

**AGENDA  
REGULAR MEETING  
CITY OF BANNING  
BANNING, CALIFORNIA**

March 28, 2017  
**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; 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 – Rev. Dave Horning, Banning United Methodist Church
- Pledge of Allegiance
- Roll Call – Councilmembers Andrade, Franklin, Peterson, Welch, Mayor Moyer

**II. REPORT ON CLOSED SESSION**

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

- City Council Reports
- City Committee Reports
- Report by City Attorney

**IV. PUBLIC COMMENTS/CITY MANAGER REPORT/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.*

*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.*

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

## **REPORT BY CITY MANAGER**

### **V. 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 4: Items to be pulled \_\_\_, \_\_\_, discussion.**

*(Resolutions require a recorded majority vote of the total membership of the City Council)*

1.	Approval of Minutes – Regular Meeting – 02/28/17.....	1
2.	Approval of Minutes – Special Meeting – 03/14/17(Closed).....	33
3.	Approval of Minutes – Regular Meeting – 03/14/17.....	35
4.	Authorize the City Manager to Sign and the City Clerk to Record the Notice of Completion for Project 2014-04 E, Corporate Warehouse, Phase III, Tenant Improvements .....	49

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

### **VI. PUBLIC HEARINGS**

*(The Mayor will ask for the staff report from 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 close the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)*

1.	Discuss and Consider Adopting Resolution 2017-25 Approving the General Plan Annual Progress Report for Calendar Year 2016 .....	61
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*(Staff Report – Patty Nevins, Interim Community Development Dir.)*

**Recommendation: That the City Council adopt Resolution 2017-25, approving the General Plan Annual Progress Report (APR) for Calendar Year 2016 and direct staff to file it with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).**

2.	Discuss and Consider Adopting a Categorical Exemption and Adopt Ordinance 1509 Approving Zoning Text Amendment 17-9501 Amending the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Allow for the Establishment of Community Gardens .....	211
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*(Staff Report – Patty Nevins, Interim Community Development Dir.)*

**Recommendations:** 1) Adoption of a Categorical Exemption for the Subject Proposal; and 2) Adopt Ordinance 1509 Approving Zoning Text Amendment (ZTA) 17-97501 amending various sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to allow for the establishment of Community Gardens.

**Mayor asks the City Clerk to read the title of Ordinance 1509**

*“An Ordinance of the City Council of the City of Banning, California, Approving a Categorical Exemption and Approving Zoning Text Amendment No. 17-97501 Amending the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Allow for the Establishment of Community Gardens.”*

**Motion: I move to waive further reading of Ordinance 1509**

(Requires a majority vote of the Council)

**Motion: I move that Ordinance No. 1509 pass its first reading.**

3. Discuss and Consider Adopting Resolution 2017-33 and Joining the Statewide Community Infrastructure Program ..... **245**  
(Staff Report – Ted Shove, Economic Development Manager)  
Recommendations: **That the City Council approve Resolution 2017-33, Authorizing the City to Join the Statewide Community Infrastructure Program (SCIP); 2) Authorizing the City to recover all costs associated with the verification of program applications; and 3) Authorizing the California Statewide Communities Development Authority (CSCDA) to accept applications from property owners, conduct special proceedings, levy assessments within the territory of the City, and approve from of Acquisition Agreement for use when applicable; and authorize related Actions.**
  
4. Discuss and Consider Adopting Resolution 2017-35, Approving the Memorandum of Agreement to Form a Groundwater Sustainability Agency for a Portion of the San Gorgonio Pass Sub-Basin and to Coordinate with other Groundwater Sustainability Agencies ..... **273**  
(Staff Report – Art Vela, Public Works Director)  
Recommendations: **That the City Council: 1) adopt Resolution 2017-35, Approving the Memorandum of Agreement to form a Groundwater Sustainability Agency for a portion of the San Gorgonio Pass Sub-Basin and to coordinate with other Groundwater Sustainable Agencies; and 2) Authorizing the City Manager or his designee to execute the Memorandum of Agreement and to coordinate with other members of the San Gorgonio Pass Groundwater Sustainability Agency the submittal of all required and applicable information to the California Department of Water Resources.**

## **VII. REPORTS OF OFFICERS**

1. Discuss and Consider Adopting Resolution 2017-02, Awarding a Contract for Professional Tree Trimming Services to Utility Tree Service, Inc., in an amount not to exceed \$150,000 per year . . . . . **311**  
(Staff Report – Fred Mason, Electric Utility Director)  
**Recommendations: The City Council: 1) Adopt City Council Resolution 2017-02, awarding a contract for professional tree trimming services to Utility Tree Service, Inc. in an amount not to exceed \$150,000 (including taxes), each year for an initial three-year term. The agreement provides for the option to renew for two (2) one-year terms with a 2% increase in each of the renewal years; 2) Authorize the City Manager to execute the applicable documents related to the professional tree trimming services contract and approve any subsequent renewals as outlined in the Agreement; and 3) Authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers related to the Agreement.**
2. Discuss and Consider Adopting Resolution 2017-36, Accepting the 2016-2017 City Law Enforcement Grant in the Amount of \$69,198 . . . . . **361**  
(Staff Report – Alex Diaz, Chief of Police)  
**Recommendation: The City Council adopt Resolution 2017-36, authorizing the acceptance of the 2016-2017 City Law Enforcement Grant in the amount of \$69,198 and authorize the Banning Police Department to utilize the funds to pay police officers working on an overtime basis to address issues related to the homeless population in the City.**
3. Discuss and Consider Adopting Resolution 2017-27, Approving a Four (4) Year Lease and Maintenance Contract with Option to Terminate After One (1) Year, with Diversified Data Processing & Consulting, Inc. (DivDat) for One (1) Utility Payment Acceptance Kiosk to be Located in the City Hall Lobby for the Annual Amount of \$33,540 and One-Time Set-Up Cost of \$9,800 . . . . . **367**  
(Staff Report – Rochelle Clayton, Deputy City Manager)  
**Recommendations: That the City Council discuss and consider: 1) Adopting Resolution 2017-27, approving a four (4) year lease and maintenance agreement, with the option to terminate after one (1) year by 60 day notice, with DivDat for one (1) utility payment acceptance kiosk to be located in the City Hall Lobby for the annual amount of \$33,540 and a one-time set-up cost of \$9,800; 2) Authorize the City Manager to execute the Lease and Maintenance Contract; and 3) Authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers.**

4. Approve the Implementation of the Strategic Communications Plan and Messaging Training as Presented by CV Strategies ..... **385**  
 (Staff Report – Rochelle Clayton, Deputy City Manager)

**Recommendation: That the City Council approve the implementation of the Strategic Communications Plan and Messaging Training as presented by CV Strategies.**

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

**BANNING UTILITY AUTHORITY**

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

**I. REPORTS OF OFFICERS**

1. Discuss and Consider Adopting Resolution 2017-04 UA, Approving the Purchase of a CCTV Sewer Inspection Van and Equipment in the Amount of \$139,649 ..... **429**  
 (Staff Report – Art Vela, Public Works Director)

**Recommendations: The Banning Utility Authority: 1) Adopt Resolution 2017-04 UA, approving the purchase of a CCTV Sewer Inspection Van, including camera, rover, reel, controller, associated peripherals and software in the amount “Not to Exceed” \$139,649; and 2) authorizing the City Manager or his designee to execute the Contract with Haaker Equipment Company of La Verne, CA.**

2. 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 \$24,927 ..... **447**  
 (Staff Report – Rochelle Clayton, Deputy City Manager)

**Recommendations: That the Banning Utility Authority discuss and consider adopting: 1) Resolution 2016-18 UA, approving an amendment to the contract with Willdan Finance Services (Willdan) in the amount of \$24,927, 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; and 3) Authorize the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers.**

**BANNING FINANCING AUTHORITY (BFA) - no meeting.**

**Adjourn scheduled meeting and reconvene regular City Council Meeting.**

**VIII. ITEMS FOR FUTURE AGENDAS**

New items –

Pending Items – City Council

1. Join other agencies to challenge the State in regard to Chromium-6 water issues.
2. Attraction of professional firms through economic development to locate in Banning.

*(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).*

**IX. 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]

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

02/28/17  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on February 28, 2017, at 5:04 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:	Councilmember Franklin Councilmember Peterson Councilmember Welch Mayor Moyer
COUNCIL MEMBERS ABSENT:	Councilmember Andrade (excused)
OTHERS PRESENT:	Michael Rock, City Manager John Cotti, Interim City Attorney Rochelle Clayton, Deputy City Manager/Admin Services Director Fred Mason, Electric Utility Director Alex Diaz, Chief of Police Heidi Meraz, Community Services Director Patty Nevins, Acting Community Development Director Art Vela, Public Works Director Ted Shove, Economic Development Manager Suzanne Cook, Finance Manager Jennifer McCoy, Purchasing Manager Michelle Devoux, Fire Marshal Philip Southard, Public Information Officer Vincent Avila, Police Sergeant Leila Lopez, Office Specialist Sonja De La Fuente, Executive Assistant/Deputy City Clerk

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

REPORT ON CLOSED SESSION

Interim City Attorney John Cotti indicated there were three items on the Closed Session Agenda. The first involved Anticipated Litigation under Government Code Section 54956.9 where the Council discussed the Vanir issue. The Council also gave direction to the Labor Negotiators. The third item involved Anticipated Litigation involving the Banning Library District under Government Code Section 54956.9(d).

PUBLIC COMMENTS / APPOINTMENTS / CITY MANAGER REPORT /  
CORRESPONDENCE / SCHEDULE MEETINGS

PRESENTATIONS

City Manager Michael Rock introduced the City's new Fire Marshal, Michelle Devoux.

Deputy City Manager Rochelle Clayton introduced the City's new Finance Manager Suzanne Cook.

CITY COUNCIL REPORTS

Councilmember Franklin reported on the following:

- The Water Alliance met last week and the focus of conversation has been conservation. They are trying to share the same message regarding conservation throughout the Pass Area, from Yucaipa to Desert Hot Springs. Although it has been raining, the drought is not over and conservation should continue. The next meeting will be on March 22<sup>nd</sup>.
- In regard to the 91 freeway construction, the majority of the project is anticipated to be complete by the end of the month. Tentatively, a ribbon cutting is planned for Friday, March 31<sup>st</sup>.
- The Disaster Preparedness Expo will be on April 29<sup>th</sup> at Banning City Hall in the Council Chamber and all residents and businesses are encouraged to participate.
- Several compliments have been received about the Community Services Department, particularly the Senior Center. Different programs and events have taken place over the past week and different people at different venues were happy with the events they were able to participate in.
- We have lost a long term resident who has been active in the Senior Center, Rocky Zaragoza, and it was requested to close this meeting in her memory.

Mayor Moyer reported that the Animal Control Meeting originally scheduled for the 13<sup>th</sup> that was rescheduled due to several scheduling conflicts, has been rescheduled and will be meeting on the 6<sup>th</sup>.

PUBLIC COMMENTS – On Items Not on the Agenda

Jerry Westholder, resident of Banning, addressed the City Council about what he felt was an unprofessional attitude at the last Council Meeting. He believed that Councilmember Franklin lectured the audience before Public Comment about the wellness center/gym and he did not agree with that. He also felt that Mayor Moyer violated Diane Box's first amendment rights and the Brown Act at that meeting. He wants it on record that he finds these behaviors deplorable. On another subject, he informed the council that a stop sign at the corner of Hoffer and Dysart has been missing for four weeks and the temporary sign gets moved around.

Inge Schuler, resident of Banning, addressed the City Council in regard to citizens being silenced at public meetings (attached Exhibit "A").

Ellen Carr with Tender Loving Critters Animal Rescue, informed the City Council that Animal Action League will be in the Banning Police Department parking lot March 2<sup>nd</sup> and 3<sup>rd</sup> with their mobile spay and neuter clinic. All of the appointments for spay and neuter are taken at this point, however shots, microchips, and nail clippings are available on a first come, first served basis. She also announced that there were 67 spay or neuter surgeries done in January. She thanked Chief Diaz and others for cooperation. She also mentioned that she has puppies available for adoption.

#### CITY MANAGER REPORT

City Manager Michael Rock announced the following:

- The Public Works Department has begun a large scale road improvement project with over 200 improvements over the next several months including asphalt overlays, slurry seals, replacement of access ramps, pothole and trench repairs, as well as the removal and replacement of broken sidewalks, driveway approaches, curb, and gutters. AC overlay projects include the following:
  - Nicolet from Mc Govern to 20<sup>th</sup>.
  - Ramsey from 20<sup>th</sup> to 16<sup>th</sup> and from San Gorgonio to 4<sup>th</sup>.
  - 3<sup>rd</sup> from Livingston to Hays.
  - 2<sup>nd</sup> from Livingston to Hays.
  - Sims from Nicolet to Williams.
- In partnership with Waste Management, the City will host its next community clean up event on Saturday, April 8<sup>th</sup> from 8:00 AM until 1:00 PM at Dysart Park. This is a great opportunity for residents to get rid of bulky waste items like TVs, electronic waste, furniture. There will also be document shredding services provided.

#### CORRESPONDENCE

Letter from Diane Box was read into the record (attached Exhibit "B").

#### SCHEDULE MEETINGS

1. Town Hall Meeting:
  - a. The City Council agreed to meet on Tuesday, April 18<sup>th</sup> at 6:00 PM at the Community Center if Banning High School is unavailable. The Council also agreed to hold future Town Hall Meetings at different locations throughout the City.
2. Annual Strategic Goals Workshop
  - a. The City Council agreed to meet on Monday, May 8<sup>th</sup> at 1:00 PM.

#### CONSENT ITEMS

Item 6 and 7 were pulled for discussion.

1. Approval of Minutes – Special Meeting – 02/07/17 (*Closed Session*)

Recommendation: That the minutes of the Special Meeting of February 7, 2017 be approved.

2. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of October 2016

Recommendation: That the Accounts Payable and Payroll Warrants Issued in the Month of October 2016 be reviewed and ratified per Government Code Section 37208.

3. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of November 2016

Recommendation: That the Accounts Payable and Payroll Warrants Issued in the Month of November 2016 be reviewed and ratified per Government Code Section 37208.

4. Authorize the City Manager to sign the Notice of Completion for Project 2014-04E, Corporate Warehouse Phase II, Metal Building, as complete and direct the City Clerk to record the Notice of Completion.

Recommendation: Accept Project 2014-04E Corporate Warehouse Phase II, Metal Building, as complete and direct the City Clerk to record the Notice of Completion.

5. Discuss and consider adopting Resolution 2017-18, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2017/2018.

Recommendation: Adopt Resolution 2017-18 Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2017/2018 in order to prepare for the assessments of the area.

**Motion Peterson/Welch to approve Consent Items 1 through 5.** Mayor Moyer opened the items for public comment; there were none. **Motion carried, 4-0. Councilmember Andrade was absent**

6. Discuss and consider directing Mayor to sign Letter of Support for an Amended Tribal-State Gaming Compact between the Morongo Band of Mission Indians and the State of California.

This item was pulled at the request of the Morongo Band of Mission Indians and will be brought forth at a future City Council Meeting.

7. Chamber of Commerce Maintenance Fund per its Lease Agreement with the City of Banning.

This item was continued to a future City Council Meeting. Councilmember Peterson requested six months' worth of statements showing the maintenance fund has remained intact. Since Councilmember Peterson will not be in attendance at the next City Council Meeting, staff will email the documentation to him, as per his request.

Mayor Moyer opened the items for public comment; there were none.

### PUBLIC HEARINGS

1. Discuss and Consider Municipal Code amendments to regulate the cultivation of marijuana for personal use and to expressly prohibit all commercial marijuana land uses throughout the city.

Acting Community Development Director Nevins addressed the Council presenting her staff report as contained in the agenda packet. She explained this item is a follow-up to the passage of Urgency Ordinance 1505, which amended the City's municipal code to conform to state law and to create a marijuana cultivation permit for personal cultivation only. Ordinance 1506 will add marijuana cultivation to the Banning Municipal Code and Ordinance 1507 will amend the Zoning Ordinance to allow for cultivation in residential zones only. Resolution 2917-17 establishes a fee for the issuance of a Marijuana Cultivation Permit and Resolution 2017-24 repeals and replaces Resolution 2003-77 adding a fine for violations of the marijuana cultivation ordinance.

Mayor Moyer opened the item for public comments.

The following people spoke against this item:

Ellen Carr, resident of Banning

Mayor Moyer, seeing no further comments, closed the item for public comment.

Interim City Attorney John Cotti clarified that State Law allows six marijuana plants per individual and the City is requiring one individual permit per household, so it is being limited that way. There are also other restrictions in regard to where the plants can be grown (i.e. cannot be grown in certain rooms, where visible to children, or in the back yard).

Councilmember Franklin asked about enforcement and City Manager Michael Rock explained it is mostly complaint driven. The many requirements of the permit help to ensure people are complying with all of the State Law.

- A. Mayor Moyer asked the City Clerk to read the title of Ordinance No. 1506. The Deputy City Clerk read 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; 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; and amending the

definition of “Smoking” in Section 8.56.020 to prohibit Marijuana smoke in those places where tobacco smoke is prohibited in the City.

**Motion Franklin/Welch to waive further reading of Ordinance No. 1506. Motion carried, 4-0. Councilmember Andrade was absent**

**Motion Franklin/Welch that Ordinance No. 1506 pass its first reading. Motion carried, 4-0. Councilmember Andrade was absent**

- B. Mayor Moyer asked the City Clerk to read the title of Ordinance No. 1507. The Deputy City Clerk read Ordinance 1507, an Ordinance of the City of Banning Approving a Categorical Exemption and approving Zone Text Amendment 16-97502 amending the Zoning Ordinance (Title 17 Zoning of the Banning Municipal Code)."

**Motion Peterson/Welch to waive further reading of Ordinance No. 1507. Motion carried, 4-0. Councilmember Andrade was absent**

**Motion Welch/Franklin that Ordinance No. 1507 pass its first reading. Motion carried, 4-0. Councilmember Andrade was absent**

- C. Mayor Moyer read the title of Resolution 2017-17, revising the Schedule of Fees to establish a Fee for a Marijuana Cultivation Permit pursuant to Chapter 5.34 of the Banning Municipal Code.

**Motion Welch/Franklin that the City Council adopt Resolution 2017-17. Motion carried, 4-0. Councilmember Andrade was absent**

- D. Mayor Moyer read the title of Resolution 2017-24, repealing and replacing Resolution 2003-77 setting forth the Administrative Citation Schedule of Fines for certain violations of the Banning Municipal Code in order to add a fine for violations of Chapter 5.34 of the Banning Municipal Code.

**Motion Welch/Franklin that the City Council adopt Resolution 2017-24. Motion carried, 4-0. Councilmember Andrade was absent**

#### REPORTS OF OFFICERS

1. Discuss and consider adopting Resolution 2017-15, awarding a Professional Services Agreement with PlanetBids, Inc. of Woodland Hills, CA for the e-Procurement Management Software Solution.

Purchasing Manager Jenn McCoy addressed the Council presenting her staff report as contained in the agenda packet. She introduced Tim Goodwin with PlanetBids who provided a presentation (See Exhibit C) to the Council on their e-procurement management software solution.

Councilmember Franklin asked if this will replace the paper bids. Mr. Goodwin explained that the City will control whether they accept electronic bids only, paper bids only, or both electronic and

paper bids. She asked about insurance document submittal and bid comparisons and Mr. Goodwin explained the process. Councilmember Franklin asked what some of the limitations of the system were. Mr. Goodwin was not aware of limitations as far as document size, length of term, and notification. She also asked how many cities in Riverside County use this system. Mr. Goodwin said Fontana, Palmdale, Rancho Cucamonga, Redlands, Rialto, City of San Bernardino water department, Coachella Valley Water District, Valley Municipal Water District, Indio Water Authority, Yucaipa Valley Water District, San Bernardino Community College, and San Bernardino Transportation would be a few.

Councilmember Peterson asked how many cities in the State utilize the system. Mr. Goodwin said there are 161 agencies throughout the state using the system. He asked if an RFP was sent out for this. Ms. McCoy explained they did not, and this pricing is based on the City of Palo Alto's pricing when they did an RFP in 2015. Some research was completed, which showed that the San Diego Airport Authority did an RFP in 2017, the City of Santa Barbara, and Long Beach Transit System did an RFP in 2016, and all three of these agencies are awarding to PlanetBids. She did negotiate with PlanetBids on removing the renewal percentage (3-5% annual increase) and they agreed to remove that percentage. Councilmember Peterson asked if we would own the software. Mr. Goodwin explained it is a cloud-based system so the City would have access to the system during the period of the contract and with any renewals. Councilmember Peterson asked what the benefit is in piggy-backing on Palo Alto. Ms. McCoy explained that the RFP process cost to the City is approximately \$5,000, so because Palo Alto addressed all issues in their RFP and had an evaluation team of nine people complete a thorough evaluation, thereby taking the burden off of the City of Banning. Councilmember Peterson asked about the procurement process and whether or not this circumvents the process. Ms. McCoy explained that the City is authorized to use the RFPs of other agencies in showing it was competitively bid, advertised appropriately, and a proper evaluation was completed. Councilmember Peterson asked if there was software available for purchase that can do the same job. Ms. McCoy explained there is other software available, but the pricing was higher and didn't offer all components needed. Councilmember Peterson clarified that he wanted to know if we could own the software. Mr. Goodwin stated that the competitors they deal with are all cloud based like PlanetBids and is not aware of any software for purchase that would do what they do. Councilmember Peterson explained that he appreciates wanting to save money by utilizing a process he was unaware of in utilizing someone else's RFP, but doesn't feel it is specific to Banning. Mr. Goodwin explained that their system is configurable and not specific to an agency. Councilmember felt that he didn't have anything to compare with (renting vs. owning). Ms. McCoy explained that we own a lot of information right now and we advertise through our website CivicPlus, which is leased annually for \$13,000 per year which gives a notification to the public only if they are registered by email and if a vendor is not registered they don't get notified, which creates a very manual process for the Purchasing Division, (search for vendors on line, create a list, upload by PDF), which is the City's property. Councilmember Peterson is not interested in what the City does now, only if there is a program that can be purchased vs. rent. Ms. McCoy is not aware of any such program and is looking for something to create a successful department and allow her time to assist with scopes of work, proper bidding for departments, speed up process for internal customers, and address the community's complaint that things take too long. Ms. McCoy spoke with several agencies prior to bringing this item forward to the City Council to find out what the benefits are. For example, Coachella Valley Water District had BidSync and went out to bid again and moved to PlanetBids. They were very supportive of us moving in that direction. She did not hear a negative complaint and spoke with the City of Long Beach as well. Councilmember Peterson told Ms. McCoy she is selling and Ms. McCoy agreed because she

believes it is the best thing for the City. Administrative Services Director Rochelle Clayton advised that she has been through several RFPs and has not seen a vendor that sells the software, but we can research and try to find a company that would actually sell the software to us. Councilmember Peterson would like to know the difference.

Councilmember Welch asked if part of leasing the software would provide any flexibility and upgrades that occur during the three year period. Mr. Goodwin advised that there is no charge for any updates or upgrades, vendor support, and agency support for the system is included in the price. Councilmember Welch asked Mr. Goodwin if he knows of anyone that sells the system, and if they do, would they include all of this. Mr. Goodwin explained that when you buy a system off the shelf, that's what you get. They may allow some upgrades for a short period of time. However, he is not aware of any software system you can purchase that can handle this process because public procurement is very different than private procurement. He said there is no program on the market that does the special requirements of public procurement.

Councilmember Franklin asked Ms. McCoy how much time she anticipates this system would save her per month. Ms. McCoy explained that she has only calculated how much time per bid, formal and informal. Currently the formal bid process takes her approximately 75 hours, depending on the number of responses. The informal bid process takes 25-30 hours. She projects 580-600 requests from the departments by fiscal year end. Councilmember Franklin asked if the City is still privy to the information on the cloud during the three year period. Mr. Goodwin explained that that information will be the City's information and staff will be capable of exporting the information to an Excel spreadsheet and all bids can be printed out. If at some point the City decides they aren't going to use the system any longer, all of the information can be exported in any format preferred by the City and given to the City. The information is owned by the City.

Councilmember Peterson asked about the length of time taken for each bid and why the process is slower today than a year ago. Administrative Services Director Clayton advised that when purchasing was decentralized there were processes and laws that were not consistently followed, as the expertise in purchasing was not in place. Mayor Moyer stated he is aware of such offenders and has spoken with department heads and there is a concern with the length of time to get a purchase through. Councilmember Peterson asked how we can speed that up. Ms. McCoy explained that the process has been brought back to a centralized process and training with all staff has taken place to help communicate requirements to keep us in compliance. There was a serious backlog, and the process is becoming quicker now that things are getting caught back up, but it takes an extensive amount of time to go through each item and get it correct. Councilmember Peterson stated that the program would not speed up the process. Ms. McCoy explained that while the program will not reduce the time required by the state as far as length of time between advertising and posting, awarding contracts, and the evaluation process, but it will speed up her time spent on each bid.

Mayor Moyer asked about purchasing products and whether or not this program would speed up that type of transaction. Ms. McCoy confirmed that it would.

Councilmember Franklin asked how much time would be saved per bid with this system. Ms. McCoy advised it will be an approximate time savings of 35%. Councilmember Franklin asked if this would be less expensive than hiring a person part time. Ms. McCoy confirmed.

Councilmember Peterson explained that checking a contractor's license is simple. He also assumes that when they submit their bid package all of the documents are included and there is a check off list to verify. He doesn't think there are very many contractors doing business with the City. He would still like to see the difference between purchasing and leasing the software. Finally, he is not happy with seeing the department heads frustrated with the amount of time to get RFPs done. City Manager Michael Rock explained that the City is trying to centralize purchasing because it needs to be done right, following a very specific process, and we just don't have the staff in the departments to do this. He emphasized the need to get the process done right, legally and centralized. The City spends approximately \$60 million per year on products and services and this software can help speed up the process. Councilmember Peterson doesn't believe it will speed up the process. Mr. Rock said it will be a lot faster than what we are doing today. He stated that we do need a Buyer for the City and will bring that request back to a future meeting. Councilmember Peterson stated that nothing will convince him this program is the savior. Mr. Rock said it is not the savior, but it will speed up the process. Mr. Goodwin advised that this system will definitely save staff several hours of manual work and provided some examples.

Mayor Moyer opened the item for public comments. There were none.

**Motion Franklin/Welch to 1) adopt Resolution 2017-15, awarding a Professional Services Agreement to PlanetBids, Inc. of Woodland Hills, CA for a three year term, with the option to renew for two additional years for the e-procurement management software solution in an amount not to exceed \$64,800; 2) authorize the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the agreement; and 3) authorize the City Manager to execute the Professional Services Agreement and subsequent renewals. Motion carried 3-1. Councilmember Peterson voted No and Councilmember Andrade was absent.**

2. Discuss and consider adopting Resolution 2017-19, approving a Lease and Operating Agreement with Skydive West Coast for Hangar and Landing Zone Facilities.

Economic Development Manager Ted Shove addressed the Council presenting his staff report as contained in the agenda packet.

Mayor Moyer mentioned that they have agreed to pay all of their utilities and confirmed with Mr. Shove that the City has found a method to meter their usage. Mr. Shove confirmed.

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

**Motion Franklin/Peterson to 1) Approve a Lease and Operating Agreement with Skydive West Coast for Hangar and Landing Zone Facilities; 2) adopt Resolution 2017-19, approving the lease agreement and authorizing the skydiving operation use authorizing the Mayor to execute the agreement; and 3) authorize the City Attorney to take such additional, related action that may be necessary. Motion carried 4-0. Councilmember Andrade was absent.**

3. Discuss and consider adopting Resolution 2017-26, approving an amendment to the Professional Services Agreement with CV Strategies for the Strategic Communications Plan, messaging training, and plan implementation in the amount of \$20,000 and authorize the City Manager to execute the Amendment, and authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers.

Deputy City Manager/Administrative Services Director Rochelle Clayton addressed the Council presenting his staff report as contained in the agenda packet. She advised that Janet Zimmerman from CV Strategies is also present to address any questions Council may have.

Councilmember Peterson asked if this is the assessment done where they asked everyone questions about how they thought the City was run and that was over \$6,000. Ms. Clayton confirmed that it is. Councilmember Peterson said we then spent another \$14,000 or so and asked what we got for that. Ms. Clayton said they formulated a newsletter that went out to all residents in October 2016, processed press releases, and assisted with the Public Information Officer recruitment (job description, interview questions, and interviews). Councilmember Peterson asked if the City's HR could have done that. Ms. Clayton advised that some of the work was done in-house, but CV Strategies provided expertise that we did not have in-house at the time. Ms. Clayton pointed out that the printing services for the newsletter that was sent out was over \$10,000. Councilmember Peterson asked if Council approves this, would they be done. Ms. Clayton advised that once the Communications Plan is finished that would be the end of the services needed by the City at this time, as we have a Public Information Officer on staff now. Councilmember Peterson asked what the City has benefited from the Communications Assessment. Ms. Clayton advised that the assessment provides the groundwork to move forward with improving communications internally and externally.

Councilmember Franklin asked if the City had exceeded \$25,000 yet. Ms. Clayton advised it had not. Councilmember Franklin asked if this information that will help us communicate throughout our community and improve our image in the media and when completed we will be able to brand better as well as communicate.

Councilmember Peterson asked Ms. Clayton to pull the report showing contracts approved by the City Manager, as he is sure it exceeds \$25,000. Ms. Clayton advised that those amounts add up to \$25,000 and now staff is requesting an additional \$20,000. Councilmember Peterson stated that the policy does not allow us to spend more than \$25,000 on one vendor in a year. City Manager Rock explained that staff is asking the City Council to amend the agreement to spend more money to complete the Communications Plan, which will be the blueprint for the Public Information Officer's work plan, which is another huge advantage for having a Communications Plan.

Mayor Moyer said the original contract was not to exceed \$7,000. In June 2016 they sent us a quote to write and design a custom communications plan that was going to be \$18,000, not to exceed \$20,000, but would like to know how we got to \$45,000. Ms. Clayton explained that staff processed the amendment under the City Manager's signature authority to produce the newsletter, which included \$10,000 just for the printing. She explained the City's Public Information Officer, Philip Southard will now be able to perform those tasks. But, at that time they were helping the City and salary savings from the vacant PIO position helped fund that work. Mayor Moyer verified that the Communications Plan will be available by April. City Manager Rock confirmed the Council will have the plan by April for sure.

Mayor Moyer opened the items for public comment; there were none.

Councilmember Peterson asked to bring the item back. Administrative Services Director Clayton advised that she can provide information as to what has been done throughout the past year.

**Motion Franklin/Welch to 1) Adopt Resolution 2017-26, approving an Amendment to the Professional Services Agreement with CV Strategies for the Strategic Communications Plan; 2) adopt Resolution 2017-19, approving the lease agreement and authorizing the skydiving operation use authorizing the Mayor to execute the agreement; and 3) authorize the City Attorney to take such additional, related action that may be necessary. Motion carried 3-1. Councilmember Peterson voted No and Councilmember Andrade was absent.**

4. Discuss and consider adopting Resolution 2017-27, approving a five (5) year Lease and Maintenance Contract with Diversified Data Processing & Consulting, Inc. (DivDat) for two (2) Utility Payment Acceptance Kiosks for the annual amount of \$62,400 and a one-time setup cost of \$9,800.

Deputy City Manager/Administrative Services Director Rochelle Clayton addressed the Council presenting her staff report as contained in the agenda packet. She advised Council that a quote for a five year contract is in the packet, however she did reach out to them and got a quote for both two and three years and the amount only increased by about \$100 per month to reduce the time.

