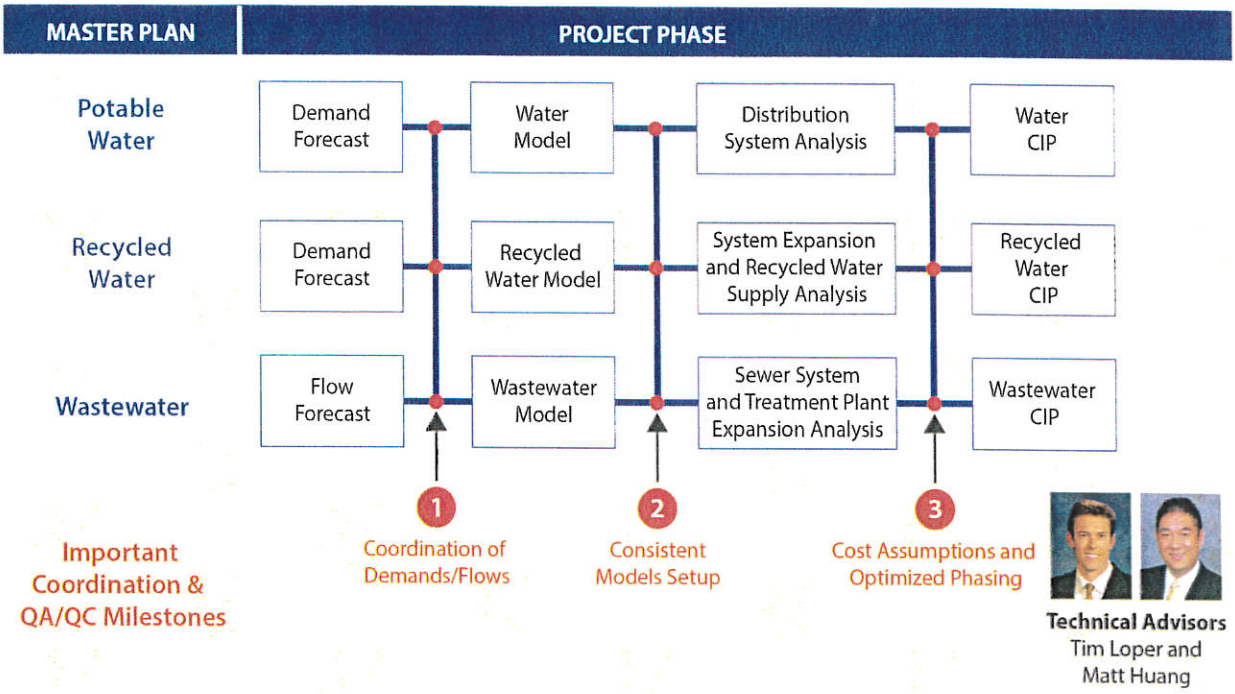
System evaluations will be performed to identify conveyance system improvements to meet near-term and build-out conditions of the water, sewer, and recycled water systems. In addition, the City may decide to integrate the findings of the condition assessment recommendations in the master plan CIPs. A comprehensive CIP will then be developed that defines project prioritizes and phasing.

The CIP needs to identify **what** projects are needed, **where** they should be located, and **why** they are needed. Identification of EDU-based trigger points is very important to understand the basis of sizing and timing. The development of an integrated CIP is much more than just a compilation of projects as the phasing needs and priorities are not necessarily going to align with the City's available CIP cash flow.

Carollo's **dynamic trigger-based CIP planning tool** provides the City with a complete summary of all the CIP projects identified by improvement type, development, and pressure zone/tributary area. The proposed projects are each identified in separate worksheets, complete with a project summary, why the project is needed, the cost, and the trigger points for project implementation. All of the individual project summary sheets are linked to an integrated CIP master summary table. The tool offers the City a significant advantage because you can adjust your CIP by refining the implementation schedule based on actual number of EDUs constructed in each planned development and year. The proposed project phasing will not only be presented by planning year, but also list the associated water demand or wastewater flow forecast to provide a more transparent link between growth forecast and CIP planning. Most important to you, the tool will update the annual capital budget needs by simply updating the target completion dates and/or cost-estimating factors to account for bidding changes in

Our comprehensive CIP is more than a compilation of multiple project categories. Carollo will coordinate phasing of projects between the three systems to avoid unnecessary construction disruptions and large fluctuations in capital expenditures.





Carollo's integrated planning approach results in consistent and sound Master Plans through proper alignment of planning assumptions and QA/QC milestones.

environment. All of these changes are seamless, and automatically reflected in the CIP summary table.

Project Approach to Scope of Work and Implementation Plan

We will complete the entire scope of work described in the RFP. Key approaches that either supplement the scope or describe our methodology are highlighted below. Our QA/QC team will provide reviews at key milestones (coordination of demand/flows, model setup, and CIP development) to avoid re-do work later. Carollo will collaboratively work with City staff to confirm major assumptions on key milestones as well as planning field visits for fire flow tests and the condition assessment field visit. Progress meetings and conference calls will be scheduled throughout the duration of the project to get a consensus on demand projections, screening and evaluation criteria, and initial results and recommendations. The anticipated schedule for major tasks is presented at the end of this section. It is assumed that the deliverable reviews (primarily the Draft Report) will be completed by City staff within a 2-week period. This can be adjusted as-needed.

Task 1 - Basis of Planning

To get everyone on the same page from the start of the project, a kick-off meeting will be scheduled to define key planning assumptions and project objectives.

- **Task 1.1 - Data Collection and Review:** Carollo will prepare a prioritized data collection list to track the status of various documents.
- **Task 1.2 - Potable Demand Projections:** The acreage for each land use classification for the existing and build-out conditions will be summarized for use in the water and recycled water demands and wastewater flow projections. In addition, the 2010 Census Data will be used to analyze the existing demands. Carollo will use 2015 billing records and GIS data to spatially distribute the existing water demands based on meter location or street address. A growth projection envelop will be developed for low, medium, and high scenarios. Seasonal peaking factors will also be developed. Unaccounted for water and potential recycled water demands that offset potable water demand projections will be considered.

- **Task 1.3 - Sewer Flow Projections:** We will analyze the water billing data prepared in Task 1.2 in combination with the flow monitoring data obtained during Task 2.4 to estimate sewer return ratios and existing flows in the system. Carollo will develop a flow projection envelop, consisting of low, medium, and high forecast considering a combination of future developments and conservations scenarios.
- **Task 1.4 - Recycled Water Demand Projections:** Carollo will review and summarize the City's projected near-term and long-term recycled water demands listed in the 2015 UWMP and other planning documents.
- **Task 1.5 - Review and Update Evaluation Criteria:** Carollo will review and update the City evaluation criteria with industry standards and similar agencies. The criteria will be discussed with City staff at a progress meeting to get input prior to proceeding with the system analysis.

Task 2 - Potable Water, Sewer, and Recycled Water Model Updates

To provide accurate hydraulic models that will result in defensible recommendations, Carollo has developed the following processes to update and calibrate the hydraulic models.

- **Task 2.1 - Potable Water Model Update:** Carollo will convert the City's existing model to InfoWater. The pipeline network will be skeletonized to maintain model nodes only where pipelines intersect or changes in diameter, material, or year of installation occur. It is assumed that the pipeline diameter and material information is complete in the GIS. Junction node elevations will be interpolated from ground elevation topography data. For budgeting purposes, it is assumed that up to 15 miles of additional pipelines will be added to the model, including areas of redevelopment. Carollo will incorporate the potable water system layouts from for up to five new developments. Existing and future water demands will be allocated within the hydraulic model to obtain a spatial distribution of the demands, which will account for potable water offsets due to the use of recycled water and conservation. The model will be updated to include potable water system layouts from the latest planning documents. It is assumed that the City will provide all necessary maps in GIS format to facilitate the model update.
- **Task 2.2 - Potable Water Hydraulic Model Calibration:** Pressure zone diurnal pattern for the City's entire water system to represent the hourly demand fluctuations on the selected calibration day as well diurnal curves for individual pressure zones. In addition, Carollo will develop a calibration plan, which will include the SCADA data needed from the City as well as identifying test sites for a fire flow calibration. The calibration plan is a three step process, which includes:
  - Macro Calibration: An initial macro calibration will be conducted to make the model run without errors. Carollo will verify that facilities operate properly and static system pressures fall within acceptable levels.
  - Fire Flow Calibration: The purpose of this stage is to adjust pipeline roughness coefficients (C-factors) for various groups of pipelines by age, material, and diameter. Static and residual pressures from up to 20 fire flow tests will be compared and model adjustments will be made to closely match model and field results. Carollo will coordinate with the City to schedule and participate in the fire flow testing. Carollo will also provide up to 16 pressure loggers to attach to fire hydrants to measure system pressures throughout the distribution system.
  - Extended Period Simulation (EPS) Calibration: The purpose of EPS calibration is to adjust facility controls to obtain a model that mimics system operations over extended periods, such as 24 hours or even multiple months for water age and quality analysis. SCADA output in 15-minute or hourly intervals from the City's water reservoir levels and pump station flows will be compared with the model results in the same time intervals. The model will then be

calibrated for a 24-hour period selected for the 1-week period.

- **Task 2.3 - Sewer Model Update:** Carollo will convert the City existing model to InfoSWMM. The sewer network will be skeletonized to maintain model nodes only where pipelines intersect or changes in diameter, material, or year of installation occur. It is assumed that the pipeline diameter and material information is complete in the GIS. Junction node elevations will be interpolated from ground elevation topography data.

  The new sewer system facilities constructed since the last model update will be added into the model based on available information and input from City staff. For budgeting purposes, it is assumed that up to 15 miles of additional pipelines will be added to the model, including areas of redevelopment. Carollo will assign dry and wet weather flow to model subbasins using a parcel-based approach. Flow loadings will only be applied to sewers 10 inches in diameter or greater and 8 inch sewers that are considered to be trunks.

  Carollo will create dry and wet weather model scenarios to reflect near-term and long-term conditions (total of four scenarios) to be used for the CIP development. Carollo will incorporate the sewer system layouts from planning documents for up to five new developments.

- **Task 2.4 - Sewer Hydraulic Model Calibration:** Carollo will prepare a flow monitoring plan and install flowmeters at 15 strategic locations to collect wastewater flow information for a two week period to establish the baseline and quantify the distribution of sewer flows within the collection system. Dry periods within the monitoring period, as well as historical records of the wastewater treatment plants, will be used to establish dry weather flow factors, while flow data captured during wet weather events will be used to determine inflow/infiltration (I/I) rates and help establish I/I parameters for model development and calibration. Carollo will work with the City to select the flow monitoring sites. Once completed, Carollo will collect, review, and organize the data for use during sewer model calibration. A flow monitoring and I&I summary report will be prepared.

  Flow monitoring data will be used to develop land-use specific diurnal loading patterns for the base wastewater inflows tributary to each flow monitoring location. The wet or dry weather calibration will be developed by creating customized unit hydrographs for each tributary area and comparing the simulation results to flow-monitoring data. Carollo will calibrate the wet -weather model using the events captured throughout the two-week monitoring period, while the dry-weather model will be calibrated using data from the dry days in the flow monitoring period. If sufficient wet weather data is not obtained during the monitoring period, historical precipitation data and historical wastewater flows from the wastewater treatment plants will be reviewed to evaluate the impact of I/I on the collection system.

- **Task 2.5 - Recycled Water Model Update:** Carollo will incorporate the recycled water system layouts from planning documents for up to five (5) new developments. It is assumed that the City will provide all necessary maps in GIS format to facilitate the model update. The recycled water demands projected will be allocated to the model nodes, ground elevations will be assigned, and the system will be connected with the proper facilities and valves.

Task 3 - Potable Water, Sewer, and Recycled Water System Analysis

Using the calibrated hydraulic models and data collected, the Carollo team will conduct an existing and future system analysis for the water and wastewater systems. A future system analysis along with alternatives evaluation will be performed for the recycled water system. Findings from the system analysis and condition assessment will be discussed with City staff prior to the final preparation of the Draft Master Plan Report.

- **Task 3.1 - Potable Water System Analysis:** Carollo will describe the existing water system characteristics. Utilizing the approved evaluation criteria and calibrated hydraulic model, the following system analysis will be performed:
  - Storage and Pumping Capacity Evaluation: Carollo will perform mass balance capacity analyses (using a spreadsheet model) to evaluate pumping and storage capacities within each pressure zone for existing and future build-out conditions.
  - Distribution System Capacity Evaluation: The hydraulic model will be used to evaluate system pressures and pipeline velocities to identify areas that do not meet the minimum pressure, velocity, or fire flow requirement. The model will be used to size improvements to meet the criteria. For budgeting purposes, up to 20 fire flow projects are included in the scope of work. The evaluation will be conducted for existing and future build-out conditions.
  - Sizing and Location of Proposed Facilities: Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed storage facilities, booster stations, and the sizing and layout of distribution pipelines. In addition, the utilization of excess capacity within existing infrastructure will be considered.
  - Potable Water Supply Analysis: Carollo will describe the City's existing and potential future water supply sources, water rights, and supply allocations. The allowable operational supply availability will be compared with the projected water demands for each planning period.
  - Growth Forecast: A sensitivity analysis shall be performed for the low and high ranges of the potable water demand forecasting envelop that considers a combination of future developments and water conservation assumptions.
- **Task 3.2 - Sewer System Analysis:** Carollo will describe the existing sewer system characteristics. Utilizing the approved evaluation criteria, the following system analysis will be performed:
  - Gravity and Force Main Capacity Evaluation: Carollo will review the capacity of the gravity and force mains under peak dry-weather and wet-weather conditions under both existing and future build-out conditions. The maximum flow depth to pipeline diameter d/D ratio for gravity sewers will be analyzed.
  - Lift Station Capacity Evaluation: Carollo will review the capacity of lift stations under peak dry-weather and wet-weather conditions under both existing and future build-out conditions.
  - Sizing and Location of Proposed Facilities: Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed lift stations and force mains. In addition, the utilization of excess capacity within existing infrastructure will be considered.
    - Sizing and location of lift stations (if any)
  - Growth Forecast: A sensitivity analysis shall be performed for the low and high ranges of the wastewater flow forecasting envelop that considers a combination of future developments and water conservation assumptions.
- **Task 3.3 - Recycled Water System Analysis:** Carollo will describe the proposed recycled water system characteristics. Utilizing the approved evaluation criteria, the following system analysis will be performed:
  - Storage and Pumping Capacity Evaluation: Carollo will perform mass balance capacity analyses (using a spreadsheet model) to evaluate pumping and storage capacities within each pressure zone. The evaluation will be conducted for the future build-out conditions.
  - Distribution System Capacity Evaluation: The hydraulic model will be used to evaluate

system pressures and pipeline velocities and to identify areas that do not meet the minimum pressure and velocity requirement. The model will be used to size improvements to meet the criteria. The evaluation will be conducted for existing and future build-out conditions.

- Sizing and Location of Proposed Facilities: Carollo will review the planning documents provided by the City for up to five (5) new developments and evaluate the sizing and location of proposed storage facilities, booster stations, and the sizing and layout of distribution pipelines. In addition, the utilization of excess capacity within existing infrastructure will be considered.
- Recycled Water Supply Analysis: Carollo will describe the City's existing and future recycled water supply sources and supply allocations.
- Feasibility Alternative Analysis: Carollo will review up to (3) package plant/satellite alternatives that would provide a new/local supply source to serve non-potable demands. In addition, up to four (4) alternatives will be developed to site future recycled water storage tank(s).
- Growth Forecast: A sensitivity analysis shall be performed for the low and high ranges of the recycled water demand forecasting envelop that considers a combination of future developments and water conservation assumptions.

- **Task 3.4 - (Optional) Condition Assessment:** Carollo will conduct cursory condition assessments on key facilities and identify possible existing deficiencies that may require future correction. For budgeting purposes, it is assumed all facilities of concern can be inspected in one day. Field inspections will be conducted by Carollo's lead field inspector who will be assisted by a senior mechanical or structural engineer, depending on the type of facilities requiring field inspection. Findings will be documented in field notes, questionnaires, measurements, and/or photos for each inspected facility.

Task 4 - Integrated Master CIP

Utilizing Carollo's dynamic CIP tool, planning level cost estimates will be prepared for system recommendations.

- **Task 4.1 - Integrated CIP:** Carollo will develop planning-level V cost assumptions for potable water, wastewater collection, and recycled water infrastructure components. Cost estimates will be prepared for each project, which will be summarized in tabular format by project ID, facility type and by type of customers served (existing, near-, and long-term). Once the draft water, sewer, and recycled water CIPs are developed, they will be integrated into a single master CIP. Based on an overlay of the three CIPs, an integrated phasing plan will be developed that align project phasing. The initial results will be discussed with City staff prior to the final preparation of the Draft Master Plan Report.

Task 5 - Integrated Master Plan Document

Carollo will compile the system descriptions and results from the system analysis into the Integrated Master Plan document. Prior to submitting the document to the City, a QA/QC will be conducted.

- **Task 5.1 - Draft Integrated Master Plan Report:** The report chapters prepared as part of Tasks 1 through Task 5 shall be compiled into a report. An internal QA/QC will be conducted prior to submitting the report to the City.
- **Task 5.2 - Final Integrated Master Plan Report:** The City's final comments will be reviewed and incorporated into the Final Master Plan.

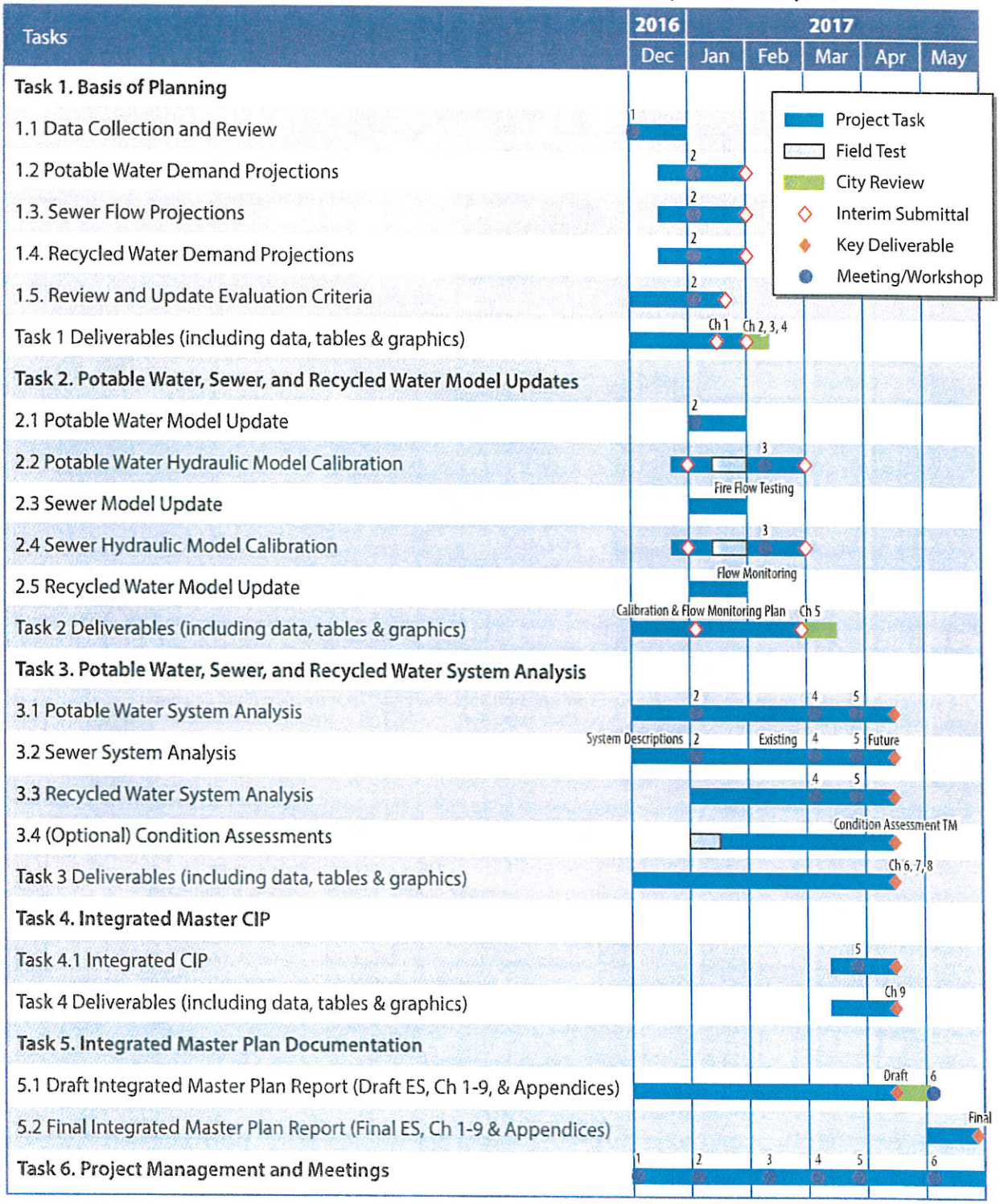
Task 6 - Project Management and Meetings

Carollo will attend up to six (6) meetings in person and participate in six (6) conference calls throughout the duration of the project. The anticipated timeline of the meetings and conference calls is presented on the project schedule.

V:\Client20\Banning\Prop\Integrated MP for W-WW RW_0916\InDesign Methodology.indd

Project Schedule

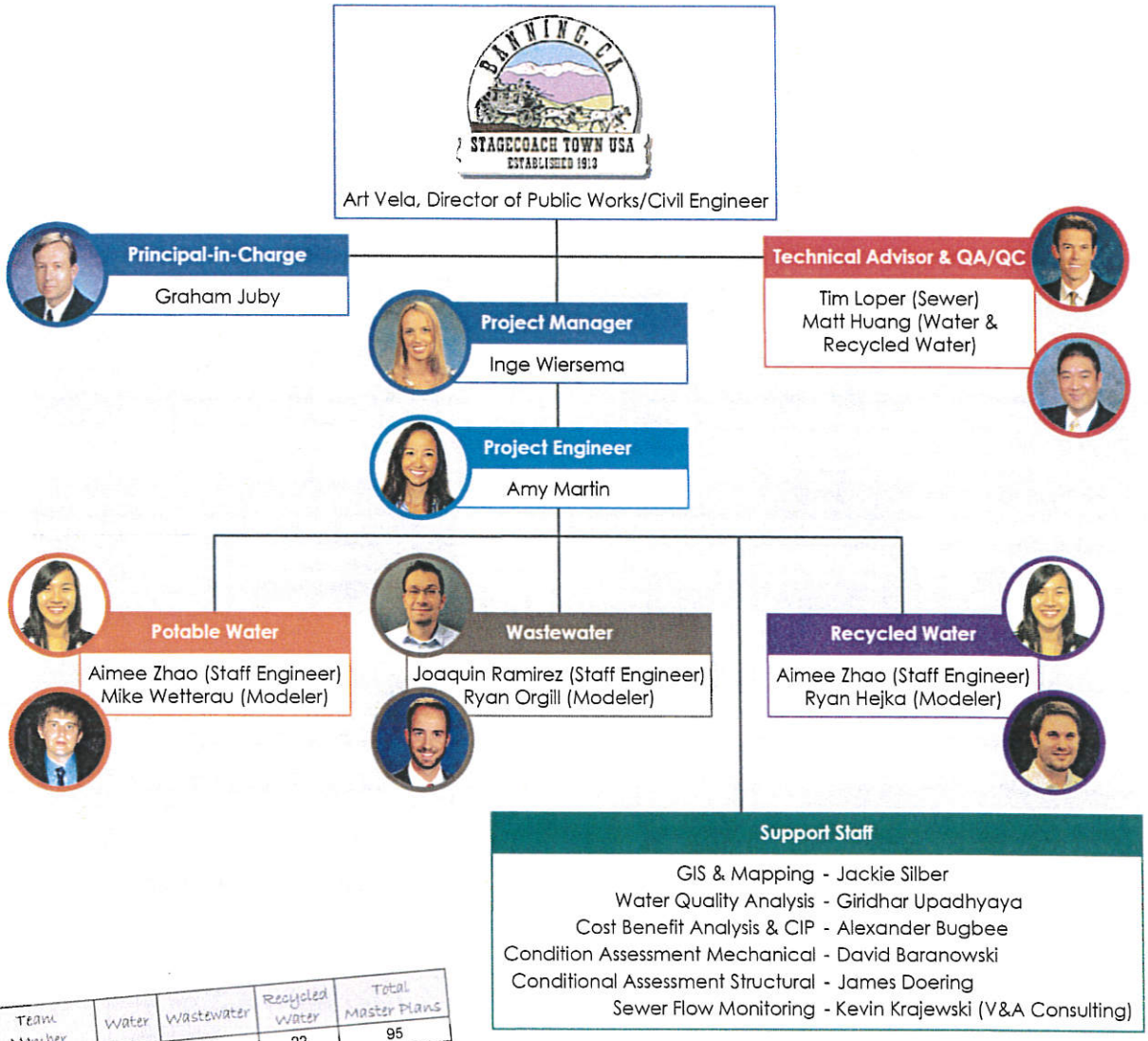
City of Banning - Integrated Master Plan For Water, Wastewater and Recycled Water Systems



Note:
Six (6) project meetings are aligned with critical project milestones.
Six (6) conference calls will be scheduled on an as-needed basis.

Staffing

Our team of Master Planning experts provides the depth and breadth of experience the City needs to complete this project in 6 months.



Team Member	Water	Wastewater	Recycled Water	Total Master Plans
Inge Wiersema	62	11	22	95
Graham Juby	8	3	5	16
Tim Loper	10	24	4	38
Matt Huang	66	8	19	93
Amy Martin	10	1	9	20
Ryan Orgill	14	20	4	38
Aimee Zhao	5	0	4	9
Mike Wetterau	4	2	1	7
Joaquin Ramirez	2	4	1	7
Ryan Hejka	10	0	5	15
TOTALS	191	73	74	338

Strength in numbers - Our team has extensive experience developing master plans, totalling more than 300 projects combined.

Appendix D. Pricing Proposal Form Table

Total Labor Cost					
Employee	**Hourly Rate**	**Hours worked**	**Total Cost**		**Overtime rate**
Graham Juby	$ 281	24	$	6,744	N/A
Inge Wiersema	$ 259	96	$	24,864	N/A
Matt Huang	$ 240	40	$	9,480	N/A
Tom Loper	$ 240	24	$	5,640	N/A
Giridhar Upadhyaya	$ 240	80	$	19,200	N/A
Amy Martin	$ 202	286	$	57,839	N/A
Ryan Orgill	$ 202	220	$	44,373	N/A
Alex Bugbee	$ 202	42	$	8,484	N/A
David Baranowski (Optional Task)	$ 202	40	$	8,080	N/A
James Doering (Optional Task)	$ 259	16	$	4,144	N/A
Aimee Zhao	$ 166	340	$	56,440	N/A
Ryan Hejka	$ 166	119	$	19,699	N/A
Joaquin Ramirez	$ 166	224	$	37,129	N/A
Mike Wetterau	$ 166	185	$	30,655	N/A
Jackie Silber	$ 174	88	$	15,312	N/A
Document Processing	$ 109	45	$	4,905	N/A
Total Estimated Labor Fee (with Optional Task)	**N/A**	**1,867**	**$**	**352,987**	**N/A**
Total Estimated Labor Fee (without Optional Task)	**N/A**	**1,811**	**$**	**340,763**	**N/A**

Other Direct Costs		**Total Cost**
Subconsultant Fee	$	15,000
PECE	$	21,189
PECE (for Optional Task)	$	655
Travel & Printing	$	2,000
Travel & Printing (for Optional Task)	$	300
Other Costs Total (with Optional Task)	**$**	**39,144**
Other Costs Total (without Optional Task)	**$**	**38,189**

Total Project Fee (with Optional Task)	**$**	**392,131**
Total Project Fee (without Optional Task)	**$**	**378,952**

Detailed Manhours and Fee Estimate Table

Task	Senior Professional (Graham Juby)	Lead Professional (Inge Wiersema)	Project Professional (Matt Huang/Tim Loper/Giridhar Upadhyaya)	Professional (Amy Martin/ Ryan Orgill)	Professional (Alex Bugbee)	Mechanical Engineer (David Baranowski)	Structural Engineer (James Doering)	Ass. Professional (Aimee Zhao/Mike Wetterau/Ryan Hejka/ Joaquin Ramirez)	GIS Senior Technician (Jackie Silber)	Document Processing/ Clerical	Total Labor Hours	Carollo Labor Fee	Other Direct Costs & Subconsultant Fee	Total Project Fee
Task 1 - Basic Planning	0	8	7	67	0	0	0	192	4	4	282	$50,290	$3,449	$53,739
Task 1.1 - Data Collection and Review (Water, Sewer and RW)	0	0	0	4	0	0	0	16	0	0	20	$3,464	$234	$3,698
Task 1.2 - Potable Water Demand Projections	0	4	2	22	0	0	0	80	4	0	112	$19,936	$1,310	$21,246
Task 1.3 - Sewer Flow Forecast	0	0	2	24	0	0	0	20	0	0	46	$8,648	$538	$9,186
Task 1.4 - Recycled Water Demand Projections	0	0	2	8	0	0	0	40	0	0	50	$8,736	$585	$9,321
Task 1.5 - Review and Update Evaluation Criteria	0	0	1	1	0	0	0	4	0	0	6	$1,106	$70	$1,176
Task 1 Deliverables (Up to 5 Copies)	0	4	0	8	0	0	0	32	0	4	48	$8,400	$712	$9,112
Task 2 - Potable Water, Sewer, and RW Model Update & Calibration	0	4	18	181	0	0	0	295	20	4	522	$94,804	$21,257	$116,061
Task 2.1 - Potable Water Hydraulic Model Update	0	0	3	10	0	0	0	56	0	0	69	$12,036	$807	$12,843
Task 2.2 - Potable Water Hydraulic Model Calibration	0	0	7	31	0	0	0	118	8	0	164	$28,922	$1,919	$30,841
Task 2.3 - Sewer Hydraulic Model Update	0	0	3	20	0	0	0	8	0	0	31	$6,088	$363	$6,451
Task 2.4 - Sewer Hydraulic Model Calibration	0	0	3	88	0	0	0	41	0	0	132	$25,302	$16,544	$41,846
Task 2.5 - Recycled Water Hydraulic Model Update	0	0	2	24	0	0	0	40	4	0	70	$12,664	$819	$13,483
Task 2 Deliverables (Up to 5 Copies)	0	4	0	8	0	0	0	32	8	4	56	$9,792	$805	$10,597
Task 3 - Potable Water, Sewer, & Recycled Water System Analysis	0	28	102	170	0	40	16	192	24	9	581	$115,325	$7,248	$122,573
Task 3.1 - Potable Water System Analysis	0	8	8	50	0	0	0	80	8	2	156	$28,982	$1,825	$30,807
Task 3.2 - Sewer System Analysis	0	6	6	60	0	0	0	32	0	2	106	$20,644	$1,240	$21,884
Task 3.3 - Recycled Water System Analysis	0	12	88	56	0	0	0	64	8	4	232	$47,992	$2,714	$50,706
Task 3.4 - (Optional) Condition Assessment & TM	0	0	0	0	0	40	16	0	0	0	56	$12,224	$955	$13,179
Task 3 Deliverables (Up to 5 Copies)	0	2	0	4	0	0	0	16	8	1	31	$5,483	$513	$5,996
Task 4 - Integrated Master CIP	0	4	4	18	18	0	0	56	0	0	100	$18,564	$1,320	$19,884
Task 4 Deliverables (Up to 5 Copies)	0	4	0	2	0	0	0	16	0	0	22	$4,096	$407	$4,503
Task 5 - Integrated Master Plan	0	16	12	40	16	0	0	120	40	16	260	$46,960	$3,842	$50,802
Task 6 - Project Management and Meetings	24	36	0	30	8	0	0	12	0	12	122	$27,044	$2,027	$29,071
Grand Total (with Optional Task)	24	96	143	506	42	40	16	867	88	45	1867	$352,987	$39,144	$392,131
Grand Total (without Optional Task)	24	96	143	506	42	0	0	867	88	45	1811	$340,763	$38,189	$378,952

CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITIY AUTHORITY**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Public Works Director**
Holly Stuart, Management Analyst

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-20 UA, "Awarding a Construction Agreement for 'Anaerobic Digester Dome Seal Repair and Cleaning of Digesters' Pipe and Plant Solutions, Inc. of Oakland, CA in the amount of $187,760 and include a 10% contingency for a total project budget of $206,536 and reject all other bids"**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution 2016-20 UA:

1. Approving a Construction Agreement for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters" to Pipe and Plant Solutions, Inc. of Oakland, CA in the amount of $187,760 and a 10% contingency in the amount of $18,776 to cover unforeseen conditions and reject all other bids.

2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters" and to approve change orders within the 10% contingency.

3. Authorizing the City Manager or his designee to execute the Construction Agreement with Pipe and Plant Solutions, Inc. for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters".

JUSTIFICATION:

It has been determined that Pipe and Plant Solutions, Inc. of Oakland, CA is the lowest responsive and responsible bidder to submit a bid in response to Invitation to Bid for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters."

BACKGROUND:

The City of Banning owns the Wastewater Treatment Plant located at 2242 East Charles Street providing wastewater treatment to the residents and businesses of the City.

Currently, the condition of the anaerobic digester dome seal is deteriorating resulting in staff temporarily relying on operating the digester with a liquid sludge seal to avoid non-compliance issues and unsafe circumstances. The operation of the digester in this manner is not preferred and as a result staff determined it necessary to repair the anaerobic digester dome seal in order to remain compliant with South Coast Air Quality Management District (SCAQMD) Permit No. F70706 and to prevent unsafe operating conditions.

Additionally, staff has determined it necessary to have two (2) digesters cleaned which consists of the removal of sludge, grease and solids from the anaerobic. This removal will increase the volume in the tanks improving the efficiency of the treatment of solids from the sewage stream.

The scope of work includes costs for furnishing all labor, materials, tools and equipment to repair one (1) anaerobic digester dome seal and cleaning of two (2) anaerobic digesters.

An Invitation to Bid was published in the Press Enterprise and Record Gazette on October 21, 2016 and October 28, 2016, as well as advertised on the City of Banning website. Additionally, direct solicitations were sent to approximately twenty (20) potential contractors. Contractors were required to attend at least one of the mandatory pre-bid meetings held on October 26, 2016 and November 9, 2016. In response to these efforts, two (2) bids were received from the following contractors:

Companies	Bid Amount
1) Pipe and Plant Solutions, Inc. of Oakland, CA	$187,760
2) ATOM Engineering Construction, Inc. of Hemet, CA	$317,962

As a result, staff recommends that the Construction Agreement be awarded to Pipe and Plant Solutions, Inc. in the amount of $187,760. A copy of the bid schedule is attached hereto. It is anticipated that the work will be completed within thirty (30) days from issuance of the "Notice to Proceed".

FISCAL IMPACT:

The Construction Agreement with Pipe and Plant Solutions, Inc. is for an amount of $187,760 with a 10% contingency of $18,776 for a total project budget of $206,536. This project will be funded by Account No. 680-8000-454.95-12 (Treatment Plant Improvements) in the amount of $195,000. An appropriation from the Wastewater Department Fund is necessary in the amount of $11,536. This project is included in the 2016/2017 fiscal year budget as well as the approved Capital Improvement Plan.

OPTIONS:

1. Adopt Resolution 2016-20 UA.
2. Reject Resolution 2016-20 UA. By rejecting this resolution the operation of the anaerobic digesters will continue to be operated in an inefficient manner that could potentially lead to non-compliance with SCAQMD issued permits.

ATTACHMENTS:

1. Resolution 2016-20 UA
2. Pipe and Plant Solutions, Inc. Bid Schedule
3. Draft Agreement between the City of Banning and Pipe and Plant Solutions, Inc.

Approved by:

Michael Rock,
City Manager

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ATTACHMENT 1

(Resolution 2016-20 UA)

RESOLUTION 2016-20 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION AGREEMENT FOR "ANAEROBIC DIGESTER DOME SEAL REPAIR AND CLEANING OF DIGESTERS" TO PIPE AND PLANT SOLUTIONS, INC. OF OAKLAND, CA IN THE AMOUNT OF $187,760 AND INCLUDE A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF $206,536 AND REJECTING ALL OTHER BIDS

WHEREAS, the condition of the anaerobic digester dome seal is deteriorating potentially resulting in noncompliance issues and unsafe operating conditions; and

WHEREAS, cleaning of two (2) anaerobic digesters is necessary in order to maintain the efficiency of the treatment process; and

WHEREAS, staff determined the repair of one (1) anaerobic digester and cleaning of two (2) anaerobic digesters was necessary in order to maintain efficient operating levels and to remain in compliance; and

WHEREAS, the scope of work includes all cost for furnishing all labor, materials, tools and equipment for the repair and cleaning; and

WHEREAS, the invitation to bid was published in the Press Enterprise and Record Gazette on October 21, 2016 and October 28, 2016 and advertised on the City's website with approximately twenty (20) contractors being directly solicited; and

WHEREAS, two (2) bids were received and the Construction Agreement is awarded to the lowest qualified bidder, Pipe and Plant Solutions, Inc., in the amount of $187,760 funded by Account No. 680-8000-454.95-12 (Treatment Plant Improvements); and

WHEREAS, the Construction Agreement with Pipe and Plant Solutions, Inc. is for an amount of $187,760 with a 10% contingency of $18,776 for a total project budget of $206,536 and will be funded by Account No. 680-8000-454.95-12 (Treatment Plant Improvements) in the amount of $195,000 in addition to an appropriation from the Wastewater Department Fund in the amount of $11,536; and

WHEREAS, the project has been included in the approved 2016/2017 budget and funding is available in Account No. 680-8000-454.95-12 (Treatment Plant Improvements).

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution 2016-20 UA, approving a Construction Agreement for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters" to Pipe and Plant Solutions, Inc. of Oakland, CA in the amount of $187,760 and a 10% contingency in the amount of $18,776 to cover unforeseen conditions and reject all other bids.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters" and to approve change orders within the 10% contingency.

SECTION 3. The City Manager or his designee is authorized to execute the Construction Agreement with Pipe and Plant Solutions, Inc. for "Anaerobic Digester Dome Seal Repair and Cleaning of Digesters".

PASSED, ADOPTED AND APPROVED this 12th day of December, 2016.

_____
Chairman
Banning Utility Authority

ATTEST:

_____
Marie A. Calderon, Secretary

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CERTIFICATION:

I, Marie Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution 2016-20 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of December, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

ATTACHMENT 2

(Pipe and Plant Solutions, Inc. Bid Schedule)

BID SCHEDULE

IFB NO. 16-011 "ANAEROBIC DIGESTER DOME SEAL REPAIR AND CLEANING OF DIGESTERS"

ITEM NO.	DESCRIPTION OF ITEM	QTY	UNIT PRICE	TOTAL
1.	ANAEROBIC DIGESTER DOME SEAL REPAIR	1	32,500.-	32,500
2.	ANAEROBIC DIGESTER CLEANING	2	77,630.-	77,630.-

TOTAL BID AMOUNT IN FIGURES: $ 187,760.-
(Bid Item No.'s 1 through 2)

TOTAL BID AMOUNT IN WORDS: one-hundred eighty seven thousand seven hundred sixty dollars and no cents.
(Bid Item No.'s 1 through 2)

Note: Upon award of Contract, the contractor will be required to provide the city with a further breakdown of the cost to perform the work.

ATTACHMENT 3

(Draft Agreement between the City of Banning and Pipe and Plant Solutions, Inc.)

SECTION 1.5
OF
PROCEDURAL DOCUMENTS

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2016 by and between the CITY OF BANNING, hereinafter called "Owner", and _____doing business as _____ * hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, it is agreed that:

1. The Contractor will commence and complete the **IFB NO. 16-011 "ANAEROBIC DIGESTER DOME SEAL REPAIR AND CLEANING OF DIGESTERS"** as per the plan and specifications.

2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the Project described herein.

3. The Contractor will commence the Work required by the Contract Documents on or before the date specified to commence Work in the Notice to Proceed and will complete the same within **30 Working Days** unless the period for completion is extended otherwise by the Contract Documents.

4. Owner and Contractor have discussed the provisions of Civil Code 1671 and the damages, which may be incurred by Owner if the Work is not completed within the time specified in this Agreement. Owner and Contractor hereby represent that at the time of signing this Agreement, it is impractical and extremely difficult to fix the actual damage which will be incurred by owner if the Work is not completed within the number of working days allowed.

5. The Contractor hereby acknowledges that the plans and specifications are made as a part of this contract.

6. The Contractor agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of $_____or as shown in the Notice of Award; subject to additions and deductions, if any, in accordance with said documents. Payment shall not be made more often than once each thirty (30) days. Final payment shall be made thirty-five (35) days subsequent to recordation of Notice of Completion. Contractor may, at his sole cost and expense, substitute securities equivalent to any moneys withheld by the Owner to ensure performance under the contract. Such securities shall be deposited with the Owner or with a state or federally chartered bank acceptable to

owner as escrow agent who shall pay such moneys to the Contractor upon satisfactory completion of the contract. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. Securities eligible for substitution shall include those listed in Public Contract Code Section 22300.

1. The term "Contract Documents" means and includes the following:

   a. Invitation for Bids – Section I
   b. Instruction to Bidders
   c. Bid
   d. Bid Bond
   e. Agreement
   f. Payment Bond
   g. Contract Performance Bond
   h. Certificates of Insurance and Endorsements
   i. Notice of Award
   j. Notice to Proceed
   k. Change Orders
   l. Section II - General Conditions
   m. Section III - Supplemental General Conditions
   n. Section IV - Special Provisions, Standard Drawings and Details
   o. Drawings and specifications prepared by the City of Banning or consultant
   p. Addenda:

      No. _____, dated _____, 2016
      No. _____, dated _____, 2016
      No. _____, dated _____, 2016
      No. _____, dated _____, 2016

8. The owner will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.

9. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

   Should any litigation or arbitration be commenced between the parties hereto concerning said project, any provisions of this Contract, or the rights and obligations of either in relation thereto the party, Owner or Contractor, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for his attorney's fees in such litigation, and court costs.

10. Pursuant to Section 1770 et. seq., the following, of the California Labor Code, the successful bidder shall pay not less than the higher of State or Federal prevailing rate of per diem wages. The owner has obtained the State Prevailing wage rates from the California Department of Industrial Relations. Copies of such prevailing

rate of per diem wages are on file at the office of the owner, which copies shall be made available for review to any interested party on request.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in copies each of which shall be deemed an original on the date first above written.

OWNER:

CITY OF BANNING

By: _____

Name: _____
Please Type

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

CONTRACTOR: (SEAL)

By: _____

Name: _____

Title: _____
Please Type

Address: _____

_____

Contractor's License No. _____

ATTEST:

By: _____

Name: _____

Title: _____

All signatures on this Contract Agreement on behalf of the Contractor must be acknowledged before a Notary Public. In the event that the Contractor is a corporation, the President/Vice President and the corporate secretary of the corporation must sign and the corporate seal must be affixed thereto.

CORPORATE CERTIFICATE

I, _____, certify that I am the Corporate Secretary of the _____ Corporation named as CONTRACTOR in the foregoing contract; that_____, who signed said contract on behalf of the CONTRACTOR was then _____ of said corporation; and that said contract was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Name:_____

(SEAL)

ATTEST:

_____

Name _____
(Please Print)

Title _____

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CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITY AUTHORITY**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Rochelle Clayton, Deputy City Manager**
Art Vela, Director of Public Works

MEETING DATE: **December 12, 2016**

SUBJECT: **Discuss and Consider Adopting Resolution 2016-18 UA, Approving an Amendment to the Contract with Willdan Financial Services for the Water, Wastewater and Reclaimed Water Rate Study in the amount of $31,765, Authorize the City Manager to Execute the Amendment, and Authorize the Administrative Services Director to make the necessary Budget Adjustments, Appropriations and Transfers.**

RECOMMENDATION:

1. Discuss and consider of adopting Resolution 2016-18 UA, approving an amendment to the contract with Willdan Financial Services (Willdan) in the amount of $31,765, for the Water, Wastewater and Reclaimed Water Rate Study (Rate Study) approved in October 2013 and delayed due to newly adopted regulations in July 2014 by California on chromium-6.

2. Authorize the City Manager to execute the Amendment.

3. Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers.

JUSTIFICATION:

In October 2013, the Banning Utility Authority approved the contract with Willdan to complete a rate study on Water, Wastewater and Reclaimed Water. Willdan completed nearly all of the work on the Rate Study, however, in April of 2014 the California Department of Public Health submitted the hexavalent chromium MCL regulations package to the Office of Administrative Law (OAL) for its review for compliance with the Administrative Procedure Act. On May 28, 2014 the OAL approved the regulations,

which were effective on July 1, 2014, for the change from the federal standard in chromium-6 of 100 parts per billion (PPB) to 10 PPB in California.

Due to Banning having more than a third of the City's water wells affected by the updated regulation, there was a direct effect on the Rate Study, as the cost of treating for chromium-6 needed to be better understood prior to finalizing the study. Willdan will need to redo nearly all of the work they previously completed.

BACKGROUND:

The original contract is for $58,963, for which Willdan did nearly complete all of the work. In July, 2014 City Council approved Amendment No. 1 in the amount of $9,975. Amendment No. 2 as recommended in this staff report is for $31,765 for a total contract price of $100,703, as they must redo most of the work due to the fact that the financial information that was previously used is now outdated.

The City Council last approved Water and Wastewater Rates in 2010, which increased the rates each year for four (4) years from October 2010 to September 2013. October 2010 was the first time rates had been approved since 2003. It is critical that revenues meet or exceed expenses each year to ensure the City is able to maintain adequate infrastructure and water supplies.

OPTIONS:

1. Adopt Resolution No. 2016-18 UA approving the Amendment to Willdan's Contract to complete the Rate Study.

2. Do not approve the Amendment and provide direction to staff.

FISCAL IMPACT:

Approval of this amendment will have a financial impact of $31,765 to the Water and Wastewater Funds. The current contract is for $68,938, which will bring the total contract amount to $100,703.