Councilmember Peterson asked whose idea this was. Ms. Clayton advised that the Customer Service/Utility Billing Manager located this avenue. Councilmember Peterson asked if a survey was conducted to see where the kiosks should be placed. Ms. Clayton informed the Council they reached out to City of Colton and they have one in their lobby and another one outside, which is an additional fee to have one placed outside. She also advised a survey was not sent out, but cash paying customers who come to the counter to pay were asked if they would be willing to use this method of payment and have received a positive response. Councilmember Peterson asked how the City would recover the cost of this. Ms. Clayton responded that the cost of the kiosks is less than the cost of an employee. Councilmember Peterson asked if an employee would be terminated for the kiosks. Ms. Clayton explained that we currently have long lines at the counter and customers waiting getting upset and this would only improve service to the community. Councilmember Peterson stated that there are currently four options to make your payment: 1) mail, 2) drop box 3) online, and 4) walk in and now staff is asking to add the kiosks at \$60,000 per year, so to recover the cost it would be about \$5 per customer to get the \$60,000 back. He asked if the City would be recouping the cost of the kiosks or not. Ms. Clayton advised there is not a plan to recoup the cost of the kiosks, the request is only to enter into a lease agreement. City Manager Michael Rock explained that if the City leases the kiosks that the additional staff would not need to be hired over the next five to ten years and as staff retire and there is attrition there may be some salary savings from the front line customer service representatives. Councilmember Peterson suggested getting four or six kiosks and doing away with employees. City Manager Rock advised that the City does need to still provide customer service. He advised that 50% of the customers pay at City Hall. Councilmember Peterson expressed concern regarding robbery of a kiosk because of the cash. Ms. Clayton noted that is why she is recommending the machine be located in a 24 hour store like Rite Aid.

Councilmember Moyer asked if staff was able to research reducing the lease from five years to three years, as he is concerned there are not terms in the contract for cancellation. Ms. Clayton assured Council she did get the termination clause and that the term of the agreement would commence for as many months as is decided by the City with renewals for one year thereafter with notice of termination to be provided 60 days prior to the anniversary date. Councilmember Moyer reiterated that he is concerned with being stuck in a five year agreement. Ms. Clayton said the contract can be cancelled on each annual anniversary date, as long as we notify the vendor 60 days prior.

Councilmember Peterson asked how we can recoup the cost. Ms. Clayton advised that if these kiosks are utilized she expects there to be less counter assistance needed. She explained there are very long lines at City Hall and it is expected those lines will decrease if the kiosks are effective. Councilmember Peterson questioned both kiosks being on this side of town and why there wouldn't be one in the Sun Lakes shopping center. Ms. Clayton informed the Council that a Pay Near Me bill pay service would be at WalMart and Rio Ranch Market where they can accept payments during their hours of operation. The cost to the customer will be a small convenience fee. Councilmember Peterson asked why the kiosk doesn't have a convenience fee. Ms. Clayton advised there is a \$.035 fee for checks, but cash payments would be free at the kiosk. With most of the City's walk-in customers, the majority of them are cash paying and that is why the City is looking into other payment options outside of regular business hours.

Councilmember Franklin asked if it would be possible to try one kiosk at City Hall first, and if it is successful then put one into RiteAid or Walgreens and would that change the cost. Ms. Clayton advised it would not. Councilmember Franklin went to the City of Colton to see the machine and they showed her how to use the kiosk and found that it was an easy to use touch screen. It was also mentioned that they had not experienced any vandalism and that the residents liked the kiosk once they knew how to use it. Councilmember Franklin recommended the City of Banning try one at City Hall for six months and see how well it is received before taking it to another location and look into Walgreens as a location since it is open 24 hours. Rochelle confirmed that could be done. Councilmember Franklin mentioned that because staff is short in the Administrative Services Department this option would help release staff to cross-train in other areas.

Councilmember Welch asked what part of town the majority of residents that come into City Hall to pay live in and what percentage come to in to pay. Ms. Clayton mentioned that a lot come from the east side of town and they pay in cash.

Councilmember Peterson asked Ms. Clayton to say for the record that this machine will not raise utility rates and that a five dollar administrative fee wouldn't be added to the customer's bill. Ms. Clayton confirmed.

Mayor Moyer reminded the Council they are only considering one kiosk at this point.

Mayor Moyer opened the item for public comments.

The following people spoke against this item:

Jerry Westholder, resident of Banning

Mayor Moyer, seeing no further comments, closed the item for public comment.

Councilmember Franklin recommended trying the one kiosk at City Hall with a report back in six months. She asked if we did six months if we were still obligated to a one-year contract. Ms. Clayton confirmed the City would be obligated to one year, but must notify the vendor 60 days prior to the end of the one year term.

Councilmember Peterson asked the City Attorney if there was any liability to the City if someone is robbed going to or from the kiosk to pay their bill. Interim City Attorney John Cotti stated there would not be any liability to the City, as it would be an independent criminal act of a third party. Councilmember Peterson asked if the term could be shortened to six months. Ms. Clayton advised she would look into the cost for six months.

Mayor Moyer asked the City Attorney about the venue being in Michigan and if we could do something about that. Mr. Cotti advised he would have that conversation with the vendor to ensure the venue would be changed to a California court.

**Motion Franklin/Peterson to try one Kiosk for six months at City Hall and negotiate the venue to a California court. Motion carried 4-0. Councilmember Andrade was absent.**

#### ITEMS FOR FUTURE AGENDAS

- 1) Councilmember Peterson would like the 2014-15 Grand Jury Report showing that a forensic audit has never been completed on the City of Banning Utility brought forward as an agenda item.

Councilmember Franklin asked the City Attorney to clarify the difference between a general audit and a forensic audit. Mr. Cotti explained that a general audit is an analysis of whether your budget is properly stated and a forensic audit looks deeper into individual transactions, individual funds, and individual expenditures. It is a more thorough analysis of the revenues and expenditures.

Councilmember Peterson mentioned there has never been an exact trail of electricity bought, billed, and received.

Councilmember Franklin asked what the difference in cost between a forensic versus a regular audit. Mr. Cotti advised he couldn't give an exact amount, but that a forensic audit is very expensive. She asked if an audit has been done for all of the departments. Ms. Clayton confirmed a separate audit report comes out for the Banning Utility Authority and that audit is nearly done. The electric fund is included in the regular audit as well.

- 2) Councilmember Franklin would like a report in six months on how PlanetBids is working.

ADJOURNMENT

By common consent the meeting was adjourned in memory of Rocky Zaragoza at 7:41 p.m.

Minutes Prepared by:

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Sonja De La Fuente, Deputy City Clerk

Approved by:

---

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

Inge Schuler  
1030 W Westward Avenue  
Banning, CA 92220

City Council Meeting February 28<sup>th</sup>, 2017

There has been a troubling increase of citizens having been silenced at public meetings: Sen Elizabeth Warren was prevented from reading a letter from Coretta King; last Thursday, State Sen Janet Nguyen was physically removed from the California State Senate floor while speaking out about the late Tom Hayden; then, right here, in our chambers, we were witness to two egregious incidents where a sitting mayor blatantly ignored proper procedure and had citizens removed by police force. In the last incident, Mayor Moyer interrupted Diane Box's public comment, thereby usurping part of her allotted time of five minutes and later refused to reinstate those missing minutes to her. Her protest was rewarded with an ordered removal by police force. That is truly outrageous and a clear violation of the city's official procedure 421.3.3 of the Banning Police department Policy 421, as well of the First Amendment right under the US Constitution which Ms Box, as a veteran of the Navy, defended in the service of this country. You owe all the citizens of Banning and especially Ms Box a public apology. Let's hope that this disrespectful disregard of the US Constitution by elected officials does not become the norm.

## Exhibit B



4:07.34 to read this in its entirety

Mayor, Council

*First, I would like to thank MOYER and WELCH for violating my 1<sup>st</sup> Amendment right at the last council meeting. Before you try that again I suggest you follow proper procedure. I didn't realize you felt so threatened by what I have to say. Are you afraid of being exposed for who you really are? And Franklin and Welch for disciplining the citizens before public comment and telling us what we can or cannot talk about and that we "should get over it, It's done"! Behaviors like that show's you have a guilty conscience. As you should!*

*The Citizens are requesting an investigation into the highly inflated, outrageous utility rates in the City of Banning. Suspecting fraud and illegal activity by City officials. Due to suspicious and irregular billing practices and spending of public funds.*

*This department is lawless and completely unethical. They have nobody to hold them accountable. I am blaming YOU Debbie Franklin! 15 YEARS and you have sat back and watched this happen. And YOU Michael Rock for letting it continue and contributing to the abuse of our funds!*

*This whole system they have is a breeding ground for corruption. A Forensic Audit is necessary!*

*We are all suffering financially most months as a direct result of their unfair business practices. We do not have an exact amount of dispute, but the amount is probably upwards of a million dollars accumulated over the years.*

*We also take issue with a line item on our bills. It is called a Public Benefit Program. It is 2.85% of our monthly*

and electrical charges. So could be from \$5.00 to \$10.00 +. Am I to understand that this money is used to pay someone else's bill?

If that's the case instead of charging us for other people's bills, I suggest they collect all of the outstanding funds that were and is owed to Banning Power for unpaid utility bills that they do NOT pursue.

We seek to hold Banning accountable and stop this kind of misconduct. It is totally unfair and just the wrong way to treat their citizens. The city of Banning has some of the highest poverty levels in the state. We need to stop this fraud waste and abuse.

We are asking that the City

1. Lower our rates at least 20%
2. Put in a system/program to read from the office
3. Use a 20% discount for low income families instead
4. Read our meters honestly and within 31 days
5. Or we fire Banning and go with EDISON.
6. Hold them accountable with audits and oversight

Hire another employee to make this happen. I would rather our funds go to an employee than a GYM/ "Wellness Center". No more excuses of " oh sorry we had a death in the department"! or "There was a holiday"! They could have put in put in a computerized system that reads our meters from the office like other power companies? You would never have those excuses again. And you wouldn't have to send anyone out. Instead they get a "Wellness Center" AKA Gym!

Do you have a Nutritionist for this so called wellness center?

Do you have any Dr's on site?

Do you have an Esthetician?

Wellness centers do!

SO, WHAT DOES BANNING HAVE ?

Banning has a gym!!!

Michael Rock Justified this expense citing a Resolution from 2013!! Boy was he reaching.

# 2013-98 to make Banning a Healthy Eating Active Living City.

Section 3 clearly states "That the city of banning will promote wellness and healthy activities for its employees AND THE COMMUNITY." So this means the citizens are also entitled to use this facility. It says right there. We paid for it. Here is the breakdown

COST PER SF: \$197.28

WEIGHT ROOM SIZE: 800 SF

COST FOR WEIGHT ROOM: \$157,824.00

COST OF GYM EQUIPMENT \$21,500.00

TOTAL COST TO THE TAX OR RATE PAYER:

\$179,324.00 Not including everything it cost to decorate, move in equipment and put it together. Did employees do that on their own time? Or did you have to hire someone else. Either way I'm sure we paid for it too.

So ALMOST 200,000. FOR A GYM!!!!??

I have never seen such a blatant misuse of public funds and the turning of a blind eye by the ones that are supposed to be protecting us. This is seriously adversely affecting families and our ability to meet our ever-increasing, inflated City utility bills.

They routinely read both our water and electricity meters 32-36+ days late causing the usage to jump to higher tiers—almost tripling the amount they can bill. It appears they do this to pay for these luxuries on our dime!

When filing or calling in complaints, requests to read the meter on or before set dates, we are all ignored.

We need to get rid of Banning Power. If you want to actually look out for the citizens you wouldn't allow them to be profiting off of us!

You would have kept the tax on Robertson's where the citizens voted it in at! Instead you lowered it and raised our water rates and are wanting to raise our electric rates.

AGAIN! Who are you really looking out for???? Bring in Edison! This would save our City so much money and actually be a benefit to us. Our bills would be significantly lower. I implore you to Help the citizens of Banning, and hold those in power accountable for proper use of City funds generated by the citizens.

You the council have the power to change all of this! I have included all the bills I could find billing over 32 days!

Diane Box

Banning CA.

# PB System Modules™

Exhibit C

**City of Banning**  
February 28, 2017

**EXPLORE - EMPOWER - EXPAND**

**PLANET BIDS**

Copyright © PlanetBids, Inc. 1997-2014  
Information is proprietary and confidential, do not distribute outside of your organization.

# Vendor Portal

PLANET BIDS

## PlanetBids Demo One VENDOR PORTAL



### New Vendor Registration

Create a new vendor record. If you wish to view or edit an existing vendor, simply Log in with your User Name and Password.

### My Contracts

Manage your awarded contracts, record payments, add subcontractors, produce reports and charts.



LOGIN REQUIRED



### Bid Opportunities

Search for bid opportunities with this agency, download documents, become a prospective bidder, and electronically bid on projects.

LOGIN REQUIRED

### Certified Vendors

Find Certified Small Businesses / Bench Firms / Prequalified Businesses

LOGIN REQUIRED

### My Insurance

View and fulfill insurance requests/requirements.

LOGIN REQUIRED



### News & Events

- Scheduled Maintenance
- Closed for the Holidays
- DIR renewal



### Contracts

View public information regarding agency contracts.

LOGIN REQUIRED



PLANET BIDS

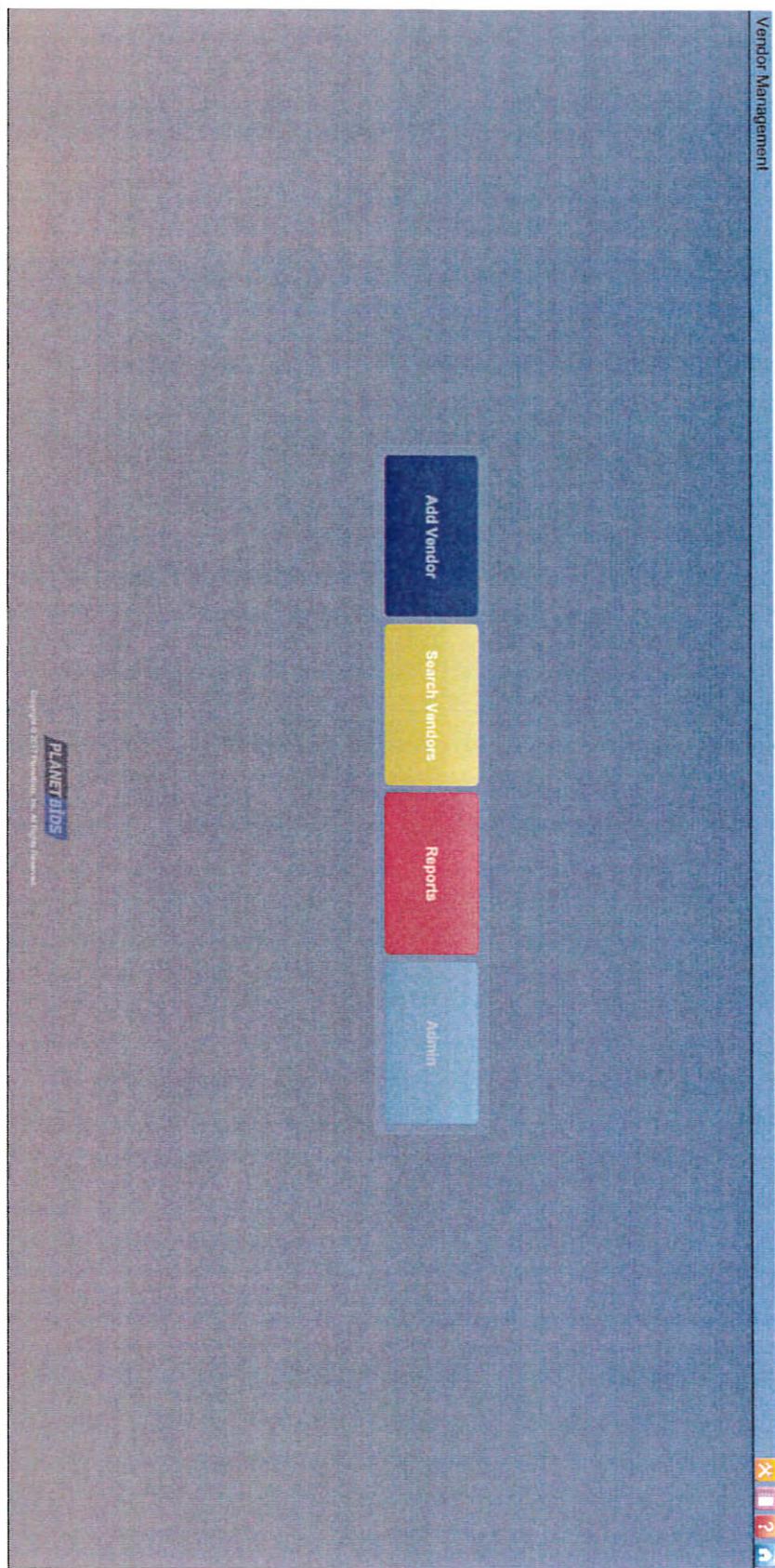
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Not Logged In

Forgot Password?

Log in

# Vendor Management



# Vendor Management Detail

**General Vendor**

Registration	Last Updated
2015-08-01	2015-08-01
Email Status	Active
Company Class	Construction
Last Updated: 2015-08-01	

**Profile Settings**

Allow Multiple Profiles	Status
<input checked="" type="checkbox"/>	Approved
Vendor ID	25
Agency Vendor ID	1234
Registration Type	Agency
Last Updated by Vendor	August 5, 2010
Exempt from Document Fees	

**Company**

Business Type	Sole Proprietor/Individual
Company Name	Construction Brothers, Inc.
IRS Reporting Name	
Doing Business As	
Social Security Number	789456123
DUNS	
Address	5850 Canoga Ave., Suite 301
City	Woodland Hills
State	California
Country	United States
Zip	91367

# Bid Management

[My Bids](#)   [Agency Bids](#)   [Spec Library](#)

Title/Invite #
Department
Buyer
Type
Prev Wage

Stage
Archived
No

All
All
All

All
All
All

All
All
All

Search returned 401 results that are Not Archived

Select All
Select None
Print
Report
Export
PLANET BIDS

Posted	Created	Entered By	Invitation #	Category	Project Title	Due Date	Remaining	Stage	Type	Format
02/07/2017	02/07/2017	Lambert, Sid	IFB17-001670	91347, 91350, 91384, 9880	Fontana Grade Crossings Pedestrian	03/22/2017	22 days	Planning	Bid	Paper only
02/23/2017	02/23/2017	McGuffey, Steve	SP-61-MS-17	00062, 90664, 90783, 9895	Delinquency Management and	03/21/2017	21 days	Bidding	RFP	Electronic only
02/15/2017	02/20/2017	Lambert, Sid	SP-73-IT-17	88011	Heritage Neighborhood Center	03/04/2017	20 days	Bidding	RFP	Electronic only
02/22/2017	02/22/2017	Loera, Ticha	SB-71-PW-17	90980, 98600	Police Station Emergency Operation	03/16/2017	16 days	Bidding	Bid	Electronic only
02/22/2017	02/07/2017	Lambert, Sid	C-C-66-HD-17	91054, 98680	Reed Street Apartments Exterior	03/16/2017	16 days	Bidding	Bid	Electronic only
02/22/2017	02/07/2017	Lambert, Sid	C-C-66-HD-17	91054, 98680	Whitman Court Apartments Exterior	03/15/2017	15 days	Bidding	Bid	Electronic only
02/22/2017	02/22/2017	Loera, Ticha	SB-72-PW-17	07080, 97012	BMW Police Motorcycle Purchases,	03/09/2017	9 days	Bidding	Bid	Electronic only
02/14/2017	02/14/2017	Lambert, Sid	SP-58-DE-17	90600, 90607, 92500	DESIGN SERVICES AUTO MALL	03/09/2017	9 days	Bidding	RFQ/Qual	Electronic only
02/16/2017	02/16/2017	Alvarez, Elia	SB-74-HD-17	17583	NSP - 17025 Fiberopt	03/07/2017	7 days	Bidding	Bid	Electronic only
02/08/2017	02/07/2017	Alvarez, Elia	SP-59-CS-17	88011, 90658, 96173, 9820	Staging/Lighting/Audio/Visual	03/01/2017	1 day	Bidding	RFP	Electronic only
02/07/2017	02/07/2017	Alvarez, Elia	SP-60-CS-17	90640, 91548, 98500, 9860	Graphic Design and Printing	02/23/2017	Closed	Bidding	RFP	Electronic only
02/02/2017	02/02/2017	Lambert, Sid	SD-23-DE-07-85	92586	Surveying Services - Banana Ave	02/21/2017	Closed	Bid	RFQ/Qual	Electronic only
02/02/2017	02/02/2017	Lambert, Sid	SD-24-DE-07-86	90742	Geotechnical Services - Banana Ave	02/21/2017	Closed	Bid	RFQ/Qual	Electronic only
12/19/2016	12/19/2016	Lambert, Sid	C-C-34-DE-17	80100, 91438, 98800	FIRE STATION NO 78	01/26/2017	Closed	Bid	RFQ/Qual	Electronic only
11/15/2016	11/15/2016	Lambert, Sid	SB-41-DE-17	91345, 98680	Banana Storm Drain & Sewer	01/17/2017	Closed	Bid	RFQ/Qual	Electronic only
11/17/2016	11/17/2016	Loera, Ticha	SB-31-PW-17	77000, 91473, 91891	East Annex Roof Project	12/05/2016	Awarded	Bid	RFQ/Qual	Electronic only
11/08/2016	11/08/2016	Loera, Ticha	SB-24-PW-17	90656, 98680	Miller Park Amphitheatre Project	12/08/2016	Awarded	Bid	RFQ/Qual	Electronic only
11/03/2016	11/03/2016	Lambert, Sid	SP-40-IT-17	88011	Steelworker's Auditorium Audio	12/05/2016	Awarded	RFP	RFQ/Qual	Electronic only
11/03/2016	11/03/2016	Loera, Ticha	SD-42-PW-17	90600, 98680	Pre-Qualification of Contractors for	11/23/2016	Awarded	RFQ/Qual	RFQ/Qual	Electronic only
10/18/2016	10/18/2016	Lambert, Sid	SD-27-HD-17	91843, 96132	Environmental/Cultural Studies for	11/15/2016	Awarded	RFQ/Qual	RFQ/Qual	Electronic only
10/17/2016	10/17/2016	Lambert, Sid	SD-23-HD-17	880100, 91500	Armenia Center for Community LED Signs	11/08/2016	Awarded	RFP	RFQ/Qual	Electronic only

5

24

# Bid Spec Library

Bid Management

My Bids
Agency Bids
Spec Library

Keyword: 
Category: 
Agency:

Cooperative All
Print/Backable All

Bid
 Bid & RFQ
 Bid & Paper

Search returned 995 results containing keyword 'construction'
Clear
Search

Posted	Created	Agency	Invitation #	Category	Project Title	Due Date	Remaining	Stage	Type	Format
04/22/2014	04/22/2014	City of	91200, 91242, 91400, 91600, 91627, 2014 NOFA	91200	91200, 91242, 91400, 91600, 91627, 2014 NOFA	06/30/2014	60 days	Bidding	RFP	Paper only
04/30/2014	04/28/2014	City of Burbank	BS No 1396	91200	Mountain View Park and Ralph Roy Park	06/17/2014	48 days	Bidding	RFQ/Qual	Paper only
05/01/2014	04/29/2014	City of San	H146246	91886, 96104	Skylane Hills Branch Library Public Art	06/03/2014	33 days	Bidding	Bid	Paper only
04/28/2014	04/25/2014	City of Modesto	2014-11	28600, 28500, 28700, 42567, 67070	Downstream Water System Improvements, Tier	06/03/2014	32 days	Bidding	Bid	Paper only
04/30/2014	04/27/2014	San Diego	40850/FC	22100, 237000, 237110, 237990, 2	104116E - NSU Storm Drain Trunk	05/30/2014	28 days	Bidding	Bid	Paper only
04/30/2014	04/29/2014	City of	09500	09500, 02500, 14500, 15000, 15600, 15600	Bid 8 - Electrical Building, Generator, and	05/30/2014	28 days	Bidding	Bid	Paper only
04/30/2014	04/29/2014	City of	09500	02500, 03100, 14500, 15000	Bid 7 - Mechanical Systems and Finishes, Wet	05/30/2014	28 days	Bidding	Bid	Paper only
04/30/2014	04/29/2014	City of	09500	02500, 14500, 15000, 15570	Bid 6 - Pump Station Concrete Structure and	05/30/2014	28 days	Bidding	Bid	Paper only
04/30/2014	04/29/2014	City of	09500	02500, 14500, 15000, 15570	Bid 5 - 36-inch Duluth Iron Forcemain Pipeline -	05/30/2014	28 days	Bidding	Bid	Paper only
04/29/2014	04/29/2014	City of	09500	09500, 14500, 15000, 15570	Bid 4-Wet Weather Storage Basin-Cast In	05/30/2014	28 days	Bidding	Bid	Paper only
04/29/2014	04/29/2014	City of	09500	02500, 14500, 15000, 15570	Bid 3-Wet Weather Storage Basin - Excavation,	05/30/2014	28 days	Bidding	Bid	Paper only
04/23/2014	04/22/2014	San Diego	14-16	37500, 38000, 96219	WALK-UP CAFE - OPERATION OF NORTH	05/28/2014	25 days	Bidding	RFP	Electronic only
04/30/2014	04/30/2014	Southern	14-001-840	91843, 91875, 91892, 91896, 91891	City of Long Beach Willow Summits Wetland	05/28/2014	25 days	Bidding	RFP	Electronic only
04/29/2014	04/29/2014	City of Fresno	33442	11111, 55088, 969882, 969883	Traffic Signal Installation Intersection of Pennin	05/27/2014	26 days	Bidding	Bid	Paper only
04/03/2014	04/03/2014	City of San	K-14-1013-DB1-3-B	91200	Balboa Park Golf Course - Concrete	05/27/2014	25 days	Bidding	Bid	Paper only
04/04/2014	04/04/2014	Los Angeles	CS-5003-14-V	22110, 23520, 237130, 237990, 7	Los Angeles Valley College Athletic Training	05/22/2014	24 days	Bidding	RFP	Paper only
04/17/2014	04/12/2014	City of Santa	SP2282	96990, 97013, 97200, 97350	Parking Structures 2, 4 and 5 Elevator	05/22/2014	21 days	Bidding	Bid	Paper only
04/24/2014	04/24/2014	San Francisco	D100651	97000, 96990	ROOF REPLACEMENT, FINE ARTS	05/22/2014	20 days	Bidding	Bid	Paper only
05/01/2014	04/30/2014	City of	T4C219	11111, 91200, 91300, 91350, 91395	Pavement Rehabilitation 2013-2014 RSTP:	05/22/2014	20 days	Bidding	Bid	Paper only
04/16/2014	04/16/2014	City of San	K-14-172-DBB-3	91200	Pipeline Rehabilitation X-1	05/21/2014	19 days	Bidding	Bid	Paper only
03/31/2014	03/31/2014	ACE	13-07	22130, 23710, 237130, 237310, 7	Puente Avenue Grade Separation Project	05/21/2014	19 days	Bidding	Bid	Paper only
04/24/2014	04/24/2014	Los Angeles	CS-0010-14-T	23620, 238990	CS-0010-14-T Demolition of Buildings E, M & R	05/21/2014	19 days	Bidding	Bid	Electronic & Paper
04/21/2014	04/21/2014	City of	TRPA10	91842, 91843, 92500, 95826, 9610	Construction Management Services, TRIP	05/20/2014	19 days	Bidding	RFQual	
04/25/2014	04/24/2014	City of Fresno	32656	11111, 91663, 91200, 91300, 91400	Anopothian Park and Alhamra Water Main	05/20/2014	19 days	Bidding	Bid	
05/01/2014	04/23/2014	Central Contra	DP 6413	91063, 91200, 91300, 91400	Walnut Creek Sewer Renovations, Phase 10	05/20/2014	18 days	Bidding	Bid	Paper only
04/24/2014	04/24/2014	City of San	L-14-46185-DBB-2	91200	Sidewalk Replacement Group 3, FY14	05/20/2014	18 days	Bidding	Bid	Paper only
04/28/2014	04/28/2014	City of	13-14-61	21000, 91430	Contract for Const. of HUD-Funded Curb and	05/20/2014	18 days	Bidding	Bid	Paper only

Export
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6

# Award

PLANET BIDS

## Cost Savings

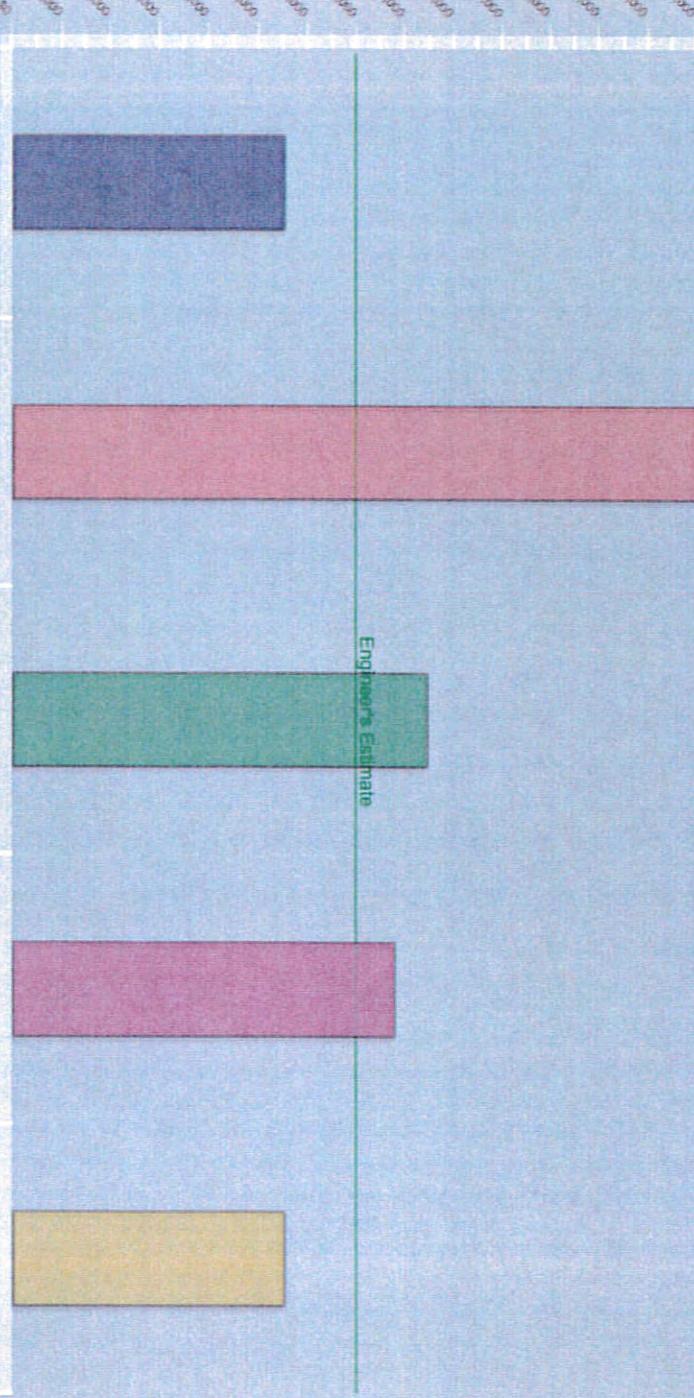
Based on 10 accepted bids found on 08/20/2013 for TENTH AVENUE MARINE TERMINAL ON-SHORE IMPROVEMENTS PHASE II-B (2013-11) (Awarded)

Awarded  
mary

Award S  
Bid 1

D4  
D4  
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Amount



Engineer's Estimate

STATISTICS  
Engineer's Estimate \$140,000.00  
Award Amount \$111,397.00  
Difference \$28,603.00  
% Difference 20%

amount.