ATTACHMENTS:

A. Resolution No. BUA 2016-18
B. Contract Amendment Proposal from Willdan Financial Services
C. Contract between City and Willdan, dated October 2013

Approved by:

Michael Rock
City Manager

ATTACHMENT A

Resolution 2016-18 UA

RESOLUTION 2016-18 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH WILLDAN FINANCIAL SERVICES FOR WATER, WASTEWATER AND RECLAIMED WATER RATE STUDY IN THE AMOUNT OF $31,765.00 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $100,703

WHEREAS, on June 10, 2013, Request for Proposals (RFPs) were sent to several financial consulting firms and on October 8, 2013 the professional services agreement was awarded to Willdan Financial Services (Willdan); and

WHEREAS, on May 28, 2014 the California Office of Administrative Law approved regulations to change the hexavalent chromium maximum contaminant levels (MCL) to decrease the chromium 6 MCL from the Federal standard of 100 parts per billion (PPB) to 10 PPB; and

WHEREAS, the City suspended the water, wastewater, and reclaimed water rate study to better understand the cost of treating for chromium 6 as more than a third of the City's water wells are affected by the updated regulation; and

WHEREAS, nearly all of the work previously conducted must be recreated for the water, wastewater, and reclaimed water rate study; and

WHEREAS, the services to be provided by the consultant will result in a focused and tailored analysis which creates new rates that will provide a comprehensive financial management plan which develops projected system operating results for the next five fiscal years and has the ability to forecast out as far as thirty years.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The Banning Utility Authority adopts Resolution 2016-18 UA Amending the Water, Wastewater and Reclaimed Water Rate Study to Willdan Financial Services of Temecula, California in an amount of $31,765.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and appropriations and transfers to the Water and Wastewater funds for the Water, Wastewater and Reclaimed Water Rate Study.

SECTION 3. The City Manager is authorized to execute Amendment No. 2 to the Professional Services Agreement with Willdan Finanical Services in the amount of $31,765.

PASSED, APPROVED AND ADOPTED this 12th day of DECEMBER, 2016.

_____
, Chairman
Banning Utility Authority

ATTEST:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
John C. Cotti, Interim Authority Counsel
Jenkins & Hogin, LLP

CERTIFICATION:

I, Marie A. Calderon, Secretary of the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2016-XX UA, was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Scheduled Meeting thereof held on the 9th day of February, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____

Marie A. Calderon, Secretary
Banning Utility Authority

ATTACHMENT B

Amendment Proposal from Willdan

AMENDMENT #2 TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR CONTRACTUAL SERVICES ("Amendment") by and between the **CITY OF BANNING** ("City") and **WILLDAN FINANCIAL SERVICES** ("Consultant") is effective as of the 12th day of December, 2016.

RECITALS

A. City and Consultant entered into that certain Agreement for Contractual Services dated October 8, 2013 ("Agreement") whereby Consultant agreed to conduct a Water, Wastewater, and Reclaimed Water Rate Study for City.

B. City and Consultant now desire to amend the Agreement, plus Amendment No. 1 to include additional compensation for the additional services related to the Water, Wastewater, and Reclaimed Water Rate Study in the amount of Thirty One Thousand Seven Hundred Sixty Five Dollars ($31,765) for the total contract amount not to exceed One Hundred Thousand Seven Hundred Three Dollars ($100,703).

TERMS

1. **Contract Changes**. The Agreement is amended as provided herein.

   (a) Scope of Services (Exhibit A-1): Exhibit "A" to the Agreement is hereby amended to include the additional services as provided in the attached Exhibit "A-1'.

   (b) Compensation (Exhibit C-1): Exhibit "C" to the Agreement is hereby amended to include additional compensation as provided in the attached Exhibit "C-1".

   (c) Schedule of Performance (Exhibit D-1): Exhibit "D" to the Agreement is hereby amended to include the additional services as provided to the attached Exhibit "D-1".

   These exhibits do not amend the existing exhibits but pertain to the additional services performed hereunder.

2. **Continuing Effect of Agreement**. Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Contractual Services Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults**. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have

been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration**. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **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

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

CITY:

CITY OF BANNING, a municipal corporation

_____
Michael Rock, City Manager

ATTEST:

_____
Marie Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____
John C. Cotti, Interim City Attorney
Jenkins & Hogin, LLC

CONSULTANT:

By:_____
Name: Chris Fisher
Title: Vice President – Group Manager

By:_____
Name:
Title:

Address: 27368 Via Industria, Suite 200
Temecula, CA 92590

Two signatures are required if a corporation

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

EXHIBIT "A-1"

SCOPE OF SERVICES

(See Attached)

WILLDAN
FINANCIAL SERVICES

September 7, 2016

Ms. Rochelle Clayton
Administrative Service Director
City of Banning
99 E. Ramsey Street
Banning, California 92220

Re: Proposal to Conduct a Water and Wastewater Rate Study for the City of Banning

Dear Ms. Clayton:

Following up on our conversations and recent meeting, Willdan Financial Services ("Willdan") is pleased to submit this revised proposal to the City of Banning ("City") for consulting services related to the development of updated water and wastewater rates. This proposal reflects what is essentially a re-start to the project, given the time that has passed since the project was originally started, and then put on hold as the engineering study was completed to identify and assess alternatives for the water utility to meet new state mandates for reduced levels of Chromium 6 in for-sale potable water.

We understand the importance of ensuring stable and sufficient sources of revenue for the utilities. With the visibility and political nature of utility rates in the community, this update of the 2010 water and sewer rates, and the work begun in 2013, must be performed in a manner that focuses on defensibility and transparency. Willdan will work with the City throughout the engagement to identify and prioritize system objectives and desired rate attributes; and use this information to design updated utility rates that effectively meet these goals.

Wherever possible we will build on the work started previously, to avoid redundancy and additional cost. In some cases, we can carry forward work that was already completed, in many others we'll need to collect new data and incorporate that into the model again. We will be able to use the model that was developed originally, but will have to repopulate the new updated data, and confirm the policy assumptions (levels of reserve funding, etc.).

Willdan's interactive approach will result in a focused and tailored analysis of the City's current rates, revenues, capital and operational expenditures, debt commitments, miscellaneous charges, and other financial data. The culmination of our analyses for the new rates will be a comprehensive financial management plan that develops projected system operating results for the next five fiscal years, and has the ability to forecast out as far as 30 years, as desired by the City. We will employ our proven interactive approach, supported with advanced financial modeling techniques, to work with the City to develop a sophisticated and flexible financial model to help us guide the City through operating and financial scenarios, while evaluating the impact of policy assumptions, and performing sensitivity analysis on utility rate and financial strategies. ***This approach ensures that we can confidently stand before City Council, the ad hoc rate committee, and other interested stakeholders and explain the process and rationale behind the development of the proposed rates.***

We are excited about this opportunity to continue to assist the City, and moving forward again with this important project. To discuss this proposal please contact me directly, my contact information is presented below.

Willdan Financial Services

Primary Contact

Chris Fisher, Vice President - Group Manager

27368 Via Industria, Suite 200, Temecula, CA 92590

Tel #: (951) 587-3528; Fax # (951) 587-3510

Email: CFisher@willdan.com

Sincerely,

WILLDAN FINANCIAL SERVICES

Chris Fisher, Group Manager
Financial Consulting Services

Strategy and Implementation Plan 1
Executive Summary 1
Approach 2
Willdan Models Guide You to Your Optimal Solutions 3
Work Plan 5
City Staff Responsibilities 11
Schedule 12
Fee Schedule 13

The information in this executive summary largely stands unchanged from our original proposal. The City of Banning, incorporated in 1913, has a population of 29,603 and covers approximately 23.2 square miles in the San Gorgonio Pass area of Riverside County. The City currently serves approximately 11,000 water accounts, and was projected to generate approximately $9 million in operating revenues for FY 2012/13, with water produced from a local aquifer, utilizing a combination of City owned wells, and wells owned jointly by the City and the Beaumont Cherry Valley Water District. The bulk of the accounts served are within the City, with some being outside City boundaries. The City also collects, conveys and treats wastewater for a like number of wastewater accounts, and was projected to generate just over $3 million in operating revenue for FY 2012/13. After a few years of negative fund balances, both utilities are projected to maintain positive balances. However, the sewer utility has not met bond covenants in the most recent years, and likely will not without an increase in rates.

The biggest challenge for the water utility is the implementation of necessary improvements or changes in treatment processes to meet the newly implemented (and lower) standards for allowable levels of Chromium 6 in potable water to be sold to utility customers. When the draft results from our original study were presented in 2014, they included internal estimates of updated facilities and treatment costs to confront this new standard. Following that presentation, at the direction of the City Council, a detailed engineering study was conducted by an independent consulting engineering firm, to identify alternative approaches. This continuation of our original rate study will take into account new operating and capital budgets that account for the selected alternatives, and reflect the most recently available overall budget, financial results, fund balances, and operating and policy assumptions.

The City last updated utility rates in 2010; consequently, the rates that were approved and implemented as a result of that study did not incorporate sufficient allowance for a large number of planed or contemplated capital projects. With an increasing backlog of capital projects, a continuing need to provide a stable and sufficient source of revenue to fund routine repair and replacement, and provide for operations and maintenance, the City wishes to undertake studies of the water and wastewater utilities, with the development and implementation of a comprehensive financial plan and updated rates.

In considering the backlog of capital projects, and developing new rates, it will be important to model different approaches to prioritizing and financing these projects, whether through debt or on a Pay-As-You-Go basis (PAYGO) from rate revenue. As part of this discussion we will discuss with the City the inclusion of depreciation as a cash item in the revenue requirements; a means of funding repair and maintenance of existing capital as it ages, and accumulating funds for periodic replacement.

As mentioned in the City's budget documents, the budget policies for the City and Banning Utility Authority (BUA) call for maintenance of 10 percent operating reserves, which have largely been maintained. The model and plan created during this project will facilitate discussion of existing and, perhaps, new reserve policies.

As described herein, and detailed in our work plan, our approach to this study of the utility is ***built around three primary objectives:***

- ***Working collaboratively with the City to develop the comprehensive financial plan and model for the utility;***
- ***Using the model to develop and evaluate various rate, financial and capital funding scenarios; and***
- ***Arriving at a final plan and set of recommended rates that have a clear and transparent rationale and basis.***

We propose to conduct this process in a way in which staff and stakeholders gain understanding throughout the process of how the plan is developed, and how policy and financial decisions affect it, and so that we can clearly communicate the process and results to the City Council and the community. This communication part of the process is critical in gaining acceptance and understanding of the broader community.

Our rate study analysis will include comprehensive financial management plan alternatives for the next 10 fiscal years to support the proposed five-year rate plan. As part of this analysis, Willdan will develop a comprehensive financial analysis — which incorporates the following:

- Revenue requirements such as operating expenses, transfers, reserve requirements;
- Minor capital expenses;
- Cash and debt-funded major capital expenditures, with annual debt service expenses; and
- Functional cost breakdown consistent with AWWA and Water Environment Federation (WEF) rate-making standards.

The culmination of the revenue requirements analysis, which will include a capital project financing plan, and cost of service allocations, will be alternative rate plans which will provide sufficient revenue to meet the ongoing funding needs of the systems, while recovering costs from customers in a manner which is fair, equitable and within reasonable customer impact parameters.

We will develop a robust pro forma financial model to demonstrate the results of various analyses and aid detailed policy and education discussions with City staff and Council. It will serve as the basis for developing rate structures that provide for long-term financial stability, reflect levels of service demand for different customer classes, and comply with the requirements of Proposition 218.

During this project, we will be utilizing our Microsoft Excel-based model, with its interactive dashboard, as a comprehensive financial tool to allow planning and evaluation of variable inputs and assumptions, thereby creating a thorough analysis of revenue requirements to address the City's goal of ensuring predictable and stable revenue. These analyses are then seamlessly integrated with the rate development component of the model to demonstrate and project various rate design alternatives, and the effects they would have on the City's financial outlook.

The Financial Planning component of the model provides transparency such that users can develop a viable financial plan and understand the reasons for needed revenue adjustments.

The model is used in meetings, in order to efficiently cycle through rate scenarios and establish the most viable rate plans for the City. During these interactive meetings we invite City staff to participate in scenario planning/"what-if" sessions, where we use the dashboard to demonstrate and evaluate the financial/rate impact of alternative data (CIP, operating costs, etc.) and assumptions (interest rates, customer growth, cost escalation, etc.) in real-time to focus on the most critical drivers of the analysis. This ensures the resulting rate plan alternatives are viable from a financial, operational, managerial and political perspective. The rate plan alternatives will then be incorporated into a comprehensive utility rate study report, which will provide the City every assumption, data item, and calculation used in the development of each rate plan alternative.

Real-Time Financial Modeling

The goal of financial forecasting is to provide clear vision regarding the potential financial outcomes of current management decisions. Our goal is to help you mold the existing knowledge base of the City into a viable financial management and rate plan. At Willdan, the development and use of real-time financial models in an interactive, collaborative process is an integral part of the model development.

Model Development as Part of the Consulting Process

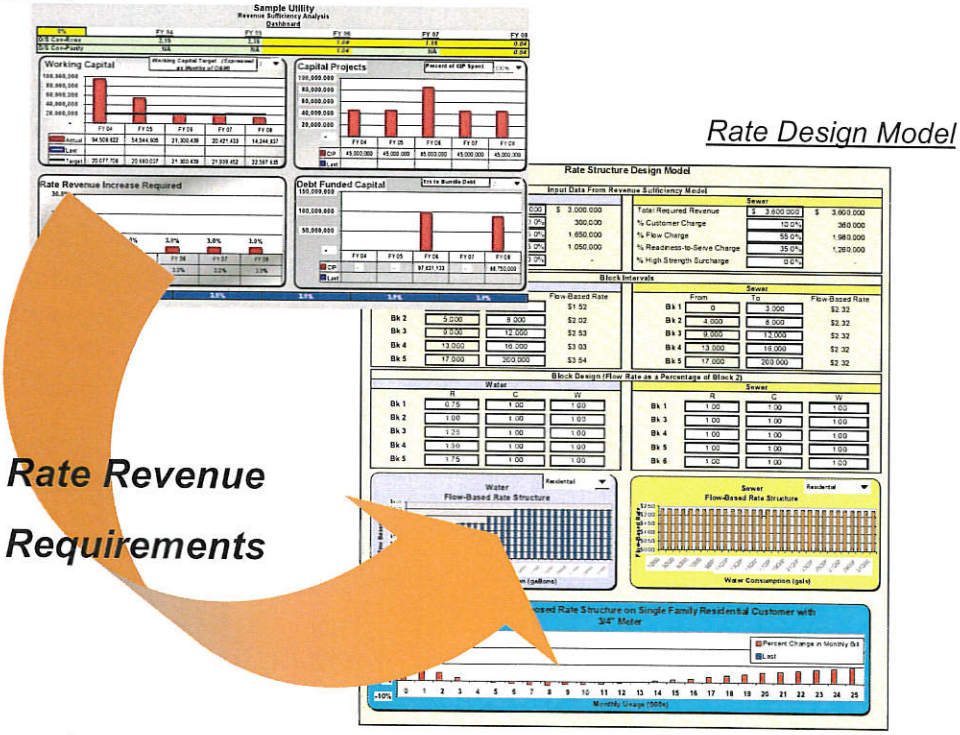
Each model is designed with the following elements:

- Graphical dashboard to clearly show the results of various scenarios to the user;
- Assumptions;
- Data tables; and
- Calculation engine.

Each model is "baselined" after an initial meeting with staff to ensure that we have the correct data and a basic understanding of the financial dynamics of your system. We will then conduct interactive financial planning sessions with City staff. After validating our data, calculation approach, and baseline assumptions, we will explore alternative scenarios, varying a number of assumptions and financial planning techniques:

- Rate increase magnitude and timing;
- Alternative timing of capital projects;
- Alternative financing options (alternative combinations of pay-as-you-go, revenue bond debt and SRF debt, for example);
- Alternative growth/demand forecasts; and other "what-if" analyses, such as the impact of a loss of one or more service areas or customers; and
- Effect of increases in other sources of funds, such as impact fees.

Financial Planning Model



Rate Design Model

The model is self-solving through the use of controlled feedback loops, and therefore does not require significant manipulation by the user to solve correctly. Given any combination of cost requirements (both operating and capital), non-rate sources of funds, and forecast assumptions, rate increases are generated that:

- Meet specified reserve targets;
- Fully fund capital expenditures using specified financing techniques; and
- Meet legal and contractual requirements that are financially measurable, such as debt service coverage on revenue bonds.

Alternatively, the user can specify rate increases and then examine the results to determine if the desired/required parameters are met.

Subsequent to careful development and validation of the baseline forecast, a series of alternative forecasts will be prepared illustrating various results in the following general categories:

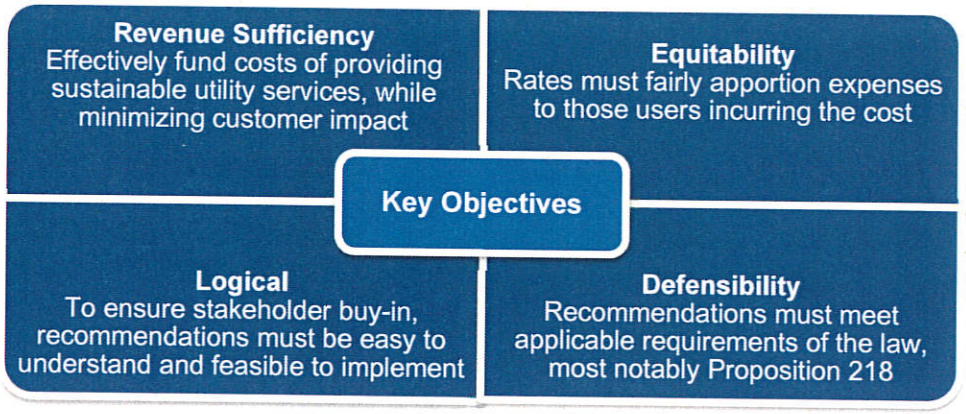
- **What if things turn out differently?** These alternatives will demonstrate the sensitivity of the forecast to the significant assumptions used. This results in a sound understanding of areas where a conservative forecast approach is warranted.
- **What happens when we try this?** This series of alternatives focuses on different financial management approaches.
- **What can we do to make it better?** This approach to forecasting identifies the factors that may be causing significant rate increases in a given year and explores alternatives. For example, if a large capital project in a single year is the culprit, we would work with staff and the consulting engineers to determine whether this project could be phased or delayed.

In like manner, the rate design model can be used to explore the impact of various rate structures on bills for each customer class over the relevant consumption range.

To summarize, rate model development is a natural part of the Willdan consulting process, and one in which staff and other stakeholders play a collaborative part. Consequently, at the completion of the analysis, the model will be completely customized to emulate the precise financial dynamics of the City, and staff will already have a high level of familiarity with the functionality and use. Interactive workshops will help develop an effective, efficient working relationship among the participating stakeholders that will carry forward into future rate-setting processes.

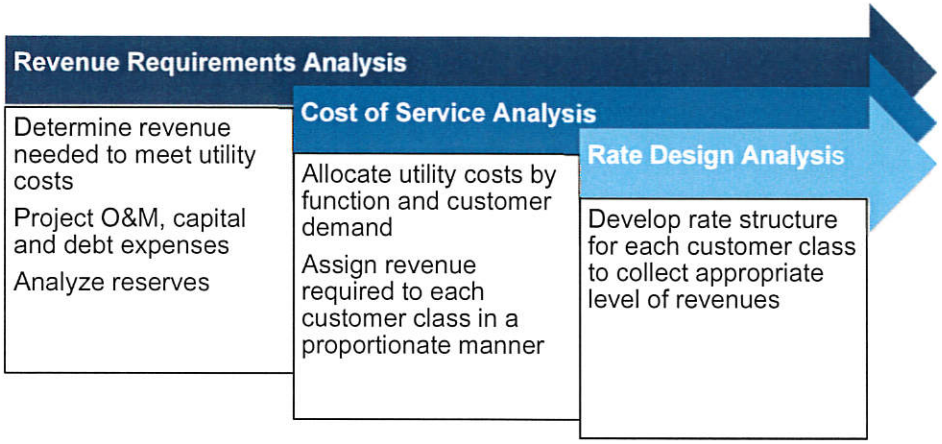
Rate Study Objectives

The overarching rate study objectives are outlined below.



Rate Setting Process

The graphic below summarizes the standard approach commonly employed to develop utility rates. Willdan's rate-setting process and model has been developed through the completion of many successful studies over the course of a decade and continues to be the basis for developing proven, well-balanced financial plans that are supported by equitable rate structures. Willdan's combination of consulting experience and technical expertise helps distill the complex decisions into a clear and easy-to-understand process. As there are often competing objectives, for a successful rate study it is necessary to understand not only the technical details and corresponding rates, but also the social and political corollaries that can often jeopardize the implementation of a technically sound rate structure. Our rate experience goes beyond simply "running the numbers" by creating numerous scenarios and considering stakeholder considerations, such as customer impact (ability to pay) to ensure a complete and unimpeded rate analysis.



Each step of the three-step approach is typically performed in tandem. Although presented sequentially, the overall analysis is circular – as variables in one analysis may influence another. Thus, it is imperative to constantly review assumptions to determine if variables are fixed (i.e. debt service) or flexible (i.e. consumption or treatment), and monitor how changes in certain variables affect the overall analysis.

Willdan's work plan will begin with the work previously completed, with updated data and assumptions incorporated across the board, and will culminate in the successful development of the water and wastewater rates and a five-year cost-of-service based financial plan, the education of key stakeholders, and the completion of the Proposition 218 mandated process.

Within this subsection are the general tasks necessary to facilitate the City's engagement for the water and wastewater rate studies. The following activities are based on Willdan's current understanding of the services requested by the City and are subject to revision based on further discussions with the City.

Task 1: Project Kick-off Meeting, Data Gathering and Study Preparation

Willdan will conduct a kick-off meeting to restart the rate study process. We will review, confirm and/or identify the following:

1. Review of existing water and wastewater rate structure and areas where the existing rates have been successful and/or specific areas of concern;
2. Review of existing documents related to the utilities including (but now limited to) the following: the 2010 Urban Water Management Plan, the 1994 Water Master Plan and 2002 update, the 2010 Water and Wastewater Rate Study, the 2009 Sewer System Management Plan, and schedules of existing rates, meter service fees, system charges and customer fees. Each of these items will have information and background that is important to the development of the overall study;
3. Components to incorporate into the updated revenue requirements; such as, capital improvements, debt repayment, reserves, annual repair and replacement;
4. Strategy and level of effort for outreach and education;
5. Review and discussion on broader policy, political and/or community concerns; the objective being to factor, as necessary, into outreach and education strategies;
6. Conduct a detailed review of the data used in the baseline financial forecast; and
7. Review and resolve (or develop a plan for resolving) data issues and questions.

For further efficiency and collaboration, the kick-off meeting will include a financial policy discussion. This will serve to address and document the City's financial policies for the utilities to be studied. Topics of discussion may include:

- Rate design alternatives;
- Rate policy objectives;
- City financial policies;
- Reserve options and target levels (operating, rate stabilization, repair and replacement);
- Conservation objectives;
- CIP financing options;
- Customer characteristics and classifications;
- Cost of service factors; and
- Proposition 218.

In addition, we will request and begin acquiring data necessary to conduct the analyses. We will provide the City with a detailed list of data requirements pertaining to the subsequent financial and consumption analysis. As these studies are data intensive, and in order to remain on schedule, it is imperative that all data be provided in a timely manner and be delivered in an electronic format.