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Project

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Done

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# Contract Management

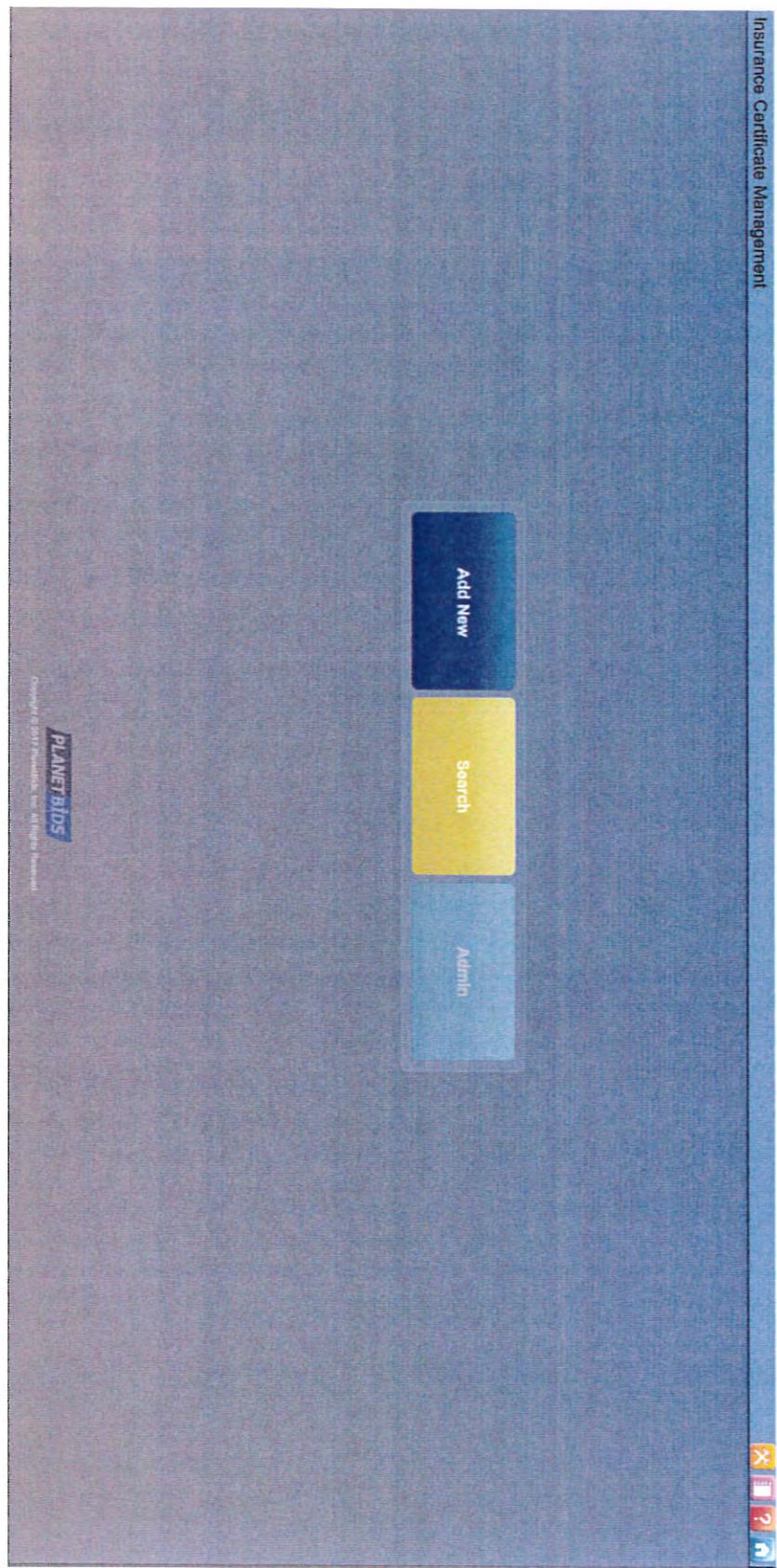
Contract Management



**PLANET BIDS**  
Contract Management

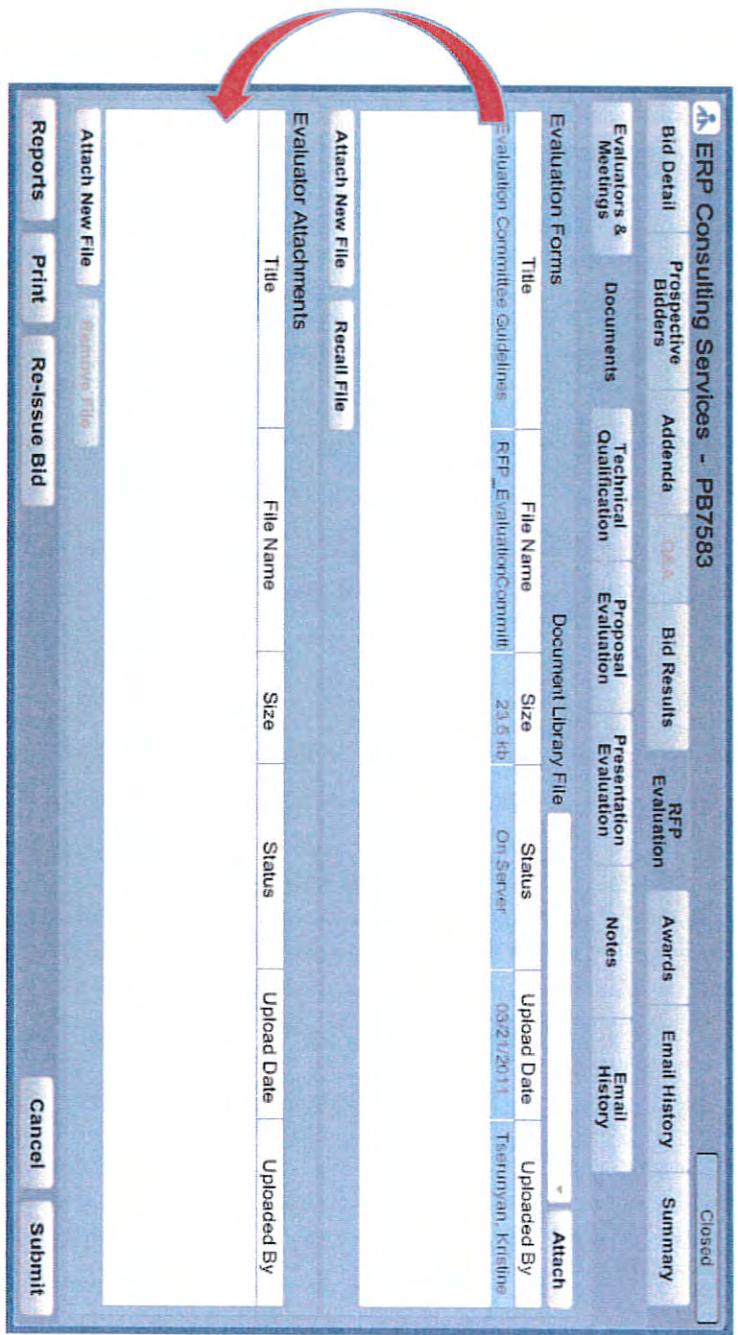
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# Insurance Certificate Management



# Project Evaluation

## Documents



# Proposal Evaluation

Edit Criteria
Print
Re-issue Bid

**ERP Consulting Services - PB7583**

Bid Detail	Prospective Bidders	Attendee	Bid Results	RFP Evaluation	Awards	Email History	Summary
Evaluators & Meetings	Documents	Technical Qualification	Proposal Evaluation	Presentation Evaluation	Notes	Email History	
<input checked="" type="checkbox"/> Score Preferences <input checked="" type="checkbox"/> Enable Score Cards <input checked="" type="checkbox"/> Display Evaluation Results <input type="checkbox"/> Report							
Criteria	Weight	Weighted Score	ABC Consult...	Consultants	PlanetBids, Inc.		
▼ Proposal Evaluation							
Proposed System Implementation	40	240	240	320	400		
Qualifications of Proposer	15	150	120	113	135		
Security and Availability	15	150	90	38	150		
▼ Preferences							
OSB	10	100	100	0	100		
▼ Cost Evaluation							
Cost Evaluation	20	200	147	200			
Average Evaluator Score	100	1000	731	678	985		

Closed

Cancel
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Reports

**PLANETBIDS**

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

03/14/17  
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Moyer on March 14, 2017 at 3:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Andrade  
Councilmember Welch  
Mayor Moyer

COUNCIL MEMBERS ABSENT: Councilmember Franklin (*excused*)  
Councilmember Peterson (*excused*)

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

## CLOSED SESSION

Interim City Attorney stated that there are five closed session items: 1) Personnel Matters pursuant to Government Code Section 54957: City Manager – Performance Evaluation; 2) potential litigation pursuant to Government Code Section 54956.9 (d)(4) regarding the flume; 3) anticipated litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 regarding Vanir; 3) Conference with real property negotiators Michael Rock, City Manager and Ted Shove, Economic Development Manager pursuant to Government Code Section 54956.8 for the property identified as APN: 532-180-038; and 4) Conference with labor negotiators pursuant to Government Code Section 54957.6 with Employee Organizations: International Brotherhood of Electrical Workers (IBEW)-Utility Unit and International Brotherhood of Electrical Workers (IBEW)-General Unit, and Teamsters Local 1932 to give direction and to review the salary survey.

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

Meeting went into closed session at 3:01 p.m. and reconvened at 5:01 p.m.

## ADJOURNMENT

By common consent the meeting adjourned at 4:53 p.m.

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Marie A. Calderon, City Clerk

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

03/14/17  
REGULAR MEETING

A regular meeting of the Banning City Council and a scheduled meeting of the Banning Utility Authority was called to order by Mayor Moyer on March 14, 2017 at 5:05 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:	Councilmember Andrade Councilmember Welch Mayor Moyer
COUNCIL MEMBERS ABSENT:	Councilmember Franklin ( <i>excused</i> ) Councilmember Peterson ( <i>excused</i> )
OTHERS PRESENT:	Michael Rock, City Manager John C. Cotti, Interim City Attorney Rochelle Clayton, Deputy City Manager/Administrative Services Dir. Fred Mason, Electric Utility Director Art Vela, Public Works Director Philip Southard, Public Information Officer Patty Nevins, Interim Community Development Director Sonja De La Fuente, Executive Assistant/Deputy City Clerk Marie A. Calderon, City Clerk

The invocation was given by Assistant Pastor Mike Moyer, Mountain Avenue Baptist Church. Council Member Andrade led the audience in the Pledge of Allegiance to the Flag.

Mayor Moyer said that Councilmember Peterson is on vacation and unfortunately Council Member Franklin is not in attendance because she received word today that her mother is gravely ill.

REPORT ON CLOSED SESSION

Interim City Attorney stated that there were five closed session items: 1) City Manager performance evaluation – after conducting the evaluation the Council continued that item to March 28<sup>th</sup> for further discussion; 2) potential litigation regarding the flume; 3) anticipated litigation – the Council under that item has authorized the City Attorney to file litigation against the Vanir Project in an effort to re-secure title and will file that action by the end of the week; 3) conference with real property negotiators – the Council took no reportable action in regards to that item; and 4) conference with labor negotiators – the Council gave direction to its labor negotiators and beyond that the Council took no reportable actions.

ANNOUNCEMENTS/REPORTS

City Council – There were none.

City Committee Reports – None

Report by City Attorney– None

PUBLIC COMMENTS – *On Items Not on the Agenda*

Ellen Carr, Tender Loving Critters Animal Rescue addressed the Council stating that the Animal Action League will be back in Banning on Monday, April 3<sup>rd</sup> and Tuesday, April 4<sup>th</sup>. The number to call, if you want to have access to the waiting list, is 760-366-1100. On the days that they do spay and neutering there is also the low-cost shot clinic from 10 a.m. to 2 p.m. which is a big, big savings. Let's get our animal spayed or neutered. We have so many animals every day that are dying in shelters because there is no room for them. Unfortunately there are backyard breeders who just keep on breeding and breeding and even more unfortunate are the people who are buying from them. Please adopt; don't shop.

David Ellis addressed the Council stating he wanted to first talk about the Utility Billing Implementing Improvements which was on the City's webpage. He read part of what it said: "In an effort to improve customer service, the City of Banning is overhauling its utility billing procedures and meter reading process to create more consistency and accuracy in utility bills." These changes are set to go into effect in your March bill. He thanked Mayor Moyer for this positive but it is just unfortunate that for five years people have come up here and asked for this and it has taken so long to do but it is a positive direction. He thinks it is well needed in view of what is going on now. He said another item is the condition of the Community Center kitchen; it's appalling. He had the opportunity to help cook for the Little League Pancake Breakfast and he was sick. There was grease, dirt, rat droppings, a clogged ice machine that doesn't work and he ran out of hot water in washing the dishes. He thinks that the City needs to put a little more attention into that building if possible. It gets extremely hot cooking over the stove and it looks like the overhead vents could use a good cleaning. He said he was asked to join Stagecoach Days and he is very excited to participate but he is kind of set-back on a couple of things. Dysart Park is a public park which belongs to the City but it looks like the ghetto. If we have people that come in and say we are looking for sponsors and if they happen to drive by the park like right now with all the weeds and everything it doesn't look good. He doesn't know why Dysart Park is any different than any other park in town. He thinks between our maintenance people and the prison workers that go out and do things that the City should be able to keep the weeds down, the utility department should be able to go in and keep the street lights burning and we need to pay some attention to that park. He said Stagecoach Days has been in this town for 60-years and it's a signature event that brings in a lot of people and it can generate a lot of different things for us but there are no restrooms; there are septic tanks. We have talked about it and he knows that sometimes City work gets tided up and it is expensive but it is very reasonable that we can put bathrooms in and once there are bathrooms it can be designated as an equestrian park and then we can get grant money. So there are a lot of different things we can do if we can kind of focus on that. Let's cut through all of the red tape. We were promised that there would be additional bleachers and now that is six to nine months away so what happened there. It is an excellent opportunity for the City to get together and he would hope the Council will take to heart what he

has said about Dysart Park to get it cleaned up so we can all enjoy the rodeo and the parade together.

Inge Schuler addressed the Council stating that she can only concur with what David Ellis said about the park and the Stagecoach Days Committee. She said that she quit that committee over the same issues about five years ago because nothing was getting done and it was so discouraging to hear promises and then nothing was happening and basically we got the answers; we lied, sort of like the British Empire in the Middle East. She said she has some comments tonight and has held back on this for over a year because she thought it would get better but it didn't; it actually got worse. And considering the accumulated information that is available to the public about the performance of our City Manager she is a little bit flummoxed about his still being here on the job. Mr. Rock had hardly been our City Manager for a few weeks when he accused her from his chair of believing in conspiracy theories as she pointed out the horrific plagiarism that Brian Guillot committed when he nixed verbatim the entire mitigated negative declaration from the City of Jurupa and passed it off as the mitigated negative declaration for Diversified Pacific Project Wilson LLC. One hundred and fifty pages of verbatim plagiarism and she was believing in conspiracy theories; interesting. Then the March 22, 2016 email that Mr. Rock sent to our City Attorney, Anthony Taylor he accused her of lying about his earlier employment record at Lomita. The material was and may still be available when googling "Michael Rock Lomita" and she got it from what seemed to be a credible source. Mr. Rock showed himself an ethical lightweight in the handling of finding an election opponent to Don Peterson. The February 17, 2017 Press Enterprise article by Gail Wesson refers to the investigation of Mr. Rock's activities and one of the publically available quotes of the matter is, "Mr. Rock appeared credible in some portions of his statements to the fact-finder and lacking credibility in other portions of his statement." She said then we have the misrepresentation of the reliability of the audit of the utility company which she will get back to later. Then his contract is being violated repeatedly because he doesn't work Monday through Friday, 8 to 5, as you well know and that is not exactly ethical behavior unless the contract was changed. Then there is the scheming to build the gym in the warehouse. Now we find out that the Community Center is in dire need of funding and we are building a first-class gym for \$200,000 that was not appropriated correctly. Restricting staff contact with Council Members unless he approves of the content of the contact which she finds a bit off-putting and she feels that he is exceeding his bounds.

Dorothy Familetti-McLean addressed the Council thanking them for initiating litigation against Vanir. They paid a million dollars for that property and she had asked can't we just pay them back. We don't have that money to pay them back and we have to buy that property. She doesn't know how that is going to happen. She can see this town as Banning Stagecoach Town which would be absolutely wonderful and whatever we do there would mix with the rest of the city much better than putting something that looked like San Diego with red-tile roofs and white buildings or even the probation department. She said the Council is in her prayers to make the right decision and it would be great if this was Banning Stagecoach Town and she hopes we can get that property back.

Paul Perkins, resident addressed the Council stating that we need a stop sign located at Twin Hills/Country Club Drive and Sun Lakes Blvd. and he submitted a picture to the City Clerk. He said that the sign was pretty much washed out. He said that he had a friend that was still interested in moving to this area and wanted to know what we had to do so he went on to the Banning website. We have a sign here in this room that says, "Proud History-Prosperous Tomorrow". We

don't have in the area when you first open up the website that deals with Banning per say. It has its history, what we have available for us, the community center, the plunge and some of the different areas. He also noted that we have a place called Gilman Ranch Museum but there is no website for that. He understands that this is supposedly being run by the County of Riverside but there is no idea of the hours if you wanted to visit it or see it or anything else. He thinks it would behoove us as a City to do something like this. We can also show when we have Stagecoach Days, the average, what goes on and some pictures. He knows that we have a very nice video that shows a lot of things about Banning but there is no way of going in and getting to this easily so he would like to see the website cleaned up so that it does a good marketing effort for the city.

Jerry Westholder addressed the Council thanking Art Vela for getting him a stop sign. He said while he appreciates Mr. Ellis' comments on the effort of the utility company to deal with billing he has a problem. The second to the last paragraph on that page says, "A part of the improvement process, customers will see a one-time payment period for the February billing cycle that may include more days than normal. In order to ensure that customers are not placed into higher tiers during this one-month period, a sliding scale has been implemented that will prorate the tiers and allow more usage in the lower tiers. Following the February billing cycle, billing periods will average 31 days." Now he knows why we have problems with the utility company because if you take 31 days times 12 that is 370 days in a year and his calendar only has 365 days in a year which means Banning get an extra 7 days from its customers which will amount anywhere between \$50 and \$150,000 extra per year if you are going by this calendar. He doesn't know what is wrong with the one that we have been using for centuries that we bill for the amount of days per month. This is ridiculous and unfair to the people, unfair to the people who pay utilities in Banning; 5<sup>th</sup> highest in the state. This is why we need a forensic audit of the utility company so that we know what we have and we know what is being charged. When he brought this up before he talked to his son-in-law who happens to be the head IT guy for Harry and David, a nationally known company owned by 1-800-Flowers, and he asked how hard is it to set something up like this and was told it was really simple and could be done in two weeks with the right programming. He doesn't know what the problem is but the people need relief. The only reason a municipality would own a utility company is to give cheaper rates to its citizens. That is its primary responsibility to take care of its citizens and we are not doing that. He can appreciate that we need to make some money in the City but the utility company is also known as "non-for-profit" so if there is an excess of profit in the utility company it needs to be rebated to the consumers because it is a non-for-profit company taking care of the citizens.

Ann Price, resident thanked the City for helping Banning Pass Little League get the parks in order for their practices. This Saturday, March 18<sup>th</sup> starting at 9:00 a.m. they have a clean-up at Lions Park and will be hanging banners and bunting to get ready for their opening day. She invited anyone that would like to volunteer, families are certainly welcome, to come down and help with the cleanup. Their opening day will be held on Saturday, March 25<sup>th</sup> at 10 a.m. and they would really appreciate the City Council and anyone else attend to see these kids.

CORRESPONDENCE: None

REPORT BY CITY MANAGER

- Residents have probably notice construction activity on Ramsey – it is part of our public works large scale road improvement project. Over 200 street improvements will be made throughout the City and hope to have all the payment work done around April 21<sup>st</sup>.
- There will be an informational meeting held here at city hall on Wednesday, March 29<sup>th</sup> at 5:30 p.m. to share the improvements being made at Roosevelt Williams Park. They encourage residents, especially those who live near the park, to attend to hear the latest updates, timelines, and proposal.
- Banning TV has launched a new program called “Business Spotlight” that features a different local business each month. The first episode profiled the “Station Taphouse” and our media team is working with other local business to produce additional episodes. The program will be featured on our Government Access Channel and is also available on demand and on U-Tube.
- Next month the City will be kicking off the 2017 Leadership Academy. This is a free six-week program for all Banning residents and will provide an inside look into how the City operates. The program will run every Wednesday starting April 5 through May 10 from 5:30 p.m. to 7 p.m. There is still time to sign up and the information is on the City’s website.
- There were two earthquakes last night at 10:06 p.m. and 10:08 p.m. One was centered in the city of Banning so we are reminding residents that we have a Disaster Survival Expo on April 29<sup>th</sup> at City Hall with some very prominent speakers: Dr. Lucy Jones, Earthquake Expert and Glen Pomeroy, CEO of the California Earthquake Authority.
- Police Chief Diaz is being honored by the Riverside County Juvenile Justice and Delinquency Prevention Commission. He is receiving the Starfish Award in recognition of his commitment to giving back to our community especially the local youth. Chief Diaz is the embodiment of a true public servant and is always the first person to volunteer. We congratulate him and thank him for all that he does for the City.

#### APPOINTMENTS:

##### 1. Review of Council Committee Assignments

Mayor Moyer said for the last two years he has been the City’s representative at the Riverside Conservation Authority. Tonight we are making Councilmember Andrade our representative to that committee and he will be the alternate. **There was consensus of the Council to change in assignments.**

#### SCHEDULE MEETINGS

##### 1. Schedule Brown Act & Code of Conduct Workshop

Mayor Moyer said that he would really like the whole Council here for this item.

#### CONSENT ITEMS

##### 1. Approval of Minutes – Special Meeting – 02/14/17 (*Workshop*)

Recommendation: that the minutes of the Special Meeting of February 14, 2017 (workshop) be approved.

2. Approval of Minutes – Special Meeting – 02/14/17 (*Closed*)

Recommendation: that the minutes of the Special Meeting of February 14, 2017 (closed session) be approved.

3. Approval of Minutes – Regular Meeting – 02/14/17

Recommendation: that the minutes of the Regular Meeting of February 14, 2017 be approved.

4. Approval of Minutes – Special Meeting – 02/28/17 (*Closed*)

Recommendation: that the minutes of the Special Meeting of February 28, 2017 (closed session) be approved.

5. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of December 2016.

Recommendation: That the City Council review and ratify the following reports per the California Government Code.

6. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of January 2017.

Recommendation: That the City Council review and ratify the following reports per the California Government Code.

7. Receive and File List of Contracts Approved Under the City Manager's Signature Authority.

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

8. Ordinance 1506 – 2<sup>nd</sup> Reading: 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; 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; and Amending the Definition of “Smoking” in Section 8.56.020 to Prohibit Marijuana Smoke in Those Places Where Tobacco Smoke is Prohibited in the City.

Recommendation: That Ordinance 1506 pass its second reading and be adopted.

9. Ordinance 1507 – 2<sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Approving A Categorical Exemption and Approving Zone Text Amendment 16-97502 Amending the Zoning Ordinance (Title 17 Zoning of the Banning Municipal Code).

Recommendation: That Ordinance 1507 pass its second reading and be adopted.

10. Resolution No. 2017-31, Supporting the City of Banning to Participate in the Safe Surrender Baby Program at Fire Stations in Banning.

Recommendation: The City Council adopt Resolution No. 2017-31.

**Motion Andrade/Welch that Consent Items 1 through 10 be approved.**

Mayor Moyer opened the items for public comments.

Inge Schuler addressed the Council stating on the Consent Items she noticed that there was no information regarding the monthly statements of The Bank of Hemet that Councilmember Peterson had requested that they would be available and Mrs. Clayton had promised these monthly statements to make sure that the Chamber of Commerce is actually keeping up with the \$10,000 deposit. The same goes for the request of the payment that is received from Jim Smith by attaching his payment. The first one was mentioned but there has been no additional information and she cannot find it in the financial reports of the Consent Items so she would like to get some clarification on those two items.

Ellen Carr said that she is speaking for herself about the ordinance regarding the 6 marijuana plants that we can have by law. She understands in a way what the City is trying to do but you are doing it to the wrong people. An individual with six plants is not going to be manufacturing butter or honey and use butane where you can blow your house up like they did in Cherry Valley. That is not a person with 6 personal plants. You are looking at an outlaw; somebody that is cultivating a house full of plants. Obviously they are not going to come in to get a license so why are you doing this to the people; \$178.00 for six little plants. She knows that it is going to be complaint driven but another word sometimes for “complaint driven” is “revenge driven”. She has seen it and it has happen to her because a couple of years ago when someone was very angry with her they called animal control with this outrageous story and it was just a matter of revenge. She has seen it happen to people. People that are going to have 6 plants don’t need to be regulated. Somebody that wants 6 little marijuana plants for their own enjoyment, leave them along and let them have their 6 plants. The people voted for it and said yes, it is okay. She doesn’t understand why the City is making it hard because actually what you are doing is that you are going to have this ordinance and people are going to disobey it because it is ridiculous to persecute people for 6 little plants. We are not the ones you have to worry about; it’s the people that are growing in quantity. The ordinary person is not going to pay \$178.00 for a permit to have 6 plants in their house. Let one or two pot shops come into town and sell medical marijuana. There used to be a medical marijuana place in west Banning but it is not there anymore and that place was harder to get into than Fort Knox because she would take her neighbor who has stage four cancer there and you needed a prescription to get in and there was never anybody in that parking lot unruly, people hanging around smoking. Let the little guys have their pot.

**Motion carried, all in favor with Councilmembers Franklin and Peterson absent.**

Meeting recessed at 5: 39 p.m. and reconvened at 5:42 p.m.

**PUBLIC HEARINGS**

1. Discuss and Consider Municipal Adopting Resolution 2017-29, Approving a 12 Month Extension for Tentative Parcel Map No. 33326.  
(Staff Report – Patty Nevins, Interim Community Development Dir.)

Interim Director Nevins gave the staff report on this item as contained in the agenda packet and also displayed the area being considered on the screen.

Mayor Moyer asked if they have used up all of their extensions. Interim Director Nevins said that this would be the third one-year extension and would have three more years available to them.

Mayor Moyer said they have three more available to them and do we have to give them three more years. Interim Director Nevins said no, they would come back a year from now and if they still do not have a final map they would submit another request

Mayor Moyer said that we do these all the time at least since he has been here because we have a lot of tentative tract maps all over town. By extending it they are paying property taxes on something that is less than developed property. What he is saying is do you think it is being taxed as farmland, it is certainly not being taxed as commercial, is it. He understands that if we deny it, then they are forced to either move to file a tract map or sell the property or whatever.

Interim Director Nevins said she doesn't think they would be forced to sell the property. They probably wouldn't be able to final the map in time; it expires later this month so they would just revert to the single parcel.

Mayor Moyer said but if they were to final the tract map, then they would be paying property taxes on all the different parcels. He would like that investigated for maybe the next meeting because we do this all the time and they go on and no and on and some of them have been around ten years, maybe not this particular one, but he would like to know what the ramifications are and what our options are.

Mayor Moyer opened the item for public comments.

Inge Schuler said she doesn't know whether the decision by the Sacramento people is still valid but there was AB 333 which automatically extended any of these tract map applications indefinitely.

Mayor Moyer said he doesn't believe it was indefinitely and that is why he would like it investigated.

**Motion Welch/Andrade that the City Council adopt Resolution 2017-29, conduct a Public Hearing on the extension of time for Tentative Parcel Map No. 33326, and approve a 12**

**month extension of time for Tentative Parcel Map 33326. Motion carried, all in favor with Councilmembers Franklin and Peterson absent.**

**REPORTS OF OFFICERS**

1. Discuss and Consider Adopting Resolution 2017-28, Approving the Execution of an Active Transportation Plan Master Agreement for the City's Bicycle and Safe Routes to School Improvement Project including related Supplemental Agreements with the State of California Department of Transportation for \$1,082,000 fully funded by State Grant. (Staff Report – Art Vela, Director of Public Works)

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

Mayor Moyer opened the item for public comments.

**Motion Andrade/Welch that the City Council: 1) adopt Resolution 2017-28, Approving the Execution of an Active Transportation Plan Master Agreement in the amount of \$1,082,000 for the City's Bicycle and Safe Routes to School Improvement Project including related Supplemental Agreements with the State of California Department of Transportation; 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the agreements and administration of the grant; and 3) Authorizing the City Manager or his designee to execute the Master Agreement including all project related supplemental agreements.**

David Ellis addressed the Council asking with this resolution for the bicycle routes and things would there be any way possible to include some kind of shelter at the railroad tracks for the students when it is 115 degrees out and they are waiting for a 20-minute train or when it is pouring rain and there is another two 20-minute trains that you are waiting for. He want just wondering if that could be included.

Councilmember Welch said that is a good question. We are not restricted to just a path; we have to submit a plan.

Director Vela said in regards to the grant application it was a competitive process and so they scored our grant application based on the information that was put in the application. He said he asked the staff of the Commission a couple of questions related to changing the scope because he had a couple of ideas himself and they said depending on what the changes are it would be somewhat difficult to change the scope of work. He said he can ask that question to them and see if they would allow us to add a structure like that and if they approve it, that would be something he can bring forth.

Mayor Moyer said but we can go ahead and move forward with this and still make that adjustment if possible. Director Vela said yes. Mayor Moyer thanked Mr. Ellis for bring that up.

**Motion carried, all in favor with Councilmembers Franklin and Peterson absent.**

2. Discuss and Consider Adopting Resolution 2017-30, Approving an Appropriation of Funds in the Amount of \$253,219 for the Reimbursement Payment to MCI Communications Services, Inc. for the Relocation of their Infrastructure to Accommodate the Construction of Project No. 2006-05, Sunset Avenue Grade Separation.  
(Staff Report – Art Vela, Director of Public Works)

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

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

**Motion Welch/Andrade that the City Council: 1) adopt Resolution 2017-30, Approving an appropriation of funds in the amount of \$253,219 to fund the reimbursement payment to MCI Communications Services, Inc. for the relocation of their infrastructure to accommodate the construction of Project No. 2006-05, Sunset Avenue Grade Separation; and 2) Authorizing the City Manager or his designee to appropriate and distribute funds to MCI Communications Services, Inc. Motion carried, all in favor with Councilmembers Franklin and Peterson absent.**

3. Discussion and Consideration of Adopting Resolution 2017-27, Approving a Four (4) Year Lease and Maintenance Contract with Option to Terminate after One (1) Year, with Diversified Data Processing & Consulting, Inc. (DivDat) for one (1) Utility Payment Acceptance Kiosk to be located in the City Hall Lobby for the annual amount of \$33,540 and one-time set-up cost of \$9,800.  
(Staff Report – Rochelle Clayton, Deputy City Manager)

This item is being continued because some contract changes that were asked for have not been received yet so it will be continued until those changes are received.

Mayor Moyer recessed the Regular City Council Meeting and called to order a Scheduled Meeting of the Banning Utility Authority.

#### BANNING UTILITY AUTHORITY

#### REPORTS OF OFFICERS

1. Discuss and Consider Adopting Resolution 2017-03 UA, Awarding a Professional Services Agreement to RMC Water and Environment of Los Angeles, CA for the Development and Administration of an Integrated Regional Water Management Plan in the amount of \$1,079,904.  
(Staff Report – Art Vela, Public Works Director)

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

Boardmember Welch said one thing that intrigues him about this is that if we do not do this, we would be unable to move forward with this group effort and could run the risk of not completing this development in time to qualify for future grants and this is what concerns him. If we don't approve it, we are kind of going our own way and depending on just our needs.

Director Vela said what they are doing with this project is squeezing what typically would be about a fourteen month project into about ten months and the purpose of doing that is to have our IRWM (Integrated Regional Water Management) Plan completed and approved by the State in order to be eligible for implementation grants which will be out in April of next year. So historically our City has never participated in an RWMG (Regional Water Management Group) and so we haven't been eligible for the funding that is close to about \$1.5 billion that has been spent for this programs since its inception. The goal is to have the plan approved by the State as soon as possible to be eligible for the implementation grants.

Mayor Moyer asked if the in-kind is basically going to be borne by us.

Director Vela said each agency that is involved is going to keep track of their time and associated costs and we will be doing a lot of the reviews because we are listed as the lead agency but a majority of the work will be done by the consultant. Most of the time will be spent reviewing the documents, and the technical studies that are associated with the plan.

Chairman Moyer opened the item for public comments.

Jerry Westholder said he understands the grant aspect of this but his curiosity more than anything is what is in it for us. The bottom line is that we have water and the other places struggle for water. The east fork of the Whitewater River has never run dry in its history. Why do we have to partner with other agencies and especially at such an exorbitant price and then find out that we are going to be offering more work? Bottom line he doesn't care about the other areas because he doesn't live there. He wants what is best for our citizens and our city. Help him understand what is in it for us.