Task 1A: Data Evaluation and Validation

Based on our experience, it is most effective to obtain and review information prior to the first meeting. Typically, questions can be resolved via telephone or e-mail. This approach respects your staff's time and ensures that we are completely prepared for a productive first meeting.

Activities

- Prepare and transmit data and information request;
- Follow-up by phone and/or e-mail to resolve questions;
- Document the nature, form and quality of the data and information received; and
- Based on documentary information, initialize Willdan's financial planning model and prepare a baseline scenario.

Deliverables

- Technical memorandum documenting the data and information received, with comments regarding quality and a list of outstanding issues and questions.

Task 2: Water Rate Study

The following section outlines the work tasks exclusive to the water rate study.

Task 2.A: Consumption Analysis

Willdan will review historical water consumption and billing data and assess water demands. As appropriate, we will review aggregate water demand characteristics, and incorporate necessary factors into our forecasted projections, future water demands, annual consumption trends and seasonal trends. We will also analyze the performance of the existing water rate structure to assess its appropriateness and adequacy in meeting system goals and recovering system revenue requirements. For this task we will (ideally) incorporate three to five years of City consumption and billing data in the model.

Task 2.B: Revenue Requirements Analysis

In developing reliable and accurate revenue and financial projections, it is necessary to project and analyze the impact and sensitivity of multiple and sometimes complicated variables. We will develop the revenue requirements component of the comprehensive financial plan to include operating (water supply, treatment, personnel, etc.) and non-operating (debt, depreciation, etc.) costs incurred by the water utilities.

The plan and model will be built to incorporate both water and wastewater, so that the utilities can be studied holistically.

Willdan's fundamental emphasis is providing long-term financial solutions through the development of financial models that account for current revenue requirements as well as future (short and long-term) needs and expenses, and provide insight on the effects of changes to certain parameters (also known as the elasticity).

Since a utilities revenue requirements (financial plan) and rate structure are directly dependent on one another, our goal during the development of the revenue requirements is to clearly identify each variable and describe the result of adjustments to the overall revenue requirements and rates. This will allow City staff and City Council to examine the effect of decisions made at the policy level on the City revenue requirements and rates.

Task 2.C: Baseline Analysis

Before variables are identified and projected into the revenue requirements and model, a baseline revenue sufficiency and rate analysis is performed. Willdan will utilize a "cash-needs" approach, where cash needs refer to the total revenue required by the utility to meet its cash expenditures.

Basic revenue requirement components of the cash-needs approach include current and future O&M expenses, debt-service payments, including the current outstanding 2005 Revenue Bonds, contributions to specified reserves, whether existing or proposed, and the cost of capital expenditures that are not debt-financed or contributed from other sources. The revenue requirements analysis will be developed based upon the utility's existing financial statements, to test for base year revenue sufficiency. If operating revenues are shown to be deficient, revenue adjustments will be implemented to adequately recover costs.

Another key component of the baseline analysis is a revenue sufficiency analysis where we take the City's existing rate structure, along with billing and customer data, and recalculate the amount of revenue, to ensure agreement with City data. This ensures the integrity of the data for use in the development of the new rate structure, and potentially the reclaimed rates. Furthermore, it may highlight other issues for consideration and discussion.

Task 2.D: Cost Analysis – Scenario Building

Building from the baseline scenario generated in the previous task, we will start generating expenditure scenarios by varying operation, deprecation, capital costs and reserve levels. We will review CIP information to determine: short-term, high-priority needs; annual depreciation of assets, replacement and repair schedules; and assumptions and methodologies used to assess the basis for the CIP projects.

As previously mentioned, we understand that the City has a fairly significant backlog of capital projects, as rate revenue over the past three years has not been sufficient to address all needs. We can model the implementation of various CIP and master plan scenarios by including capital financing in the model, the ability to cycle various scenarios through the model, and clearly show the impacts on the overall plan, and more importantly, rates.

To ensure adequate funding in later years, we will include a 10-year analysis of anticipated capital requirements, with the ability to extend to 30 years, as well as adequate reserve funding. In reviewing the CIPs, it is necessary to know current policy on available funding sources and the type of improvements and costs to fund through rates on a PAYGO or connection fees. As such, these funding options play a role in determining the total amount of revenue required in any given year.

Task 2.E: Cost of Service Analysis

The principal in establishing adequate rate schedules that are fair and equitable is that rates should reflect the costs of providing service. Our approach recognizes differences in the cost of providing services to different types of customers, areas and levels of service. The cost incurred by the users should be incurred by those whom benefit. Accordingly, cost allocation procedures should recognize the particular service requirements of the customer for not only total volume of water, but pumping/distribution costs and other factors.

This analysis will include gathering cost information, allocation of costs to functions, and classification and allocation of costs to each existing customer class. Since demand patterns of various customers differ, depending on their peak-day and peak-hour rates of demand relative to average demands, we will review the number and type of existing customer classes and make recommendations to add or consolidate customer classes, if necessary.

The allocation of water costs to customer classes will be conducted to estimate the cost of serving each customer class and to enable rate restructuring, as necessary, based on the service requirements. Costs will be allocated in accordance with industry standards.

While varying slightly, both methods recognize that the cost of serving customers depends not only on the total volume of water used or discharged, but also on the rate of use and peaking requirements. Willdan will work with the District to ensure the most appropriate methodologies are pursued.

Task 2.F: Rate Design Analysis and Update

Utilizing the cost-of-service approach, the level of the City's rates is a function of the utility's costs and customer demands.

Willdan will fully modify and provide scenario planning to reflect the impact of different rates and/or revenue adjustments. Willdan will recommend updates to the current rates that are designed to address and uphold key objectives, notably short and long-run financial stability, minimal economic stress for customers, equity and defensibility. Our recommendations will comply with the cost-of-service guidelines of Proposition 218, AWWA, WEF, and existing bond covenants and current legislation.

The methodology utilized to determine how the water utility costs are allocated is expressed in the bullets below. While the methodology may be an "industry standard," our experience and understanding of key variables allow for a comprehensive and well-rounded rate design process:

- ***Existing Rate Compatibility to the City's Objectives:*** Rate structure is the area of the study that tends to generate the most attention and scrutiny. Prior to implementing new rates, Willdan will work collaboratively with staff to verify that key objectives for the City and stakeholders, such as understandability, avoidance of rate shock, public outreach (public buy-in), conservation, revenue stability, etc., have been addressed.
- ***Existing Water Rate Structure:*** When updating rates, there are numerous variables and considerations, ranging from access and quality of data, cost-causation, price elasticity, conservation, and weather conditions. Willdan will work with staff to provide recommended revisions to the City's existing water rate structure to ensure key issues are addressed.

The rate design task will involve modeling several alternative rate structures using the City's financial data and billing statistics to demonstrate the resulting customer impacts and to identify key issues associated with the new rates and charges.

Basic standards for rate design accepted by the industry are:

- **Revenue sufficiency –** rate revenue should provide sufficient income so that, when combined with other sources of funds, total system costs are covered;
- **Fairness and equity –** based on cost responsibility, as reflected in cost of service allocations, in accordance with industry standards;
- **Resource conservation –** Under conditions of scarcity, the pricing of water as a commodity should promote conservation and discourage unnecessary water use;
- **Administrative simplicity –** so that rates are understandable to customers and efficiently administered by staff;
- **Customer acceptance –** customers understand the rates, view them as fair, and consider them to be reasonable compared to other costs and other utilities; and
- **Public health and welfare –** rates are structured so that essential domestic water consumption is encouraged through affordability.

Task 3: Wastewater Rate Study

The wastewater financial and rate analysis closely mirrors the cost of service and rate setting approach for water. The following section outlines the scope of work tasks unique to the wastewater rate study.

Task 3.A: Determine Discharge Characteristics and Loadings

Willdan will calculate the average and total sewer discharged by each user class. Additionally, we will determine the number of users by class, annual water use, projected growth, and appropriate discharge factors. Similar to water, flow is not the only factor to consider. Loading factors, based on the strength of the effluent (discharge), will be calculated and incorporated into the rate analysis. Based on the design of the sewer system and facilities, we will make recommendations regarding appropriate classification of customers.

Task 3.B: Cost Projection Analysis

To determine annual required revenue, we will analyze and project the utility Operations Fund and Capital Fund. Furthermore, we will discuss the best way to finance the essential and prioritized projects required to operate the sewer system. Willdan will analyze the City's planned CIP, and any necessary adjustments, based on staff discussions and reviews of the existing planning documents. As such, we will generate "what-if" funding scenarios (financing, phasing and costs) to illustrate the impact of different options on revenues and rates.

Task 3.C: Revenue Requirements Analysis

Similar to the water utility, we will prepare a comprehensive financial forecast for the sewer enterprise with the objective of funding the utility's cash needs. Numerous financial projections of cash-flows will be based on various scenarios that reflect adjustments to O&M, capital expenditures and funding sources, debt covenants, and reserve targets. We will make recommendations on reserve funds and rate of accrual to reach reserve targets.

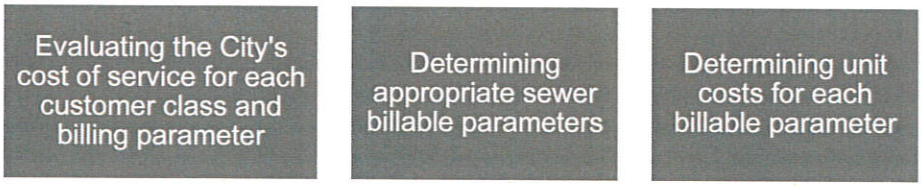
Willdan will summarize total cash flows for a period of five years. To create a baseline, the project team will confirm the current rate-based revenues based on customer loads by comparing the calculated and actual revenues by customer class under the current rate structure.

Task 3.D: Scenario Planning

As previously mentioned, it is important to identify and avoid rate shock from excessive and compounding simultaneous changes. As such, the rate recommendations will include an evaluation of the effects of the combined utility bills on customers under several variations of inputs. In addition to the financial presentation of data, for each scenario our model also displays a sample customer bill to easily demonstrate the customer bottom line.

Task 3.E: Cost Distribution to Billable Parameters

A system of billable parameters is required to relate the costs of providing sewer service to the City's customers, as prescribed by the WEF rate setting recommendations, which include the following:



Task 3.F: Sewer Rate Design Analysis and Update

Based on the cost distribution developed in the prior subtask, we will update the current rates based on feedback received from City staff. We will review the rate structure and provide various recommendations for residential, multi-family and commercial rates based upon water use, discharge and strength characteristics, or other bases to achieve equity between customer classes. As identified in the RFP, we will evaluate alternative rate designs in discussion with the City, such as changing the basis of commercial rates from EDU to water consumption.

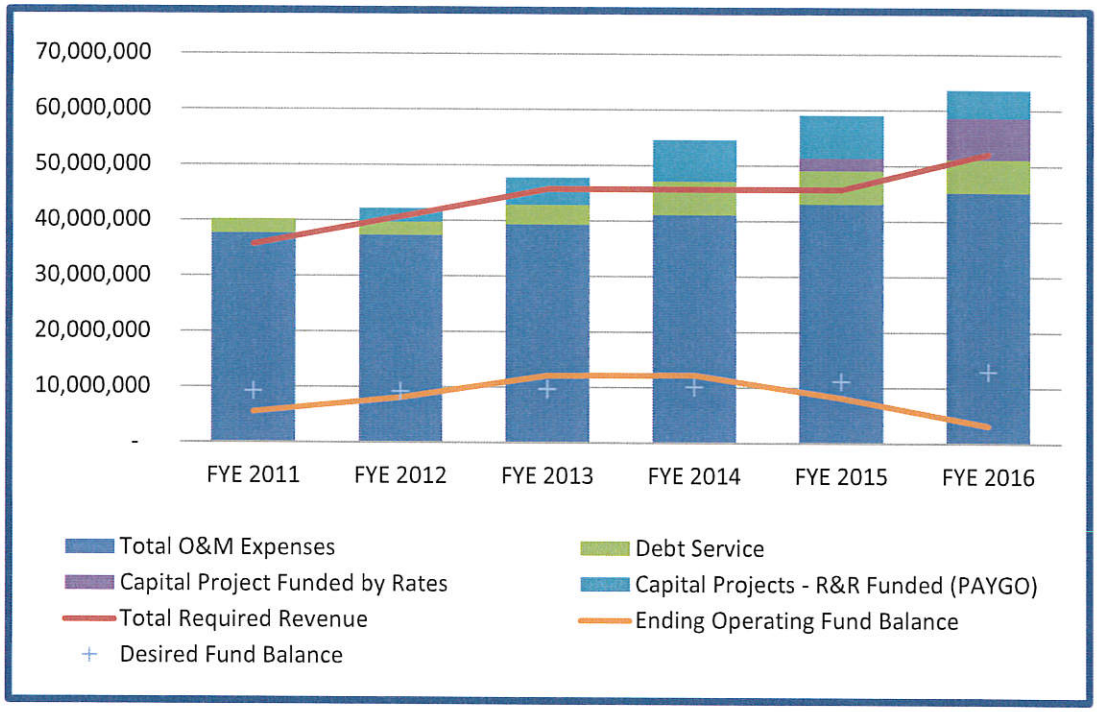
Each alternative derives the same required revenue and will be adaptable to work on the current billing system. Each revenue requirement scenario developed will demonstrate the impact of different assumptions on each of the developed rate structures. Willdan will list the advantages and disadvantages of each alternative, and prepare comparison bills for each scenario. For the recommended alternative, we will project the annual unit rates for each customer class, and the current versus proposed bills for typical customers in each class.

Task 4: Communicating the Results

Willdan believes in proactive stakeholder outreach, feedback and understanding during the entire process, not only at the time the results are proposed. Throughout the course of the study, in addition to the project kick-off, **Willdan will conduct discussions with key staff and the City Council** to walk-through the model, discuss the preliminary findings, and to discuss the draft results and study findings. We anticipate a total of three meetings (one meeting to present initial draft financial results, one additional progress meeting, and one final presentation to City Council) with the City during the course of this project. Additionally, we have increasingly been utilizing the effective communication

tools provided by GoToMeeting® and Join.Me® to better facilitate remote discussion and feedback. This has proven to be far more beneficial than common conference calls and does not count as a formal meeting, which can add unnecessary additional costs to the project. In addition, we have included a per-meeting cost estimate in the event more meetings are needed. In our experience, the number of meetings actually needed often is not known until the project progresses.

The final presentation of the combined findings and reports to City Council will include easy-to-follow graphics (as shown below) and color handouts of the study assumptions, methodologies, findings and conclusions, and will include a discussion period for questions and answers.



Task 5: Prepare and Document Rate Recommendations

Willdan will document the results of the study in a report consistent with the following layout: an executive summary; a methodology; background assumptions; findings; recommendations; and conclusions. The report will provide a detailed summary of the project approach and methodology, data sources, discuss the current rate structure and compliance of proposed rates with City policies, and how they address specific City objectives such as rate equity, revenue stability, conservation and others. We will provide City staff with a digital copy of the preliminary draft report for review and comment, and based on the comments received, prepare a final printed (10 copies) and digital copy of the report. The City will also have full access to Willdan's fully customized, non-proprietary, Excel-based model for its use in the future.

Task 6: Customized Rate Model – Preparation, Training and Delivery

As part of our scope, Willdan will deliver customized versions of its financial planning and rate design models for staff.

Activities:

- Complete customization of the model for the City's needs and circumstances;
- Provide overview of model operation, updating and scenario development;
- Respond to further questions by phone, at the City's option;
- Provide staff training on the operation and use of the model.

Deliverables:

- Financial planning and rate design model, customized for the City; and
- Continuing assistance to be determined by the City.

Task 7: Proposition 218 Procedural Requirements

Based on our 19-year history with Proposition 218 compliance, we will create notices that will explain: 1) the purpose of the rates; 2) how the rates are structured; 3) the time and place of the public hearing; and 4) provide details on what constitutes the existence of a majority protest, as it relates to the implementation of a new/increased utility rate structure. We will work with City staff to develop and distribute an easy-to-understand Proposition 218 notice that will describe the following major components: 1) rate structures; 2) reason for the increases; and 3) date, time, and place of the public hearing.

Should the City request, we can develop the materials, create a parcel database of properties subject to the new proposed rates, and coordinate the printing and mailing of the materials in conjunction with a mailing house that we typically work with on these types of projects. The additional cost for these services is $1.00 per parcel and includes direct costs associated with the mailing.

Willdan recommends that the City assign a key individual as project manager. As our analysis is developed, it is expected that the City's appointed project manager will:

- Coordinate responses to informational requests;
- Coordinate review of work products; and
- Identify appropriate staff members for participation in meetings.

We will ask for responses to initial information, follow-up requests and comments on reports within five business days or otherwise agreed upon timetable. If there are delays, the project manager will follow up with the parties involved to establish an estimated date for the delivery of information and/or feedback. To ensure continued progression, the project manager will reconvene with the rest of the Willdan Team to identify tasks that can be started while waiting for requested data.

Willdan will rely on the validity and accuracy of the City's data and documentation to complete our analysis. Willdan will rely on the data as being accurate without performing an independent verification of accuracy, and that Willdan will not be responsible for any errors that result from inaccurate data provided by the client. City shall reimburse Consultant for any costs Consultant incurs, including without limitation, copying costs, digitizing costs, travel expenses, employee time and attorneys' fees, to respond to the legal process of any governmental agency relating to City or relating to the Project. Reimbursement shall be at Consultant's rates in effect at the time of such response.

EXHIBIT "C-1"

COMPENSATION

(See Attached)

Based on the described scope of services, we propose a ***not-to-exceed fixed price fee of $31,765*** for the completion of the Utility Rate Study. ***This fee includes all direct expenses associated with the project.*** Willdan will invoice the City monthly based on percentage of project completed.

City of Banning
Water and Wastewater Rate Study
Fee Proposal

	C. Fisher Project Manager	K. Burnett Task Manager	T. Thrasher Financial Analyst	J. McGarvey Tech Advisor & QA/QC	Total	
	$210	$145	$130	$195	Hours	Cost
Scope of Services						
Task 1: Project Kick-off Meeting, Data Gathering & Study Prep	2.0	3.0	3.0	-	8.0	$ 1,245
Task 1.A: Data Evaluation & Validation	1.0	6.0	4.0	-	11.0	$ 1,600
Task 2: Water Rate Study						
Task 2.A: Consumption Analysis	-	8.0	4.0	-	12.0	$ 1,680
Task 2.B: Revenue Requirements Analysis	1.0	12.0	8.0	-	21.0	2,990
Task 2.C: Baseline Analysis	-	8.0	6.0	-	14.0	1,940
Task 2.D: Cost Analysis – Scenario Building	1.0	3.0	3.0	-	7.0	1,035
Task 2.E: Cost of Service Analysis	-	6.0	6.0	-	12.0	1,650
Task 2.F: Rate Design Analysis & Update	2.0	8.0	8.0	1.0	19.0	2,815
Task 3: Wastewater Rate Study						
Task 3.A: Determine Discharge Characteristics & Loadings	-	2.0	4.0	-	6.0	$ 810
Task 3.B: Cost Projection Analysis	-	3.0	4.0	-	7.0	955
Task 3.C: Revenue Requirements Analysis	1.0	8.0	8.0	-	17.0	2,410
Task 3.D: Scenario Planning	2.0	3.0	5.0	-	10.0	1,505
Task 3.E: Cost Distribution to Billable Parameters	-	2.0	4.0	-	6.0	810
Task 3.F: Sewer Rate Design Analysis & Update	2.0	6.0	4.0	1.0	13.0	2,005
Task 4: Communicating the Results *(includes presentation meeting)*	3.0	6.0	3.0	-	12.0	1,890
Task 5: Prepare & Document Rate Recommendations	2.0	8.0	12.0	1.0	23.0	3,335
Task 6: Customized Rate Model – Preparation, Training & Delivery	1.0	6.0	2.0	-	9.0	1,340
Task 7: Proposition 218 Procedural Requirements	2.0	2.0	8.0	-	12.0	1,750
Subtotals:	20.0	100.0	96.0	3.0	219.0	31,765
Total Cost						**$ 31,765**

Hourly Rates

Additional services may be authorized by the City of Banning and will be billed at our then-current hourly overhead consulting rates. Our current hourly rates are listed below.

Hourly Rate Schedule	
Position	**Hourly Rate**
Group Manager	$210
Principal Consultant / Managing Principal	$200
Senior Project Manager	$165
Project Manager	$145
Senior Project Analyst	$130
Senior Analyst	$120
Analyst	$100
Assistant Analyst	$75

EXHIBIT "D-1"

SCHEDULE OF PERFORMANCE

(See Attached)

Schedule

Willdan prides itself on being responsive to customer needs. We have developed a general timeline that will begin at the end of December 2016; a specific schedule of events and milestones will be developed in concert with City staff.

Depending upon a number of factors, a rate and financial planning effort of this complexity generally requires 20 to 24 weeks to complete. These factors include: 1) the amount of time required to collect necessary data; 2) ability to schedule meetings in a timely manner with City management and staff; and 3) manner by which policy direction is received for the study from the City's management.

Based on these factors and our current understanding of the solicitation, Willdan has developed the following preliminary project schedule:

City of Banning
Water and Wastewater Rate Study
Project Schedule

	Dec	Jan	Feb	Mar	April	May	June
Task 1: Project Kick-off Meeting, Data Gathering & Study Preparation		⌘1					
Task 1A: Data Evaluation & Validation							
Task 2: Water Rate Study							
Task 2A: Consumption Analysis							
Task 2B: Revenue Requirements Analysis							
Task 2C: Baseline Analysis							
Task 2D: Cost Analysis - Scenario Building							
Task 2E: Cost of Service Analysis							
Task 2F: Rate Design Analysis & Update					⌘2		
Task 3: Wastewater Rate Study							
Task 3A: Determine Discharge Characteristics & Loadings							
Task 3B: Cost Projection Analysis							
Task 3C: Revenue Requirements Analysis							
Task 3D: Scenario Planning							
Task 3E: Cost Distribution to Billable Parameters							
Task 3F: Sewer Rate Design Analysis & Update					⌘3		
Task 4: Communicating the Results							
Task 5: Prepare & Document Rate Recommendations					⌘5		
Task 6: Customized Rate Model – Preparation, Training & Delivery							
Task 7: Proposition 218 Procedural Requirements					⌘6		

Legend:

⌘1: Informational Request
⌘2: Water Rate Study Draft Report
⌘3: Sewer Rate Study Draft Report
⌘4: Impact Fee Draft Memo
⌘5: Final Report
⌘6: Proposition 218 Notice

ATTACHMENT C

Willdan Contract dated October 8, 2013

BANNING, CA
STAGECOACH TOWN USA
ESTABLISHED 1913

City of Banning



Proposal for

Water, Wastewater and Reclaimed Water Rate Study

WILLDAN
Financial Services

27368 Via Industria, Suite 110, Temecula, California 92590-4856
T 951.587.3500 800.755.6864 | F 951.587.3510 888.326.6864
www.willdan.coma

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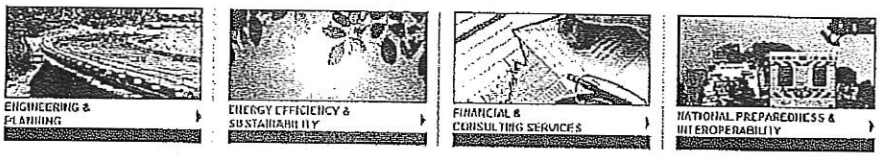
Qualifications of Firm / Project Team

Willdan

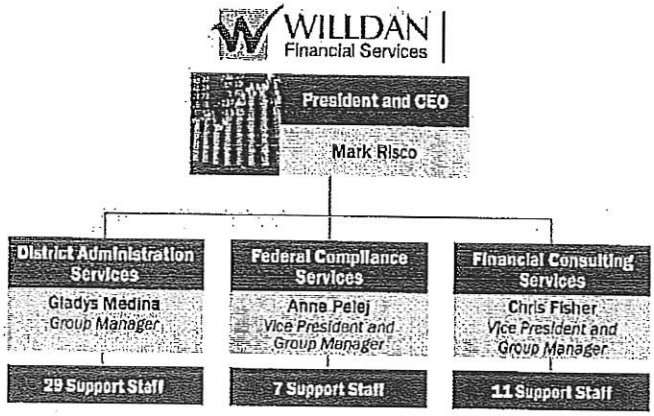
Willdan Financial Services is one of four operating divisions within Willdan Group, Inc. ("WGI"). WGI provides technical and consulting services that ensure the quality, value and security of our nation's infrastructure, systems, facilities, and environment. The firm has been a consistent industry leader in providing all aspects of municipal and infrastructure engineering, public works contracting, public financing, planning, building and safety, construction management, homeland security, and energy efficiency and sustainability services. Today, WGI has hundreds of employees operating from offices located throughout California, as well as in Arizona, District of Columbia, Florida, Illinois, New Jersey, New York, Ohio, and Texas.