Director Vela said one example of an implementation project would Chromium-6 Treatment Facilities and as you know we are dealing with the new Chromium-6 standard that California has set and so some of the funding that has been allocated for the implementation grants goes to the treatment of water so that would be one of the primary projects that we would focus on once this plan is developed to submit an implementation grant for Chromium-6 funding. This program covers storm water, groundwater, and surface water so we could fund water capture projects, Coachella Valley IRWM fund conservation programs, turf replacement programs so the list of projects that you can fund with IRWM Program Funds is pretty lengthy so you can fund quite a bit of stuff.

Councilmember Andrade said she does understand that in order to be eligible for future grants we have to approve this but can we ever recover this money we are going to put up front from the grants and what are the guarantees that we are going to get those grants.

Director Vela said there is no guarantee, there is no way to re-capture the money that we are spending towards this. The hope is that we would get a grant and those grants could range from \$1.5 million to \$5 million dollars. If this is approved and the plan is approved by the State and we get one grant for \$1.5 million, then we have more than gotten our money back in his opinion.

Councilmember Andrade asked if we are going to partner with all those cities and since we do have our own water supply, can those other cities when they run low and we are in a drought

again can they actually take our water. Are we mandated to give them the water since we partnered with them?

Director Vela said that is a good point but no. We will be dealing with stuff like that when we it comes to Sustainable Groundwater Management Act (SGMA) and it is closely related to this program except for SGMA it is mandatory that we participate by law where this is voluntary.

Paul Perkins said he understands that there was a map included in the proposal that basically showed the watershed area that we are part of and there was discussions in there that talked about working with the Palm Springs area and things like that. Also part of San Bernardino County is in the same watershed area that we are considered to be in. His question would go to the flume. Would this be included into this study so that when and if we ever get approved to use it, we know we have to fix it?

Director Vela said the proposed area that is going to be covered by this plan does include the tributaries to the diversion structure. So water that drains into the diversion structure will be covered in this new region that we are creating.

Mr. Perkins said can it be counted in to be covered. In other words, as a resource that forces the federal government to get off their “you know what” because he is aware of some other cities like Tombstone, Arizona that lost its water source because of a fire in the National Park area they actually had to go to court for several years to get water because that was their only source of water. The flume is a good resource but his understanding is that it really doesn’t work.

Mayor Moyer said it doesn’t work to full capacity. It works to a certain extent.

**Motion Andrade/Welch that the Authority Board: 1) adopt Resolution 2017-03 UA, awarding a Professional Services Agreement to RMC Water and Environment of Los Angeles, CA in the amount of \$1,079,904 for the development and administration of an Integrated Water Management Plan, 2) Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations, transfers and approval of change orders for a total project budget not to exceed \$1,079,904; and 3) Authorizing the City Manager or his designee to execute the Professional Services Agreement with RMC Water and Environment of Los Angeles, CA. Motion carried, all in favor with Boardmembers Franklin and Peterson absent.**

**BANNING FINANCING AUTHORITY (BFA) - no meeting.**

Mayor Moyer adjourned the scheduled meetings and reconvened the regular City Council meeting.

**ITEMS FOR FUTURE AGENDAS**

New items – None

Pending Items – City Council

1. Zoning Amendment to General Plan – allow for community gardens.
2. Join other agencies to challenge the State in regard to Chromium-6 water issues.
3. Attraction of professional firms through economic development to locate in Banning.

*(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).*

**ADJOURNMENT**

By common consent the meeting adjourned at 6:09 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.**

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Art Vela, Director of Public Works

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Authorizing the City Manager to Sign and the City Clerk to Record the Notice of Completion for Project 2014-04E, Corporate Warehouse, Phase III, Tenant Improvements

---

### **RECOMMENDATION:**

That the City Council accept Project 2014-04E - Corporate Warehouse, Phase III, Tenant Improvements as complete, authorize the City Manager to sign and the City Clerk to record the Notice of Completion.

### **JUSTIFICATION:**

Staff has determined that the project has been completed per the contract documents including the approved plans and specifications.

### **BACKGROUND:**

On March 24, 2015, the City Council adopted Resolution 2015-12, awarding the Construction and Professional Services contracts for Project 2014-04E - Corporate Yard Warehouse and rejecting all other bids. Phase III of the Corporate Warehouse project was awarded to International Computing Systems, Inc. of Los Angeles, California.

The scope of work included the construction of interior wall framing/drywall, suspended ceilings, casework and finishes such as painting, flooring and doors and installation of plumbing, electrical and mechanical systems.

Change orders on the project amounted to \$58,475 for items related to design modifications and anchor bolts, reinforcing steel, wall framing, fire sprinkler system and lighting adjustments, door changes, air duct relocation and concrete work.

**FISCAL IMPACT:**

The original contract amount for this project was \$1,145,000 with an approved contingency of \$114,500 for a total project budget of \$1,259,500. The final contract amount including change orders is \$1,203,475.

**OPTIONS:**

1. Accept staff's recommendation of accepting Project 2014-04E - Corporate Warehouse, Phase III, Tenant Improvements as complete, and authorize the City Manager to sign and the City Clerk to record the Notice of Completion.
2. City Council may elect to not accept the project as complete, which would keep the project open and prevent the release of retention funds.

**ATTACHMENTS:**

1. Notice of Completion
2. Resolution 2015-12

Approved by:



Michael Rock,  
City Manager

# **ATTACHMENT 1**

*(Notice of Completion)*

1 WHEN RECORDED MAIL TO:

2  
3 Office of the City Clerk  
4 City of Banning  
5 P.O. Box 998  
6 Banning, California 92220  
7

8 FREE RECORDING:

9 Exempt Pursuant to  
10 Government Code §6103  
11

---

12  
13 NOTICE OF COMPLETION

14 PROJECT NO. 2014-04E "CORPORATE WAREHOUSE, PHASE III, TENANT  
15 IMPROVEMENTS"

16  
17  
18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the City  
19 of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil  
20 Code of the State of California, and is hereby accepted by the City of Banning, pursuant to  
21 authority conferred by the City Council this March 28, 2017, and the grantees consent to  
22 recordation thereof by its duly authorized agent.

23  
24 That the OWNER, the City of Banning, and International Computing Systems, Inc. of Los  
25 Angeles, California, the vendee, entered into an agreement dated March 25, 2015, for  
26 Project No. 2014-04E, 'Corporate Warehouse, Phase III, Tenant Improvements'.

27  
28 The scope of the work included the construction of interior wall framing/drywall,  
29 suspended ceilings, casework and finishes such as painting, flooring and doors and  
30 installation of plumbing, electrical and mechanical systems.

31  
32 That the work of improvement was completed on December 22, 2016, for Project No.  
33 2014-04E "Corporate Warehouse, Phase III, Tenant Improvements".

34 (1) The Nature of Interest was tenant improvements to the City's New  
35 Corporate Warehouse.

(2) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work of improvement.

(3) That said work of improvement was performed at 176 East Lincoln Street in Banning, California 92220.

(4) That the original contractor for said improvement was International Computing Systems, Inc., State Contractor's License No. 987805.

(5) That Performance and Payment bonds were required for this project.

(6) The nature of interest is in fee.

Dated: March 28, 2017

CITY OF BANNING  
A Municipal Corporation

By Michael Rock, City Manager

APPROVED AS TO FORM:

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John Cotti, Interim City Attorney  
Jenkins & Hogin, LLP

## JURAT

State of California  
County of Riverside

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by \_\_\_\_\_ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal)

Notary Public in and for said County  
and State

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 is authorized to execute this Notice of Completion on behalf of said City; that I have read the foregoing Notice and know 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 perjury that the forgoing is true and correct.

Executed on \_\_\_\_\_, 2017 at Banning, California.

## City Clerk of the City of Banning

# **ATTACHMENT 2**

*(Resolution No. 2015-12)*

**RESOLUTION NO. 2015-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, AWARDING THE CONSTRUCTION AND PROFESSIONAL  
SERVICES CONTRACTS FOR PROJECT NO. 2014-04 "CORPORATE YARD  
WAREHOUSE" AND REJECTING ALL OTHER BIDS**

**WHEREAS**, the City of Banning owns and operates its Municipal Electric Utility; and

**WHEREAS**, it is essential that the City of Banning continues to maintain and upgrade electric utility facilities within the city limits; and

**WHEREAS**, the City of Banning adopted Resolution 2010-27 which authorized the use of Electric Bond funds for the construction of a new Electric warehouse to replace the existing dilapidated structure; and

**WHEREAS**, staff solicited bids for Phase I (Civil Improvements), Phase II (Metal Building) and Phase III (Tenant Improvements) of Project No. 2014-04 "Corporate Yard Warehouse"; and

**WHEREAS**, Moalej Builders, Inc. of Sherman Oaks, CA is the lowest responsive and responsible bidder to complete the scope of work related to Phase I; and

**WHEREAS**, Kinsman Construction, Inc. of San Diego, CA is the lowest responsive and responsible bidder to complete the scope of work related to Phase II; and

**WHEREAS**, International Computing Systems, Inc. of Los Angeles, CA is the lowest responsive and responsible bidder to complete the scope of work related to Phase III; and

**WHEREAS**, staff advertised a Request for Proposal for Construction Management Services and received and evaluated nine proposals; and

**WHEREAS**, the evaluation committee, made up of three city staff members, rated Bernards, of Ontario, CA the highest and recommends the award of a Professional Services contract to provide the City with Construction Management Services throughout the project; and

**WHEREAS**, staff advertised a Request for Proposal for Material Testing and Construction Inspection Services and received and evaluated nine proposals; and

**WHEREAS**, the evaluation committee rated RMA Group, of Rancho Cucamonga, CA the highest and recommends the award of a Professional Services contract to provide the City with Material Testing and Construction Inspection Services throughout the project; and

**WHEREAS**, staff recommends that the existing professional services contract with Higginson & Cartozian Architects, the architect of record, be amended in order for the firm to provide services during construction; and

**WHEREAS**, staff recommends that the existing professional services contract with Albert A. WEBB and Associates, the civil engineer of record, be amended in order for the firm to provide services during construction.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Banning as follows:

**SECTION 1.** Adopt Resolution No. 2015-12, "Awarding the Construction and Professional Services Contracts for Project No. 2014-04 'Corporate Yard Warehouse' and Rejecting All Other Bids.

**SECTION 2.** Approve the construction contract, in an amount not-to-exceed \$1,091,500.00, for Phase I (Civil Improvements) to Moalej Builders, Inc. of Sherman Oaks, CA and allowing a 10% contingency of \$109,150.00.

**SECTION 3.** Approve the construction contract, in an amount not-to-exceed \$859,000.00, for Phase II (Metal Building) to Kinsman Construction, Inc. of San Diego, CA and allowing a 10% contingency of \$85,900.00.

**SECTION 4.** Approve the construction contract, in an amount not-to-exceed \$1,145,000.00, for Phase III (Tenant Improvements) to International Computing Systems, Inc. of Los Angeles, CA and allowing a 10% contingency of \$114,500.00.

**SECTION 5.** Approve the professional services contract, in an amount not-to-exceed \$356,159.00, for construction management services to Bernards of Ontario, CA.

**SECTION 6.** Approve the professional services contract, in an amount not-to-exceed \$99,113.00, for material testing and construction inspection services to RMA Group of Rancho Cucamonga, CA.

**SECTION 7.** Approve an amendment to the professional services contract with Higginson & Cartozian Architects of Redlands, CA in an amount of \$69,495.00, for services during construction.

**SECTION 8.** Approve an amendment to the professional services contract with Albert A. WEBB Associates of Riverside, CA in an amount of \$15,800.00, for services during construction.

**SECTION 9.** The Interim City Manager is authorized to execute the construction contract and professional service agreements and amendments for Project No. 2014-04 "Corporate Yard Warehouse" in a form approved by the City Attorney.

SECTION 10. The Administrative Services Director is to make the necessary budget adjustments, appropriations, and transfers related to the project and to approve change orders within the 10% contingencies.

PASSED, ADOPTED AND APPROVED this 24<sup>th</sup> day of March, 2015.



Deborah Franklin, Mayor  
City of Banning

ATTEST:



Marie A. Calderon, City Clerk  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT:



Lona N. Laymon, Assistant City Attorney  
Aleshire and Wynder, LLP

**CERTIFICATION**

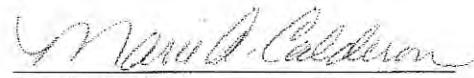
I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-12 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 24<sup>th</sup> day of March, 2015 by the following vote, to wit:

AYES: Councilmembers Miller, Moyer, Peterson, Welch, Mayor Franklin

NOES: None

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
Marie A. Calderon, City Clerk  
City of Banning, California

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Patty Nevins, Senior Planner

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-25 Approving the General Plan Annual Progress Report for Calendar Year 2016

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### **RECOMMENDATION:**

Adopt Resolution 2017-25 approving the General Plan Annual Progress Report (APR) for Calendar Year 2016 and direct staff to file it with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).

### **COMMITTEE RECOMMENDATION:**

This report was considered at the March 1, 2017 Planning Commission Meeting. At that meeting, the Planning Commission voted 5-0 to approve Resolution 2017-05 recommending that the City Council approve the General Plan Annual Progress Report for Calendar Year 2016.

### **JUSTIFICATION:**

California State law requires the City to prepare a General Plan APR. The report must be approved by the City Council and filed with the Governor's OPR and the State Department of HCD by April 1<sup>st</sup> of each year. The State uses the information submitted by the City to identify statewide trends in the land use decision making process and how local planning and development activities relate to statewide planning goals and policies.

California law requires each city to adopt a comprehensive, long-term General Plan to guide the physical development of both the incorporated city and the land outside city boundaries that bears a relationship to its planning activities. The General Plan serves as

an outline for future growth and development. As such, the General Plan contains policies and programs designed to provide decision makers with a solid foundation for land use and development decisions.

The City's General Plan contains twenty-one elements, which are listed below; and, are divided into four sections as follows:

Community Development

- Land Use Element
- Economic Development Element
- Circulation Element
- Parks and Recreation Element
- Housing Element

Environmental Resources

- Water Resources Element
- Open Space and Conservation Element
- Biological Resources Element
- Archaeological and Historic Resources Element
- Air Quality Element
- Energy and Mineral Resources Element

Environmental Hazards

- Geotechnical Element
- Flooding and Hydrology Element
- Noise element
- Wildland Fire Hazards Element
- Hazardous and Toxic Materials Element

Public Services and Facilities

- Water, Wastewater and Utilities Element
- Public Building and Facilities Element
- School and Libraries Element
- Police and Fire Protection element
- Emergency Preparedness Element

The purpose of the General Plan APR is to provide a status report to ensure that the goals, policies, and plans of the General Plan are being implemented and to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation.

**BACKGROUND:**

On January 31, 2006, the City Council adopted Resolution 2006-12 approving the Comprehensive General Plan Update. Over the years, when economically feasible the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. As in previous years, budgetary constraints have played a role in the lack of follow through in implementing some of the General Plan programs.

In keeping with the organizational format of the 2006 General Plan, the General Plan APR arranges the twenty-one elements among the four subject chapters. Each section

contains the adopted goals and policies including a summary table that reflects the action program, responsible City department or agency, adopted schedule and implementation status. Similar to the previous year, the information contained within the General Plan APR was obtained (through a series of inter-department meetings) from the following City departments: Community Development, Public Works, Electric Utility, Water/Waste Water Utility, Community Services, Fire Services and Police.

For easy reference, the action programs that have been completed and/or are active and ongoing are highlighted in **bold type**, while the programs that have not been completed/initiated are highlighted in *italics*.

In addition to the attached General Plan APR, additional housing information is required to be submitted to State Department of HCD related to the construction of affordable housing, rehabilitated homes, and the Regional Housing Needs Assessment requirements. The 2014-2021 Regional Housing Needs Assessment (RHNA) obligations, as prepared by the Southern California Association of Governments (SCAG), sets forth the planning period goal of 3,792 units for the City. It is noted that in the past four (4) years the City has issued just zero (0) permits for single family dwellings.

It should be stated that the purpose of this process is to review the General Plan APR from the standpoint of providing information to OPR and HCD as to how the City's adopted General Plan programs have been implemented, rather than to solicit direction as to which programs should be changed or eliminated.

#### **FISCAL IMPACT:**

There is no direct fiscal impact to the City's General Fund as a result of the recommended action.

#### **OPTIONS:**

The General Plan APR is required to supply the Governor's OPR and the State Department of HCD with information informing the State of the City's progress in implementing the General Plan. Providing a copy of the APR to HCD fulfills the statutory requirement to report certain housing information, including the local agency's progress in meeting its share of the regional housing needs to the State. Generally, failure to meet state statutes in particular those related to housing may have consequences such as affecting grant applications and State funding opportunities.

1. Approve Staffs' recommendations and approve the current report as presented.
2. Do not approve Staffs' recommendations and provide staff with alternate direction/corrections to the report.

**ATTACHMENTS:**

1. Resolution No. 2017-25
2. General Plan Annual Progress Report for Calendar Year 2016
3. Copy of PC Resolution No. 2017-05
4. Public Hearing Notice

Approved By:



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Michael Rock  
City Manager

# **ATTACHMENT 1**

Resolution 2017-25

## **RESOLUTION 2017-25**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2016**

**WHEREAS**, the California state law requires that each city and county adopt a general plan to guide development in their city and land outside its boundaries that has relation to its city planning (Govt. Code §65300); and

**WHEREAS**, the California State law requires that the General Plan include seven (7) mandated elements: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise; and

**WHEREAS**, the City undertook a comprehensive update to the General Plan and Zoning Ordinance which were adopted by the City Council on January 31, 2006 by Resolution 2006-12; and

**WHEREAS**, the City of Banning General Plan has 21 elements (seven (7) of which are mandated by the State); and

**WHEREAS**, Government Code §65400 mandates that cities and counties in California submit an annual report on the status of the General Plan and progress in its implementation to their decision makers (City Council or Board of Supervisors), the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1<sup>st</sup> of each year; and

**WHEREAS**, the purpose of the General Plan annual report is to provide enough information to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation; and

**WHEREAS**, the City is also required to report progress in implementing its housing element and the Regional Housing Needs Assessment as part of the annual report; and

**WHEREAS**, the economic recession has hampered development in the community, including housing construction; and

**WHEREAS**, on December 29, 2011, the California Supreme Court upheld the validity of the Assembly Bill (AB) 1X 26 and invalidated AB 1X 27 which resulted in dissolution of redevelopment agencies in California including the City of Banning Community Redevelopment Agency which completely cut-off sources of funding for construction of infrastructure, elimination of blight, and construction and maintenance of affordable housing; and

**WHEREAS**, the City continues to take proactive steps in implementing the goals, policies and action programs of the General Plan; and

**WHEREAS**, over the course of the past ten (10) years, the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. While the City has been implementing the General Plan, the primary reasons why some of the action programs have not been completed or initiated is due to budget constraints, available staff resources, and work program priority for each of the City departments; and

**WHEREAS**, the General Plan Annual Progress Report for Calendar Year 2016 contains the reporting forms on progress for implementing the Housing Element and details the implementation action programs and status; and

**WHEREAS**, on March 01, 2017, during a duly advertised public hearing, the Planning Commission adopted Resolution 2017-05 recommending to the City Council the approval of the General Plan Annual Progress Report for Calendar Year 2015; and

**WHEREAS**, on the 28th day of March 2017, the City Council held the noticed public meeting at which interested persons had an opportunity to testify in support of, or opposition to the proposed General Plan Annual Progress Report for Calendar Year 2016; and

**WHEREAS**, at this public meeting on the 28th day of March 2017, the City Council considered and heard public comments on the proposed General Plan Annual Progress Report for Calendar Year 2016; and

**WHEREAS**, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public meeting held on the 28<sup>th</sup> day of March 2017.

**NOW THEREFORE**, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

**SECTION 1:** Compliance with Government Code Section 65400.

The City Council determined that this General Plan Annual Progress Report for Calendar Year 2016 was prepared in compliance with Government Code Section 65400.

**SECTION 2:** City Council Action.

The City Council approves the General Plan Annual Progress Report for Calendar Year 2016; and, directs staff to file the report with the State Office of Planning and Research and the State Department of Housing and Community Development.

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of March 2017.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

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

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**

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John C. Cotti, Interim City Attorney  
Jenkins & Hogin, LLC

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Resolution 2017-25 was duly adopted at a regular meeting of said City Council on the 28<sup>th</sup> day of March 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

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# **ATTACHMENT 2**

General Plan Annual Progress Report for Calendar Year 2016



City of Banning  
Community Development  
Department

*General Plan*  
*Annual Progress Report*  
**2016**

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## Introduction

Government Code Section 65400(b) requires planning agencies to provide an annual report to their legislative body, the Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) on the status of their General Plan and their progress in its implementation. The report must detail the progress in meeting the jurisdiction's share of regional housing needs and addresses efforts by the local agency to removing governmental constraints to the maintenance, improvement, and development of housing.

The purpose for the Annual Progress Report is to assess how the General Plan is being implemented in accordance with adopted goals, policies and implementation measures; identify any necessary adjustments or modifications to the General Plan as a means to improve local implementation; provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies and implementation measures contained in the General Plan; and, to provide information regarding local agency progress in meeting its share of regional housing needs.

The current Banning General Plan was adopted by the Banning City Council on January 31, 2006. The updated Housing Element was approved December 9, 2014. The following discussion will provide a summary of the progress in achieving the Goals, Policies and Implementation Programs for each of the twenty-one General Plan elements for the 2016 calendar year. Each General Plan Element contains implementation programs that identify each department(s) responsible for implementation of the programs and outlines the timing/schedule to complete the programs. In order to reflect the General Plan 2006 format, the elements are organized into four major sections: Community Development, Environmental Resources, Environmental Hazards, and Public Services and Facilities.

The programs that have been completed and/or active and ongoing are highlighted in **bold** and the programs that have not been completed are highlighted in *italics*.

## Chapter 1 Community Development

### Land Use Element

#### **GOAL 1**

A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents.

#### **Policy 1**

The City maintain a land use map which assures a balance of residential, commercial, industrial open space and public lands.

##### **Program 1.A**

The city shall annually monitor the remaining capacity of all General Plan land use categories and recommend changes to the City Council as needed.

**Responsible Agency:** Planning Division, Planning Commission

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

##### **Program 1.B**

The City's Zoning Ordinance shall directly correspond to General Plan land use designations, and shall be kept consistent with the General Plan.

**Responsible Agency:** Planning Division, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

#### **Policy 2**

The Planning, Public Works and Economic Development staffs shall be closely coordinated, to assure efficient and cost effective processing of applications.

##### **Program 2.A**

The City shall develop a Fast Track application process for projects which enhance the City's economic development. Procedures and timelines shall be provided to qualifying project applicants in writing.

**Responsible Agency:** Planning Division, Public Works, City Manager's Office

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing and complies with Permit Streamlining Act.**

**Policy 3**

Development in all land use categories shall be of the highest quality.

**Program 3.A**

The Zoning Ordinance shall include design standards and guidelines which assist the development community in developing high quality projects.

**Responsible Agency:** Planning Division, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Completed.** The current Zoning Ordinance provides design standards and guidelines for residential and commercial development.

**Policy 4**

Specific Plans shall be required for projects proposing one or more of the following:

- a. More than one residential land use designation;
- b. A combination of residential, recreational, commercial and/or industrial land use designation; or
- c. Extension of infrastructure (water, sewer and roadways) into an area where these do not exist.

**Policy 5**

All land use proposals shall be consistent with the goals, policies and programs of this General Plan, and with the Zoning Ordinance.

**Policy 6**

The City shall implement a program for Art in Public Places.

**Program 6.A**

An Art in Public Places Ordinance shall be prepared and incorporated into the Municipal Code.

**Responsible Agency:** Community Services Department, Planning Division, Planning Commission, City Council.

**Schedule:** Continuous; Ongoing

**Implementation Status – Art in Public Places is currently required as part of new development in Downtown Commercial zoning district. Due to lack of funding and staffing, the details of the Art in Public Places program have yet to be developed.**

**Residential Goals, Policies and Programs:****GOAL 1**

Preserve and enhance the City's neighborhoods.

**GOAL 2**

A broad range of housing types to fill the needs of the City's current and future residents.

**Policy 1**

The land use map shall provide a range of housing densities while considering land use compatibility with non-residential land uses.

**Policy 2**

Projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected.

**Policy 3**

Density transfers resulting in a 50% increase in density shall be permitted in the Residential/Agriculture-Hillside and Rural Residential-Hillside land use designations.

**Policy 4**

The City's Zoning Ordinance shall include design standards and guidelines which encourage high quality residential development.

**Program 4.A**

Design standards and guidelines shall be included in all residential zoning categories.

**Responsible Agency:** Planning Division, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Design standards and guidelines are contained in the current zoning ordinance.**

**Policy 5**

The City shall complete Specific Neighborhood Plans when requested by the neighborhood.

**Program 5.A**

Develop and implement an outreach program and outline of parameters for Neighborhood Plans.

**Responsible Agency:** Planning Division, Planning Commission, City Council

**Schedule:** Pending

**Implementation Status – Not implemented due to staffing constraints.**

**Policy 6**

The Zoning Ordinance shall include principles, standards and guidelines which allow for creative and flexible design of residential projects, including clustered housing, narrowed local streets, trails, parks and plazas.

**Policy 7**

The Zoning Ordinance shall include principles, standards and guidelines which provide for high quality, high density mixed use residential development, in the Downtown Commercial zoning designation.

**Policy 8**

The City will participate in a Community Plan for the Banning Bench with Riverside County and the Banning Bench Community of Interest. Specific development proposals will continue to be processed during its preparation.

**Program 8.A**

Negotiate with the Banning Bench Community of Interest as part of the Master Plan for either inclusion in the City's Sphere of Influence or annexation.

**Responsible Agency:** City Council, Community of Interest

**Schedule:** Pending

**Implementation Status** – *Not implemented due to staffing constraints.*

**Commercial Goals, Policies and Programs:****GOAL 1 - Commercial**

Complementary commercial uses which meet the needs of the City's residents, increase the City's revenues, and provide a range of employment opportunities.

**GOAL 2 - Industrial**

A balanced mix of non-polluting industrial land uses which provide local jobs for the City's residents.

**Policy 1**

The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region, while carefully considering compatibility with adjacent residential lands.

**Policy 2**

In coordination with the Economic Development Element, the City shall maintain market information, including information on the City's identified service needs, potential sites, Fast Track System and provide information on those sites to the development community.

**Program 2.A**

Develop and maintain an inventory of potential commercial sites, including lands which may require consolidation, and demographic information for use by the Economic Development staff in attracting new businesses to the City.

**Responsible Agency:** Planning Division, City Manager's Office

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 3**

The Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality commercial projects.

**Policy 4**

The Zoning Ordinance shall include principles, design standards and guidelines, based on the Downtown Design Charrette, which provide for high quality, pedestrian oriented retail development in the Downtown Commercial zoning designation.

**Policy 5**

The City shall coordinate with the Banning Unified, the Beaumont Unified School Districts and the Mount San Jacinto Community College to provide vocational education to support commercial and industrial businesses in the City and surrounding areas.

**Policy 6**

The City shall develop and implement a community identification program, including monument signage, directional signs, etc. which provide attractive entry statements for the City, and which direct visitors to local points of interest.

**Policy 7**

The land use map shall include sufficient industrial lands for manufacturing, warehousing and distribution, while carefully considering compatibility with adjacent lands.

**Policy 8**

Industrial lands shall be located on major roadways with good access to Interstate 10, to assure that potential traffic impacts associated with tractor-trailers are minimized.

**Policy 9**

N/A

**Policy 10**

The Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality industrial projects.

**Policy 11**

Industrial campuses and master planned projects are encouraged.

**Policy 12**

The City shall coordinate with developers and the Railroad to secure railroad spurs.

**Policy 13**

The City shall adequately regulate sand and gravel operations to assure that their impacts to surrounding development is minimized.

<b>Program 13.A</b>
The City shall establish a formal relationship with the County Geologist or other qualified agency to monitor mineral resource operations under the State Mining and Reclamation Act (SMARA).
<b>Responsible Agency:</b> Planning Division, Riverside County Geologist
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status</b> – The County no longer monitors or performs annual inspections for the mines in Banning for compliance with SMARA. The City contracted with Aragon Geotechnical, Inc. to perform annual inspections. The annual inspection report identifies the mine's compliance and non-compliance items. Non-compliance items must be fixed by the mine.

### **Public Facilities Goals, Policies and Programs:**

#### **GOAL 1**

Sufficient and appropriately located public facilities to serve the needs of the City's residents, businesses and visitors.

#### **Policy 1**

The City shall take a leadership role with all providers of public services in the community to assure they provide adequate and quality levels of service based on future demands.

<b>Program 1.A</b>
The City shall take a leadership role with the various public and private providers responsible for schools, fire, health and other providers.
<b>Responsible Agency:</b> Planning Division, City Manager's Office, City Council, Fire Department, Banning and Beaumont Unified School Districts, County of Riverside, San Gorgonio Memorial Hospital
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status</b> - The Fire Department master plan for expansion based on community growth was approved by the City Council and is continually re-evaluated.

**Policy 2**

The City shall review projects, particularly those which propose master planned communities, to assure that public facilities are provided to meet the needs of the project and the surrounding area.

**Program 2.A**

The City shall, where appropriate, regulate the location of public facilities through conditions of approval.

**Responsible Agency:** Planning Division, Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through development review and conditions of approval.**

**Open Space Goals, Policies and Programs:****GOAL 1**

The conservation and management of open space areas to provide recreational opportunities and protect important resources in perpetuity.

**Policy 1**

Lands preserved through conservation easements, acquired by private or public agencies, or dedicated for open space shall be designated for the appropriate Open Space land use category on the land use map as they are preserved.

**Program 1 A**

Review development proposals adjacent to designated open space lands and assure that land uses are compatible, and buffers provided when necessary.

**Responsible Agency:** Planning Division, Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as part of land development review process.**

**Policy 2**

The City shall proactively coordinate with private and public agencies so that lands available for conservation are dedicated appropriately to assure their management in perpetuity.

**Program 2.A**

The City shall coordinate with land owners and private and public agencies to the greatest extent possible to assure that lands proposed for open space either through donation or purchase are conveyed to the appropriate management agency.

**Responsible Agency:** Planning Division, City Manager's Office, County of Riverside, State and Federal Agencies, Land Conservation Agencies

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as part of development review process.**

**Policy 3**

The City of Banning shall protect the peaks and ridgelines within the City, and encourage coordination with adjacent jurisdictions to protect the peaks and ridgelines within the City's area of influence, to protect the historic visual quality of the hillside areas and natural features of the Pass area.

**Program 3.A**

The City shall investigate and implement actions and regulations that facilitate hillside development that is compatible with the natural characteristics of the terrain while protecting the significant view sheds, and natural hillside features such as topography, natural drainage, vegetation, wildlife habitats, movement corridors etc.

**Responsible Agency:** City Council, City Manager's Office, Planning Division, Public Works Department, City of Beaumont, County of Riverside, Morongo Band of Mission Indians

**Schedule:** Continuous; Ongoing

**Implementation Status – A grading ordinance was adopted as part of the City's Municipal Code. Implementation is ongoing.**

## Economic Development Element

**GOAL 1**

A balanced, broadly-based economy that provides a full range of economic and employment opportunities, including sales tax and property tax generation while maintaining high standards of development and environmental protection.

**Policy 1**

General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

**Program 1.A**

The city shall annually monitor the remaining capacity of all General Plan land use categories to assure that a variety of economic development opportunities are available.

**Responsible Agency:** Community Development Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Program 1.B**

All proposals for new development or redevelopment shall be evaluated to assure that these uses complement, support and are compatible with the City's core economic assets.

**Responsible Agency:** Community Development Department, Finance Department, Public Works Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 2**

The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, generate sales tax and property tax, increase discretionary incomes, and contribute to City General Fund revenues.

#### **Program 2.A**

Work closely with Mount San Jacinto College throughout their planning process to assist in its efficient and timely development, implement educational programs geared to job creation and retention, and to coordinate synergistic development opportunities.

**Responsible Agency:** Community Development Department, Mount San Jacinto College

**Schedule:** Continuous; Ongoing

**Implementation Status – Phase I of the Mt. San Jacinto Community College development was completed in December 2010. Additional phases are being discussed by the College.**

#### **Program 2.B**

Aggressively pursue retail commercial developments which reduce the current retail sales leakage.