Willdan Financial Services is one of the largest public sector financial consulting firms in the United States. The firm was established on June 24, 1988. Since that time, we have helped over 800 public agencies successfully address a broad range of financial challenges, such as financing the costs of growth and generating revenues to fund desired services. Willdan assists local public agencies by providing the following services:

- Real estate economic analysis;
- Economic development plans and strategies;
- Tax increment finance district formation and amendment;
- Housing development and implementation strategies;
- Financial consulting;
- Real estate acquisition;
- Classification/compensation surveys and analysis;
- Development impact fee establishment and analysis;
- Utility rate and cost of service studies;
- Feasibility studies;
- Debt issuance support;
- Long-term financial plans and cash flow modeling;
- Cost allocation studies; and
- Property tax audits.

Our staff of over 50 full-time employees supports our clients by conducting year-round workshops and on-site training to assist them in keeping current with the latest developments in our areas of expertise. The organizational chart below outlines Willdan's basic structure.



Utility Rate Experience



Willdan's professional staff has provided professional consulting services, including financial planning; rate and cost-of-service studies; alternative and feasibility analyses; and operational and management studies for water, reclaimed water, sewer, solid waste, and stormwater utility clients across the United States. Additionally, Willdan staff possesses a thorough understanding of the rate-setting methodologies set forth in the American Water Works Association (AWWA) M-1 manual "Principles of Water Rates, Fees and Charges," and the AWWA M34 manual, "Water Rate Structures and Pricing." Willdan is nationally recognized for its expertise with its staff frequently being called upon to speak or instruct on utility financial matters, as subject matter experts, including the AWWA Utility Management conference.

Willdan staff is experienced in a broad range of utility planning services; and we understand the importance of an approach that integrates elements of utility planning, engineering, and finance. The Willdan Team members have considerable experience in utility rate and cost-of-service studies and have performed these services for hundreds of utilities throughout the country. Our team includes staff with public sector experience spanning 30 years, and staff on the forefront of utility rate-making and rate-modeling. Members of our team have been on your side as finance directors, deputy city managers, and auditors and understand the financial, operational and political realities faced by public sector staff and management and we craft solutions which are sensitive to this.

Our expertise spans across the following utility financial planning services:

- Retail and Wholesale Rate Studies;
- Revenue Sufficiency Analyses;
- Utility Management and Policy Assistance;
- Connection Fee / System Development Charge Studies;
- Miscellaneous Fee and Charge Studies;
- Bond Feasibility Reports;
- Renewal and Replacement Sufficiency Analyses;
- Comprehensive Alternatives Analyses;
- Interactive Rate Model Development with Dashboards Showing Key Performance Indicators;
- Capital Project Funding Studies;
- Capital Improvement Plan (CIP) Financial Scenario Planning;
- Rate Ordinance Drafting;
- Billing System Validation/Rate Testing;
- Valuation/Divestiture Studies; and
- Life Cycle Costs Analyses.

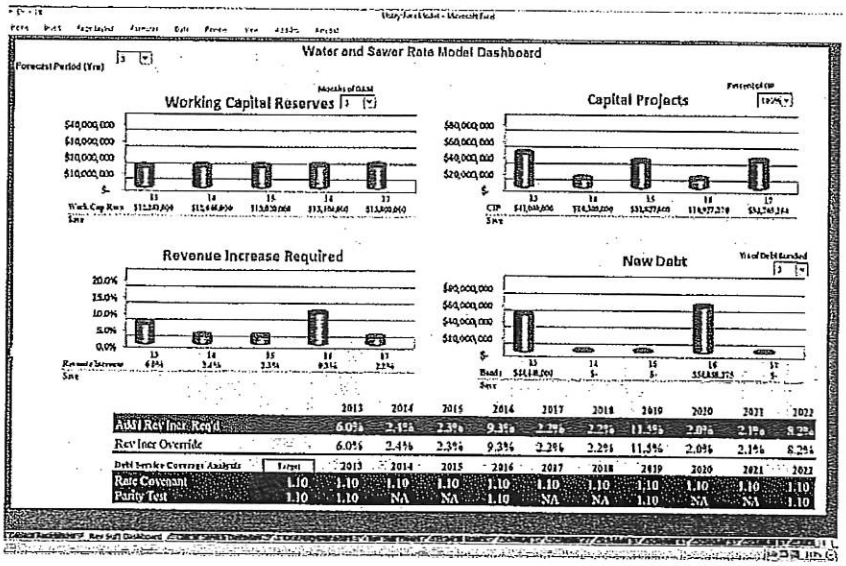
Willdan will work with the City of Banning ("City") to identify and prioritize operational and fiscal objectives and match these to specific rate attributes; and use this information throughout the engagement to develop a comprehensive financial plan and design utility rates that effectively meet these goals. The culmination of our analyses will be rate policies that guide the rate setting process, and a financial management plan that develops projected system operating results for the water, wastewater, and reclaimed water utilities for the forecasted period. Willdan will employ its proven interactive approach, coupled with advanced financial modeling techniques to design rates and a financial plan that meet established goals and performance criteria. These modeling techniques serve as a powerful decision-making tool and provide the City with genuine business solutions and recommendations as to the strategic direction of its utilities.

During rate and financial planning projects we employ tools and techniques which focus on consensus-building among stakeholders to ensure the team understands the future financial implications of current management decisions. Our extensive project expertise is bolstered by our unique interactive financial planning process and model.

Our utility rate Excel-based model is user friendly, comprehensive and well-designed, providing our experienced consultants with a powerful tool to develop ideas, scenarios and approaches collaboratively with staff, and effectively and immediately provide analysis and feedback to facilitate meaningful policy discussions and assist effective and informed decision making. Through a live projected-model, we review the data, assumptions and results with City staff, allowing us to cycle through various alternatives, test "what if" questions which typically arise during our interactive team meetings, and build consensus toward the rate and financial plan which best addresses your needs.

Features of our model include the ability to incorporate line-item data and assumptions which are then summarized in our dashboard, which presents key financial indicators for your utility. This allows us to demonstrate capital project funding (including system repair and replacement requirements). Therefore, the City understands where funds are generated to fund the capital plan – new bond issues for instance.

A sample dashboard is presented in the right-hand column which shows how we summarize the data, assumptions and calculations into an easy-to-understand graphical interface which updates with each alternative scenario evaluated.



Project Team

Our management and supervision of the project team is very simple: staff every position with experienced, capable personnel in sufficient numbers to deliver a superior product to the City, on time and on budget. With that philosophy in mind, we have selected experienced professionals for this engagement. We are confident that our team possesses the depth of experience that will successfully fulfill the desired work performance.

With more than 14 years of professional consulting experience, Mr. **Chris Fisher** will serve as **project manager** and will work closely with the City and to ensure the satisfaction of the City. In this role, Mr. Fisher will attend meetings and presentations, produce the key elements of any analyses developed for the City, and will be responsible for the deliverables.

Mr. **Jonathan Varnes** will serve as **task manager**, working closely with Mr. Fisher to develop the analyses under the City's scope of services and lead the design of the financial model.

Mr. **Tony Thrasher** will serve as **financial analyst,** collecting, interpreting and analyzing the data necessary for the study, and working with the team to develop and tailor the financial model to the City's specific needs and objectives, and incorporate the City's data.

With more than 20 years of comprehensive utility financial and rate experience, Mr. **Jeffrey McGarvey** will serve as **quality assurance/quality control (QA/QC) and policy and technical advisor** and will work closely with Mr. Fisher and the City in developing policy objectives and utility *Best Management Practices* to lead to a strong and healthy financial outlook for the District.

Resumes for the above-noted key personnel are presented on the following pages, which highlight projects of similar nature in which they had hands-on experience, and also include each member's length of time with the firm, title and phone number.

Sub Consultants

For the commitments outlined in the City's Request for Proposal (RFP), Willdan staff will perform tasks described herein, and will not be utilizing the services of any Sub Consultants.

Chris Fisher

Project Manager

Education
Bachelor of Science, Finance, San Francisco State University

Areas of Expertise
Multi-disciplinary Team Management

Rate Studies

Cost of Service Studies

Special District Formations

Proposition 218

Client Presentations

Affiliations
California Society of Municipal Finance Officers

Municipal Management Association of Northern California

California Municipal Treasurers Association

14 Years Experience

Telephone #:
(800) 755-6864, Ext. 1528

Mr. Fisher has been selected to serve as project manager due to his extensive experience managing multi-disciplinary teams. He also possesses extensive knowledge regarding compliance with Proposition 218.

Presently, Mr. Fisher is a Vice President and the Financial Consulting Services Group Manager at Willdan Financial Services. With 14 years experience at Willdan, he has managed an array of financial consulting projects for public agencies throughout California, Arizona and Florida; coordinating the activities of resources within Willdan, as well as those from other firms working on these projects. Mr. Fisher joined Willdan in April 1999.

Related Experience

City of Flagstaff, AZ – Water, Wastewater and Reclaimed Water Rate Study: Mr. Fisher served as principal-in-charge of the City's utility rate analysis. In the wake of six water main breaks, the City was faced with decreasing revenues and increasing capital and operational costs. The proposed rates developed reverse the City's trajectory of a falling operating reserve and provide sufficient revenue to cover existing and future operations, maintenance, and debt service; all while being financially prudent and responsive to the concerns of the City's Water Commission. The proposed residential inclining block rate appropriately spreads the burden of increased costs based on a comprehensive analysis of customer demands.

Elk Grove Water District, CA – Water Rate Services: Mr. Fisher oversaw the preparation of a comprehensive financial plan and water rate study for the District. This engagement included the development of a comprehensive financial model, updated water rates and connection fees, as well as an analysis of multi-family accounts, a comparison of current and proposed rates, including rates of comparable jurisdictions, comparative rate and cost analysis. Mr. Fisher provided technical assistance throughout this project and partipated in stakeholder meetings. Willdan is currently wrapping up this five-year water rate analysis.

City of Delano, CA – Water, Sanitary Sewer, Solid Waste and Street Cleaning Utility Rate Study: Mr. Fisher provided led this multi-faceted study. Recently developed financial studies did not match current economic realities, and as such the utilities were not generating sufficient cash flows. Given the volatile economy, the City hired Willdan to lead the development of a comprehensive utility financial plan and appropriate water, wastewater and solid waste rates to meet the determined level of required revenue. Willdan modeled and analyzed numerous financial and rate scenarios through the course of the project.

City of Covina, CA – Tiered Water Rate Study: Mr. Fisher served in the role of principal-in-charge of the City's tiered water rate study. In this capacity his responsibilities included the scheduling of key meetings and deliverables, review of progress throughout the development of the project, and quality control. The City's existing rate structure, which was updated in 2007 by Willdan, demonstrated that current utility rate revenues were not sufficient to fund the current operating and maintenance costs and necessary capital improvements. The updated rate analysis incorporated additional customer classes with unique discharge characteristics, which distributed the full cost of the utility services to the City's customer base in proportion to the service demands they place on the utility systems.

City of Glendale Water and Power, CA – Water Rate Redesign: Given the nature of the rate redesign's significant departure from the existing methodology, Mr. Fisher assisted in the development and facilitation of public outreach and stakeholder discussions, oversaw the development of the model and analysis, guided policy-making discussions and oversaw quality review. Mr. Fisher was heavily involved throughout the process in the overall management and project direction and he confirmed that questions were addressed early on in the process rather that in the final stages; additionally, he ensured that consideration was given to how decisions would be presented to and received by stakeholders.

Jonathan Varnes

Task Manager

Education
Bachelor of Science, Finance, University of Florida

Areas of Expertise
Alternatives Analysis

Rate Studies

Cost of Service Studies

Revenue Bonds

Feasibility Analyses

Capital Funding

Affiliations
American Water Works Association

12 Years Experience

Mr. Varnes has served as a municipal utility rate consultant for over a decade; during which he has conducted over 150 retail and wholesale rate studies across the country. Furthermore, he is one of the foremost utility rate modeling experts in the rate consulting industry.

Mr. Varnes experience extends across a variety of utility rate and financial studies, including the following: retail and wholesale rate and cost of service studies; connection fee / impact fee studies; miscellaneous fee and charge studies; bond feasibility reports; interactive rate model development; CIP financial scenario planning; rate ordinance drafting; billing system validation / rate testing; and valuation / divestiture studies.

Rate and Cost of Service Studies

Mr. Varnes possesses nationwide experience with utility rate and cost of service studies for retail and wholesale use. His project experience includes water, sewer, reuse, and stormwater rate studies using state-of-the-art utility financial planning tools. He has developed both short and long-term financial plans for utilities of all sizes – including regional water authorities and regional sewer providers with as many as six municipal customers, each with individual wholesale service contracts.

Interactive Rate Model and Report Development

Mr. Varnes, a utility rate modeling expert, develops interactive rate models that contain dashboards showing key performance indicators. He is also proficient in the customization of models to each client's unique financial dynamics. Upon completion of the analysis, Mr. Varnes can conduct model training and provide a user's manual, which allows clients to perform in-house updates on an annual, or as needed, basis. Occasionally, he is called upon to redesign models developed by past consultants on his client's behalf.

In addition to the development and utilization of comprehensive forecasting tools, Mr. Varnes develops comprehensive reports which communicate the overall rate study results to both the layperson and subject-matter experts. This is done with the use of graphics and tables designed to summarize the results in a manner which is easily understood by the reader – regardless of their level of expertise. Also, for utility staff, the reports generated by Mr. Varnes include detailed, line-item data and calculations so that those who wish to better understand the results may "drill down" into the detailed calculations to research the data, results and conclusions more thoroughly.

Bond Feasibility Reports

Mr. Varnes possesses experience in preparing bond feasibility reports, which include comprehensive utility rate sufficiency analyses. He also provides presentation and rating agency support to clients during the approval process. Mr. Varnes has developed comprehensive bond feasibility reports for over a decade and most importantly, in light of the increased scrutiny placed on utilities by rating agencies in the current economic climate, he has developed bond feasibility reports resulting in the successful issuance of over $100 million of bonds for his clients in the last few years – widely recognized as one of the most difficult markets in which to issue bonds at favorable rates in recent memory.

Project Experience

The following is a list of Mr. Varnes' recent utility rate clients and projects.

- **City of Soledad, CA – Water Rate Study**
- **City of Crescent City, CA – Water and Wastewater Rate and Capacity Fee Analysis**
- **Nevada Irrigation Water District, CA – Water Rate and Cost of Services Studies**

Tony Thrasher

Financial Analyst

Education
Bachelors of Science in Economics (Primary Focus was Econometrics); California Polytechnic University of Pomona

Areas of Expertise
Utility Rate Studies

OMB A-87-compliant Cost Allocation Plans

Fiscal Analyses for User Fees and Rates

Proposition 218 Utility Rate Compliance

2 Years Experience

Telephone #:
(800) 755-6864, Ext. 1530

Mr. Thrasher has been selected to serve as financial **analyst** due to his water and wastewater rate analysis experience. Mr. Thrasher is an analyst within Willdan's Financial Consulting Services group. His responsibilities include supporting project managers and conducting fiscal analyses for numerous types of public finance studies.

Prior to joining Willdan in February 2012, Mr. Thrasher was as a financial analyst working in bond, equity, and mortgage-backed security markets for Wells Fargo Bank, Bank of New York Mellon, and Deutsche Bank. His experience includes portfolio accounting, differential analysis, and forecasting.

Related Experience

City of Lompoc, CA – Water and Wastewater Rate Study Update: Willdan was contracted to provide a comprehensive review and financial plan update for the City's water and wastewater rates. The project approach includes a thorough review of the CIP, each utility's operating budget, and other important policy and financial documents. The City is seeking to fund an increasing CIP and increasing operations and maintenance expenses; and the financial plan must ensure appropriate revenues are generated in light of the adoption of Senate Bill No. 7 (20 x 2020), coupled with decreasing consumption levels. Costs associated with water production and delivery has been analyzed and an appropriate fixed charge component of the rate structure has been suggested as well. Willdan is also considering the feasibility of creating an agriculture rate.

Phelan Piñon Hills Community Services District (CSD), CA – Water Rate and Fee Study: Willdan developed a comprehensive revenue requirement analysis and financial plan to provide targeted rate and fee structure recommendations that would be based on the CSD's objectives and aggressive timeline. As the CSD was undertaking a study of this type for the first time since becoming an independent local agency, Willdan's primary project objective was to develop a robust and custom-designed financial rate model that would clearly reveal results of the CSD's various particular scenarios.

Willdan collected and analyzed data related to water operations, planned capital improvement projects, existing debt obligations, the acquisition of water rights, and ongoing maintenance and repair operations. Willdan collaborated with staff to prepare and tailor a comprehensive pro forma financial analysis that focused on primary rate and financial objectives. Our analysis resulted in rate structures that provided adequate revenue to fund operations; and create a secure and reliable funding source for future capital improvements, while fully ensuring that rates are equitable and predictable, and reflect the true cost-of-service.

City of Pinole, CA – Wastewater Rate Analysis: The City retained Willdan to prepare a wastewater rate analysis that included a new wastewater rate schedule meeting current and near-term projected system revenue requirements. Mr. Thrasher provided analytical support for this engagement, gathered and verified necessary data, and assisted in the development of the model and the completion of the report.

City of Soledad, CA – Water Rate Study: Mr. Thrasher is serving in the role of lead financial analyst for the City's engagement. The City's water rates and connection fees had not been updated since 1996. The water utility is losing money with existing rates, and they need to invest significantly in capital repair and replacement projects, as well as system upgrades. Mr. Thrasher has worked with City staff through the process of gathering and verifying data, including an on-site meeting to go through the budget in detail. He also developed the model, including the basic revenue requirements, cost causation and basic scenarios. The project is still in process and Mr. Thrasher is working with the City to develop scenarios for presentation to the City Council.

Jeffrey McGarvey

Quality Assurance / Technical Advisor

Education
Bachelor of Science, Finance, University of Central Florida

Areas of Expertise
Alternatives Analysis

Strategic Planning

Rate Studies

Cost of Service Studies

Revenue Bonds

Feasibility Analyses

Capital Funding

Acquisitions

Valuation Analyses

Affiliations
American Water Works Association

The Water Environment Federation

The Utility Management Conference

The WateReuse Foundation

20 Years Experience

Telephone #:
(800) 755-6864, Ext. 1155

Mr. McGarvey is a **managing principal** in Willdan's Financial Consulting Services group and, for more than 20 years, has provided professional consulting services to municipal water, wastewater, solid waste, electric, and natural gas utilities throughout the country. He possesses a broad range of municipal utility systems' experience, including special expertise in complex alternatives analyses; utility rate analyses; utility valuations and acquisitions; regionalization and consolidation studies; debt issuance support, such as the preparation of financial feasibility analyses associated with revenue bond issuance; capital financing analyses; strategic planning; rate and regulatory assistance; and instituting financial mechanisms to provide the sufficient recovery of operating and capital costs. **Mr. McGarvey joined the firm in May 2012.**

Rate and Cost of Service Studies

Mr. McGarvey has extensive experience in utility rates and cost of service studies for water, wastewater, solid waste, electric and natural gas systems. This experience generally relates to performing budget analyses, customer and usage analyses, development of revenue requirements, cost of service allocations and sensitivity analyses related to the implementation of rate structures designed to promote desired usage characteristics.

Revenue Bonds, Feasibility Analyses and Capital Funding

Mr. McGarvey has been involved in the preparation of capital financing plans and feasibility studies associated with the issuance of several hundred million dollars in municipal revenue bonds and bond anticipation notes (BANs). The funding proceeds have been utilized for such purposes as utility acquisitions, expansion of facilities and various other capital improvement needs. In addition, Mr. McGarvey has developed capital funding strategies utilizing various combinations of bonds, bank loans, government assistance loans (i.e. State Revolving Funds) and grants.

As financial feasibility consultant, Mr. McGarvey has made numerous presentations on behalf of clients to various bond insurers and rating agencies (Moody's, Standard & Poor's, and Fitch).

Business and Strategic Planning

Mr. McGarvey has experience in developing complex financial and economic evaluation models for water, wastewater, solid waste, electric and natural gas systems throughout the country. Such experience generally relates to the development of business and strategic plans as well as performing structured alternatives analyses and sensitivity analyses related to the evaluation and implementation of system modifications such as service and operational changes, as well as planning for customer growth and capital expenditures.

Acquisitions and Valuation Analyses

Mr. McGarvey has been involved in numerous acquisitions and valuation analyses for utility systems. Acquisition projects generally involve financial due diligence, valuations, negotiations and financing activities associated with such transactions. Mr. McGarvey has performed valuation analyses utilizing various generally accepted methodologies including cost approach (value of the cash flows generated by the system), original cost less depreciation (book value), comparable sales (actual transactions for other systems), replacement cost new less depreciation and reproduction cost new less depreciation (value of system assets.)

References

Willdan has prepared utility rate and fee analyses for a variety of municipalities and special districts throughout the United States. The chart that follows provides an overview of the Willdan's utility rate analysis experience that is similar to the services requested by the City.

State	Entity	Water/Wastewater Utility		Long-term Financial Planning
		Rate Study	Connection Fee	
AZ	Town of Buckeye		✓	✓
AZ	City of Clarksdale		✓	
AZ	City of Flagstaff	✓	✓	✓
AZ	Town of Florence	✓	✓	
CA	City of Arvin	✓	✓	
CA	City of Avenal	✓		✓
CA	Beaumont Cherry Valley Water District	✓	✓	✓
CA	City of Calexico	✓	✓	
CA	City of Coachella	✓		
CA	City of Covina	✓	✓	✓
CA	City of Crescent City	✓	✓	
CA	City of Delano	✓	✓	✓
CA	East Valley Water District	✓	✓	
CA	City of El Monte	✓	✓	
CA	Elk Grove Water District	✓	✓	✓
CA	Elsinore Water District	✓		✓
CA	Encina Wastewater Authority			✓
CA	City of Fort Bragg	✓		
CA	City of Fountain Valley	✓		
CA	City of Gilroy		✓	
CA	City of Glendale	✓		✓
CA	City of Gustine		✓	
CA	Joshua Basin Water District			✓
CA	Leucadia Wastewater District			✓
CA	City of Lomita	✓		✓
CA	City of Lompoc	✓		✓
CA	McKinleyville Community Services District	✓	✓	✓
CA	City of Merced	✓	✓	
CA	Mesa Consolidated Water District		✓	
CA	City of Modesto	✓		✓
CA	City of Morro Bay		✓	
CA	Phelan Piñon Hills Community Services District	✓	✓	✓
CA	City of Pinole	✓	✓	✓
CA	City of Rio Vista	✓	✓	
CA	City of Sacramento		✓	
CA	San Diego County Water Authority			✓
CA	City of San Fernando	✓		✓
CA	Santa Margarita Water District	✓		
CA	City of Seal Beach	✓		✓
CA	City of Soledad	✓	✓	✓
CA	City of South Pasadena	✓		
CA	City of Stockton		✓	
CA	City of Tulare	✓		✓
CA	City of Westminster	✓		✓

State	Entity	Water/Wastewater Utility		Long-term Financial Planning
		Rate Study	Connection Fee	
DE	County of New Castle	✓	✓	✓
FL	County of Alachua			✓
FL	City of Atlantic Beach		✓	
FL	County of Bay	✓		✓
FL	City of Callaway	✓	✓	✓
FL	City of Carrabelle	✓		
FL	County of Citrus			✓
FL	City of Clearwater			✓
FL	City of Dade City	✓	✓	✓
FL	City of Dania Beach	✓	✓	✓
FL	County of DeSoto	✓		✓
FL	Emerald Coast Utilities Authority	✓		✓
FL	City of Hialeah			✓
FL	City of Hollywood	✓		
FL	City of Leesburg			✓
FL	Peace River Manasota Regional Water Supply Authority			✓
FL	County of Polk			✓
FL	City of Riviera Beach	✓		
FL	County of Sarasota			✓
FL	Toho Water Authority	✓		
IL	City of Jerseyville			✓
KS	City of Wichita			✓
MO	City of Branson	✓	✓	✓
MO	City of Excelsior Springs	✓	✓	✓
MO	City of Lee's Summit	✓	✓	✓
MO	Little Blue Valley Sewer District			✓
MO	City of Republic	✓	✓	✓
NC	City of Greensboro			✓
NC	City of High Point			✓
NC	Orange Water and Sewer Authority			✓
NC	City of Raleigh			✓
NC	County of Wake			✓
NC	City of Winston-Salem			✓
OH	Greene County Board of Commissioners			✓
OR	City of Brookings	✓		✓
VA	County of Arlington			✓
VA	County of Henrico	✓		
VA	County of Isle of Wight	✓		
VA	City of Norfolk	✓		✓
VA	County of Northumberland			✓
VA	City of Richmond			✓
VA	WateReuse Research Foundation	✓		✓
WA	City of Woodland	✓		✓

Representative project descriptions, including client contact information, are identified within this section. Each reference is similar in scope, size, and complexity to the services requested by the City, and was completed within the last five years. We are proud of our reputation for customer service and encourage you to contact our past clients in regard to our commitment to completing these assignments within the agreed upon project budget and timelines.

Water, Sewer, and Reclaimed Water Rate Study | City of Flagstaff, AZ

By using a cost-based approach on behalf of the City of Flagstaff, Willdan successfully completed the design of comprehensive financial and rate models for water, wastewater, and reclaimed water. As the prior consultant's model was not well-suited to account for changes in growth projections and absorption, particular attention was placed on growth assumptions. Furthermore, Willdan was responsible for developing recommendations, by customer class, for equitable and sustainable cost recovery. In the wake of six water main breaks, the City was faced with decreasing revenues and increasing capital and operational costs. The proposed rates developed by Willdan reversed the City's falling operating reserve trajectory; and provided sufficient revenue to cover existing and future operations, maintenance, and debt service — all while being financially prudent and responsive to the Water Commission's concerns. Based on a comprehensive analysis of customer demands, the proposed residential inclining block rate appropriately spread the burden of increased costs.

In addition to the rate analysis, Willdan also developed new capacity charges for the City. Although the City is currently approaching build out, a major expansion is possible with sufficient funding and growth. To accommodate this wide range of development scenarios, and given certain assumptions (funding and growth alternatives), Willdan created numerous capacity fee options to allow the Water Commission and Council to determine the most comfortable scenario, along with resulting facility funding.

Client Contact: Ryan Roberts, Engineering Manager
211 West Aspen, Flagstaff, AZ 86001
Tel #: (928) 779-7685, ext. 7248; Email: rroberts@flagstaffaz.gov

Project Team: Chris Fisher, Principal-in-Charge

Wastewater Rate Analysis | City of Pinole, CA

The City retained Willdan to prepare a wastewater rate analysis that included a new wastewater rate schedule meeting current and near-term projected system revenue requirements. Willdan reviewed various utility system planning documents and effectively integrated the data/information found in these studies into a comprehensive sewer rate and financial analysis. The analysis included:

- Determination of the total annual sewer system revenue requirements for a 10-year period, including the 5 year period for which rates are to be effective, including existing and projected capital financing;
- Allocation of the total annual revenue requirements to the basic sewer cost components;
- Distribution of the component costs to the various customer classes, in accordance with their requirements for service;
- The design of sewer rates that will recover from each class of customer, within practical limits, the cost to serve that class of customer; and
- The incorporation of the proposed new sewer rates into a 10-year financial and business plan.

Client Contact: Hector De La Rosa, Assistant City Manager
2131 Pear Street, Pinole, CA 94564
Tel #: (510) 741-3864; Email: hdelarosa@ci.pinole.ca.us

Project Team: Chris Fisher, Principal-in-Charge; Jeff McGarvey, Policy and Technical Lead; Tony Thrasher, Analyst

Water and Wastewater Rate and Capacity Fee Analysis | City of Crescent City, CA

Willdan completed a water and wastewater rate and capacity fee analysis for the City of Crescent City in 2010. In 2013 we were engaged to complete an updated and expanded financial plan, again for water and wastewater. Due to age conditions and state environmental requirements, the City's sewer plant was subject to extensive repair and upgrade. The utility rates and fees calculated by Willdan will provide sufficient revenue to cover the repayment of a State Revolving Fund loan secured by the City to finance the costs of construction, ensure adequate funding for repair and periodic maintenance of the new and existing facilities, and for ongoing operations and routine maintenance. We are also assisting the City in evaluating the feasibility of implementing various reserve policies.

The water and wastewater rates will be cost-of-service based and Proposition 218 compliant.

Client Contact: Eric Wier, Assistant City Manager
377 J Street, Crescent City, CA 95531
Tel #: (707) 464-9506; Email: ewier@crescentycity.org

Project Team: Chris Fisher, Project Manager; Jonathan Varnes, Task Leader; Jeff McGarvey, Technical Advisor

Water, Sanitary Sewer, Solid Waste and Street Cleaning Utility Rate Study | City of Delano, CA

The City of Delano retained Willdan in August of 2011 to update their water, wastewater, solid waste and street sweeping utility rates. This project involved the development of a comprehensive financial model which included revenue requirements, capital facilities and debt planning, and cost of service analysis. As the City continues to grow it is critical for them to maintain a proper equilibrium of supply and demand. The City is currently facing two monumental forces that are impacting this balance. Beyond the current state of the economy and the impact to demand and corresponding political pressure to keep utility rates to a minimum, the City is in the midst of following new EPA requirements that removed nine of the City's 11 water wells. Thus, the City is facing decreased consumption and increased financial strain on its utilities. Furthermore, half of the City's water customers are not currently on meters. Willdan is assisting the City in managing the intricacy of their financial plan and rate design to ensure short and long-run financial health and stability.

Client Contact: Roman Dowling, PE, Public Works Director
1015 11th Ave, Delano, CA 93215
Tel #: (661) 720-2219; Email: rdowling@cityofdelano.org

Project Team: Chris Fisher, Project Manager; Tony Thrasher, Analyst

Water Utilities Department Comprehensive Rate and Tap Fee Study | City of Lee's Summit, MO

Willdan is currently working with the WUD to develop a comprehensive water and sewer rate study and tap fee analysis. The effort was the result of a strategic planning exercise described above, whereby the City identified the need to address utility system rate structures and levels, and develop rate/financial policies serving as a framework for the cultivation of these new rates. In addition to water and sewer utility user rates, the effort includes reviewing utility system tap fees, and revising them to reflect WUD's updated master plan. The results of this engagement will be a complete multi-year financial plan allowing WUD to meet the goals and objectives established during the strategic planning process, as well as effectively communicate recommendations and actions to stakeholder groups.

Client Contact: Mark Schaufler, Director of Water Utilities
220 SE Green, Lee's Summit, MO 64063
Tel #: (816) 969-1900; Email: mark.schaufler@cityofls.net

Project Team: Jeff McGarvey, Lead Consultant / Project Manager

Strategy and Implementation Plan

Executive Summary

The City of Banning, incorporated in 1913, has a population of 29,603 and covers approximately 23.2 square miles in the San Gorgonio Pass area of Riverside County. The City currently serves approximately 11,000 water accounts, and is projected to generate approximately $9 million in operating revenues for FY 2012/13, with water produced from a local aquifer, utilizing a combination of City owned wells, and wells owned jointly by the City and the Beaumont Cherry Valley Water District. The bulk of the accounts served are within the City, with some being outside City boundaries. The City also collects, conveys and treats wastewater for a like number of wastewater accounts, and is projected to generate just over $3 million in operating revenue for FY 2012/13. After a few years of negative fund balances, both utilities are projected to maintain positive balances. However, the sewer utility has not met bond covenants in the most recent years, and likely will not without an increase in rates.

The City last updated utility rates in 2010; consequently, the rates that were approved and implemented as a result of that study did not incorporate sufficient allowance for a large number of planed or contemplated capital projects. With an increasing backlog of capital projects, a continuing need to provide a stable and sufficient source of revenue to fund routine repair and replacement, and provide for operations and maintenance, the City wishes to undertake studies of the water and wastewater utilities, with the development and implementation of a comprehensive financial plan and updated rates, and a study of a proposed reclaimed water program, with the implementation of a new schedule of rates for the sale of reclaimed water, including a discussion of connection or impact fees.

In considering the backlog of capital projects, and developing new rates, it will be important to model different approaches to prioritizing and financing these projects, whether through debt or on a Pay-As-You-Go basis (PAYGO) from rate revenue. As part of this discussion we will discuss with the City the inclusion of depreciation as a cash item in the revenue requirements; a means of funding repair and maintenance of existing capital as it ages, and accumulating funds for periodic replacement.

There will be numerous important policy and technical factors to consider throughout the course of the study. In the previous study, the fixed component of rates was lowered. While this does provide for certain policy and political objectives, it has a corresponding negative effect on revenue stability. This component of the overall rate structure will be evaluated, along with the meter service fee, to better align revenue needs for operations and capital, with the rate structures. In addition, the water allotment for the first tier water rate was increased, effectively limiting aggregate water rate revenue by reducing water sales in the higher rate second tier. Various alternatives to tier allotments will be evaluated during this project. Other charges such as standby charges and system charges will also be considered in the overall context of the financial plan and rate structures.

As mentioned in the City's budget documents, the budget policies for the City and Banning Utility Authority (BUA) call for maintenance of 10 percent operating reserves, which have largely been maintained. The model and plan created during this project will facilitate discussion of existing and, perhaps, new reserve policies.

The City also wishes to implement rates for newly created reclaimed water service. During this process it will be critical to consider and model the impact of this new service on the existing water and wastewater utilities. An important point to consider with reuse water rates is the financial impact to the existing water and sewer revenue stream of existing potable water customers, switching from potable water usage to reuse water usage for their irrigation needs. To the extent that reuse rates are lower than potable rates, which is likely given that a utility would want to provide an economic incentive to customers to switch to reuse, a loss of water billings would occur (and in some instances wastewater billings, since the City wishes to look at the feasibility of billing wastewater on water usage). While the utility would recoup some of the loss in billings with reuse revenue it likely would not completely recover the lost revenue as the reuse rates would most likely be lower than the water rates.

Conversely, there can be a cost mitigation impact of relieving pressure on the potable water system and even relieving the pressure of wastewater disposal alternatives. As a reuse system rolls out, it relieves pressure on the potable water system through delayed plant expansion requirements. Also, for utilities with wastewater disposal pressure, a reuse program can offer a means of wastewater disposal which can generate revenue to offset some of the costs. Finally, there is some level of reduced operating costs on the water and sewer system – which will be transferred to the reuse system. In our experience, the lost revenue typically has a greater impact on near-term rates than the mitigation of certain water/sewer costs; however the financial dynamics of each utility are unique and should be evaluated independently. The model that we develop will incorporate the three utilities, and be fully capable of demonstrating collateral impacts.

Approach to the Project

As described herein, and detailed in our work plan, our approach to this study of the water, wastewater and reclaimed water utilities is ***built around a primary objective; working collaboratively with the City to develop a comprehensive financial plan and model for the utilities, using the model to develop and evaluate various rate, financial and capital funding scenarios, to arrive at a final plan and set of recommended rates that have a clear rationale and basis.*** We propose to conduct this process in a way in which staff and stakeholders gain understanding throughout the process of how the plan is developed, and how policy and financial decisions affect the overall plan, and so that we can clearly communicate the process and results to the City Council, rate subcommittee, and the community. This communication part of the process is critical in gaining acceptance and understanding of the broader community.

Willdan's utility finance experts combine national, state, regional experience. Our staff is experienced in a broad range of utility planning services; and we understand the importance of an approach that integrates elements of utility planning, engineering, and finance. Our team members have considerable experience in utility rate and cost-of-service studies and have performed these services for hundreds of utilities throughout the country.

Our rate study analysis will include comprehensive financial management plan alternatives for the next five fiscal years to support the proposed five-year rate plan, and the model can be set up to look forward 30 years, as requested by in the City's RFP. As part of this analysis, Willdan will develop a comprehensive financial analysis — which incorporates revenue requirements such as operating expenses, transfers, reserve requirements, minor capital expenses, cash-funded major capital expenditures and annual debt service expenses – and we will also provide a functional cost breakdown consistent with AWWA and Water Environment Federation (WEF) rate-making standards. The culmination of the revenue requirements analysis, which will include a capital project financing plan, and the cost of service allocations will be alternative rate plans which will provide sufficient revenue to meet the ongoing funding needs of the system while recovering costs from customers in a manner which is fair, equitable and within reasonable customer impact parameters, given the magnitude of revenue required to fund system costs.

As previously stated, we will develop a robust pro forma financial model that will be used to demonstrate the results of various analyses and aid detailed policy discussions and education sessions with City staff and Council. The model will serve as the basis for developing updated rate and fee structures that will provide for long-term financial stability, appropriately reflect levels of service demand attributable to different customer classes, and comply with the requirements of Proposition 218. Willdan will collect and analyze the necessary data related to water, wastewater and reclaimed water operations, planned capital improvement projects, existing and anticipated debt obligations, and ongoing maintenance and repair operations.

During this project we will be utilizing our Microsoft Excel-based model, with its interactive dashboard, as a comprehensive financial tool to allow planning and evaluation of variable inputs and assumptions, thereby achieving the goal of creating a thorough analysis of revenue requirements. These analyses are then seamlessly integrated with the rate development component of the model to demonstrate and project various rate design alternatives, and the effects they would have on the City's financial outlook.

The model is used in meetings, in order to efficiently cycle through rate scenarios and establish the most viable rate plans for the City. During these interactive meetings we invite City staff to participate in scenario planning/"what-if" sessions where we use the dashboard to demonstrate and evaluate the financial/rate impact of alternative data (CIP, operating costs, etc) and assumptions (interest rates, customer growth, cost escalation, etc.) in real-time to focus on the most critical drivers of the analysis. This ensures the resulting rate plan alternatives are viable from a financial, operational, managerial and political perspective, by demonstrating the future financial impacts of current management decisions to the rate study team, so that only viable rate plan alternatives are considered. These viable rate plan alternatives will then be incorporated into a comprehensive water, wastewater and reclaimed water rate study report which will provide the City every assumption, data item, and calculation used in the development of each rate plan alternative.

Two key initial steps are: 1) the development of a baseline scenario to provide a clear picture of the utilities' current financial condition; and 2) a revenue sufficiency analysis to test the current rate structure and confirm billing determinants and revenue generation; an important confirmation that we are beginning with reliable consumption and billing data, and key in developing the proposed new rates. Recommended changes in required revenue, or to the rate structure, can be evaluated independently during the course of these studies. This information will be integrated into our Excel model, to allow the graphical representation of revenue and rate scenarios, as well as of policy decisions effects to City staff and the City Council (if requested) in real-time, where variables can be changed and the impact of those changes viewed instantly. Willdan will arrange and conduct meetings as necessary, to utilize model results to refine and finalize the analysis, as well as rate and fee structure.

Willdan Models GUIDE You to Your Optimal Solutions

Real-Time Financial Modeling

The goal of financial forecasting is to provide clear vision regarding the potential financial outcomes of current management decisions. Our goal is to help you mold the existing knowledge base of the City into a viable financial management and rate plan. At Willdan, the development and use of real-time financial models in an interactive, collaborative process is an integral part of the model development.

Model Development as Part of the Consulting Process

Each model is designed with the following elements:

- Graphical dashboard to clearly show the results of various scenarios to the user;
- Assumptions;
- Data tables; and
- Calculation engine.

Each model is "baselined" after an initial meeting with staff to ensure that we have the correct data and a basic understanding of the financial dynamics of your system. We will then conduct interactive financial planning sessions with City staff. After validating our data, calculation approach, and baseline assumptions, we will explore alternative scenarios, varying a number of assumptions and financial planning techniques:

- Rate increase magnitude and timing;
- Alternative timing of capital projects;
- Alternative financing options (alternative combinations of pay-as-you-go, revenue bond debt and SRF debt, for example);
- Alternative growth/demand forecasts; and other "what-if" analyses, such as the impact of a loss of one or more service areas or customers;
- Effects on the water and wastewater financial operations of implementing a reclaimed water sales programs; and
- Effect of increases in other sources of funds, such as impact fees.

The model is self-solving through the use of controlled feedback loops, and therefore does not require significant manipulation by the user to solve correctly. Given any combination of cost requirements (both operating and capital), non-rate sources of funds, and forecast assumptions, rate increases are generated that:

- Meet specified reserve targets;
- Fully fund capital expenditures using specified financing techniques; and
- Meet legal and contractual requirements that are financially measurable, such as debt service coverage on the City's existing 2005 Water and Wastewater Revenue Bonds.

Alternatively, the user can specify rate increases and then examine the results to determine if the desired/required parameters are met.

Subsequent to careful development and validation of the baseline forecast, a series of alternative forecasts will be prepared, illustrating various results in the following general categories:

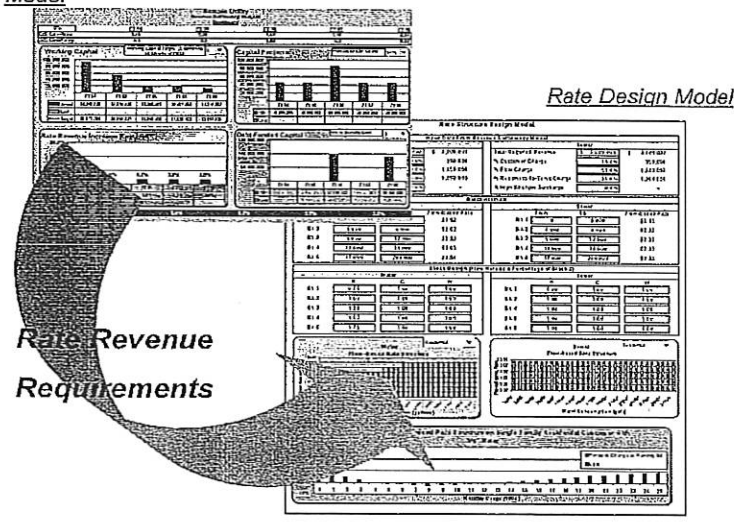
- **What if things turn out differently?** These alternatives will demonstrate the sensitivity of the forecast to the significant assumptions used. This results in a sound understanding of areas where a conservative forecast approach is warranted.
- **What happens when we try this?** This series of alternatives focuses on different financial management approaches. For example, use of different financing techniques such as capitalized interest, interim short-term financing, and capital appreciation bonds may be explored.
- **What can we do to make it better?** This approach to forecasting identifies the factors that may be causing significant rate increases in a given year and explores alternatives. For example, if a large capital project in a single year is the culprit, we would work with staff and the consulting engineers to determine whether this project could be phased or delayed.

Moreover, the rate design model can be used to explore the impact of various rate structures on bills for each customer class over the relevant consumption range.

To summarize, rate model development is a natural part of the Willdan consulting process, and one in which staff and other stakeholders play a collaborative part. Consequently, at the completion of the analysis, the model will be completely customized to emulate the precise financial dynamics of the City, and staff will already have a high level of familiarity with the functionality and use. Interactive workshops will help develop an effective, efficient working relationship among the participating stakeholders that will carry forward into future rate-setting processes.

Financial Planning Model

Rate Design Model



Willdan's GUIDE Suite of Financial Models – Description of Product Features

The key to success is a robust, real-time financial forecasting model, customized to simulate the utility's financial dynamics. Our GUIDE suite of modeling products includes:

Suite of Models:

- Financial planning;
- Cost of service design; and
- Rate design.

The GUIDE suite of models includes financial planning tools for water, wastewater, reclaimed water, and virtually any utility or municipal government fund, and has the ability to analyze any rate structure and determine the levels of revenue generated by each customer class. In addition, the rate design model can use the City's detailed billing data to develop a bill impact analysis on individual customer bills which can be updated for each rate design scenario.

Features:

- Excel-based open architecture that allows easy integration of City financial data;
- Modular design that allows for maximum design flexibility;
- Easy to update - open architecture and modular design equate to easy annual data updates;
- Automated calculation engine that optimizes financial plan based on user-set constraints;
- Navigation features to quickly move around the model;
- Side-by-side scenario analysis comparison; and
- Healthy listing of user defined assumptions that can be customized to meet the City's needs.

Work Plan

Willdan's work plan will culminate in the successful development of the water, wastewater and reclaimed rates and a five-year cost-of-service based financial plan, the education of key stakeholders, and the completion of the Proposition 218 mandated process.

Within this subsection are the general tasks necessary to facilitate the City's engagement for the water, wastewater, and reclaimed water rate studies. The following activities are based on Willdan's current understanding of the services requested by the City and are subject to revision based on further discussions with the City.