**Responsible Agency:** Community Development Department

**Schedule:** Continuous; Ongoing

**Implementation Status –**The former Kmart site was repositioned to include Hobby Lobby, Marshall's, Party City, and Big 5 Sporting Goods; these tenants opened for business in 2016. Additionally, building plans for a separate “Pad A” building to include three more tenants were submitted and reviewed by the City in 2016, with construction and opening anticipated in 2017.

#### **Program 2.C**

Continue to maximize the role of the Chamber of Commerce, City web site and other mechanisms that promote and enhance the City’s business climate.

**Responsible Agency:** Community Development Department, Chamber of Commerce

**Schedule:** Continuous; Ongoing

**Implementation Status -** Active and ongoing. 2016 updates to the City’s website include the addition of information describing residential and commercial development plans in the City.

### **Policy 3**

Encourage and promote infill development in orderly and logical development patterns that decrease the costs, and increase the efficiency of new utilities, infrastructure, and public services.

#### **Program 3.A**

The City shall maintain a package of economic incentive programs that benefit developers of infill projects.

**Responsible Agency:** Community Development Department, Electric Utility Department, Finance Department

**Schedule:** Continuous; Ongoing

**Implementation Status –** The City Council has adopted an Electric Utility Incentive Program for existing business expansion and business attraction. The Electric Utility

**Incentive Program was enhanced in 2012 to lower the minimum requirement threshold in an effort to reach a broader business base. The City provides a one-stop shop program where developers can meet with City staff at no cost in advance of their formal application to the City. The City also provides a single point of contact from start to the completion of a construction project.**

**Program 3.B**

The City shall contribute to the financing of tertiary treatment facilities as an economic development tool.

**Responsible Agency:** Community Development Department, Public Works Department

**Schedule:** Pending

**Implementation Status – Ongoing.** The City is soliciting a proposal to review previously-prepared designs for a tertiary treatment facility.

**Program 3.C**

Use the Downtown Charrette as a guideline for the Downtown Commercial area, for the development of high quality, pedestrian oriented retail locations.

**Responsible Agency:** Community Development Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Policy 4**

Attract a greater number of commercial retail businesses to the Downtown Core area to develop a safe, vital and consumer-friendly downtown shopping area.

**Program 4.A**

Provisions for the Downtown Commercial Zoning District shall encourage specialty retail uses, live-work uses, and other uses which support and expand the pedestrian and tourist-related shopping experience.

**Responsible Agency:** Planning Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Program 4.B**

The City shall coordinate with public, private and business organizations to explore grant funding to provide funds for rehabilitation and increased code enforcement in the Downtown Core area.

**Responsible Agency:** Community Development Department, Chamber of Commerce, City Council

**Schedule:** Ongoing

**Implementation Status – Ongoing, but limited due to lack of funding. The City recently recruited a microbrewery into Downtown. In addition, sizable capital was invested into the Station Taphouse. Both are drawing pedestrian shopping and eating experiences.**

**Program 4.C**

The City shall work with local non-profits, downtown property owners, and other citizen groups with an interest in development of the Downtown core area, to identify grant monies, private development interests and business synergies to build on existing revitalization activities in this area.

**Responsible Agency:** Community Development Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing, but limited due to lack of funding and lack of interest.**

**Policy 5**

Explore opportunities with private entities to fund Smith Creek Park as a viable recreation area.

**Program 5.A**

Update the Smith Creek Park master plan and actively market this development opportunity among private entities that could fund development and provide for future maintenance of the park and improvements.

**Responsible Agency:** Community Services Department, Community Development Department, City Council, development community

**Schedule:** Pending

**Implementation Status – Not implemented.**

**Policy 6**

Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits.

**Program 6.A**

Proactively work with CalTrans to improve on- and off-ramp landscaping and improvements to provide more attractive gateways to the City.

**Responsible Agency:** Community Development Department, Public Works Department, CalTrans

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing**

**Program 6.B**

Preserve highway commercial land use designations at interchange locations, and encourage the location of high quality freeway-serving businesses.

**Responsible Agency: Community Development Department**

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

<b>Implementation Status - Implemented through Zoning and land development review process.</b>
<b>Program 6.C</b>
Code compliance on gateway streets and properties adjacent to Interstate 10 shall be strictly enforced.
<b>Responsible Agency:</b> Code Enforcement
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status - Ongoing.</b>

**Policy 7**

Explore joint funding opportunities for the improvement of existing at-grade rail crossings, and investigate necessary infrastructure and funding to extend rail access to lands designated for industrial development.

**Program 7.A**

Consult with representatives of the Railroad, state and federal legislators, and appropriate state agencies to apply for available funding for these improvements.

**Responsible Agency:** Public Works Department, Railroad, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing**

**Policy 8**

In order to maintain existing economic activities and attract new commercial and industrial development, the City shall assure the provision of adequate utilities, infrastructure, and other capital facilities.

**Policy 9**

All development interests, including residential, commercial and industrial project proponents, shall be responsible for their fair share of on-site and off-site improvements required to support their development proposals. Such improvements may include, but are not limited to, street construction and signalization, grade separation, utility extension, drainage facilities, and parks.

**Program 9.A**

The City shall consider requests for assistance from project developers for the development of infrastructure and compare them to the economic benefit of the proposed project.

**Responsible Agency:** Public Works Department, Community Development Department

**Schedule:** Continuous; Ongoing

**Implementation Status - As part of land development, projects are required to provide infrastructure to serve the development.**

**Program 9.B**

Proactively work with the Riverside County Transportation Commission in putting Banning projects on the highest priority within the Transportation Uniform Mitigation Fee (TUMF) program.

**Responsible Agency:** City Manager's Office, City Engineer, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing. Attend and participate at monthly meetings with Riverside County Transportation Commission.**

**Policy 10**

Continue to encourage and cultivate cooperative relationships with the Morongo Band of Mission Indians and Bureau of Indian Affairs, particularly regarding development opportunities, joint venture or otherwise, of Indian lands within and adjacent to the planning and development and enhancement of community facilities that provide joint benefit, and development projects that produce sales tax/property tax/job generation, to the Tribe and the City.

**Program 10.A**

Continue to pursue development opportunities that benefit the long-term financial sustainability of the City. Pursue larger facilities to attract national tenants that will enhance the City's financial position via sales tax generation, property tax generation, and who offer employment opportunities. Consult with representative of the Railroad, state and federal legislators, and appropriate state agencies to apply for available funding for these improvements.

**Responsible Agency:** Community Development Department, Public Works Department, Railroad, City Council, City Administrative Office.

**Schedule:** Continuous; Ongoing

**Implementation Status:** Active and On-going

**Policy 11**

Promote development activities and programs that establish the City as a destination venue and encourages tourism.

(The City will have a comprehensive plan.)

**Program 11.A**

Encourage and promote development activities, special events and activities which strengthen the City's image and attractiveness to residents, visitors, and businesses. Create development and program opportunities that promote educational potential for youth, highlight the history and culture of the City/region, and that offers visitors a unique experience.

**Responsible Agency:** City Council, Chamber of Commerce, Morongo Band of Mission Indians, Inland Empire Tourism Council, Banning and Beaumont Unified School Districts.

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing. Special Events such as Phineas Festival, Art Hop, and Play House Bowl and many other downtown activities.**

**Program 11.B**

The City shall conduct market research on tourism approaches, target the tourism markets of interest, and create tourism plan goals and an implementation strategy.

**Responsible Agency:** Community Development Department, Chamber of Commerce, Local Non-Profits (Inland Empire Tourism Council, ECOPAC)

**Schedule:** Ongoing

**Implementation Status - Ongoing efforts to accomplish tourism plan.**

## Circulation Element

### GOAL 1

A safe and efficient transportation system.

#### **Policy 1**

The City's Recommended General Plan Street System shall be strictly implemented.

##### **Program 1.A**

Street rights of way shall be 134 feet for Urban Arterial Highways, 110 feet for Arterial Highways, 100 feet for Major Highways, 88 feet for Secondary Highways, 78 feet for Divided Collectors, 66 feet for Collectors, and 60 feet for Local Streets. Local street standards can be amended as described in Policy 2.

**Responsible Agency:** Community Development Department, Public Works Department, Planning Commission, City Council (Planning Department)

**Schedule:** Continuous; Ongoing

**Implementation Status – Implemented through the City's development process.**

##### **Program 1.B**

The City's Public Works roadway standards shall be amended to match the standards contained in this General Plan.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Completed**

##### **Program 1.C**

Minimum lane width for all City streets shall be designed at 12 feet.

**Responsible Agency:** Planning Division, Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing standard requirement for all development projects.**

**Currently the minimum roadway for two way traffic is 44' from curb to curb per the General Plan.**

**Policy 2**

Local streets shall be scaled to encourage neighborhood interaction, pedestrian safety and reduced speeds.

**Program 2.A**

The design of new local streets can vary from the City's standard of 60 foot right-of-way, 40 foot paved width, under the following conditions:

1. The minimum travel lane width shall be 12 feet.
2. Parking shall be provided on at least one side of any public street. Parking lanes shall be a minimum of 8 feet in width.
3. Parking may be eliminated on private streets, if provisions are made in Conditions, Covenants and Restrictions (CC&R's) for enforcement by the Homeowners' Association.
4. Landscaped traffic circles, chokers, and center islands are encouraged, but must meet the requirements of the Fire Department.
5. The minimum parkway width shall be 10 feet.
6. Linear sidewalks are discouraged. Meandering sidewalks, which provide landscaping and street trees adjacent to the curb, shall be included in local street design.

The design of local streets varying from the City's standard, shall be included in the Tentative Tract Map application, and shall be reviewed by the Planning Commission and approved by the City Council.

**Responsible Agency:** Community Development Department, Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing review as part of development process.**

**Program 2.B**

Existing local streets will be inventoried, and a master plan of potential improvements designed to improve their aesthetic and safety, including landscaped medians, sidewalks and traffic calming devices, shall be developed, cost engineered, and implemented.

**Responsible Agencies:** Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, Capital Improvement Program (CIP) adopted and being implemented as funding is available. In 2013 the City had all the City streets inventoried and inspected for specific conditions which resulted in a condition rating for each street which will be utilized to efficiently maintain the City's street network.**

**Policy 3**

The City shall establish and maintain a 5-Year Capital Improvement Program for streets.

**Program 3.A**

The Public Works Department shall establish a Capital Improvement Program for 5 years, and update it annually.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – The 5 Year Capital Improvement Program is updated every two years as part of the budget cycle.**

**Policy 4**

Proactively participate in regional transportation planning.

**Program 4.A**

Maintain active relationships with the City of Beaumont, the County of Riverside, the Western Riverside County Council of Governments, the California Department of Transportation and the Morongo Band of Mission Indians to share information and promote comprehensive transportation planning in the region.

**Responsible Agency:** Public Works Department, City Manager's Office, City Council, City of Beaumont, County of Riverside, WRCOG, CalTrans, Tribe

**Schedule:** Continuous; Ongoing

**Implementation Status – The city has provided comments to SCAG regarding the 2012-2035 RTP.**

**Program 4.B**

Aggressively pursue Banning projects in the Transportation Uniform Mitigation Fee (TUMF) program, particularly the addition of projects to the TUMF project list, including grade separated road crossings.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.** TUMF funds were secured and utilized to partially fund the Sunset Grade Separation project. Discussions are underway regarding TUMF credit agreements for the Sun Lakes Boulevard extension project and Highland Springs I-10 interchange project.

**Program 4.C**

Aggressively pursue the design and development of interchanges at Cottonwood Road (North - South), including all sources of funding, and the coordination of I-10 widening with their installation. (interchanges at Highland Home road and Cottonwood (North-South)

**Responsible Agency:** Public Works Department, City Manager's Office, City Council, CalTrans, Railroad

**Schedule:** Continuous; Ongoing

**Implementation Status – Currently there are not discussions on the development of interchanges at Cottonwood Road. The County of Riverside is also planning an I-10 Bypass Project.**

**Policy 5**

Consider amendments to the Highland Home/Highland Springs/18<sup>th</sup> Street/Brookside street configurations based on public safety, design feasibility and area needs.

**Policy 6**

The City shall maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 interchanges, where Level of Service D or better shall be maintained.

**Program 6.A**

Periodically review current traffic volumes and the actual pattern of development to coordinate, program and, as necessary, revise road improvements.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing & Active.** In 2013 a General Plan Amendment was approved by City Council which changed the citywide policy for Level of Service (LOS) from C to D. In 2016, an application for a General Plan Amendment to remove the extension of Highland Homes Road to Brookside was received by the City; that application is currently being processed.

**Policy 7**

New development proposals shall pay their fair share for the improvement of streets within and surrounding their projects on which they have an impact, including roadways, bridges, grade separations and traffic signals.

**Policy 8**

Traffic calming devices shall be integrated into all City streets to the greatest extent possible and all new streets shall be designed to achieve desired speeds.

**Policy 9**

Street trees within the City right of way shall be preserved, unless a danger to the public health and safety or if the tree is diseased.

**Program 9.A**

Sidewalks in areas with street trees shall be designed to “wrap around” the tree if they are added to an existing neighborhood.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 10**

Sidewalks shall be provided on all roadways 66 feet wide or wider. In Rural Residential land use designation pathways shall be provided.

**Program 10.A**

The Public Works Department shall prepare an inventory of discontinuous sidewalks on all qualifying roadways, and fund individual projects through the Capital Improvement Program annually.

**Responsible Agency:** Public Works Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – In progress and is implemented annually through CIP.** New inventory of sidewalks and curb and gutters were made a part of the project mentioned in section 2.B.

**Program 10.B**

All new development proposals located adjacent to qualifying roadways shall be required to install curb, gutter and sidewalk concurrent with construction.

**Responsible Agency:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through land development review.**

**Program 10.C**

The City shall develop procedures to address neighborhood sidewalk needs as they are requested by that neighborhood.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as needed.**

**Program 10.D**

Work with the School District to develop safe routes to school.

**Responsible Agency:** Public Works Department

**Schedule:** Pending

**Implementation Status – In 2016, the City received an Active Transportation Program grant to develop bicycle lanes, some of which are centered around schools.**

**Policy 11**

Sidewalks or other pedestrian walkways shall be required on all streets within all new subdivisions.

**Policy 12**

In the absence of a vehicular grade separation, the City shall aggressively pursue a grade separated pedestrian access across San Gorgonio, to assure that high school students do not have to cross the railroad tracks on their way to and from school.

**Policy 13**

Pedestrian access in the Downtown Commercial designation shall be preserved and enhanced.

**Program 13.A**

All development and redevelopment proposals for the Downtown area shall include enhanced sidewalk, pedestrian walkway, lighting and landscaping designs and assure connections to existing and planned sidewalks.

**Responsible Agency:** Public Works Department, Planning Division, Electric Department

**Schedule:** Continuous; Ongoing

**Implementation Status – New development is being reviewed on a case-by-case basis to include enhanced sidewalks, walkways, lighting, and landscaping designs and to ensure that there are connections between existing and new development.**

**Policy 14**

The City shall aggressively pursue the construction of all-weather crossings over General Plan roadways.

**Program 14.A**

The Public Works Department shall prioritize the need for bridges listed in this Element, develop preliminary cost estimates, identify and pursue sources of funding, including developer funding, for each facility.

**Responsible Agency:** Public Works Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing via the Capital Improvement Project (CIP) and through private development funding. The Sunset Avenue grade separation was completed in 2016.**

**Program 14.B**

All new development proposals shall pay their fair share of bridge construction needed to serve their project.

**Responsible Agency:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status - Implemented through the land development review process.**

**Policy 15**

The City shall develop a Golf Cart Plan compliant with state requirements.

**Program 15.A**

The City shall develop a golf cart plan and associated ordinances and other required implementation programs.

**Responsible Agency:** Public Works Department, City Council

**Schedule:** Pending

**Implementation Status** – A citywide golf cart plan is not implemented due to staffing constraints. However, the Rancho San Gorgonio Specific Plan project, which was approved in 2016, allows for striped dual Low Speed Vehicles (LSV/NEV) lanes in its arterial street designs.

**Policy 16**

Golf cart paths and facilities shall be funded, to the greatest extent possible, by new development.

**Program 16.A**

The routing and facilities required in the Golf Cart Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.

**Responsible Agency:** Public Works Department

**Schedule:** Pending

**Implementation Status** – Not yet implemented since there is no Citywide golf cart plan.

**Program 16.B**

Golf cart facilities shall be incorporated into new project plans located on golf cart routes.

**Responsible Agency:** Planning Division, Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status** – Implemented case-by-case based on future development. As noted above, the Rancho San Gorgonio Specific Plan project, which was approved in 2016, incorporates golf cart transportation in its street designs.

**Policy 17**

Encourage the expansion of an integrated Pass transit system.

**Program 17.A**

The City will explore the potential for either bus or rail connection to the Metrolink transit system.

**Responsible Agency:** City Manager's Office, Community Services Department

**Schedule:** Continuous; Ongoing

**Implementation Status** – Ongoing and is actively pursued at the Riverside County Transportation Commission level.

**Policy 18**

The City shall review its transit service to major regional attractions, and intra-City recreational locations in future planning efforts, based on need.

**Policy 19**

Bus pullouts shall be designed into all new projects on arterial roadways, to allow buses to leave the flow of traffic and reduce congestion.

**Program 19.A**

Bus pullouts will be retrofitted on built-out streets, wherever possible.

**Responsible Agency:** Public Works Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, as funding permits**

**Policy 20**

Promote the location of a passenger rail station for long distance and commuter rail service.

**Policy 21**

Update the Airport Master Plan every five years to meet the needs of the general aviation, business and tourism segments of the community.

**Program 21.A**

Land use designation decisions within the area of influence of the airport shall be specifically reviewed to assure compatibility.

**Responsible Agency:** Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through land development review process.**

**Program 21.B**

Work with the Chamber of Commerce, the Morongo Band of Mission Indians, and other interested parties to provide services which meet the needs of passenger and freight transport.

**Responsible Agency:** Airport Management, Economic Development staff, Chamber of Commerce, Morongo Band of Mission Indians, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, implemented through the Airport Committee.**

**Policy 22**

Maintain an accurate mapping of all utility corridors.

**Program 22.A**

The Building Department shall inventory and map transmission utility easements on the Land Use Map (including electric, fiber optics, natural gas and petroleum).

**Responsible Agency:** Building Department, Planning Division

**Schedule:** Pending

**Implementation Status – The State of California requires these maps to be maintained through the Service Alert System. Due to staffing constraints, there has been no comprehensive inventory conducted by the City. The Electric Utility Department maintains its own inventory of electric utility lines.**

**Policy 23**

The City shall purchase and/or replace its fleet of vehicles with alternate fuel vehicles when available to the greatest extent possible, and shall encourage other agencies to do the same.

**Policy 24**

Public alleys throughout the City shall be maintained to be useful and safe at all times.

**Program 24.A**

The City shall create a downtown alley master plan and where appropriate pave, light and otherwise improve alleys.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing**

**Program 24.B**

The Public Works Department shall inventory all public alleys, determine which are necessary, and vacate those that are not.

**Responsible Agency:** Public Works Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as funding permits.**

**Policy 25**

The City shall develop and implement plans for a coordinated and connected bicycle lane network in the community that allows for safe use of bicycles on City streets.

**Program 25.A**

The City shall inventory all streets for potential Class I, Class II and Class III bikeways, and shall program their installation in its Capital Improvement Program.

**Responsible Agency:** Planning Division; Engineering Division; Public Works Department; Planning Commission; City Council

**Schedule: Ongoing.**

**Implementation Status – Ongoing as funding permits. The City has been chosen to receive an ATP grant to construct bike lanes along Wilson Street and Ramsey Street. Staff is working with Caltrans to plan, design, and construct the project and environmental review is currently underway.**

**Program 25.B**

Class I bikeways and sidewalks should be installed on both sides of Wilson Street, Ramsey Street, and Lincoln Street, and other major streets where sufficient right-of-way is available.

**Responsible Agency:** Engineering Division; Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, as funding permits.**

**Program 25.C**

Class II bikeways and sidewalks should be designated on all existing arterial streets that have sufficient width to safely accommodate bicycle travel lanes.

**Responsible Agency:** Planning Division; Engineering Division; Public Works Department

**Schedule:** Pending

**Implementation Status –Not yet completed.**

**Program 25.D**

The City should designate Class III bikeways only where Class I and Class II facilities are not feasible.

**Responsible Agency:** Planning Division; Public Works Department

**Schedule:** Pending

**Implementation Status –Not yet completed.**

**Policy 26**

The City should continue to work with the Morongo Band of Mission Indians and neighboring cities and communities to create a regional bicycle and trail network.

**Policy 27**

The City shall provide for a comprehensive, interconnected recreational trails system suitable for bicycles, equestrians and/or pedestrians.

**Program 27.A**

Evaluate the practicality of utilizing flood control channels for multi-use trails, where flooding and safety issues can be accommodated, and negotiate inter-agency agreements for this purpose.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through land development review process.****Program 27.B**

Evaluate the practicality of developing a multi-use trail system along the Banning Bench adjacent to and extending into San Bernardino National Forest lands, where environmental and safety issues can be accommodated, and negotiate inter-agency agreements with the U.S. Forest Service for this purpose.

**Responsible Agency:** Planning Division, U.S. Forest Service/San Bernardino National Forest

**Schedule:** Pending

**Implementation Status** – *Not yet completed due to staffing constraints.*

**Program 27.C**

Establish a multi-purpose trail between Dysart Park and Smith Creek Park, suitable for equestrian, bicycle and pedestrian use.

**Responsible Agency:** Community Services Department; Public Works Department; Parks and Recreation Advisory Committee

**Schedule:** Pending

**Implementation Status** – *Not yet completed.*

**Policy 28**

Motorized vehicles shall be prohibited on City trails.

**Program 28.A**

The City shall develop a non-motorized trail system and associated ordinances and other required implementation programs.

**Responsible Agency:** Public Works Department, Planning Commission, City Council

**Schedule:** Pending

**Implementation Status** – *Not completed.*

**Program 28.B**

The non-motorized trail system shall be funded, to the greatest extent possible, by new development.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through land development review process. The Butterfield Specific Plan and Rancho San Gorgonio Specific Plan include non-motorized trail systems in their project designs.**

**Program 28.C**

The routing and facilities required in the non-motorized trail system Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.

**Responsible Agency:** Public Works Department

**Schedule:** Pending

**Implementation Status** – *Not yet completed.*

## Parks and Recreation Element

### **GOAL 1**

A high quality public park system with adequate land and facilities to provide recreational facilities and activities for the City's residents.

### **GOAL 2**

A comprehensive bikeway, trail and walking path system that connects homes to work places, commercial venues and recreational facilities, and which enhances the safety and enjoyment of cyclists, equestrians and pedestrians.

#### **Policy 1**

Update the Master Parks and Recreation Plan so as to assure adequate parklands and facilities that meet the immediate and future needs of the community, and is complementary to the natural environment.

##### **Program 1.A**

Update the City's parks master plan to address the proposed and anticipated parks and recreational facilities to be developed within the City.

**Responsible Agency:** Community Services Department, Public Works Department, Parks and Recreation Advisory Committee, Planning Commission

**Schedule:** Continuous; Ongoing

**Implementation Status – Park Master Plan was adopted by the City Council on February 22, 2011.**

##### **Program 1.B**

The parks master plan shall maintain a standard of 5 acres of parkland per 1,000 residents.

**Responsible Agency:** Community Services Department, Parks and Recreation Advisory Committee

**Schedule:** Continuous; Ongoing

**Implementation Status – Standard established in the General Plan and the Parks Master Plan and is implemented as part of land development review process.**

##### **Program 1.C**

Include dog parks, tennis courts and golf facilities in Parks Master Planning updates.

**Responsible Agency:** Community Services Department, Parks and Recreation Advisory Committee

**Schedule:** Continuous; Ongoing

**Implementation Status – Addressed in the Parks Master Plan.**

**Policy 2**

The City will distribute parks and recreation facilities in a manner that is convenient to City neighborhoods and balanced within population concentrations.

**Program 2.A**

The location and design of neighborhood parks shall consider neighborhood suggestions and input regarding facility needs, vehicular and pedestrian access, noise and lighting impacts, and public safety.

**Responsible Agency:** Community Services Department; Public Works Department; Parks and Recreation Advisory Committee.

**Schedule:** Ongoing.

**Implementation Status – Active policy, ongoing as developments occur.**

**Program 2.B**

City staff shall identify and prioritize park development projects based upon need, land availability, neighborhood suggestions and funding, and shall encourage the planting of trees as in parks and open spaces.

**Responsible Agency:** Community Services Department; Public Works Department; Parks and Recreation Advisory Committee

**Schedule:** Ongoing.

**Implementation Status- Ongoing. Park projects are reviewed as part of land development review process.**

**Program 2.C**

Investigate and identify the broad range of sources of financing and operating revenue, including Development Impact Fees, Mello Roos special districts, public/private ventures, state and federal grant opportunities, developer fees and inter-agency joint use agreements to supplement revenues collected for parks and recreation purposes.

**Responsible Agency:** City Manager's Office; Parks and Recreation Division; Community Services Department; Banning and Beaumont Unified School Districts

**Schedule:** Ongoing

**Implementation Status – Under discussion internally.**

**Program 2.D**

Investigate and identify sources of development financing and revenue, including charitable organizations, state and federal grant opportunities to supplement revenues collected for development of parks and recreation facilities and programs.

**Responsible Agency:** City Manager's Office; Parks and Recreation Division; Community Services Department

**Schedule:** Ongoing

**Implementation Status – Ongoing.**

<b>Program 2.E</b>
The City will consider the implementation of a Quimby Ordinance for the purchase of park lands for new developments as they occur.
<b>Responsible Agency:</b> Parks and Recreation Division; Community Services Department, City Council
<b>Schedule:</b> Ongoing
<b>Implementation Status – Park land dedication is implemented as part of new development through Specific Plan and Development Agreement.</b>

**Policy 3**

Require developers of new residential projects to provide on-site recreational and/or open space facilities in addition to City-wide park requirements.

<b>Program 3.A</b>
Encourage the planting of trees in parks and open spaces.
<b>Responsible Agency:</b> Community Services Department
<b>Schedule:</b> Ongoing
<b>Implementation Status – Ongoing.</b>
<b>Program 3.B</b>
Recreation facilities within projects will be maintained by the residents within the project either through a homeowners' association, assessment district or community facilities district. (Investigate and identify the broad range of sources of financing and operating revenue, including Development Impact Fees, Mello Roos special districts, public/private venture, state and federal grant opportunities, developer fees and inter-agency joint use agreements to supplement revenues collected for parks and recreation purposes.)
<b>Responsible Agency:</b> Community Services Department (City Manager's Office, Parks and Recreation Division, Banning and Beaumont Unified School Districts)
<b>Schedule:</b> Ongoing
<b>Implementation Status – Ongoing. No update, still under discussion</b>

**Policy 4**

Encourage the development of recreational programs and activities that serve all population segments, including children, the elderly and the disabled

<b>Program 4.A</b>
Develop a community education program for the City's parks and recreation facilities which focuses on the sense of community which parks and recreation facilities can foster.
<b>Responsible Agency:</b> Parks and Recreation Division; Community Services Department
<b>Schedule:</b> Annually
<b>Implementation Status – Ongoing. The City does not have a community education program, however this is something that is scheduled to be developed this calendar year.</b>

<b>Program 4.B</b>
Develop advertising and publicity programs for recreational programs and events to encourage participation.
<b>Responsible Agency:</b> Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
<b>Schedule:</b> Annually
<b>Implementation Status – Ongoing. Programs, activities, and special events are advertised with flyers that are distributed through the City's local school district, the community access channel, and on the city website. The Public Information Officer has improved recreational programs exposure with local news media and in addition to event specific flyers, the City also produces a quarterly Activity Listing which has information on all programs offered.</b>
<b>Program 4.C</b>
Develop and distribute educational materials relating to the planting and maintenance of drought tolerant landscaping on private property.
<b>Responsible Agency:</b> Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Ongoing and active and is part of the City's Landscape Design Guidelines.</b>

## **Policy 5**

The City shall consider alternative methods of providing park and recreational amenities to meet future population demands.

<b>Program 5.A</b>
Support the development of private recreational ventures that will serve the general population.
<b>Responsible Agency:</b> Planning Department; Community Services Department; Economic Development Department
<b>Schedule:</b> Ongoing
<b>Implementation Status – Addressed in the Parks Master Plan.</b>
<b>Program 5.B</b>
Develop a program by which the City can accept parkland gifts and dedications that would be beneficial to the community.
<b>Responsible Agency:</b> City Attorney; Planning Department; City Council
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Addressed in the Parks Master Plan and on a case-by-case basis.</b>
<b>Program 5.C</b>
Develop a program that establishes public participation in tree or landscaping planting efforts to commemorate special civic occasions.

<b>Responsible Agency:</b> Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status –</b> Ongoing and on a case-by-case basis.

**Policy 6**

The City shall develop and implement plans for a coordinated and connected bicycle lane network in the community that allows for safe use of bicycles on City streets.

**Program 6.A**

The City shall inventory all streets for potential Class I, Class II and Class III bikeways, and shall program their installation in its Capital Improvement Program.

**Responsible Agency:** Planning Department; Engineering Division; Public Works Department; Planning Commission; City Council

**Schedule:** 2015-2016.

**Implementation Status** – The City was awarded a \$1,000,000.00 ATP grant to construct Class I, II, and III bikeways along Ramsey Street, San Gorgonio Avenue, and Wilson Street. Environmental review and design planning is currently underway.

**Program 6.B**

Class I bikeways and sidewalks should be installed on both sides of Wilson Street, Ramsey Street, and Lincoln Street, and other major streets where sufficient right-of-way is available.

**Responsible Agency:** Engineering Division; Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status** – Not completed and addressed in the Parks Master Plan.

**Program 6.C**

Class II bikeways and sidewalks should be designated on all existing arterial streets that have sufficient width to safely accommodate bicycle travel lanes.

**Responsible Agency:** Planning Department; Engineering Division; Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status** – Not completed and addressed in the Parks Master Plan.

**Program 6.D**

The City should designate Class III bikeways only where Class I and Class II facilities are not feasible.

**Responsible Agency:** Planning Department; Public Works Department

**Schedule:** Continuous.

**Implementation Status** – Not completed and addressed in the Parks Master Plan.

**Policy 7**

The City should continue to work with the Morongo Band of Mission Indians and neighboring cities and communities to create a regional bicycle and trail network.

**Policy 8**

The City shall provide for a comprehensive, interconnected recreational trails system suitable for bicycles, equestrians and/or pedestrians.

**Program 8.A**

Evaluate the practicality of utilizing flood control channels for multi-use trails, where flooding and safety issues can be accommodated, and negotiate inter-agency agreements for this purpose.

**Responsible Agency:** Planning Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing during development review process.**

**Program 8.B**

Evaluate the practicality of developing a multi-use trails system along the Banning Bench adjacent to and extending into San Bernardino National Forest lands, where environmental and safety issues can be accommodated, and negotiate inter-agency agreements with the U.S. Forest Service for this purpose.

**Responsible Agency:** Planning Department, U.S. Forest Service/San Bernardino National Forest

**Schedule:** Continuous; Ongoing

**Implementation Status - Included in the adopted Parks Master Plan.**

**Program 8.C**

Establish a multi-purpose trail between Dysart Park and Smith Creek Park, suitable for equestrian, bicycle and pedestrian use.

**Responsible Agency:** Community Services Department; Public Works Department; Parks and Recreation Advisory Committee

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 9**

Motorized vehicles shall be prohibited on City trails.

**Program 9.A**

The City shall develop a non-motorized trail system and associated ordinances and other required implementation programs.

**Responsible Agency:** Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Included in the adopted Parks Master Plan.**

**Program 9.B**

The non-motorized trail system shall be funded, to the greatest extent possible, by new development.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

<b>Implementation Status – Ongoing as part of land development review process. Trails have been incorporated into the recently approved Butterfield Specific Plan and Rancho San Gorgonio Specific Plan projects.</b>
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<b>Program 9.C</b>
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The routing and facilities required in the non-motorized trail system Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.
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<b>Responsible Agency:</b> Public Works Department
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<b>Schedule:</b> Continuous; Ongoing
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<b>Implementation Status – Not yet completed due to staffing constraints.</b>
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## Housing Element

The City of Banning 5<sup>th</sup> Cycle (2013-2021), adopted by Resolution No. 2014-05 is in full compliance with State housing element law as of March 1, 2017.

The Annual Housing Element Report for calendar year 2016 will also be transmitted to HCD as part of the General Plan Annual Progress Report submittal.

Listed in this section are the housing goals, policies, and programs as listed in the adopted Housing Element.

The purpose of the Housing Plan is to formulate a set of Housing Element Action Programs that will guide the City of Banning and all of its housing stakeholders toward the preservation, improvement and development of housing. The City intends to create a municipal climate that encourages a variety of housing types and affordability levels to meet the needs of residents at all income levels.

The programs described below establish specific actions, time frames and objectives consistent with the City's housing goals. Department/agency responsibilities and funding sources are also indicated.

### ***A. GOALS AND POLICIES***

#### ***CONSERVE AND IMPROVE AFFORDABLE HOUSING***

Substandard and deteriorating housing units, in addition to the obvious problems of blight and appearance, can expose occupants to a variety of hazards ranging from electrical fire to toxic substances and materials used in construction. A number of factors affect the life expectancy of a housing unit, such as quality of workmanship, age of structure, location, type of construction, and degree of maintenance. As a city with a large number of older housing units, it is important that on-going maintenance programs are implemented in Banning. In addition to rehabilitation efforts, conservation of the existing stock of affordable housing is also important, as the cost to preserve existing affordable housing is often lower than replacing the units.

**HOUSING GOAL 1**

Conserve, improve, and rehabilitate existing housing.

**Policy 1.1**

Development and foster activities to increase the health, safety, and property values of the city's existing housing stock.

**Policy 1.2**

Preserve existing single-family neighborhoods.

**Policy 1.3**

Encourage continued and new investment in established communities.

**Policy 1.4**

Monitor the status of at-risk multifamily rental housing units, work with potential nonprofit purchaser/managers as appropriate, and explore funding sources available to preserve the at-risk units.

**HOUSING GOAL 2**

Provide adequate sites for new residential construction to meet the needs of all segments of the community without compromising the character of the City.

***ADEQUATE HOUSING SITES FOR NEW HOUSING DEVELOPMENT***

Economic forces are driving jobs and housing development eastward in Riverside County, which will result in increased pressure in Banning for new housing opportunities. Although the recent housing market downturn has interrupted this pattern of rapid growth, history suggests that the pause will be temporary and the long-term prospect for the Inland Empire is continued economic expansion.

To keep pace with future growth, the Southern California Association of Governments (SCAG) has identified a need for 3,792 new housing units in Banning during the January 1, 2014 through October 31, 2021 planning period. New housing developments should provide a range of housing types and price levels to allow for the upward mobility of Banning residents, as well as affordable housing opportunities for households of modest means.

**Policy 2.1**

Provide adequate sites for a range of new housing construction to meet the Regional Housing Need Assessment (RHNA) for Banning of 3,792 units during the 2014-2021 planning period.

**HOUSING GOAL 3**

Assist in the development of housing that is affordable to all segments of the community.

***FACILITATE DEVELOPMENT OF AFFORDABLE HOUSING AND HOUSING FOR PERSONS WITH SPECIAL NEEDS***

New construction is a major source of housing for prospective homeowners and renters. However, the cost of new construction can be high in comparison to housing preservation programs. In addition, market-rate

new construction may not provide housing that is affordable, or adequate, for special needs populations such as the elderly, persons with disabilities, and homeless. Incentive programs such as density bonuses offer a cost-effective means of promoting affordable housing development. Public sector assistance can also promote the construction of affordable housing that meets the needs of all segments of the community. Banning is fortunate in that the cost of land is relatively low in comparison to much of Southern California, which increases the feasibility of affordable housing development.

**Policy 3.1**

Support the development of housing affordable to all income groups by utilizing a variety of public and private efforts.

**Policy 3.2**

Assist the development of housing that targets the needs of special populations, including the elderly, persons with disabilities, and homeless.

**Policy 3.3**

Promote the development of attractive and safe housing to meet community needs.

**HOUSING GOAL 4**

Remove governmental constraints to the provision of housing to the greatest extent feasible and legally permissible.

***REMOVE GOVERNMENTAL CONSTRAINTS TO HOUSING PRODUCTION AND AFFORDABILITY***

Under current State law, the Housing Element must address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

**Policy 4.1**

Promote efficient and creative alternatives to help reduce governmental constraints.

**Policy 4.2**

Provide incentives and regulatory concessions for affordable and senior housing.

**Policy 4.3**

Streamline the City's development review and approval process to facilitate housing construction while also ensuring that new development meets all applicable standards.

**HOUSING GOAL 5**

Promote equal opportunity for housing throughout the City of Banning.

***EQUAL HOUSING OPPORTUNITIES***

Housing should be made available to all persons regardless of race, religion, sex, family size, marital status, national origin, color, age, disability, or income. To make adequate provisions for the housing needs of all segments of the community, the City should promote equal and fair housing opportunities for all residents.

**Policy 5.1**

Support efforts to eliminate discrimination in the sale or rental of housing with regard to race, religion, disability, gender, family size, marital status, national origin, or income.

**Policy 5.2**

Continue to further fair housing choices by actively expanding housing opportunities and removing impediments to fair housing.

**Policy 5.3**

Encourage the development or renovation of residential units that are accessible to disabled persons or are adaptable for conversion to residential use by disabled persons.

**Policy 5.4**

Accommodate housing for persons with special needs, including emergency shelters and transitional housing, in compliance with applicable State law.

**HOUSING GOAL 6**

Promote residential energy conservation and sustainable development.

***ENERGY CONSERVATION AND SUSTAINABLE RESIDENTIAL DEVELOPMENT***

Energy conservation can reduce development cost as well as ongoing utility bills for residents. City housing policies can also promote long-term sustainability through efficient land use and transportation planning to reduce fuel usage and travel cost.

**Policy 6.1**

Support energy conservation and sustainable residential development through construction technology and land use planning.

***B. HOUSING PROGRAMS***

The Housing Element includes programs which define the specific actions the City will undertake in order to achieve the goals for the current planning period.

(This section describes the programs that will implement Housing Element goals and policies. The housing programs define the specific actions the City will undertake in order to achieve the goals for the current planning period.) HE 2014

**1. Code Enforcement**

The City will identify potential code violations, utilize property maintenance inspections and work with property owners to resolve code and property maintenance issues to maintain the quality of housing units in the City. (The City's Code Enforcement and Building Safety departments work together to actively and efficiently address code violations and improve communication with owners of properties in need of improvement.)

<b>Program Objectives:</b>	Decrease the number of unresolved code violations within the City and increase the number of improved properties.
<b>Responsible Agency:</b>	Community Development Department.
<b>Funding Source:</b>	Community Development Department budget.
<b>Schedule:</b>	Continuous throughout the planning period.

**Implementation Status:** The City currently employs two code enforcement officers, and the Code Enforcement Division has been moved to the City of Banning Police Department to better organize the program.

## 2. Housing Rehabilitation Program

The City will continue to pursue grant programs such as the Riverside County Home Improvement Program to provide loans to eligible lower-income families for necessary home repair and rehabilitation work, including room additions to alleviate overcrowding. The City will continue to publicize assistance offered by the County, including flyers available at the City Planning counter and information posted on the City's website. The City will prioritize funding as it becomes available to target projects benefitting extreme-low-income households. To the extent feasible, projects may also be eligible for deferral or waiver or City application and processing fees.

<b>Program Objectives:</b>	Reduced number of substandard properties.
<b>Responsible Agency:</b>	Community Development Department
<b>Funding Source:</b>	Grant funds.
<b>Schedule</b>	Continuous throughout the planning period.
<b>Implementation Status:</b>	<i>No progress due to lack of funding.</i>

## 3. Conservation of Existing and Future Affordable Units

Banning has several assisted affordable housing developments, although none is at risk of conversion to market rate during the current planning period. The City will monitor the status of these projects and take steps to preserve affordability should any become at-risk of conversion in the future.

<b>Program Objectives:</b>	Monitor the status of assisted projects.
<b>Responsibility Agency:</b>	Community Development Department, U.S. Department of Housing and Urban Development (HUD), the California Department of Housing and Community Development (HCD), and the Housing Authority of Riverside County (HARIVCO).
<b>Funding Source:</b>	HUD Section 8 vouchers, other funding sources as available.
<b>Schedule:</b>	Throughout the planning period.
<b>Implementation Status:</b>	<b>Ongoing.</b>

## 4. Section 8 Rental Assistance

The Section 8 Rental Assistance Program provides rental subsidies to very-low-income (up to 50 percent of areawide median income – [AMI]) family and elderly households who spend more than 30 percent of their income on rent. The subsidy represents the difference between 30 percent of monthly income and the actual rent. Section 8 assistance is issued to the recipients as vouchers, which permit tenants to choose their own housing and rent units beyond the federally determined fair market rent in an area, provided the tenant pay the extra rent increment.

<b>Program Objectives:</b>	Continue to support the HARIVCO's applications for additional Section 8 allocations and efforts to provide vouchers for lower-income residents.
<b>Responsible Agency:</b>	Housing Authority of Riverside County
<b>Funding Source:</b>	Federal HUD Section 8 program.
<b>Schedule:</b>	Throughout the planning period.
<b>Implementation Status:</b>	<b>Ongoing.</b>

## 5. Adequate Sites for Residential Development

The General Plan Land Use Element and the Zoning Code establish the regulatory framework for residential development. The Land Use Element provides for a variety of residential types, ranging from lower-density single-family houses to higher-density apartments and condominiums and mixed-use development.

A significant portion of the inventory of sites for higher-density housing is located in large parcels, planned developments or areas where approval of a specific plan may be required. In some cases, large parcels must be subdivided to create suitable building sites prior to construction. When large sites must be divided into smaller parcels or a specific plan is required prior to development, the City facilitates this process through pre-application meetings to clarify procedures, concurrent priority processing of subdivision maps with specific plans, or any other required approvals, and incentives such as density bonus and modified development standards when the project includes affordable housing. The City has a successful track record of facilitating development applications and will continue to work cooperatively with developers to streamline the permit process for large parcels requiring subdivision or approval of a specific plan.

The City will monitor future development approval and continue to ensure that adequate sites are available throughout the planning period to accommodate the City's share of regional housing need identified in the Regional Housing Needs Assessment, as required by the no net loss provisions of Government Code Sec. 65863.

### **Program Objectives:**

- The City will continue to annually update an inventory that details the amount, type, and size of vacant and underutilized parcels sufficient to accommodate the City's remaining need, by income, to assist developers in identifying land suitable for residential development. As part of the City's Annual Progress Report (APR), required pursuant to GC6400, the City must report on the number of extremely low-, very low-, and moderate-income units constructed annually.
- To ensure sufficient residential capacity for units affordable to lower-income households is maintained within the planning period to accommodate the identified regional need for lower-income households, the city will develop and implement a formal ongoing (project by project) monitoring procedure, pursuant to government code Section 65869 by September 2014.

- Should an approval of development (residential, commercial or mixed-use) result in a reduction of capacity below the residential capacity assumed on sites needed to accommodate the remaining need for lower-income households, as assumed in Tables B-2, B-4 and B-5, the City will immediately identify and zone sufficient sites to accommodate the shortfall.
- The City will offer the following incentives for the development of affordable housing including but not limited to priority processing of subdivision maps and specific plans that include affordable housing units, expedited review for the subdivision of larger sites into buildable lots, financial assistance (based on availability of federal, state, local foundations, and private housing funds) and modification of development requirements, such as reduced parking standards for seniors, assisted care, and special needs housing on a case-by-case basis.
- Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with all of the following:

- a. The Development agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).
- b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.
- c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposal will be subject to design review.

The City will work with developer, other agencies and the community to address lower-income housing need by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of “in-lieu” housing funds, fast-track processing, and reduced fees, and appropriate for proposed lower-income housing.

<b>Responsible Agency:</b>	Community Development Department.
<b>Funding Source:</b>	Community Development Department budget.
<b>Schedule:</b>	Throughout the planning period; <i>No Net Loss</i> monitoring procedure September 2014; AHO amendment within one year of Housing Element adoption.
<b>Implementation Status:</b>	The City has met the requirement for the 5 <sup>th</sup> Cycle (2013-2021 adopted Housing Element.

## 6. Facilitate Development of Affordable and Special Needs Housing

In order to facilitate the development of housing for low- and moderate-income households and persons with disabilities (including developmental disabilities), the City will implement the following actions:

- Provide administrative assistance to developers seeking available state and federal funding and/or tax credits for the construction of low-and moderate-income housing.
- Facilitate projects that incorporate affordable units and accessible units by granting modifications to development standards, expedited processing, or financial incentives consistent with state law.
- Affordable housing developers will be contacted each year to solicit interest and apprise them of available assistance programs.
- Targeted assistance will be prioritized for special needs housing and extremely-low-income (ELI) units through density bonuses and/or regulatory incentives, modified development standards and fee deferrals, when feasible.
- Coordinate with the Inland Regional Center regarding the needs and assistance programs targeted for persons with developmental disabilities, and make information available on the City website.
- Clarify development standards in the VHDR zone as necessary to facilitate affordable housing development.
- Continue to monitor residential development to evaluate whether the required design amenities are acting as an unreasonable constraint on development. If the requirements are found to be unreasonable constraint, a Code amendment will be initiated to modify the design requirements.

<b>Program Objectives:</b> Facilitate affordable housing development commensurate with the RHNA and the production of accessible and supportive housing for person with disabilities.
<b>Responsible Agency:</b> Community Development Department
<b>Funding Source:</b> Community Development Department budget.
<b>Schedule:</b> Contact affordable housing developers and the Inland Regional Center annually; assist developers with application for funding assistance upon request; initiate a Zoning code amendment in 2014 to clarify development standards in the VHDR zone.
<b>Implementation Status:</b> Ongoing.

## 7. Infill and Mixed – Use Housing Development

Infill housing and mixed-use development helps to promote investment in older neighborhoods while also contributing to meet the community's housing needs. The City has targeted the downtown Commercial (DC) area for special incentives for multi-family, SRO and mixed-use development to stimulate revitalization. The downtown area is particularly well-suited to affordable and special needs housing due to the availability of employment, services and transit.

Since many parcels in the downtown are relatively small, the City will encourage consolidation of adjacent parcels to enhance development feasibility by providing a lot consolidation density incentive 5% when two or more parcels totaling at least 1.0 acre are consolidated. This density incentive will be in addition to the density bonus currently allowed. City incentives will also include consolidated permit processing, reduced fees for parcel mergers or lot line adjustment, density bonus and modified development standards.

The DC district zoning regulations will also be amended to increase allowable base densities to 24 units/acre for any project that meets the minimum affordability standards under state Density Bonus law (e.g., 5% very-low- or 10% low-income units). The city will also provide administrative and technical assistance with grant applications for affordable or special needs housing development in the downtown area.

In recent years the City has facilitated infrastructure upgrades such as water lines and electrical service in the downtown. In order to incentivize development in the downtown area, the city will prioritize future Capital Improvement Program funds for downtown infrastructure improvements, if feasible.

The city will also review development standards for the General Commercial (GC) zone and consider appropriate revisions to facilitate revitalization and mixed-use development in this area. The GC zone is located to the west of downtown along Ramsey Street in the area known as "The Midway" and also along the south side of the I-10 freeway.

<b>Program Objectives:</b> Facilitate development of multi-family and mixed-use development in the downtown and nearby areas, with special emphasis on housing affordable to low- and moderate-income households or persons with special needs.
<b>Responsible Agency:</b> Community Development Department.
<b>Funding Source:</b> Grant funds; CIP Budget.
<b>Schedule:</b> Zoning amendment by June 2014.
Publicize development opportunities by contacting affordable housing developers annually.
<b>Implementation Status:</b> <b>Ongoing.</b>

## 10. Mortgage Credit Certificate Program

A Mortgage Credit Certificate (MCC) entitles qualified home buyers to reduce the amount of their federal income tax liability by an amount equal to a portion of the interest paid during the year on a home mortgage. This tax credit allows the buyer to qualify more easily for a loan by increasing the effective income of the buyer. The Riverside County MCC program provides for a 15% rate which can be applied to the interest paid on the mortgage loan the borrower can claim a tax credit

equal to 15% of the interest paid during the year. Since the borrowers taxes are being reduced by the amount of the credit, this increases the take-home pay by the amount of the credit.

The buyer takes the remaining 85% interest as a deduction. When underwriting the loan, a lender takes this into consideration and the borrower is able to qualify for a larger loan than would otherwise be possible. The city will provide referral information regarding the MCC program. On the city website, at City Hall and other public locations.

<b>Program Objectives:</b> Provide information regarding the MCC Program to eligible home buyers.
<b>Responsible Agency:</b> Riverside County Economic Development Agency (EDA) and participating lenders.
<b>Funding Source:</b> Federal tax credits and EDA.
<b>Schedule:</b> Throughout the planning period.
<b>Implementation Status:</b> <b>On December 8, 2015 the City Council adopted Resolution No. 2015-103, to continue participating with the County of Riverside Mortgage Credit Certificate (MCC) Program.</b>

## 11. Fair Housing Services

Banning is not an “entitlement city” and works cooperatively with the County of Riverside, which provides fair housing services to all unincorporated areas of the county and non-entitlement cities. Fair housing services offered through the county include counseling and information on potential discrimination and landlord/tenant problems; special assistance for ethnic minorities and single-parent household; and bilingual housing literature. Information regarding available services from the county will be provided at City Hall, on the City website, and at other governmental offices within the city. In addition, the City will work cooperatively with the County of Riverside to distribute fair housing information annually.

<b>Program Objectives:</b> Continue to work with the County of Riverside to provide fair housing services to residents of Banning.
<b>Responsible Agency:</b> Riverside County
<b>Funding Source:</b> Riverside County; Community Development Department budget.
<b>Schedule:</b> Throughout the planning period.
<b>Implementation Status:</b> Ongoing.

## 12. Reasonable Accommodation in Housing for Persons with Disabilities.

Both the Federal Fair Housing Act and the California Fair Employment and Housing Act require local governments to make reasonable accommodations (i.e. modifications or exceptions) in their zoning laws and other land use regulations to allow disabled persons an equal opportunity to use and enjoy a dwelling. The Zoning code establishes administrative procedures for reviewing and

approving such request in conformance with state law. The City will continue to implement this ordinance.

<b>Program Objectives:</b> Continue to process requests for reasonable accommodation in conformance with state law and the Development Code.
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<b>Responsible Agency:</b> Community Development Department.
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<b>Funding Source:</b> Community Development Department budget.
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<b>Schedule:</b> Throughout the planning period.
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<b>Implementation Status:</b> Ongoing.
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### 13. Residential Energy Conservation

With the adoption of AB 32, California's greenhouse gas legislation, energy conservation is growing concern. In addition to helping to mitigate greenhouse gas emissions, residential energy efficiency can reduce home heating and cooling costs.

- a. Support the use of innovative building techniques and construction materials for residential development, such as energy efficient building that utilized solar panels and sustainable building materials that are recyclable.
- b. Encourage maximum utilization of Federal, State, and local government programs, such as the County of Riverside Home Weatherization Program and the Western Riverside council of Governments (WRCOG) HERO program, that assist homeowners in providing energy conservation measures.
- c. Maintain and distribute literature on energy conservation, including solar power, additional insulation, and subsidies available from utility companies, and encourage homeowners and landlords to incorporate these features into construction and remodeling projects.
- d. Encourage energy conservation devices including but not limited to lighting, water heater treatments, solar energy systems for all residential projects.

<b>Program Objectives:</b> Work cooperatively with property owners, utility companies and other government agencies to reduce energy use in residential developments.
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<b>Responsible Agency:</b> Community Development Department
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<b>Funding Source:</b> Community Development Department budget; grant programs, as available.
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<b>Timeline:</b> Throughout the planning period.
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<b>Implementation Status:</b> Ongoing. The City Council adopted Ordinance 1490, to expedite the permitting procedures of small residential rooftop solar systems; therefore, lowering the cost of solar installation and further expand the accessibility of solar, to meet the requirement of this program.
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### ***C. QUANTIFIED OBJECTIVES***

The City's quantified objectives for the development, rehabilitation and conservation of housing during the 2013-2021 planning period are summarized in the following table. The accomplishment of these objectives will depend on general economic conditions and the availability of funding assistance.

Income Category	New Construction	Rehabilitation	Conservation/ Preservation**
Extremely-Low	436	*	-
Very Low	436	*	-
Low	593	*	-
Moderate	685	*	-
Above Moderate	1,642	-	-
Totals	3,792	*	-

Notes:

\*depending on available funding to replace lost redevelopment revenues

\*\*No assisted units at risk (see Technical Report Table 18)

## Chapter 2 Environmental Resources

### Water Resources Element

#### GOAL 1

A balance of development which assures the maintenance of the water supply and its continued high quality.

##### **Policy 1**

New development projects proposing 50 units on property whose General Plan Land Use designation would allow 50 units, and/or 10 acres of commercial/industrial/other development, or more, whether through a tract map, Specific Plan or other planning application, shall be required to fund the provision of its entire water supply, either through SWP, recycled water or other means, as a condition of approval.

##### **Program 1.A**

In accordance with the 2003 Determination of Maximum Perennial Yield for the City of Banning, the City shall implement an annual ground water audit. This process involves evaluating groundwater level trends, production rates, ground water quality or other aquifer/well/pump considerations from the previous year (the water audit should be performed six months prior to the start of the water accounting year) and using this information to make recommendations for pumping in the following year.

**Responsible Agency:** Public Utilities Department

**Schedule:** Continuous; Ongoing

**Implementation Status – The Maximum Perennial Yield was updated on March 29, 2011 as part of the Urban Water Management Plan that was adopted by the City Council on June 28, 2011. In 2016 the City prepared a Water Reliability Self Certification that was submitted to the State.**

##### **Program 1.B**

The City shall develop construction plans and cost estimates for the construction of recycled water facilities for both Phase I and II, and make them available to the development community.

**Responsible Agency:** Public Utilities Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Plans are complete and are awaiting funding.**

##### **Program 1.C**

The City shall coordinate with the San Gorgonio Pass Water Agency and other appropriate agencies to assure that the City's SWP water can be delivered.

**Responsible Agency:** Planning Department, Public Utilities Department

**Schedule:** Continuous; Ongoing

**Policy 2**

The City shall require the use of drought-tolerant, low water consuming landscaping as a means of reducing water demand for new development.

**Program 2.A**

Continue to implement the City's Water Efficient Landscape Ordinance by requiring the use of native and drought-tolerant planting materials and efficient irrigation systems.

**Responsible Agency:** Public Utilities Department, Planning Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ordinance adopted and being implemented.**

**Program 2.B**

The City shall coordinate and cooperate with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District to expand and strengthen educational/public relations programs regarding the importance of water conservation and water-efficient landscaping.

**Responsible Agency:** Public Works Department, Planning Department, Banning Heights Mutual Water Company, Beaumont-Cherry Valley Water District

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 3**

The City shall require the use of recycled wastewater for new development, or where it is unavailable, the infrastructure for recycled water when it becomes available, as a means of reducing demand for groundwater resources.

**Program 3.A**

Coordinate with the Banning Heights Mutual Water Company regarding the future expansion of recycled wastewater treatment facilities to serve existing and new development projects in the City.

**Responsible Agency:** Planning Department, Public Works Department, Banning Heights Mutual Water Company

**Schedule:** Continuous; Ongoing

**Implementation Status – No projects identified – will be available for future coordination. Expansion is coordinated and conditioned for appropriate projects.**

**Program 3.B**

Aggressively pursue all sources of funding to allow for the installation of a comprehensive recycled water distribution system throughout the City.

**Responsible Agency:** Public Works Department, City Manager's Office

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Program 3.C**

The City shall study the potential of providing incentives to developers and property owners for the installation of on-site recycled water reclamation systems. Recycled water systems include the reuse of water from sources such as sink drains, dishwashers and washing machines for irrigation purposes.

**Responsible Agency:** Public Utilities Department, City Manager's Office

<b>Schedule:</b> Continuous; Ongoing
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<b>Implementation Status – Ongoing.</b>
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**Policy 4**

Require that all new development be connected to the sewage treatment system, or install dry sewers until such time as that connection is possible.

**Policy 5**

The City shall provide guidelines for the development of on-site storm water retention facilities consistent with local and regional drainage plans and community design standards.

<b>Program 5.A</b>
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Enforce regulations and guidelines for the development and maintenance of project-specific on-site retention/detention basins which implement the NPDES program, enhance groundwater recharge, complement regional flood control facilities, and address applicable community design policies.
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<b>Responsible Agency:</b> Public Utilities Department, Planning Department
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<b>Schedule:</b> Continuous; Ongoing
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<b>Implementation Status – Ongoing and required as conditions for all projects.</b>
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**Policy 6**

Coordinate with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, the California Regional Water Quality Control Board and other appropriate agencies to share information on potential groundwater contaminating sources.

<b>Program 6.A</b>
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Develop and maintain a system to share records and technical information with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, CRWQCB and other appropriate agencies regarding all sites that have the potential to contaminate groundwater resources serving the City.
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<b>Responsible Agency:</b> Public Works Department, the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, California Regional Water Quality Control Board
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<b>Schedule:</b> Continuous; Ongoing
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<b>Implementation Status – Ongoing and active.</b>
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**Policy 7**

The City shall ensure that no development proceeds that has potential to create groundwater hazards from point and non-point sources, and shall confer with other appropriate agencies, as necessary, to assure adequate review and mitigation.

**Policy 8**

Encourage water conservation in existing development.

<b>Program 8.A</b>
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Establish incentive programs for conversion of existing buildings to water conserving fixtures and landscaping.
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<b>Responsible Agency:</b> Public Utilities – Water Department
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Ongoing.</b> The City currently offers a rebate for installation of ultra low-flush toilets.

## Open Space and Conservation Element

### **GOAL 1**

Open space and conservation lands that are preserved and managed in perpetuity for the protection of environmental resources or hazards, and the provision of enhanced recreational opportunities and scenic qualities in the City.

### **GOAL 2**

A balance between the City's built and open space environment and local and regional protection and preservation of its unique environment.

#### **Policy 1**

Identify and assess lands in the City, its sphere-of-influence and planning area, that are suitable for preservation as public or private, passive or active open space.

##### **Program 1.A**

The City shall maintain and use Open Space land use designations on the General Plan Land Use Map.

**Responsible Agency:** Planning Division, Community Services Department.

**Schedule:** Continuous; Ongoing

**Implementation Status –Ongoing:** private open space & public parks have been set aside through the Specific Plan process that requires minimum public land set aside.

##### **Program 1.B**

Environmental hazard zones, including earthquake fault lines, floodways and floodplains, steep or unstable slopes, shall be designated as open space on the land use map.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status –These have been identified in the General Plan and no development is permitted in these areas of concern.**

##### **Program 1.C**

Lands on which cultural resources are identified may be preserved as Open Space

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as part of land development review and Specific Plan process.**

##### **Program 1.D**

Inventory the costs of land acquisition, maintenance and other administrative functions, and encourage the transfer of public open space and conservation properties to existing land trusts for local property management.

**Responsible Agency:** Planning Division, City Council.

**Schedule:** Pending

**Implementation Status – Not implemented due to lack of funding and staffing.**

**Policy 2**

The City shall protect natural hillsides above the toe of slope in perpetuity as undeveloped open space, and shall provide specific parameters under which development can occur within the Rural Residential – Hillside and Ranch/Agriculture Residential – Hillside land use designations. For purposes of this General Plan, the toe of slope is defined as the dividing line between rock formations where there is a noticeable break in the angle of slope from steep to shallow.

**Program 2.A**

The Zoning Ordinance shall be amended to include detailed provisions for the preservation of natural hillsides above the toe of slope. These provisions shall include, but not be limited to, density transfers from hillside areas to developable areas within the same parcel, building prohibitions for lands with grades exceeding 25%, permitted uses and building standards for developable areas in these hillsides, and grading parameters in these hillsides.

**Responsible Agency:** Planning Division, City Engineer, Planning Commission, City Council.

**Schedule:** Continuous; Ongoing

**Implementation Status – Active and ongoing to comply with the Grading Ordinance that was adopted by the City Council on July 14, 2009.**

**Program 2.B**

The City shall seek recreational usage of desirable hillside lands currently owned by public agencies, such as the Bureau of Land Management, the United States Forest Service or the County of Riverside; and shall secure open space lands from private entities by negotiating public access provisions and/or establishing a density transfer program.

**Responsible Agency:** City Manager's Office, Planning Division, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Open Space lands from private entities are secured through a Specific Plan process and development Agreement from private entities.**

**Policy 3**

Ridgelines shall be preserved as permanent open space.

**Policy 4**

The City shall preserve all watercourses and washes necessary for regional flood control, ground water recharge areas and drainage for open space and recreational purposes.

**Policy 5**

The City shall preserve permanent open space edges or greenbelts that define the physical limits of the City and provide physical separation between adjoining neighborhoods.

**Program 5.A**

The Land Use Map and Zoning Ordinance shall regulate development at the boundaries of the planning area to assure the preservation of a well-defined, functional or visual edge.

**Responsible Agency:** Planning Division.

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing as part of land development review process.**

**Policy 6**

Where practical, new development shall integrate pipeline, above- and under-ground utility corridors and other easements (including electric, cable and telephone distribution lines) into a functional open space network.

**Policy 7**

Drought tolerant landscaping materials and design features shall be incorporated into parks, roadway medians, common area landscaping, public facilities and other appropriate open space lands to retain and preserve the natural environment.

## Biological Resources Element

### **GOAL 1**

A pattern of community development that supports a functional, productive, harmonious and balanced relationship between the built and natural environment.

#### **Policy 1**

The City shall continue to participate in the preservation of habitat for endangered, threatened and sensitive species.

##### **Program 1.A**

Through the Western Riverside MSHCP, maintain an accurate and regularly updated map of sensitive plant and animal species and habitat in Banning and its planning area.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Implemented as required by the Multi-Species Habitat Conservation Plan (MHSCP).**

##### **Program 1.B**

The City shall participate in the Western Riverside County Multiple Species Habitat Conservation Plan.

**Responsible Agency:** Planning Division, Riverside County

**Schedule:** Continuous; Ongoing

**Implementation Status – Implemented as required by the MSHCP.**

##### **Program 1.C**

City staff shall continue to request biological resource surveys for new development.

**Responsible Agency:** Planning Division, Riverside County

**Schedule:** Continuous; Ongoing

**Implementation Status - Implemented as required by the MHSCP and through the CEQA review process.**

**Policy 2**

As part of the development review process, the City shall evaluate projects based on their impact on existing habitat and wildlife, and for the land's value as viable open space.

**Program 2.A**

The City shall encourage developers to recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for local species.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing part of land development review process.**

**Program 2.B**

The City shall make available at City Hall a listing of planting materials that emphasizes native vegetation, but may also include non-native, plants that are compatible with the local environment.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – The City's Landscape Guidelines contain the list and are available to the public.**

**Policy 3**

The City shall encourage and cooperate with other agencies in establishing multiple use corridors that take advantage of drainage channels and utility easements as wildlife corridors, public access and links between open space areas and the built environment.

**Program 3.A**

The City shall consult and coordinate with the Riverside County Flood Control District to encourage the establishment of a system of multiple use corridors for movement of people and wildlife between open space areas.

**Responsible Agency:** Planning Division, Riverside County Flood Control District

**Schedule:** Continuous; Ongoing

**Implementation Status – Future trail plans that are proposed to be constructed adjacent to flood control facilities will be coordinated with the Riverside County Flood Control District.**

**Policy 4**

Drainage channels, utility corridors and pipeline easements shall be preserved in natural open space to the greatest extent possible.

**Policy 5**

The City shall promote the protection of biodiversity and encourage an appreciation of the natural environment and biological resources.

**Program 5.A**

The City shall coordinate with the Banning and Beaumont Unified School Districts, the County and other agencies as identified, to provide educational programs that offer an understanding of the region's natural environment and make the public aware of biological resource issues.

**Responsible Agency:** Planning Division, Banning and Beaumont Unified School Districts, Riverside County, and others as identified

**Schedule:** Pending

**Implementation Status** – *Not implemented due to staffing constraints.*

## Archaeological and Historic Resources Element

### **GOAL 1**

Documentation, maintenance, preservation, conservation and enhancement of archaeological and historic sites, artifacts, traditions and other elements of the City's cultural heritage.