Task 1: Project Kick-off Meeting, Data Gathering and Study Preparation

Willdan will conduct a kick-off meeting with City and stakeholder considerations and objectives outlined. We will review and identify the following:

1) Review of existing water and wastewater rate structure and areas where the existing rates have been successful and/or specific areas of concern;

2) Review of existing documents related to the utilities including (but now limited to) the following: the 2010 Urban Water Management Plan, the 1994 Water Master Plan and 2002 update, the 2010 Water and Wastewater Rate Study, the 2009 Sewer System Management Plan, and schedules of existing rates, meter service fees, system charges and customer fees. Each of these items will have information and background that is important to the development of the overall study;

3) Components to incorporate into the updated revenue requirements; such as, capital improvements, debt repayment, reserves, annual repair and replacement;

4) Strategy and level of effort for outreach and education;

5) Review and discussion on broader policy, political and/or community concerns; the objective being to factor, as necessary, into outreach and education strategies;

6) Conduct a detailed review of the data used in the baseline financial forecast; and

7) Review and resolve (or develop a plan for resolving) data issues and questions.

For further efficiency and collaboration, the kick-off meeting will include a financial policy discussion. This will serve to address and document the City's financial policies for the utilities to be studied. Topics of discussion may include:

- Rate design alternatives;
- Rate policy objectives;
- City financial policies;
- Reserve options and target levels (operating, rate stabilization, repair and replacement);
- Conservation objectives;
- CIP financing options;
- Customer characteristics and classifications;
- Cost of service factors; and
- Proposition 218.

In addition, we will request and begin acquiring data necessary to conduct the analyses. We will provide the City with a detailed list of data requirements pertaining to the subsequent financial and consumption analysis. As these studies are data intensive, and in order to remain on schedule, it is imperative that all data be provided in a timely manner and be delivered in an electronic format.

Task 1A: Data Evaluation and Validation

Based on our experience, it is most effective to obtain and review information prior to the first meeting. Typically questions can be resolved via telephone or e-mail. This approach respects your staff's time and ensures that we are completely prepared for a productive first meeting.

Activities

- Prepare and transmit data and information request;
- Follow-up by phone and/or e-mail to resolve questions;
- Document the nature, form and quality of the data and information received; and
- Based on documentary information, initialize Willdan's financial planning model and prepare a baseline scenario.

Deliverables

- Technical memorandum documenting the data and information received, with comments regarding quality and a list of outstanding issues and questions.

Task 2: Water and Reclaimed Water Rate Study

The following section outlines the work tasks exclusive to the water and reclaimed water rate study.

Task 2.A: Consumption Analysis

Willdan will review historical water consumption and billing data and assess water demands. As appropriate, we will review aggregate water demand characteristics, and incorporate necessary factors into our forecasted projections, future water demands, annual consumption trends and seasonal trends. We will also analyze the performance of the existing water rate structure to assess its appropriateness and adequacy in meeting system goals and recovering system revenue requirements. For this task we will (ideally) incorporate three to five years of City consumption and billing data in the model.

Task 2.B: Revenue Requirements Analysis

In developing reliable and accurate revenue and financial projections, it is necessary to project and analyze the impact and sensitivity of multiple and sometimes complicated variables. We will develop the revenue requirements component of the comprehensive financial plan to include operating (water supply, treatment, personnel, etc.) and non-operating (debt, depreciation, etc.) costs incurred by the water utilities.

The plan and model will be built to incorporate both water and reclaimed water, along with wastewater, so that the three utilities can be studied holistically. With reclaimed water being a new City service, this approach allows us to demonstrate its impact on the existing water and wastewater utilities.

In studying reclaimed water, a new undertaking for the City; we will discuss the operations in detail with the City to ensure we construct a comprehensive revenue requirements analysis, accounting for projected operating and maintenance expenses, costs for constructing necessary facilities, along with associated debt. We will assist the City in evaluating how the implementation of the reclaimed water system comports with or is impacted by the conservation and water use efficiency guidelines enacted in SB X7-7 in 2009.

Willdan's fundamental emphasis is providing long-term financial solutions through the development of financial models that account for current revenue requirements as well as future (short and long-term) needs and expenses, and provide insight on the effects of changes to certain parameters (also known as the elasticity).

Since a utilities revenue requirements (financial plan) and rate structure are directly dependent on one another, our goal during the development of the revenue requirements is to clearly identify each variable and describe the result of adjustments to the overall revenue requirements and rates. This will allow City staff and City Council to examine the effect of decisions made at the policy level on the City revenue requirements and rates.

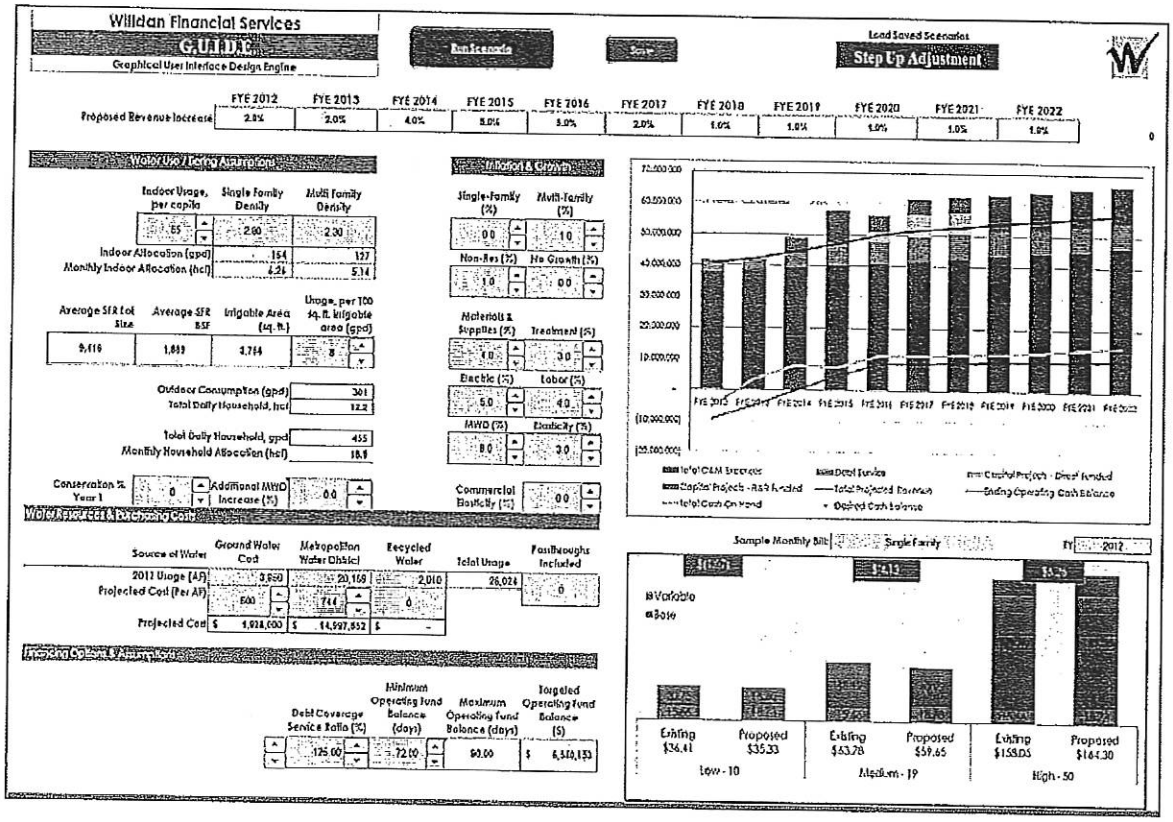
The unrivaled flexibility and customization of our GUIDE dashboard ensures that the City can easily define the financial impact of changes in variables and assumptions.

Willdan has developed GUIDE – an easy to use, graphical scenario and financial planning manager – the dashboard component of our financial model that clearly identifies parameters with toggles and sliders that City staff can adjust to create and test new scenarios, while instantly visualizing and balancing those outcomes with the impact to rates, operating revenues and reserve balances.

Changes to inputs and variables, via the intuitive interface, will directly affect other modules and outputs throughout the model without having to filter through multiple worksheets. The entire model is reflected in one, easy-to-understand page. This innovative approach allows Willdan to analyze the sensitivity dependence of each variable. We recognize that rate setting is an iterative process; therefore, GUIDE enables additional scenario building to reap comprehensive projections. In harmony with the City, Willdan will analyze and test scenarios to ensure stakeholders concerns are reviewed, considered and managed. **Scenarios can be saved and even compared side-by-side to clearly and quickly address questions and facilitate decision making.**

Some of the most common areas for adjustment are identified in Figure 1. Each variable may play a significant challenge to the ability to accurately project revenue. GUIDE is designed to illustrate and signify the impacts of specific City variables instantly, on expenditures, revenues, reserve requirements and rates — all at the slide of a bar.

Figure 1



Task 2.C: Baseline Analysis

Before variables are identified and projected into the revenue requirements and model, a baseline revenue sufficiency and rate analysis is performed. Willdan will utilize a "cash-needs" approach, where cash needs refer to the total revenue required by the utility to meet its cash expenditures.

Basic revenue requirement components of the cash-needs approach include current and future O&M expenses, debt-service payments, including the current outstanding 2005 Revenue Bonds, contributions to specified reserves, whether existing or proposed, and the cost of capital expenditures that are not debt-financed or contributed from other sources. The revenue requirements analysis will be developed based upon the utility's existing financial statements, to test for base year revenue sufficiency. If operating revenues are shown to be deficient, revenue adjustments will be implemented to adequately recover costs.

Another key component of the baseline analysis is a revenue sufficiency analysis where we take the City's existing rate structure, along with billing and customer data, and recalculate the amount of revenue, to ensure agreement with City data. This ensures the integrity of the data for use in the development of the new rate structure, and potentially the reclaimed rates. Furthermore, it may highlight other issues for consideration and discussion.

Task 2.D: Cost Analysis – Scenario Building

Building from the baseline scenario generated in the previous task, we will start generating expenditure scenarios by varying operation, deprecation, capital costs and reserve levels. We will review CIP information to determine: short-term, high-priority needs; annual depreciation of assets, replacement and repair schedules; and assumptions and methodologies used to assess the basis for the CIP projects.

As previously mentioned, we understand that the City has a fairly significant backlog of capital projects, as rate revenue over the past three years has not been sufficient to address all needs. We can model the implementation of various CIP and master plan scenarios by including capital financing in the model, the ability to cycle various scenarios through the model, and clearly show the impacts on the overall plan, and more importantly, rates.

To ensure adequate funding in later years, we will include a 10-year analysis of anticipated capital requirements, with the ability to extend to 30 years, as well as adequate reserve funding. In reviewing the CIPs, it is necessary to know current policy on available funding sources and the type of improvements and costs to fund through rates on a PAYGO or connection fees. As such, these funding options play a role in determining the total amount of revenue required in any given year. These options will be included within GUIDE to allow staff the ability to optimize PAYGO and CIP financing while minimizing shock on water rates.

Task 2.E: Cost of Service Analysis

The principal in establishing adequate rate schedules that are fair and equitable is that rates should reflect the costs of providing service. Our approach recognizes differences in the cost of providing services to different types of customers, areas and levels of service. The cost incurred by the users should be incurred by those whom benefit. Accordingly, cost allocation procedures should recognize the particular service requirements of the customer for not only total volume of water, but pumping/distribution costs and other factors.

This analysis will include gathering cost information associated with water and reclaimed water services and allocation to functions, classification and allocation of costs to each existing customer class. Since demand patterns of various customers differ, depending on their peak-day and peak-hour rates of demand relative to average demands, we will review the number and type of existing customer classes and make recommendations to add or consolidate customer classes, if necessary.

The allocation of water and reclaimed water costs to customer classes will be conducted to estimate the cost of serving each customer class and to enable rate restructuring, as necessary, based on the service requirements. Costs will be allocated in accordance with industry standards.

While varying slightly, both methods recognize that the cost of serving customers depends not only on the total volume of water used or discharged, but also on the rate of use and peaking requirements. Willdan will work with the District to ensure the most appropriate methodologies are pursued.

Task 2.F: Rate Design Analysis and Update

Utilizing the cost-of-service approach, the level of the City's rates is a function of the utility's costs and customer demands.

Willdan will fully modify and provide scenario planning to reflect the impact of different rates and/or revenue adjustments. Willdan will recommend updates to the current rates that are designed to address and uphold key objectives, notably short and long-run financial stability, minimal economic stress for customers, equity and defensibility. Our recommendations will comply with the cost-of-service guidelines of Proposition 218, AWWA, WEF, and existing bond covenants and current legislation.

The methodology utilized to determine how the water utility costs are allocated is expressed in the bullets below. While the methodology may be an "industry standard," our experience and understanding of key variables allow for a comprehensive and well-rounded rate design process:

- ***Existing Rate Compatibility to the City's Objectives:*** Rate structure is the area of the study that tends to generate the most attention and scrutiny. Prior to implementing new rates, Willdan will work collaboratively with staff to verify that key objectives for the City and stakeholders, such as understandability, avoidance of rate shock, public outreach (public buy-in), conservation, revenue stability, etc, have been addressed.
- ***Existing Water Rate Structure:*** When updating rates, there are numerous variables and considerations, ranging from access and quality of data, cost-causation, price elasticity, conservation, and weather conditions. Willdan will work with staff to provide recommended revisions to the City's existing water rate structure to ensure key issues are addressed.
- ***Consistency of New Reclaimed Water Rates and Policies with Water Rates:*** As previously mentioned in the scope and project understanding, we will work with staff to ensure that reclaimed water rates are consistent in structure, application and policy, with water rate structures. The analysis leading to their development will consider mutual impacts, and the rates will fit within the overall approach and work with the City's billing and financial systems.

The rate design task will involve modeling several alternative rate structures using the City's financial data and billing statistics to demonstrate the resulting customer impacts and to identify key issues associated with the new rates and charges.

Basic standards for rate design accepted by the industry are:

- **Revenue sufficiency** – rate revenue should provide sufficient income so that, when combined with other sources of funds, total system costs are covered;
- **Fairness and equity** – based on cost responsibility, as reflected in cost of service allocations, in accordance with industry standards;
- **Resource conservation** – Under conditions of scarcity, the pricing of water as a commodity should promote conservation and discourage unnecessary water use;
- **Administrative simplicity** – so that rates are understandable to customers and efficiently administered by staff;
- **Customer acceptance** – customers understand the rates, view them as fair, and consider them to be reasonable compared to other costs and other utilities; and
- **Public health and welfare** – rates are structured so that essential domestic water consumption is encouraged through affordability.

Task 3: Wastewater Rate Study

The wastewater financial and rate analysis closely mirrors the cost of service and rate setting approach for water and reclaimed water. The following section outlines the scope of work tasks unique to the wastewater rate study.

Task 3.A: Determine Discharge Characteristics and Loadings

Willdan will calculate the average and total sewer discharged by each user class. Additionally, we will determine the number of users by class, annual water use, projected growth, and appropriate discharge factors. Similar to water, flow is not the only factor to consider. Loading factors, based on the strength of the effluent (discharge), will be calculated and incorporated into the rate analysis. Based on the design of the sewer system and facilities, we will make recommendations regarding appropriate classification of customers.

Task 3.B: Cost Projection Analysis

To determine annual required revenue, we will analyze and project the utility Operations Fund and Capital Fund. Furthermore, we will discuss the best way to finance the essential and prioritized projects required to operate the sewer system. Willdan will analyze the City's planned CIP, and any necessary adjustments, based on staff discussions and reviews of the existing planning documents. As such, we will generate "what-if" funding scenarios (financing, phasing and costs) to illustrate the impact of different options on revenues and rates.

Task 3.C: Revenue Requirements Analysis

Similar to the water utility, we will prepare a comprehensive financial forecast for the sewer enterprise with the objective of funding the utility's cash needs. Numerous financial projections of cash-flows will be based on various scenarios that reflect adjustments to O&M, capital expenditures and funding sources, debt covenants, and reserve targets. We will make recommendations on reserve funds and rate of accrual to reach reserve targets.

Willdan will summarize total cash flows for a period of five years. To create a baseline, the project team will confirm the current rate-based revenues based on customer loads by comparing the calculated and actual revenues by customer class under the current rate structure.

Task 3.D: Scenario Planning (GUIDE Walk-through)

As previously mentioned, it is important to identify and avoid rate shock from excessive and compounding simultaneous changes. As such, the rate recommendations will include an evaluation of the effects of the combined utility bills on customers under several variations of inputs. In addition to the financial presentation of data, for each scenario our model also displays a sample customer bill to easily demonstrate the customer bottom line.

Task 3.E: Cost Distribution to Billable Parameters

A system of billable parameters is required to relate the costs of providing sewer service to the City's customers, as prescribed by the WEF rate setting recommendations, which include the following:

- Evaluating the City's cost of service for each customer class and billing parameter
- Determining appropriate sewer billable parameters
- Determining unit costs for each billable parameter

Task 3.F: Sewer Rate Design Analysis and Update

Based on the cost distribution developed in the prior subtask, we will update the current rates based on feedback received from City staff. We will review the rate structure and provide various recommendations for residential, multi-family and commercial rates based upon water use, discharge and strength characteristics, or other bases to achieve equity between customer classes. As identified in the RFP, we will evaluate alternative rate designs in discussion with the City, such as changing the basis of commercial rates from EDU to water consumption.

Each alternative derives the same required revenue and will be adaptable to work on the current billing system. Each revenue requirement scenario developed will demonstrate the impact of different assumptions on each of the developed rate structures. Willdan will list the advantages and disadvantages of each alternative, and prepare comparison bills for each scenario. For the recommended alternative, we will project the annual unit rates for each customer class, and the current versus proposed bills for typical customers in each class.

4. Reclaimed Water Impact Fees

The following outlines the work tasks and specific points of discussion related to the review and discussion of a reclaimed impact fee.

Task 4.A: Discuss Potential Fee Methodology and Policy Issues

Under AB 1600 (Government Code 66000 through 66024), connection fees must be developed based on an established incremental impact that new developments have on available capacity. Willdan will identify policy issues that may be raised as they relate to the proposed program; discuss how to approach the development of a defensible fee that fairly allocates the cost of the reclaimed water system between existing and expected future users; and highlight potential options and advantages/disadvantages and challenges of implementing a reclaimed water impact fee.

Task 4.B: Existing Development and Future Growth

To establish incremental impact that new development has on available capacity, costs of existing and proposed facilities must be segregated by their benefits to new or existing users. This cost to benefit nexus is the fundamental principle of AB 1600. For reclaimed water related capital projects, we will discuss approaches with the City, including techniques for estimating existing and future development and calculating facility standards, to determine if an approach is workable and makes sense.

Task 4.C: Facility Standards

Facility standards provide a critical link in documenting the nexus between growth, the facilities required to accommodate it, and a defensible fee. Facility standards are used to demonstrate a reasonable relationship between new development and the need for new facilities.

We will review and discuss the City's capital improvement plans relative to reclaimed water, and gather input from City staff to identify the facility standards that would be used to plan for new facilities. Typical utility standards for facility planning include average, monthly and peak demand factors, plus treatment and pumping requirements.

Task 4.D: Facilities Needs and Costs

Identifying the type, amount and cost of facilities required to accommodate growth and correct deficiencies, if any, is an important step in the development of an impact/connection fee. A critical component would be distinguishing between the following:

- Facilities needed to serve growth (that can be funded by impact fees); and
- Facilities needed to correct existing deficiencies for the existing service population (that cannot be funded by fees).

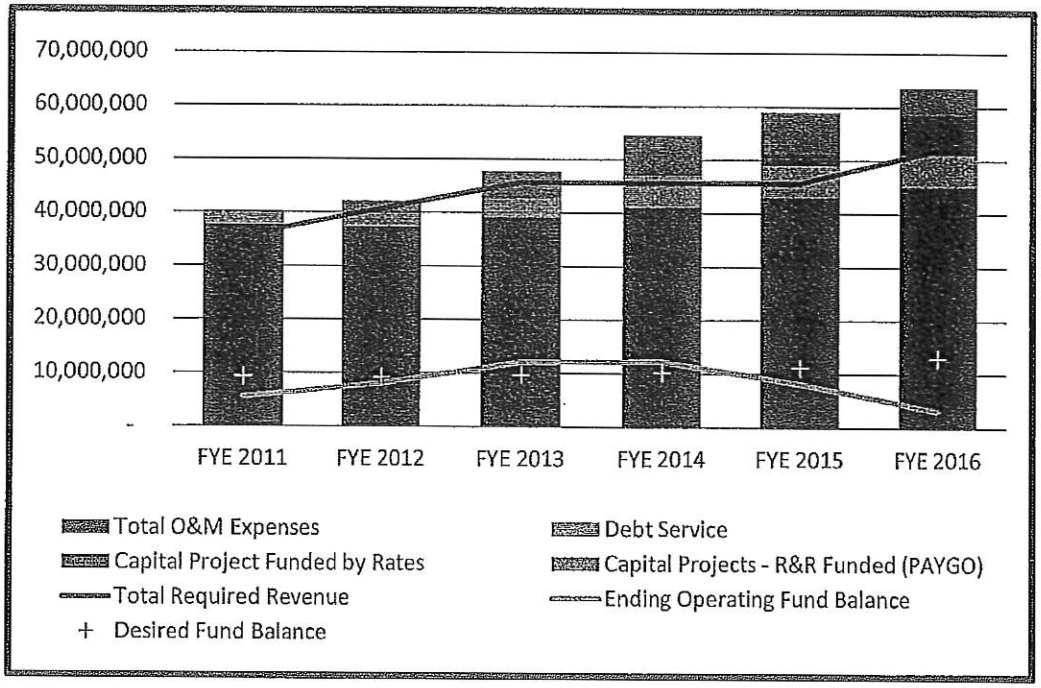
Willdan will provide guidance on how we could assist the City in developing a sound and defensible allocation of planned capital facilities costs between the existing service population and growth.

Task 5: Communicating the Results

Willdan believes in proactive stakeholder outreach, feedback and understanding during the entire process, not only at the time the results are proposed. Throughout the course of the study, in addition to the project kick-off, **Willdan will conduct discussions with key staff and the City Council** to walk-through the model, discuss the preliminary findings, and to discuss the draft results and study findings. We anticipate a total of five meetings (one kick-off meeting, three progress meetings, and one final presentation) with the City during the course of this project. Additionally, we have increasingly been utilizing the effective communication tools provided by GoToMeeting® to better facilitate discussion and feedback. This has proven to be far more beneficial than common conference calls and does not count as a formal meeting, which can add unnecessary additional costs to the project. In addition, we have included a per-meeting cost estimate in the event more meetings are needed. In our experience, the number of meetings actually needed often is not known until the project progresses.

The final presentation of the combined findings and reports to City Council will include easy-to-follow graphics (as shown in Figure 2) and color handouts of the study assumptions, methodologies, findings and conclusions, and will include a discussion period for questions and answers.

Figure 2



Task 6: Development of Utility Benchmark Comparisons

Willdan will provide an evaluation and comparison of the City's utilities against appropriate industry benchmarks. There are a variety of approaches to this type of comparison, and we will discuss with the City which benchmarks make the most sense, and focus on elements of their operations that warrant attention. Several rating agencies, including Fitch, Moody's and others, have published documents that detail the sewer and water benchmarking and best management practices (BMPs) guidelines that they follow when evaluating the credit-worthiness of municipal utilities. We use these to identify meaningful and appropriate benchmarks for measurement and comparison in this type of analysis, and the ability to produce benchmarking statistics is already incorporated in our model.

We will discuss benchmarks and BMPs with City staff to ensure those selected make sense for the City.