#### **Policy 1**

The City shall exercise its responsibility to identify, document and evaluate archaeological, historical and cultural resources that may be affected by proposed development projects and other activities.

##### **Program 1.A**

All new development proposals, except single family dwelling on existing lots of record, shall submit a records search for historic and cultural resources as part of the planning process.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing and is implemented through the California Environmental Quality Act (CEQA) process during land development review.**

##### **Program 1.B**

Development or land use proposals which have the potential to disturb or destroy sensitive cultural resources shall be evaluated by a qualified professional and, if necessary, comprehensive Phase I studies and appropriate mitigation measures shall be incorporated into project approvals.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Standard conditions for grading.**

##### **Program 1.C**

The City shall implement the requirements of state law relating to cultural resources, including Government Code 65352.3, and any subsequent amendments or additions.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status –City consults with tribal representatives as required.**

**Policy 2**

The City shall expand and enhance its historic preservation efforts.

**Program 2.A**

Prepare a historic preservation plan, which outlines the goals and objectives of the City's preservation programs and serves as an official historic context statement for the evaluation of cultural resources within the City boundaries.

**Responsible Agency:** Planning Division

**Schedule:** Pending

**Implementation Status** – *Not implemented due to lack of funding and staffing.*

**Program 2.B**

The City shall consider participating in the Certified Local Government program so that it may benefit from historic preservation expertise, technical assistance, special grants, information exchange, and statewide preservation programs coordinated by the State Office of Historic Preservation. The evaluation of participation in the program shall be part of the historic preservation plan.

**Responsible Agency:** Planning Division, Historical Society, City Council

**Schedule:** Pending

**Implementation Status** – *Not implemented due to lack of funding and staffing.*

**Program 2.C**

Encourage property owners and residents to nominate qualified properties to the City's inventory system and/or any federal and state registers.

**Responsible Agency:** Planning Division, Morongo Band of Cahuilla Indians

**Schedule:** Pending

**Implementation Status** – *Not implemented due to staffing constraints.*

**Program 2.D**

Should the Saint Boniface School site be proposed for development, extensive analysis of the site shall be conducted, and mitigation proposed, to document its historic significance.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status** – *Tract map approved but a project is not yet developed. Extensive analysis included cultural analysis and coordination with tribal representatives.*

**Policy 3**

Establish and maintain a confidential inventory of archaeological and historical resources within the City, including those identified by the Eastern Information Center (EIC) at the University of California, Riverside and in focused cultural resources studies.

**Policy 4**

Sensitive archaeological and historic resources shall be protected from vandalism and illegal collection, to the greatest extent possible.

**Program 4.A**

Mapping and similar information, which identifies specific locations of sensitive cultural resources, shall be maintained in a confidential manner, and access to such information shall be provided only to those with appropriate professional or organizational ties.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Records of sensitive Cultural Resources are maintained by curator at the University of California Riverside.**

**Policy 5**

Encourage public participation in and appreciation of the City's cultural heritage.

**Program 5.A**

Implement a systematic program to enhance public awareness of the City's heritage, generate broad support for its preservation, and enhance community pride.

**Responsible Agency:** Planning Division, Historical Society, City Council, Morongo Band of Mission Indians

**Schedule:** Continuous; Ongoing

**Implementation Status –***Not implemented due to lack of funding and staffing.*

**Program 5.B**

Support the efforts of local cultural associations to acquire historical materials and artifacts, and to educate the public about the City's and region's cultural heritage.

**Responsible Agency:** Planning Division, Historical Society, Morongo Band of Mission Indians

**Schedule:** Pending

**Implementation Status –***Not implemented due to lack of funding and staffing.*

**Policy 6**

Support the listing of eligible structures or sites as potential historic landmarks and their inclusion in the National Register of Historic Places.

**Program 6.A**

Develop procedures for the designation of local landmarks and historic districts.

**Responsible Agency:** Planning Division, Historical Society, Morongo Band of Mission Indians

**Schedule:** Pending

**Implementation Status –***Not implemented due to lack of funding and staffing.*

**Policy 7**

The City shall consider offering economic or other incentives, such as direct subsidies or application/permitting fee reductions or waivers, to property owners to encourage the maintenance and enhancement of significant cultural buildings and sites.

**Program 7.A**

Develop an application process for City-sponsored incentives to maintain and enhance significant buildings and sites, and provide property owners with information and guidance on eligibility requirements.

**Responsible Agency:** Planning Division

**Schedule:** Pending

**Implementation Status** – *Not implemented due to lack of funding and staffing.*

## Air Quality Element

### **GOAL 1**

To preserve and enhance local and regional air quality for the protection of the health and welfare of the community.

#### **Policy 1**

The City shall be proactive in regulating local pollutant emitters and shall cooperate with the Southern California Association of Governments and the South Coast Air Quality Management District to assure compliance with air quality standards.

#### **Policy 2**

The City shall continue to coordinate and cooperate with local, regional and federal efforts to monitor, manage and reduce the levels of major pollutants affecting the City and region, with particular emphasis on PM<sub>10</sub> and ozone emissions, as well as other emissions associated with diesel-fueled equipment and motor vehicles.

#### **Program 2.A**

On an ongoing basis, the City shall continue to participate in efforts to monitor and control PM<sub>10</sub> emissions from construction and other sources, and all other air pollutants of regional concern. The City shall coordinate with SCAQMD to provide all reporting data for the SCAQMD annual report.

**Responsible Agency:** Community Development Department (Planning Division and Building & Safety Division, Public Works Department (Engineering Division) and SCAQMD

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing through land development review and environmental documentation process that is required and standard conditions of approval monitored by the Public Works Department. The City consults with the SCAQMD with regard to air quality impacts from land development projects. The City Public Works inspector also monitors grading activities and enforces dust control.**

**Policy 3**

City land use planning efforts shall assure that sensitive receptors are separated from polluting point sources.

**Program 3.A**

The General Plan Land Use Map and Element shall be developed and maintained to locate air pollution point sources, such as manufacturing operations and highways, at an appropriate distance from sensitive receptors, including hospitals, schools, hotels/motels and residential neighborhoods.

**Responsible Agency:** Planning Division, SCAQMD

**Schedule:** Continuous; Ongoing

**Implementation Status** – This is implemented through the Zoning Ordinance where zoning districts are established to ensure that conflict between land uses - residential, commercial, industrial, and public facilities are minimized. As part of land development review process, City staff consults with the SCAQMD through the environmental review process as required by the California Environmental Quality Act (CEQA) to ensure that land development projects do not have the potential to impact sensitive receptors.

**Policy 4**

Development proposals brought before the City shall be reviewed for their potential to adversely impact local and regional air quality and shall be required to mitigate any significant impacts.

**Program 4.A**

Projects that may generate significant levels of air pollution shall be required to conduct detailed impact analyses and incorporate mitigation measures into their designs using the most advanced technological methods feasible. All proposed mitigation measures shall be reviewed and approved by the City prior to the issuance of grading or demolition permits.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status** - Implemented through the California Environmental Quality Act (CEQA) and land development review process. Environmental documents are prepared for each of the land development projects that are not exempt under CEQA and mitigation measures are made apart of the Conditions of Approval. Additionally, mitigation measures are implemented and monitored during construction of the project.

**Program 4.B**

Provide consistent and effective code enforcement of construction and grading activities and off-road vehicle use to assure that the impacts of blowing sand and fugitive dust emissions are minimized.

**Responsible Agency:** Building Department, Code Compliance, SCAQMD

**Schedule:** Continuous; Ongoing

**Implementation Status** – Ongoing through standard approval process and also monitoring during construction.

**Program 4.C**

The City shall encourage immediately, and investigate legislation regarding the reduction of TDM requirements to a level of 50 employees or more.

**Responsible Agency:** Public Works Department/Planning Division

**Schedule:** Pending

**Implementation Status** - Not Implemented due to lack of funding and staffing.

**Policy 5**

The City shall promote the use of clean and/or renewable alternative energy sources for transportation, heating and cooling.

**Program 5.A**

Vehicles that use alternative fuel sources, such as compressed natural gas and electricity, shall be purchased and maintained for use in the City's vehicle fleet when new vehicles are purchased.

**Responsible Agency:** City Manager's Office

**Schedule:** Continuous; Ongoing

**Implementation Status** – New city vehicles that are purchased use compressed natural gas and the implementation is ongoing.

**Program 5.B**

The City's Compressed Natural Gas fueling station shall continue to be open to public use.

**Responsible Agency:** Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status** - Active and Ongoing. The CNG Fuel Station is currently open and available to the public 24 hours a day.

**Policy 6**

The City shall support the development of facilities and projects that facilitate and enhance the use of alternative modes of transportation, including pedestrian-oriented retail and activity centers, dedicated bicycle paths and lanes, and community-wide multi-use trails.

**Program 6.A**

The City shall pursue a balance of employment and housing opportunities that encourage pedestrian and other non-motorized transportation and minimize vehicle miles traveled.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status** – Ongoing as new development is proposed. The Butterfield Specific Plan and Rancho San Gorgonio Specific Plan projects include residential and commercial development along with active walking/jogging trails, bike paths, and neighborhood electric vehicles. The Village at Paseo San Gorgonio is a Downtown redevelopment project that encourages people to walk and enjoy the outdoor environment.

**Program 6.B**

The City shall promote the expanded availability of mass transit services, coordinating with all agencies to link residential and commercial business and employment centers with the City's residential neighborhoods and nearby communities.

**Responsible Agency:** Community Services Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status** – The City coordinates with other regional transit agencies such as the Riverside Transit Agency and attends regional transit meetings. Expansion will

occur when population increases demand for expanded service. The City Manager is pursuing opportunities for a regional rail/transit station.

**Program 6.C**

The City shall promote and support the development of ridesharing, carpooling, flexible work scheduling, telecommuting and Park and Ride programs among public and private employers.

**Responsible Agency:** Planning Division, Public Works Department, Community Services Department, Transit Agencies, Major Employers

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing as the City currently has a four day work week (flexible work schedule) option. The Vehicle Trip Reduction Program is codified in Chapter 8.60 of the Municipal Code.**

**Program 6.D**

The City shall require shade trees with non-damaging root systems to be planted in all medians on all streets, to cool the asphalt and reduce the Reactive Organic Compounds (ROC) and Volatile Organic Compounds (VOC) generated by asphalt streets and parking lots. A list of permitted trees with non-damaging root systems shall be developed.

**Responsible Agency:** Planning Division, Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ordinance in place, active and ongoing. Public Works reviews street tree plans for acceptable species; Public Works maintains trees in medians and replants when required. Planning requires one tree for every seven (7) parking spaces in the parking lot.**

## Energy and Mineral Resources Element

### GOAL 1

Efficient, sustainable and environmentally appropriate use and management of energy and mineral resources, assuring their long-term availability and affordability.

#### Policy 1

Promote energy conservation throughout all areas of the community and sectors of the local economy, including the planning and construction of urban uses and in City and regional transportation systems.

##### **Program 1.A**

The City shall strictly and consistently enforce all state mandated energy-conserving development and building codes/regulations, and shall investigate and report on the appropriateness of developing more stringent local energy performance standards.

**Responsible Agencies:** Building Department, Planning Division, Public Utilities

**Schedule:** Continuous; Ongoing

**Implementation Status –Active and ongoing part of development process.**

##### **Program 1.B**

The City shall continue to participate in transportation planning efforts and shall encourage the expanded use of public transit, vehicles fueled by compressed natural gas and hydrogen, buses with bike racks and other improvements that enhance overall operations and energy conservation.

**Responsible Agency:** City Manager's Office, Community Services Department, Public Utilities Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing and Active.**

##### **Program 1.C**

The City shall strive for efficient community land use and transportation planning and design, and shall assure the provision of convenient neighborhood shopping, medical and other services located to minimize travel and facilitate the use of alternative means of transportation.

**Responsible Agency:** Public Works Department, Planning Division, Community Services Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Through Development Review Process; bikeways, golf cart paths & pedestrian trails have been planned for new projects.**

##### **Program 1.D**

The City shall encourage the use of, and programs for, electric vehicles, hybrids, bicycles and pedestrian facilities.

**Responsible Agency:** Public Utilities, Department, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status - Active and ongoing.** The City Electric Utility has installed a new public charging station at 2140 W. Ramsey Street (McDonald's), and are currently in the bid process for a new charging station at the City's Maintenance yard. The City will be adding electric vehicles to its fleet in 2017.

### **Policy 2**

Promote the integration of alternative energy systems, including but not limited to solar thermal, photovoltaic and other clean energy systems, directly into building design and construction.

#### **Program 2.A**

The City shall make available to residents, businesses, and the building industry information on commercially available conservation technologies, solar thermal and photovoltaic energy systems, fuel cell and other alternative energy technology. Building regulations and guidelines that provide for the safe and efficient installation of these systems shall also be provided.

**Responsible Agency:** Building Department, Community Development Department, Electric Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Active and ongoing.** Interconnection programs are still available for customers wishing to install "behind the meter" generation. However rebate funds have been exhausted. The City also adopted an ordinance to address AB 2188, which provides for streamlined permitted for certain small residential rooftop solar energy systems.

### **Policy 3**

Proactively support long-term strategies, as well as state and federal legislation and regulations that assure affordable and reliable production and delivery of electrical power to the community.

### **Policy 4**

Support public and private efforts to develop and operate alternative systems of wind, solar and other electrical production, which take advantage of local renewable resources.

#### **Program 4.A**

Support and facilitate the integration of co-generation and other on-site energy production and management systems into larger industrial, commercial and institutional operations in the City to enhance operational efficiencies, reliability, and to provide additional opportunities for local power production.

**Responsible Agency:** Electric Department; Planning Division; Building Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Active and Ongoing.**

**Policy 5**

Assure a balance between the availability of mineral resources and the compatibility of land uses in areas where mineral resources are mined.

**Program 5.A**

The City shall monitor and regulate the safe and environmentally responsible extraction and recycling of significant mineral resources located within the planning area.

**Responsible Agency:** Community Development Department, Public Utilities Department

**Schedule:** Continuous; Ongoing.

**Implementation Status – This is done through the annual inspection report since the City has no funding to hire a geologist who is solely responsible for the daily/weekly monitoring of the mine activities.**

**Program 5.B**

The City shall establish a formal relationship with the County Geologist or other qualified agency to monitor mineral resource operations under SMARA.

**Responsible Agency:** Planning Division, Riverside County Geologist.

**Schedule:** Continuous; Ongoing

**Implementation Status – This is done through a contract with Aragon Geotechnical, Inc. who performs annual inspection for compliance with the State Mining and Reclamation Act (SMARA).**

**Program 5.C**

The City shall strictly enforce the provisions of the existing mining permit within City limits.

**Responsible Agency:** Code Compliance, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – The monitoring is being done based on complaints from residents and through the Annual Inspection.**

## Chapter 3 Environmental Hazards

### Geotechnical Element

#### **GOAL 1**

Increased protection and safety of human life, land, and property from the effects of seismic and geotechnical hazards.

#### **Policy 1**

The City shall establish and maintain an information database containing maps and other information which describe seismic and other geotechnical hazards occurring within the City boundaries, sphere-of-influence and planning area.

##### **Program 1.A**

Consult and coordinate with surrounding communities, the California Division of Mines and Geology, Riverside County, other applicable state and federal agencies, and professional engineering geologists to establish, improve and routinely update the database.

**Responsible Agency:** Planning Division, California Division of Mines and Geology, Riverside County, Consulting Geologists

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

#### **Policy 2**

In accordance with state law, all development proposals within designated Alquist-Priolo Earthquake Fault Zones shall be accompanied by appropriate geotechnical analysis.

##### **Program 2.A**

Establish a cooperative agreement with the County Geologist, State Geologist, contract state-certified geologist, or contract geological engineer to review and determine the adequacy of geotechnical and fault hazard studies prepared within the City.

**Responsible Agency:** City Engineer/Consulting Engineering Geologist

**Schedule:** Continuous; Ongoing

**Implementation Status – Completed. In addition, each land development project is required to provide soils and geotechnical report as part of the project.**

#### **Policy 3**

Development in areas identified as being susceptible to slope instability shall be avoided unless adequately engineered to eliminate geotechnical hazards.

##### **Program 3.A**

The City shall make available copies of the General Plan Slope Instability Susceptibility Map and discourage development within areas so designated, or require detailed geotechnical analysis and mitigation measures that reduce potential hazards to insignificant levels.

**Responsible Agency:** Planning Division, City Engineer/Consulting Engineering Geologist

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, implemented through new grading ordinance.****Policy 4**

To minimize the potential impacts of subsidence due to extraction of groundwater, the City shall actively support and participate in local and regional efforts at groundwater conservation and recharge.

**Program 4.A**

Consult and coordinate with the City of Banning Public Utilities – Water Department, U.S. Geological Survey, and other appropriate agencies to routinely monitor groundwater levels and surface elevations in the City.

**Responsible Agency:** City of Banning Public Utilities – Water Department, U.S. Geological Survey

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Program 4.B**

The City shall encourage the preparation of, support and participate in, the study of the temporary surplus of the Beaumont Water Basin and its impact on subsidence.

**Responsible Agency:** Water Department, Beaumont/Cherry Valley Water District, San Gorgonio Pass Water Agency

**Schedule:** Ongoing

**Implementation Status – Ongoing.**

**Policy 5**

The City shall coordinate and cooperate with public and quasi-public agencies to assure the continued functionality of major utility systems in the event of a major earthquake.

**Program 5.A**

Maintain working relationships and strategies between the Public Works Department (wastewater and electric), utilities, and other appropriate agencies to strengthen or relocate utility facilities, and take other appropriate measures to safeguard major utility distribution systems.

**Responsible Agency:** Planning Division, Public Works Department, City Engineer, Public and Quasi-Public Utilities

**Schedule:** Continuous; Ongoing

**Implementation Status –Ongoing, through pre applications and development meetings.**

**Policy 6**

New septic tank leach fields, seepage pits, drainage facilities, and heavily irrigated areas shall be located away from structural foundations and supports to minimize the potential for localized collapse of soils.

**Program 6.A**

The City shall require that development applications include plans indicating the location of leach fields, seepage pits, drainage facilities, and water-dependent landscaping so that City staff may evaluate the potential for ground saturation.

**Responsible Agency:** Planning Division, Building Department, City Engineer

**Schedule:** Continuous; Ongoing

**Implementation Status – Through grading review, part of development review process.**

## Flooding and Hydrology Element

### **GOAL 1**

A comprehensive system of flood control facilities and services effectively protecting lives and property.

#### **Policy 1**

Proactively plan and coordinate with other responsible agencies to upgrade the City's local and regional drainage system.

##### **Program 1.A**

Continued implementation of the recommendations of the 1994 RCFC Master Drainage Plan study.

**Responsible Agency:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.** The Riverside County Flood Control District (RCFCD) has completed the design of a storm drain system along Hargrave Street and plans to construct the project in 2017. RCFCD is also working on a master planned storm drain facility along Hathaway Street south of Lincoln Street. Additional, the City requires that development projects include master planned facilities.

##### **Program 1.B**

Capital Improvement Plans for drainage management and control shall be developed, updated and maintained and shall be based upon the Master Drainage Plan project descriptions.

**Responsible Agencies:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

##### **Program 1.C**

Monitor and update the Master Plan of Drainage every five years to reflect changes in local and regional drainage and flood conditions.

**Responsible Agencies:** Public Works Department, Planning Division, Riverside County Flood Control District

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.** The County Flood District has prepared a master plan and is responsible for updates.

##### **Program 1.D**

Require all new development to complete on site drainage analysis and improvements, at their expense, as part of project development.

**Responsible Agencies:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing, part of development process.**

**Policy 2**

Major drainage facilities, including debris basins and flood control channels, shall be designed to maximize their use as multi-purpose recreational or open space sites, consistent with the functional requirements of these facilities.

**Program 2.A**

Coordinate and cooperate with RCFC in achieving multi-use agreements within flood control channels and designing safe, attractive recreational facilities that maintain the functional requirements of the drainage facilities.

**Responsible Agencies:** Public Works Department, Planning Division, RCFC

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; through Specific Plans and other projects adjacent to Flood Control.**

**Program 2.B**

Work with RCFC to design drainage and flood control facilities that minimize negative aesthetic impacts and retain natural groundcover and vegetation to the greatest extent possible.

**Responsible Agencies:** Public Works Department, Planning Division, RCFC, US Army Corps of Engineers

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; coordination through entitlement process when designs are submitted for approval.**

**Policy 3**

The City Engineer shall continue to actively participate in regional flood control and drainage improvement efforts and to develop and implement mutually beneficial drainage plans.

**Policy 4**

The City shall cooperate in securing FEMA map amendments, recognizing the importance of redesignation of the 100-year flood plains within the City boundaries and sphere-of-influence as improvements are completed.

**Program 4.A**

In conjunction with the RCFC, the City shall coordinate and cooperate in the filing of appropriate FEMA application materials to incrementally secure amendments to the Flood Insurance Rate Maps for the City, consistent with existing and proposed improvements.

**Responsible Agencies:** Public Works Department, Planning Division, RCFC

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Policy 5**

Pursue all credible sources of funding for local and regional drainage improvements needed for adequate flood control protection.

**Program 5.A**

Consider the establishment of Area Drainage Plans or Assessment Districts for purposes of funding necessary drainage improvements in particular geographic areas of the City.

**Responsible Agencies:** Public Works Department, Planning Division, Developers

**Schedule:** Pending

**Implementation Status – Not yet completed.** *The Riverside County Flood Control District does currently have a tax that is paid by all properties within the City that goes towards the funding of flood control facilities.*

**Program 5.B**

Explore County funding, state funding under the Cobey-Alquist Flood Plain Management Act, other State programs, and federal funding options for local and area-wide flood control projects.

**Responsible Agencies:** Public Works Department, Planning Division, State; County

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 6**

All new development shall be required to incorporate adequate flood mitigation measures, such as grading that prevents adverse drainage impacts to adjacent properties, on-site retention of runoff, and the adequate siting of structures located within flood plains.

**Program 6.A**

Stormwater retention shall be enforced through the development review process and routine site inspection.

**Responsible Agencies:** Public Works Department, Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through grading approval process.**

**Policy 7**

Assure that adequate, safe, all-weather crossing over drainage facilities and flood control channels are provided where necessary, and are maintained for passage during major storm events.

**Program 7.A**

Bridging of roadways within new development projects shall be the responsibility of the developer on whose project the bridge occurs, and shall be included as a condition of approval.

**Responsible Agency:** Planning Division, Public Works Department, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through land development approval process.**

<b>Program 7.B</b>
All new development proposals shall pay their fair share of bridge construction needed to serve their project.
<b>Responsible Agency:</b> Public Works Department, Planning Division
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status - Ongoing; implemented through land development approval process.</b>

## Noise Element

### GOAL 1

A noise environment that complements the community's residential character and its land uses.

#### **Policy 1**

The City shall protect noise sensitive land uses, including residential neighborhoods, schools, hospitals, libraries, churches, resorts and community open space, from potentially significant sources of community noise.

##### **Program 1.A**

The City shall require building setbacks, the installation of wall and window insulation, soundwalls, earthen berms, and/or other mitigation measures in areas exceeding the City's noise limit standards for private development projects as they occur.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through land development review process.**

##### **Program 1.B**

The City shall maintain and enforce its Noise Control Ordinances that establish community-wide noise standards and identify measures designed to resolve noise complaints.

**Responsible Agency:** Planning Division, Code Enforcement, Police Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through land development review process.**

##### **Program 1.C**

The City shall use the development review process to assure the use of buffers between sensitive receptors and incompatible land uses.

**Responsible Agency:** Planning Division, Planning Commission, City Council

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through land development review process.**

##### **Program 1.D**

The City shall require that commercial compactors, loading zones, and large trash bins be located at a sufficient distance from residential properties to reduce noise impacts to its acceptable standard.

**Responsible Agency:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing; implemented through land development review process.**

**Program 1.E**

The City shall purchase, maintain and operate its own noise monitoring equipment.

**Responsible Agency:** Code Enforcement

**Schedule:** Continuous; Ongoing

**Implementation Status** – *Equipment is older (prior to 2006) and needs to be updated. There is no funding for this item.*

**Policy 2**

The relationship between land use designations in the Land Use Element and changes in the circulation pattern of the City, as well as individual developments, shall be monitored and mitigated.

**Program 2.A**

The City shall develop guidelines and minimal criteria requirements for noise analyses for proposed development projects. Studies shall evaluate project impacts and the effectiveness of proposed mitigation measures.

**Responsible Agency:** Planning Division, Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status** – **Ongoing; implemented through land development review process and through the building code standards.**

**Program 2.B**

The City shall periodically review and amend the Land Use Map to assure reasonable land use/noise level compatibility.

**Responsible Agency:** Planning Division

**Schedule:** Annually

**Implementation Status** – **Ongoing; implemented as part of land development review process.**

**Policy 3**

Private sector project proposals shall include measures that assure that noise exposures levels comply with State of California noise insulation standards as defined in Title 25 (California Noise Insulation Standards) and/or Banning Ordinances 1138 and 1234, whichever is more restrictive.

**Policy 4**

The City shall maintain a General Plan Circulation Map and assure low levels of traffic within neighborhoods by assigning truck routes to major roadways only.

**Program 4.A**

The City shall review designated primary truck routes and ensure they are clearly marked throughout the community. Except for traffic providing location-specific services and deliveries, construction trucks and delivery trucks shall be limited to designate truck routes, including: Ramsey Street, and those portions of Lincoln Street, Highland Springs Avenue, Hathaway Street, Sunset Avenue, Eighth Street, San Gorgonio Avenue and Hargrave Street so designated.

**Responsible Agency:** Public Works Department, City Engineer

<b>Schedule:</b> Annually
<b>Implementation Status – Ongoing</b>
<b>Program 4.B</b>
The City shall discourage development projects that result in through-traffic in residential neighborhoods.
<b>Responsible Agency:</b> Planning Division, Planning Commission, City Council
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Ongoing; implemented through land development review process.</b>

### **Policy 5**

The City shall ensure that flight paths and airport improvements adhere to all local, state and federal noise regulations.

### **Policy 6**

All development proposals within the noise impact area of the Interstate and the railroad shall mitigate both noise levels and vibration to acceptable levels through the preparation of focused studies and analysis in the development review and environmental review process.

### **Policy 7**

The City shall coordinate with adjoining jurisdictions to assure noise-compatible land uses across jurisdictional boundaries.

### **Policy 8**

The City shall impose and integrate special design features into proposed development that minimize impacts associated with the operation of air conditioning and heating equipment, on-site traffic, and use of parking, loading and trash storage facilities.

### **Policy 9**

The City shall support development that results in grade separated railroad tracks.

<b>Program 9.A</b>
The City shall assure that new development and project expansions pay their fair share toward grade separations based on their impacts.
<b>Responsible Agency:</b> Planning Division, City Engineer
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Ongoing; implemented through land development review process.</b>

## Wildland Fire Hazards Element

### GOAL 1

Protect human life, land, and property from the effects of wildland fire hazards.

#### **Policy 1**

The City shall establish and maintain an information database containing maps and other information which describe fire hazard severity zones, fire threat zone, and other wildfire hazards occurring within the City boundaries, sphere-of-influence and planning area.

##### **Program 1.A**

Consult and coordinate with surrounding communities, the State Board of Forestry and Fire Protection, California Department of Forestry and Fire Protection, Riverside County Fire Department, other applicable state and federal agencies to establish, improve and routinely update the database

**Responsible Agency:** Planning Department, Banning Fire Department, Beaumont Fire Department, State Board of Forestry and Fire Protection, California Department of Forestry and Fire Protection, Riverside County Fire Department, Morongo Band of Mission Indians.

**Schedule:** Continuous; Ongoing

**Implementation Status - A new severity zone map has been developed by the California Department of Forestry and Fire Protection (CalFire) and was adopted by the City Council on 10/28/08. The revised map went into effect July 1, 2008.**

##### **Program 1.B**

The City shall make available copies of the Fire Severity Map and discourage development within areas so designated, or require detailed mitigation measures that reduce potential hazards to insignificant levels.

**Schedule:** Immediately; Ongoing

**Implementation Status - The current map, produced by the State, is available to view at [www.fire.ca.gov](http://www.fire.ca.gov). The current handout will be revised to reflect the new code. With the new 2016 CFC and residential sprinkler codes this issue has been updated along with the Fire Hazard Severity map being available.**

##### **Program 1.C**

Prepare an informational handout to be distributed to developers, property owners, and other Appropriate parties, which describes the need for and design of fire safe developments.

**Responsible Agency:** Planning, City Engineer, Fire Department

**Schedule:** Continuous; Ongoing

**Implementation Status - The Fire Department has developed a one-page handout briefly describing the requirements. The handout will be revised to match the new building code requirements.**

##### **Program 1.D**

Establish and maintain a program by which all potentially hazardous structures, which pose a threat due to inadequate fire hazard construction are identified, inventoried, and retrofitted with

fire retardant materials. Program shall include informational handouts describing appropriate methods of retrofitting and possible sources of funding to facilitate the rehabilitation of such structures.

**Responsible Agency:** Building and Safety Department, City Engineer, Fire Department

**Schedule:** 2015-2016

**Implementation Status** –*Not yet implemented due to lack of funding and staffing.*

## **Policy 2**

Ongoing coordination between the Banning Fire Department, Beaumont Fire Department, the Riverside County Fire Department, the California Department of Forestry, the Morongo Band of Mission Indians and the US Forest Service in fire prevention programs.

### **Program 2.A**

Cooperate with all neighboring agencies in order to identify opportunities for fuel breaks in very high hazard severity zones and to ensure that fire breaks are provided where necessary and appropriate.

**Responsible Agency:** Fire Marshall, City of Beaumont, County of Riverside, Morongo Band

**Schedule:** Continuous; Ongoing

**Implementation Status** – **Maintaining the current Truck Trail and Fuelbreak system, including the Cherry Canyon Fuelbreak, International Fuelbreak and the Oak Glen-Banning Canyon Road are ongoing and cut and pile operations go on each year to limit fuel loading on either side of these Truck Trails. Opportunities for new fuel breaks are currently being sought, but given environmental constraints and property ownership issues, none are currently in progress.**

### **Program 2.B**

Development proposals shall be transmitted to the Police Department and the City Fire Marshal, and input shall be incorporated into project design or conditions of approval, as appropriate.

**Responsible Agency:** Building and Safety Department, Planning Department, Police Department, Fire Department

**Schedule:** Ongoing

**Implementation Status** – **All development proposals are routed to the Fire Department for comments.**

### **Program 2.C**

<p>The Police and Fire Departments shall closely coordinate and cooperate with the City and County emergency preparedness teams and shall assure the most effective disaster response practical.</p>
<p><b>Responsible Agency:</b> City Manager's office, Fire Department, Police Department, County of Riverside, PASSCOM</p>
<p><b>Schedule:</b> Immediately; Ongoing</p>
<p><b>Implementation Status – The Fire Department's Disaster Preparedness Bureau has completed the City's Emergency Operations Plan. The Department conducts biannual training and coordination with local disaster preparedness organizations and County OES is ongoing. The Fire Department evaluates all projects to ensure adequate egress in emergency situations. The City's Emergency Operations Plan (EOP) was updated November 2011.</b></p>
<p><b>Program 2.D</b></p> <p>Contact and establish working relationships and strategies with Banning Heights Mutual Water Company, High Valley Water District, public utilities, and other appropriate agencies to strengthen or relocate utility facilities, and take other appropriate measures to safeguard major utility distribution systems to the greatest extent practical.</p>
<p><b>Responsible Agency:</b> Planning Department, Public Works Department, City Engineer, Public and Quasi-Public Utilities</p>
<p><b>Schedule:</b> Continuous; Ongoing</p>
<p><b>Implementation Status – Active and ongoing.</b></p>
<p><b>Program 2.E</b></p> <p>Encourage and cooperate with CalTrans and the railroad to reduce hazardous fuel loads (vegetation) near bridges, roadways, rail lines and state highways, which may be subject to closure during major wildland fire events.</p>
<p><b>Responsible Agency:</b> Public Works Department, Fire Department, City Engineer, CalTrans, railroad</p>
<p><b>Schedule:</b> Continuous</p>
<p><b>Implementation Status – Active and ongoing.</b></p>
<p><b>Program 2.F</b></p> <p>The public will be educated regarding disaster prevention and emergency responses including evacuation procedures.</p>
<p><b>Responsible Agency:</b> Police and Fire Departments, School Districts, PassCom</p>
<p><b>Schedule:</b> Immediately; Ongoing</p>
<p><b>Implementation Status – Active and ongoing including Fire Prevention Week every October and presentations at civic groups, special events, public schools, pre-schools, and care facilities.</b></p>

**Policy 3**

Continue to identify wildfire hazard areas, and to enforce special standards for construction in wildland fire hazard areas.