Task 7: Prepare and Document Rate Recommendations

Willdan will document the results of the study in a report consistent with the following layout: an executive summary; a methodology; background assumptions; findings; recommendations; and conclusions. The report will provide a detailed summary of the project approach and methodology, data sources, discuss the current rate structure and compliance of proposed rates with City policies, and how they address specific City objectives such as rate equity, revenue stability, conservation and others. We will provide City staff with a digital copy of the preliminary draft report for review and comment, and based on the comments received, prepare a final printed (10 copies) and digital copy of the report. The City will also have full access to Willdan's fully customized, non-proprietary, Excel-based model for its use in the future.

Task 8: Customized Rate Model – Preparation, Training and Delivery

As part of our scope, Willdan will deliver customized versions of its financial planning and rate design models for staff.

Activities:

- Complete customization of the model for the City's needs and circumstances;
- Provide overview of model operation, updating and scenario development;
- Respond to further questions by phone, at the City's option;
- Provide staff training on the operation and use of the model.

Deliverables:

- Financial planning and rate design model, customized for the City; and
- Continuing assistance to be determined by the City.

Task 9: Proposition 218 Procedural Requirements

Based on our 17 year history with Proposition 218 compliance, we will create notices that will explain: 1) the purpose of the rates; 2) how the rates are structured; 3) the time and place of the public hearing; and 4) provide details on what constitutes the existence of a majority protest, as it relates to the implementation of a new/increased utility rate structure. We will work with City staff to develop and distribute an easy-to-understand Proposition 218 notice that will describe the following major components: 1) rate structures; 2) reason for the increases; and 3) date, time, and place of the public hearing.

Should the City request, we can develop the materials, create a parcel database of properties subject to the new proposed rates, and coordinate the printing and mailing of the materials in conjunction with a mailing house that we typically work with on these types of projects. The additional cost for these services is $1.00 per parcel and includes direct costs associated with the mailing.

City Staff Responsibilities

Willdan recommends that the City assign a key individual as project manager. As our analysis is developed, it is expected that the City's appointed project manager will:

- Coordinate responses to informational requests;
- Coordinate review of work products; and
- Identify appropriate staff members for participation in meetings.

We will ask for responses to initial information, follow-up requests and comments on reports within five business days or otherwise agreed upon timetable. If there are delays, the project manager will follow up with the parties involved to establish an estimated date for the delivery of information and/or feedback. To ensure continued progression, the project manger will reconvene with the rest of the Willdan Team to identify tasks that can be started while waiting for requested data.

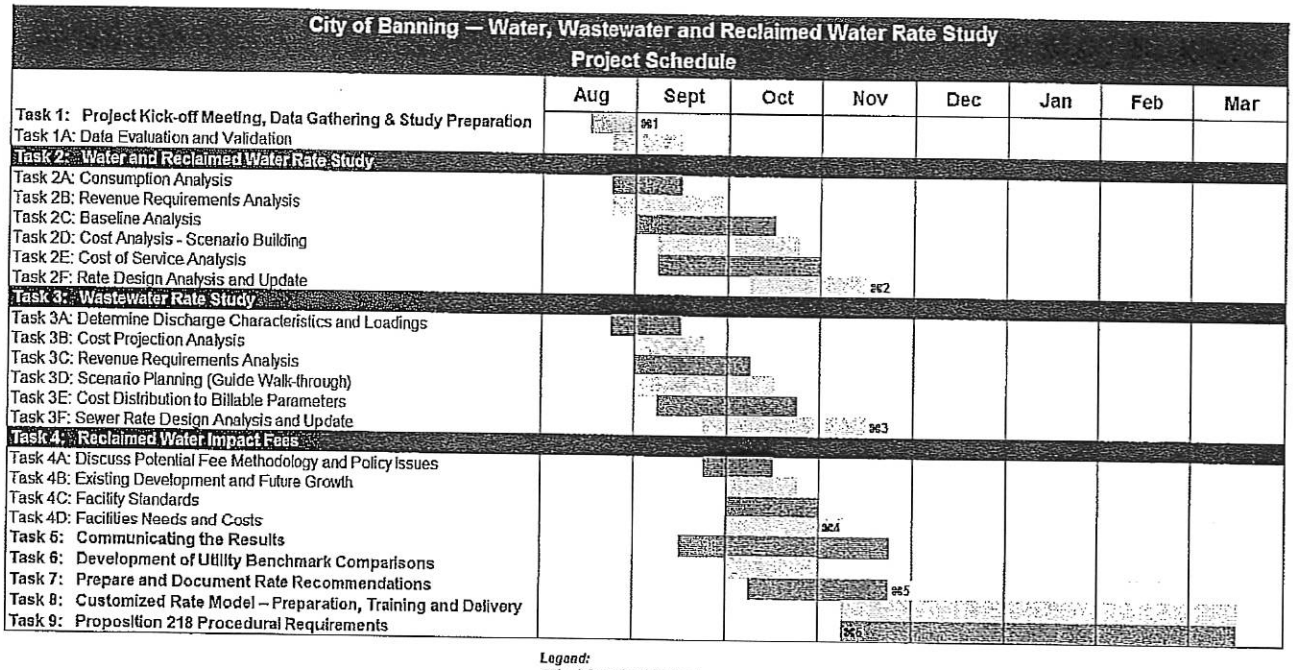
Schedule

Willdan prides itself on being responsive to customer needs. We have developed a general timeline that will begin August 20, 2013; a specific schedule of events and milestones will be developed in concert with City staff.

Depending upon a number of factors, a rate and financial planning effort of this complexity generally requires 16 to 20 weeks to complete. These factors include: 1) the amount of time required to collect necessary data; 2) ability to schedule meetings in a timely manner with City management and staff; and 3) manner by which policy direction is received for the study from the City's management.

Based on these factors and our current understanding of the solicitation, Willdan has developed the following preliminary project schedule:

City of Banning – Water, Wastewater and Reclaimed Water Rate Study
Project Schedule



Legend:

- #1: Informational Request
- #2: Water Rate Study Draft Report
- #3: Sewer Rate Study Draft Report
- #4: Impact Fee Draft Memo
- #5: Final Report
- #6: Proposition 218 Notice

Proposed Quality Assurance Program (QA/QC)

At Willdan, we utilize a project management process that ensures projects are completed on time, within budget and, most importantly, yield results that match our clients' expectations. Our complete project management process has four primary principles common to successful projects:

1. **Define** the project to be completed. Mr. Fisher will identify the project scope, set objectives, list potential constraints, document assumptions, choose a course of action and develop an effective communication plan.

2. **Plan** the project schedule. Mr. Fisher, in collaboration with the project team and City staff, will create an agreed upon timeline to meet the estimated project timeline. He will assign workload functions to appropriately qualified staff to ensure milestones are met, on time. Furthermore, the project team will meet bi-weekly to assess the status of the project and Mr. Fisher will direct existing and upcoming project tasks. These meetings ensure that staffing resources are well-matched to provide the highest quality of work product, high responsiveness to the City, and to keep the project on schedule. These meetings also provide a forum for applying the team's collective expertise to solving difficult analytical issues that arise in complex projects.

3. **Manage** the execution of the project. Mr. Fisher has been selected to fulfill the role of project manager due to his strong project management skills. He will be responsible for controlling the work in progress, providing feedback to the Willdan Team and City staff, and will be accountable to the City for meeting the schedule, budget and technical requirements of the project. Most importantly, Mr. Fisher will ensure constant collaboration and communication between City staff and the Willdan Team through frequent progress memorandums, conference calls and in-person meetings.

4. **Review** work products and deliverables through a structured quality assurance process involving up to three levels of review at the peer level, project manager level, and if necessary executive officer level. We have designed a formal and structured quality assurance system that will be utilized throughout the course of the project.

We have utilized these guiding principles for all of our firm's projects. The City can be assured that through the utilization of these principles, Mr. Fisher will ensure the project deliverables for the Water, Wastewater and Reclaimed Water Rate Study will be of the highest quality and will be delivered on time and within the agreed upon budget.

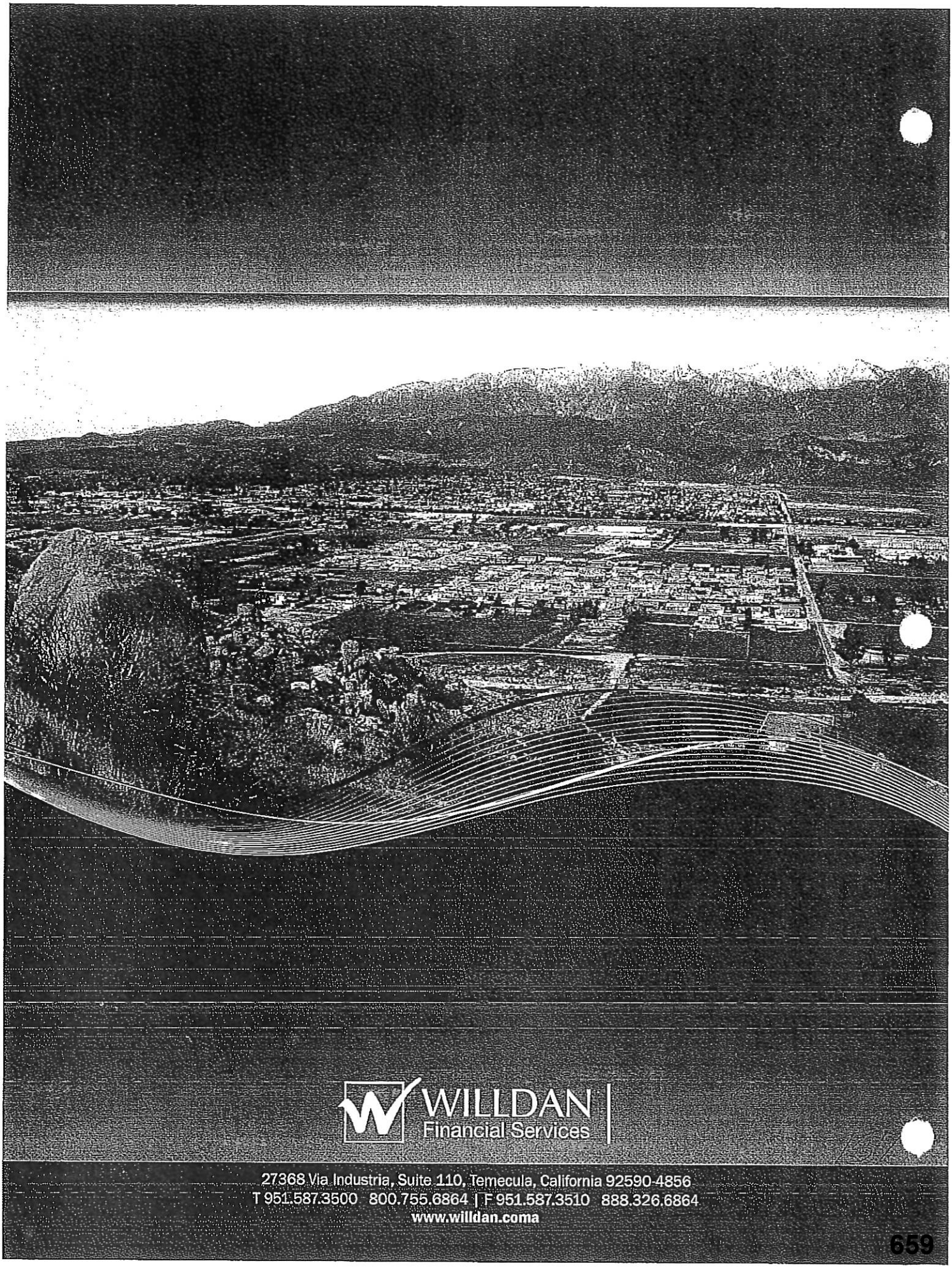

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EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

Section 1.10 – Additional Services – A contingency of 20% has been requested in the event additional meetings are requested and/or additional costs are incurred during the Proposition 218 process.

Section 1.7 Warranty – excluded – not applicable to professional services

Section 1.8 – Prevailing wages – excluded – not applicable to professional services

Section 2.4 – Invoices – Invoices will be submitted monthly based on percentage of project completed.

Section 5.4 – Performance Bond – excluded – not applicable to professional services

Section 5.5 – "Surety" and reference to Section 5.4 – not applicable

Section 7.3 – Retention – not applicable to professional services

Section 7.7 – liquidated damages – not applicable to professional services

EXHIBIT "C"
COMPENSATION

See attached

Fee Schedule

Based on the described work plan, we propose a ***not-to-exceed fixed price fee of $58,963.*** The table below provides a breakdown of this fee by task and project team member.

City of Banning - Water, Wastewater and Reclaimed Water Rate Study

	C. Fisher Project Manager	J. Varnes Task Manager	T. Thrasher Financial Analyst	J. McGarvey Tech Advisor & QA/QC	Total	
	$210	$155	$110	$195	Hours	Cost
Scope of Services						
Task 1: Project Kick-off Meeting, Data Gathering and Study Preparation	5.0	6.0	6.0	5.0	22.0	$ 3,615
Task 1.A: Data Evaluation and Validation	1.0	2.0	4.0	1.0	8.0	$ 1,155
Task 2: Water and Reclaimed Water Rate Study						
Task 2.A: Consumption Analysis	1.0	8.0	16.0	2.0	27.0	$ 3,600
Task 2.B: Revenue Requirements Analysis	1.0	8.0	16.0	2.0	27.0	3,600
Task 2.C: Baseline Analysis	2.0	8.0	16.0	2.0	28.0	3,810
Task 2.D: Cost Analysis - Scenario Building (includes meeting w/ Task 3.D)	3.0	10.0	12.0	3.0	28.0	4,085
Task 2.E: Cost of Service Analysis	1.0	8.0	14.0	0.5	23.5	3,088
Task 2.F: Rate Design Analysis and Update (includes meeting w/ Task 3.F)	3.0	10.0	14.0	3.0	30.0	4,305
Task 3: Wastewater Rate Study						
Task 3.A: Determine Discharge Characteristics and Loadings	1.0	3.0	6.0	2.0	12.0	$ 1,725
Task 3.B: Cost Projection Analysis	1.0	3.0	6.0	1.0	11.0	1,530
Task 3.C: Revenue Requirements Analysis	1.0	4.0	8.0	2.0	15.0	2,100
Task 3.D: Scenario Planning (GUIDE Walk-through) (Includes meeting w/ Task 2.D)	3.0	6.0	8.0	2.0	19.0	2,830
Task 3.E: Cost Distribution to Billable Parameters	1.0	4.0	8.0	1.0	14.0	1,905
Task 3.F: Sewer Rate Design Analysis and Update (includes meeting w/ Task 2.F)	3.0	6.0	8.0	3.0	20.0	3,025
Task 4: Reclaimed Water Impact Fees						
Task 4.A: Discuss Potential Fee Methodology and Policy Issues	1.0	2.0	1.0	1.0	5.0	$ 825
Task 4.B: Existing Development and Future Growth	1.0	2.0	-	1.0	4.0	715
Task 4.C: Facility Standards	1.0	2.0	-	1.0	4.0	715
Task 4.D: Facilities Needs and Costs	1.0	2.0	3.0	1.0	7.0	1,045
Task 5: Communicating the Results (includes presentation meeting)	4.0	8.0	8.0	5.0	25.0	3,935
Task 6: Development of Utility Benchmark Comparisons	1.0	6.0	2.0	4.0	13.0	2,140
Task 7: Prepare and Document Rate Recommendations	2.0	8.0	16.0	1.0	27.0	3,615
Task 8: Customized Rate Model – Preparation, Training and Delivery	4.0	8.0	2.0	1.0	15.0	2,495
Task 9: Proposition 218 Procedural Requirements	4.0	2.0	16.0	1.0	23.0	3,105
Subtotals:	46.0	126.0	190.0	45.5	407.5	58,963
Total Cost						**$ 58,963**

Notes:

- Our fee includes all direct expenses associated with the project.
- Additional meetings may be requested at a fixed fee of $1,950 per meeting.
- We will invoice the City monthly based on percentage of project completed.

Hourly Rates

Additional services may be authorized by the City and will be billed at our then-current hourly overhead consulting rates. Our current hourly rates are listed below.

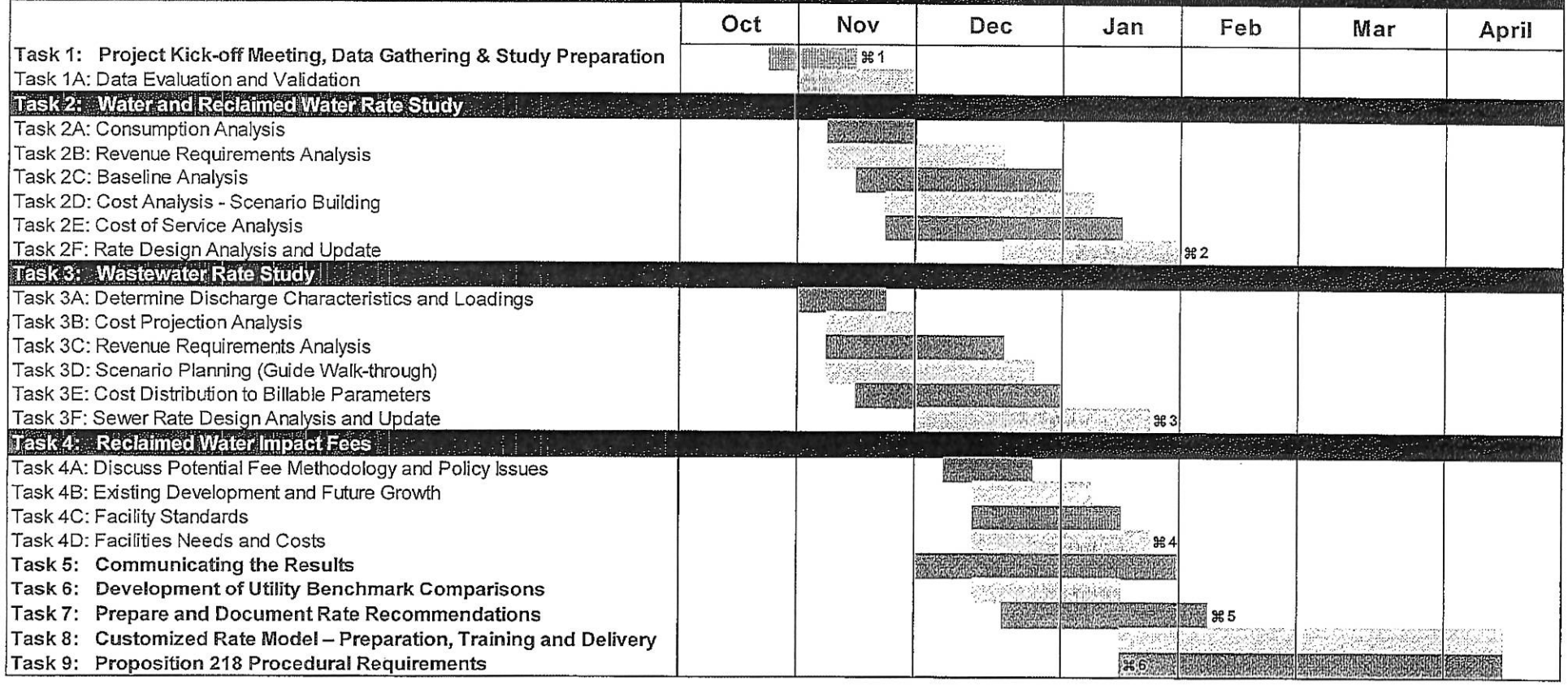
Hourly Rate Schedule	
Position	Hourly Rate
Group Manager	$210
Principal Consultant / Managing Principal	$200
Senior Project Manager	$165
Project Manager	$145
Senior Project Analyst	$130
Senior Analyst	$120
Analyst	$100
Assistant Analyst	$75

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

See attached Project Schedule

The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

City of Banning — Water, Wastewater and Reclaimed Water Rate Study
Project Schedule



Legend:

- ⌘1: Informational Request
- ⌘2: Water Rate Study Draft Report
- ⌘3: Sewer Rate Study Draft Report
- ⌘4: Impact Fee Draft Memo
- ⌘5: Final Report
- ⌘6: Proposition 218 Notice

CONTRACT SERVICES AGREEMENT

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

WILLDAN Financial Services

AGREEMENT FOR CONTRACT SERVICES
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND
WILLDAN Financial Services

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this ___day of October, 2013 by and between the City of Banning, a municipal corporation ("City") and WILLDAN Financial Services , ("Consultant" or "Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties." "). (The term Contractor includes professionals performing in a consulting capacity.)

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Section 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Section 1 of this Agreement, was selected by the City to perform those services.

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

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

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

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services

contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

The Scope of Service shall include the Contractor's scope of work 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.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

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. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents,

plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Warranty. (NOT APPLICABLE)

Contractor warrants all Work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

1.8 **Prevailing Wages. (NOT APPLICABLE)**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide

Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 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 Contractor, incorporating therein any adjustment in (i) the Agreement Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to five percent (5%) of the Agreement Sum or $25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor 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 Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.11 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.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for

actual expenses, shall not exceed $58,963 (the "Contract"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor 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" and incorporated herein by this reference. When requested by the Contractor, 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 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 Agency, 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.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section X, pertaining to indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 8 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COMPENSATION AND METHOD OF PAYMENT

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor (Principals) are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Chris Fisher	Group Manager
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager of City. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 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 herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with 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 or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the Agency to enter into this Agreement. Therefore, Contractor 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 Agency. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of Agency. 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 Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of Agency.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

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 which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(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 occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than $1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and, except for professional liability insurance and workers compensation insurance, shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by first class mail , postage prepaid, to the City, ten (10) days notice if cancellation is due to nonpayment of premium. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates except for professional liability insurance and workers compensation insurance shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN, TEN (10) DAYS NOTICE IF CANCELLATION IS DUE TO NONPAYMENT OF PREMIUM.

[to be initialed]

_____
Agent Initials

With the exception of professional liability insurance and workers compensation insurance, City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance 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 persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3. .

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's reckless or willful misconduct, or arising from Contractor's indemnitors' negligent performance of or

failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is 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, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Performance Bond. (NOT APPLICABLE)

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City 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. 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.

5.5 Sufficiency of Insurer.

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 Risk Manager of the City due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager of City ("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 and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "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. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. 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 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor 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. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, 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 Contractor shall have no claim

for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

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

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

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

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed 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 Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

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

7.3 Retention of Funds. (NOT APPLICABLE)

Contractor hereby authorizes 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 omissions 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 for a claim of lien, 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 Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. 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. 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.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party

of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages. (NOT APPLICABLE)

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of _____ ($_____) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Agency, except that where termination is due to the fault of the Agency, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered 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 or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor 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 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), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made 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, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of Agency Officers and Employees.

No officer or employee of the Agency 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.

8.2 Conflict of Interest.

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

No officer or employee of the Agency 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.

8.3 Covenant 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.

8.4 Unauthorized Aliens.

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

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

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, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, 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 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. 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. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 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.

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF BANNING, a municipal corporation

_____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

_____
David Aleshire, City Attorney

CONTRACTOR:

_____

_____

By:_____
Name:
Title:

By:_____
Name:
Title:

Address:_____

_____

_____

Two signatures are required if a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY UNLESS PREVIOUSLY PROVIDED TO THE CITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

_____
TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

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☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER_____

_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

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EXHIBIT "A"
SCOPE OF SERVICES

See attached