**Program 3.A**

New and substantially remodeled structures or developments shall incorporate wildfire prevention design techniques, such as the use of “defensible space,” fire retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards.

**Responsible Agency:** Building and Safety Department, Planning Department, Police Department, Fire Department

**Schedule:** Ongoing

**Implementation Status – Active and ongoing with land development review.**

**Program 3.B**

Require that adequate emergency vehicle access and evacuation routes be available with approval of any new development.

**Responsible Agency:** Building and Safety Department, Planning Department, Police Department, Fire Department

**Schedule:** Ongoing

**Implementation Status – Active and ongoing.**

**Program 3.C**

The City shall adopt standard requirements for all development proposals in High Fire Hazard Areas, including requirements for the preparation of Fire Protection Plans prior to the approval of Tentative Tract Maps, Tentative Parcel Maps, or other land use permits.

**Responsible Agency:** Fire Marshal

**Schedule:** 2015-2016

**Implementation Status – Active and ongoing.**

**Policy 4**

The City shall make every attempt to assure that adequate water supplies and pressures are available during a fire, earthquake or both.

<b>Program 4.A</b>
Coordinate with Banning Heights Mutual Water Company, High Valley Water District and other agencies responsible for supplying water to the region to assure sufficient water supplies and pressures are available to provide adequate fire flows for all existing and proposed development.
<b>Responsible Agency:</b> Public Works Department, Building and Safety Department, Planning Department, Fire Department, Banning Heights Mutual Water Company, High Valley Water District
<b>Schedule:</b> Ongoing
<b>Implementation Status— Active and ongoing.</b> As part of the development process, larger developments are required to prepare Water Supply Assessment studies and to analyze required fire flow demands and pressures for the development project.
<b>Program 4.B</b>
Special on-site fire protection measures may be required on well vegetated, hilly areas with slopes of 10 percent or greater, with possible access problems, and/or a lack of sufficient water and/or water pressure. Such measures shall be specified during project review.
<b>Responsible Agency:</b> Building and Safety Department, Planning Department, Fire Department, Banning Heights Mutual Water Company, High Valley Water District
<b>Schedule:</b> Ongoing
<b>Implementation Status – Active and ongoing through development project review.</b>

## Hazardous and Toxic Materials Element

### **GOAL 1**

Maintain and promote measures to protect life and property from hazards resulting from human activities and development.

#### **Policy 1**

The City shall continue to encourage research on potential and known hazards to public health and safety and make this information available to the general public, commercial interests, and governmental organizations.

#### **Policy 2**

The City shall continue to conduct and participate in studies with other agencies to identify existing and potential hazards to public health and safety.

#### **Program 2.A**

Maintain, coordinate, and update the location of hazardous spills as a result of accident or intentional action, and community evacuation plans.

**Responsible Agencies:** Fire Department, Planning Division, County Health Department

**Schedule:** Continuous; Ongoing

**Implementation Status Ongoing.**

#### **Program 2.B**

**The Fire Department shall maintain a citywide Emergency Response Program, which provides for emergency services in the event of a hazardous spill or airborne release.**

**Responsible Agencies:** Fire Department, City Manager's Office, County Health Department

**Schedule:** Continuous; Ongoing

**Implementation Status – Standardized Emergency Management System (SEMS) & National Incident Management System (NEMS) ongoing training.**

#### **Program 2.C**

Coordinate with responsible agencies to assure enforcement of state and federal regulations for the testing and monitoring of underground fuel storage tanks for leakage.

**Responsible Agencies:** Fire Department, state and federal EPA, County Health Department

**Schedule:** Continuous; Ongoing

**Implementation Status – The City is no longer a Certified Unified Program Agency (CUPA) and therefore the County inspects all hazardous businesses within the City for compliance.**

**Policy 3**

The City shall thoroughly evaluate development proposals for lands directly adjacent to sites known to be contaminated with hazardous or toxic materials, traversed by natural gas transmission lines or fuel lines, or sites that use potentially hazardous or toxic materials.

**Program 3.A**

Consult with the County of Riverside Department of Health on a quarterly basis to identify existing and new hazardous waste sites within the General Plan study area.

**Responsible Agencies:** Planning Division, Fire Department, County Health Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Program 3.B**

A Conditional Use Permit shall be required for all new development that generates, transports, uses or stores significant amounts of hazardous materials.

**Responsible Agencies:** Planning Division

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing.**

**Policy 4**

Require and facilitate the adequate and timely cleanup of contaminated sites identified within the City of Banning and its sphere-of-influence.

**Program 4.A**

Coordinate with responsible county, state and federal agencies to activate cleanup procedures, and monitor the status of cleanup efforts on an ongoing basis.

**Responsible Agencies:** Planning Division, Fire Department, State and federal EPA, County Health Department, California Regional Water Quality Control Board

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing**

**Policy 5**

The City shall designate appropriate access routes to facilitate the transport of hazardous and toxic materials.

**Program 5.A**

Coordinate with the Fire Department, Police Department, neighboring jurisdictions, and other appropriate agencies to identify segments of highway or local roads that shall be restricted from transporting hazardous and toxic materials in order to preserve public safety.

**Responsible Agencies:** Planning Division, Fire Department, Police Department

**Schedule:** 2015-2016

**Implementation - Not yet completed due to lack of funding and staffing.**

**Program 5.B**

Enforce roadway access restrictions and consider the implementation of fines or penalties for violations.

<b>Responsible Agencies:</b> Fire Department, Police Department
<b>Schedule:</b> 2015-2016
<b>Implementation Status -</b> <i>Not yet completed due to lack of funding and staffing.</i>

**Policy 6**

Continue to promote programs that encourage or educate the public in the proper handling and disposal of household hazardous waste or dangerous materials.

<b>Program 6.A</b>
Establish a Household Hazardous Waste program through the City's solid waste contractor.
<b>Responsible Agencies:</b> City Manager's office, solid waste contractor
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status - Ongoing.</b>

**Policy 7**

The City shall actively oppose plans to establish hazardous or toxic waste dumps, landfills, or industrial processes that may potentially adversely affect the City and its Sphere-of-Influence.

**Policy 8**

Maintain an inventory and information database, including mapping, of all major natural gas transmission lines and liquid fuel lines within the City limits and Sphere of Influence.

<b>Program 8.A</b>
The City shall insure that location of all major natural gas transmission lines and liquid fuel lines that run though the City are clearly identified, that right-of-way and maintenance easements are maintained, and that all existing and proposed development are located a safe distance from these lines.
<b>Responsible Agencies:</b> Building and Safety, Planning Division, Fire Department
<b>Schedule:</b> Continuous; Ongoing
<b>Implementation Status – Ongoing through the development review process.</b>

## Chapter 4 Public Services and Facilities

### Water, Wastewater and Utilities Element

#### **GOAL 1**

A comprehensive range of water, Wastewater and utility services and facilities that adequately, cost-effectively and safely meet the immediate and long-term needs of the City.

#### **Policy 1**

The City shall coordinate between the City Utility Department-Water Division, Banning Heights Mutual Water Company, Beaumont/Cherry Valley Water Agency, San Gorgonio Pass Water Agency, California Regional Water Quality Control Board and Riverside County Environmental Health to protect and preserve local and regional water resources against overexploitation and contamination.

<b>Program 1.A</b>
Support the efforts of the City Utility Department-Water Division, San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and Beaumont/Cherry Valley Water Agency to develop alternative resources for groundwater recharge, and to expand and construct facilities for the treatment and distribution of reclaimed and/or recycled water.
<b>Responsible Agency:</b> Utility Department-Water Division, Banning Heights Mutual Water Company, Public Works Department, San Gorgonio Pass Water Agency
<b>Schedule:</b> Ongoing
<b>Implementation Status – Ongoing. Temporarily on hold until the tertiary plant expansion is completed.</b>
<b>Program 1.B</b>
The City, its Utility Department-Water Division, San Gorgonio Pass Water Agency, and Banning Heights Mutual Water Company shall continue and extend their efforts to increase domestic water conservation by expanding efforts to promote the use of water efficient landscaping in all development, and the installation of efficient water-using technologies in new and substantially remodeled structures.
<b>Responsible Agency:</b> Utility Department-Water Division, San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company, Public Works Department
<b>Schedule:</b> Ongoing
<b>Implementation Status - Ongoing and active.</b>
<b>Program 1.C</b>
The City, its Utility Department-Water Division, and Banning Heights Mutual Water Company shall evaluate and, as appropriate, implement actions and regulations that facilitate residential and business retrofits of landscaping/irrigation and water-using appliances/processes that significantly increase water use efficiencies.
<b>Responsible Agencies:</b> Utility Department-Water Division, Banning Heights Mutual Water Company, Public Works Department
<b>Schedule:</b> Continuous

**Implementation Status - Ongoing.****Program 1.D**

The City shall provide water customers with incentives for the conservation of water.

**Responsible Agency:** Utility/Department-Water Division

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing and active.**

**Policy 2**

Sewer connection shall be required at the time a lot is developed when service is available.

**Program 2.A**

To the greatest extent practical, the City and its Utility Department-Sewer Division shall require new development to extend and connect to sewer lines rather than permitting the installation of on-lot septic tanks. In the event on-lot septic systems are required, development shall be required to install "dry sewers" and pay connection fee in anticipation of future sewer main extensions.

**Responsible Agencies:** Utility Department-Sewer Division, Public Works Department, Riverside County Environmental Health Department

**Schedule:** Ongoing

**Implementation Status - Ongoing and active.**

**Policy 3**

In the event a sewer line exists in the right-of-way where a for-sale residential unit is served by a septic system, the septic system shall be properly abandoned prior to a sale and/or close of escrow, and the unit shall be connected to the sewer system.

**Program 3.A**

The Building and Public Works Departments shall establish procedures for identifying home sales, and shall publicize the requirement for connection of sewers with the mortgage companies and escrow companies of the area.

**Responsible Agency:** Building Department, Public Works Department

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Policy 4**

The City shall make every effort to assure and assist in facilitating the timely and cost-effective extension and expansion of services that support community development and improved quality of life.

**Program 4.A**

The City shall coordinate its Capital Improvement Program with those of local utility and service providers to assure cost-effective and adequate capacity of services and facilities for future growth and development.

**Responsible Agencies:** Public Works Department, Utility Department, Banning Heights Mutual Water Company, other utilities and service providers

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Program 4.B**

The City shall coordinate with appropriate public and quasi-public agencies and utilities in conducting ongoing assessments of infrastructure capacity and evaluating expansion and improvements needed to carry out responsible growth management.

**Responsible Agencies:** Public Works Department, Utility Department, Banning Heights Mutual Water Company, other utilities and service providers

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing.**

**Policy 5**

To ensure the timely expansion of facilities in a manner that minimizes environmental impacts and disturbance of existing improvements, the City shall confer and coordinate with service and utility providers in planning, designing and siting of supporting and distribution facilities.

**Program 5.A**

The City shall encourage the consolidation of underground utility lines and other subsurface transmission facilities to limit the impacts of these facilities on the disruption of traffic and roadways.

**Responsible Agencies:** Public Works Department, Utility Department, Banning Heights Mutual Water Company, SCE, SCG, other utilities and service providers

**Schedule:** Ongoing

**Implementation Status - Ongoing and active.**

**Policy 6**

The City shall proactively support the widespread integration of energy resource conserving technologies throughout the community.

**Program 6.A**

The City shall investigate and, as appropriate, implement actions and regulations that facilitate residential and business conservation strategies and the implementation of technology retrofits that significantly increase efficiencies in energy use.

**Responsible Agencies:** Planning and Public Works Departments, Utility Department, Banning Heights Mutual Water Company, SCE, SCG, other utilities and service providers

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing and active.**

**Policy 7**

The City shall continue to confer and coordinate with its solid waste service franchisee to maintain and, if possible, exceed the provision of AB 939 by expanding recycling programs that divert valuable resources from the waste stream and returning these materials to productive use.

**Policy 8**

The City shall support, and to the greatest extent practical, shall encourage commercial and industrial businesses to reduce and limit the amount of packaging and potential waste associated with product sale and production.

**Policy 9**

Utility lines on scenic roadways, major streets and in the downtown shall have primary consideration for undergrounding.

**Policy 10**

Major utility facilities, including power and other transmission towers, cellular communication towers and other viewshed intrusions shall be designed and sited to ensure minimal environmental and viewsheds impacts and environmental hazards.

**Policy 11**

The City shall encourage the planning, development and installation of state-of-the art telecommunications and other broadband communications systems as essential infrastructure.

**Policy 12**

The City shall encourage in others and itself the use of alternative fuel vehicles.

**Policy 13**

The City shall investigate lower cable rates for ungated neighborhoods.

**Policy 14**

The City shall encourage alternative energy use for individual property owners and consider developing an incentive program.

## Public Building and Facilities Element

### **GOAL 1**

The provision of a full range of dependable, cost-effective, and conveniently located public buildings, services and facilities that meet the functional, social and economic needs of the entire community.

#### **Policy 1**

The Land Use Element shall consider the long-term availability of sites for future public and quasi-public buildings, infrastructure, and other facilities.

##### **Program 1.A**

The City shall review its official Land Use Map and development patterns every five years to assure the availability of adequate sites for future public and quasi-public buildings, infrastructure, and other facilities. The City shall confer and coordinate with utilities and other public and quasi-public agencies regarding their long-term needs.

**Responsible Agency:** Community Development Department, Public Works Department, Electric Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner

**Schedule:** Continuous; Ongoing

**Implementation Status – Ongoing. Recommendations of city-approved master plans of facilities such as parks, recreation, sewer, and water will be incorporated into future development as part of land development review process.**

#### **Policy 2**

Continue to identify and evaluate viable, long-term funding mechanisms that provide for the construction, maintenance and operation of existing and future public buildings and facilities, including assuring that new development funds its fair share of these facilities.

##### **Program 2.A**

The City shall explore the possibility of establishing a New Construction tax for the purpose of establishing an ongoing funding source for adequate provision of public buildings and utilities associated with new development.

**Responsible Agency:** City Council, Finance Department, Public Works Department, Building Department.

**Schedule:** Continuous; Ongoing

**Implementation Status – Not yet completed.**

##### **Program 2.B**

The City shall pursue and encourage joint-use facilities with other local agencies.

**Responsible Agency:** Community Services Department, Banning and Beaumont Unified School Districts

**Schedule:** Continuous; Ongoing

**Implementation Status – Joint use with Banning Unified School District.**

**Policy 3**

Coordinate with public utility providers and other public/quasi-public agencies to assure that utility buildings and facilities are compatible with the surrounding landscape.

**Program 3.A**

The City shall establish and maintain close working relationships with utility purveyors and other public and quasi-public agencies serving the City to assure the least intrusive integration of related buildings and facilities into the community.

**Responsible Agency:** Community Development Department, Public Works Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner

**Schedule:** Immediate; Continuous

**Implementation Status - Ongoing.**

**Program 3.B**

All new maintenance and utility facilities (and their signage) shall be integrated into the surrounding environment using landscape treatments, architectural elements, and/or other appropriate design mechanisms. Whether as a regulatory or advisory function, design plans shall be reviewed by the Community Development Department.

**Responsible Agency:** Community Development Department, Public Works Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner

**Schedule:** Immediate; Continuous

**Implementation Status – Active as it is implemented.**

**Policy 4**

All public buildings and facilities shall comply with the same development standards as private development.

**Policy 5**

Encourage the undergrounding of all utility lines and the undergrounding or screening of transformers/facilities.

**Policy 6**

Critical structures and facilities (including the civic center, hospitals, fire stations, police stations, schools and major communications facilities) shall be restricted from geologically and hydrologically hazardous areas.

**Policy 7**

The Zoning Ordinance shall be reviewed to facilitate the location of public buildings and offices in a centralized location near the Civic Center.

## Police and Fire Protection Element

### **GOAL 1**

The highest possible quality and level of service for fire and police protection to preserve and protect the health, welfare and property of residents, business owners, visitors and property owners.

#### **Policy 1**

The City shall work closely with the Fire and Police departments to assure that adequate facilities are constructed and service is provided as development and growth occur to maintain and enhance levels of service and insurance ratings.

##### **Program 1.A**

On an annual basis, consult and coordinate long-term planning with the Police and Fire departments regarding the optimal location of future police and fire stations, equipment, paramedic/ambulance service, and to ensure that levels of staffing are adequate.

**Responsible Agency:** City Manager, Police Department, Fire Department

**Schedule:** Ongoing

**Implementation Status - Ongoing.** The new police station has been built and occupied. The Fire Department has developed a long-range master plan that outlines the number and placement of fire stations. The master plan was approved by the City Council. The Fire Department uses the master plan to identify fire station requirements when proposed developments are presented. Recent City budgetary concerns have required that the Fire Department consider lowering the number of Stations originally approved in the master plan thereby lowering what it feels is the appropriate level service for Banning residents and explores regional coordination efforts with other cities and the county. (Nothing new to add.)

**Policy 2**

The City shall review all proposals for new or significant remodeling projects for potential impacts concerning public safety.

**Program 2.A**

The City shall continue to monitor levels of development in the planning area to assess the need for new fire stations.

**Responsible Agency:** Planning Department, Fire Department

**Schedule:** Ongoing

**Implementation Status -** The Fire Department has developed a long-range master plan that outlines the number and placement of fire stations. The master plan was approved by the City Council. The Fire Department uses the master plan to identify fire station requirements when proposed developments are presented.

**Program 2.B**

All development applications shall be routed to the Police and Fire Departments for comment as part of the application review process.

**Responsible Agency:** Planning Department, Fire Department, Police Department

**Schedule:** Ongoing

**Implementation Status -** All development proposals are routed to the Police Department and Fire Department for comments.

**Policy 3**

The City shall strictly enforce fire standards and regulations in the course of reviewing development and building plans and conducting building inspections of large multiple family projects, community buildings, commercial structures and motel structures.

**Policy 4**

All proposed development projects shall demonstrate the availability of adequate fire flows prior to approval.

**Program 4.A**

Coordinate with the City of Banning Utility Department – Water Division and the Banning Heights Mutual Water Company to ensure availability of adequate water supplies and pressures for fire flows for all existing and proposed development.

**Responsible Agency:** Planning Department, Fire Department, City of Banning Utility Department – Water Division, Banning Heights Mutual Water Company, and Building Department.

**Schedule:** Ongoing

**Implementation Status - All projects are conditioned to meet appropriate fire flow requirements and the Water Department must verify that the required flow can be met.**

**Program 4.B**

Proposed projects in hilly areas with potential access problems, and/or lack of sufficient water and/or water pressure, may require special on-site fire protection measures. Such measures shall be specified during project review.

**Responsible Agency:** Planning Department, Fire Department

**Schedule:** Ongoing

**Implementation Status – The City Fire Code requires that any building located more than 10 minutes response time from the closest fire station shall have automatic fire sprinkler system installed throughout the building. The Fire Department requires that developers have in place adequate water systems to support fire protection needs. Effective January 1, 2011, an automatic residential fire sprinkler system shall be installed in all new one-and-two family dwellings in accordance with the 2010 California Residential Code (Title 25, Part 2.5)**

**Policy 5**

Crime prevention design techniques, including the use of “defensible space,” high security hardware, optimal site planning and building orientation, and other design approaches to enhance security shall be incorporated in new and substantially remodeled development. (All development proposals routed to Police Department for comment.)

**Policy 6**

The City shall continue to support and promote community-based crime prevention programs as an important augmentation to the provision of professional police protection services. (Ongoing through Neighborhood Watch Program and Banning Police Activities League BPAL)

**Policy 7**

The City shall periodically review the level, quality, innovation and cost-effectiveness of police and fire protection services, including contract services.

**Policy 8**

The Police and the Fire Departments shall closely coordinate and cooperate with the City and County emergency preparedness teams and shall assure the most effective emergency response practical. (Ongoing training and coordination with all parties involved.)

**Policy 9**

The Fire Department shall maintain a 5-minute response time.

**Policy 10**

The Police Department shall maintain a level of service (LOS) goal of 2.0 sworn officers per 1000 residents. (It is recommended that LOS goal be changed to 1.5.)

**Policy 11**

The Fire Department Ambulance Services shall maintain a 5-minute response time.

**Policy 12**

The City shall investigate the requirements for an International Organization for Standardization (ISO) rating specifically for the City.

**Policy 13**

The City shall continue to pursue grant positions for the Police Department.

**Policy 14**

The City shall pursue all funding mechanisms to fund the need for police and fire services generated by new development.

## Emergency Preparedness Element

### **GOAL 1**

A detailed, integrated and comprehensive emergency preparedness plan for the City, ensuring a high level of readiness and responsiveness to man-made and natural disasters of any scope, and which maximizes response capabilities of the City, County, State and Federal governments.

#### **Policy 1**

The City shall maintain and update its Multi-Hazard Functional Planning Guidance document to ensure maximum operational functionality and to incorporate federal mandates by required deadlines.

##### **Program 1A**

The City shall maintain close communication and coordination with Riverside County to expedite adaptation of and compliance with the federal NIMS program.

**Responsible Agency:** City Manager, Disaster Preparedness Coordinator, Riverside County Management Department (EMD).

**Schedule:** Continuous; Ongoing

**Implementation Status -** The Emergency Services Coordinator/Fire Marshal has completed “NIMSCAST,” the national online National Incident Management System (NIMS) compliance evaluation program developed by Federal Emergency Management Agency (FEMA). Continual updates will be done on “NIMSCAST” to ensure current information about the City’s compliance is recorded. The latest update was in November 2011. The Emergency Services Coordinator/Fire Marshal monitors the City’s Compliance with State Emergency Management System (SEMS) and NIMS and provides training or training opportunities to ensure SEMS and NIMS compliance. The organizational chart was updated in November/December 2014.

#### **Policy 2**

The City shall maintain and update the Banning Emergency Plan to keep it updated with staffing and technical capabilities of the City and cooperating agencies.

##### **Program 2.A**

Periodically schedule and direct the review and revision of the Banning Emergency Plan.

**Responsible Agency:** City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Other City Departments, Sun Lakes EPAP

**Schedule:** Every two years.

**Implementation Status -** The City’s Emergency Operations Plan was updated and approved by the City Council in August 2007. The plan requires review and updates, as needed, every two years. The latest update was in November 2015.

#### **Policy 3**

The City shall identify and establish emergency evacuation and supply routes and plans to preserve or reestablish the use of Highland Springs Avenue, San Gorgonio Avenue, Wilson Street, Ramsey Street, Interstate-10 and other essential transportation routes.

**Program 3.A**

Through PASSCOM or other appropriate regional organization, the City shall coordinate with adjoining cities, Riverside County, the Morongo Band of Mission Indians and CalTrans to facilitate the designation of emergency evacuation and supply routes, and for the development of a multi-agency emergency response plan that provides expeditious and timely repair to major streets and highways damaged by earthquakes, flooding or other disasters.

**Responsible Agency:** City Manager, Disaster Preparedness Coordinator, Public Works Department, Cities of Beaumont and Calimesa, Riverside County Emergency Management Department, CalTrans, Morongo Band of Mission Indians

**Schedule:** Continuous; Ongoing

**Implementation Status -** The Emergency Services Coordinator/Fire Marshal is working with the Emergency Services Coordinator of the Morongo Band of Mission Indians to establish a Mutual Aid Agreement between the Tribe and the City for mutual assistance during disasters. Work continues to designate and develop an alternate east/west route through the Pass Area should I-10 become impassible. Agreement in principle between County of Riverside, Banning City, and Morongo Band of Mission Indians for a route south of I-10.

**Policy 4**

The City shall identify and establish emergency appropriate locations for emergency supply stockpiles.

**Program 4.A**

Through County-provided CERT training or other appropriate community venues, the City shall recruit de-centralized locations where stockpiles of food, water and emergency medical supplies may be stored and maintained.

**Responsible Agency:** City Manager, Disaster Preparedness Coordinator, Public Works Department, Riverside County Emergency Management Department

**Schedule:** Continuous; Ongoing

**Implementation Status –** No progress regarding stockpiling food and water except for supplies for use by Emergency Operations Center (EOC) personnel during a disaster. For medical emergencies the Fire Department has purchased a trailer and equipped it to handle “Mass Casualty” incidents. The trailer is stocked with medical and rescue supplies. Work continues with local communities to stockpile as a community and also be personally prepared.

**Policy 5**

The City shall cooperate and coordinate with Riverside County Emergency Management Department, local utility purveyors and other agencies and utilities in the preparation of public information materials to assist residents, visitors and business owners in responding to local disasters and emergencies.

**Program 5.A**

The City shall coordinate and cooperate with County Emergency Management Department, Banning Water District, Eastern Municipal Water District, Beaumont/Cherry Valley Water District, Southern California Edison, the Gas Company, and other agencies and utilities in the development and dissemination of information and instructions on appropriate actions in the event of a local disaster or emergency.

**Responsible Agency:** City Council, City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, SCE, the Gas Company, Banning Water District, EMWD, and Beaumont/Cherry Valley Water District.

**Schedule:** Continuous; Ongoing

**Implementation Status - The Fire Department Emergency Services Bureau continually communicates with County OES and local agencies to dispense pertinent disaster preparedness Information through public events and organization meetings.**

**Program 5.B**

Coordinate with the County to facilitate with appropriate public and quasi-public agencies and private organizations to assure that CERT training incorporates a public information program to advise the community on how to prepare for and cope in a local disaster or emergency.

**Responsible Agency:** City Council, City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Banning Unified School District, Sun Lakes EPAP, private schools, nursing homes, and various local business organizations

**Schedule:** Continuous; Ongoing

**Implementation Status - Ongoing Implementation.**

**Program 5.C**

Encourage and train community volunteers to assist police and fire personnel during and after a major emergency.

**Responsible Agency:** City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Sun Lakes EPAP

**Schedule:** Continuous; Ongoing

**Implementation Status - The Fire Department has an active volunteer program. Emergency Services Coordinator, along with one Council member and a citizen volunteer, have provided numerous training programs related to neighborhoods preparing for disasters. PASSCOMM (Pass Communities), County OES, and local groups have provided local training and preparedness. The police department continues to utilize citizen volunteers to assist in the day to day operations of the police department, as well as during special events and critical incidents.**

**Policy 6**

The City shall thoroughly consider and assess vulnerability to natural and manmade disasters or emergencies when reviewing proposals for the siting and development of critical and essential public/quasi-public facilities.

**Program 6.A**

In order to assure the maximum possible protection from environmental and manmade hazards, including earthquakes and flooding, the City shall consider their vulnerability to natural and manmade disasters and emergencies when reviewing proposals for critical and essential facilities, as well as sensitive land uses.

**Responsible Agency:** Planning Department, Public Works Department, Fire Department

**Schedule:** Continuous; Ongoing

**Implementation Status - This is being accomplished by the cooperative efforts between Fire and Public Works to mitigate flooding and mudslides after fires. The City's Grading Standards and Storm Water Code assist in deterring increases in flood levels by new development.**

## Attachments

Annual Element Progress Report – Housing Element Implementation

Housing Successor of the City of Banning – Financial Statements

Annual Element Progress Report – Housing Element Implementation

Housing Successor of the City of Banning – Financial Statements (2015)

**ANNUAL ELEMENT PROGRESS REPORT**  
*Housing Element Implementation*  
(CCR Title 25 §6202)

Jurisdiction	Reporting Period	City of Banning	1/1/2016 - 12/31/2016
--------------	------------------	-----------------	-----------------------

Table A

## Annual Building Activity Report Summary - New Construction Very Low-, Low-, and Mixed-Income Multifamily Projects

\* Note: These fields are voluntary

**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
 (CCR Title 25 §6202 )

Jurisdiction      City of Banning  
 Reporting Period      1/1/2016 -      12/31/2016

**Table A2**

**Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)**

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Income			(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low-Income*	Very Low-Income	Low-Income	
(1) Rehabilitation Activity	0	0	0	0
(2) Preservation of Units At-Risk	0	0	0	0
(3) Acquisition of Units	0	0	0	0
(5) Total Units by Income	0	0	0	0

\* Note: This field is voluntary

**Table A3**

**Annual building Activity Report Summary for Above Moderate-Income Units  
 (not including those units reported on Table A)**

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Unit	Second	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for <b>Moderate</b>	0	0	0	0		0	0	0
No. of Units Permitted for <b>Above Moderate</b>	0	0	0	0		0	0	0

\* Note: This field is voluntary

**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
 (CCR Title 25 §6202 )

Jurisdiction      City of Banning  
 Reporting Period      1/1/2016 -      12/31/2016

Table B

**Regional Housing Needs Allocation Progress**

**Permitted Units Issued by Affordability**

		Permitted Units Issued by Affordability																							
		2013			2014			2015		2016		2017		2018		2019		2020		2021		Total Units to Date (all years)		Total Remaining RHNA by Income Level	
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 7	Year 8	Year 9	Year 7	Year 8	Year 9	Year 7	Year 8	Year 9	Total Units to Date (all years)	Total Remaining RHNA by Income Level				
Very Low	Deed Restricted Non-deed restricted	872	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	872		
Low	Deed Restricted Non-deed restricted	593	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	593		
Moderate	Deed Restricted Non-deed restricted	685	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	685		
Above Moderate		1,642	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,642		
Total RHNA by COG, Enter allocation number:		3,792	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3,792		
Total Units		▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲			
Remaining Need for RHNA Period		▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲			

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
 (CCR Title 25 §62022)

Jurisdiction      City of Banning  
 Reporting Period      1/1/2016 -      12/31/2016

**Table C**  
**Program Implementation Status**

<b>Program Description (By Housing Element Program Names)</b>				<b>Housing Programs Progress Report - Government Code Section 65583.</b> Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.		
<b>Name of Program</b>	<b>Objective</b>	<b>Timeframe in H.E.</b>	<b>Status of Program Implementation</b>			
Code Enforcement	Decrease the number of unresolved code violations within the city and increase the number of improved properties.	Continuous throughout the planning period.	The City currently employs two code enforcement officers, and the Code Enforcement Division has been moved to the City of Banning Police Department to better organize the program.			
Housing Rehabilitation Program	Reduced number of substandard properties	Continuous throughout the planning period.	No progress due to lack of funding.			
Conservation of Existing and Future Affordable Units	Monitor the status of assisted projects.	Throughout the planning period.	Ongoing.			
Section 8 Rental Assistance	Continue to support the HARIVCO's applications for additional Section 8 allocation and efforts to provide vouchers for lower-income residents.	Throughout the planning period.	Ongoing.			
Adequate Sites for Residential Development	A complete list of program objectives is included in the Housing Element section of the General Plan Annual Progress Report for the year 2015.	Throughout the planning period; No Net Loss monitoring procedure September 2014; AHO amendment within one year of Housing Element adoption.	The City has met the requirement for the 5th Cycle (2013-2021) adopted Housing Element.			

**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
 (CCR Title 25 §6202 )

Jurisdiction	Reporting Period	City of Banning	1/1/2016 - 12/31/2016	Facilitate Development of Affordable and Special Needs Housing	Facilitate affordable housing development commensurate with the RHNA and the production of accessible and supportive housing for persons with disabilities.	Contact affordable housing developers and the Inland Regional Center annually; assist developers with applications for funding assistance upon request; initiate a Zonin Code amendment in 2014 to clarify development in the VHDR zone.	Ongoing.
						Zoning amendment by June 2014. Publicize development opportunities by contacting affordable housing developers annually.	Ongoing.
				Infill and Mixed - Use Housing Development	Facilitate development of multi-family and mixed-use development in the downtown and nearby areas, with special emphasis on housing affordable to low-and moderate-income households or persons with special needs.	Throughout the planning period.	On December 8, 2015 the City Council adopted Resolution No. 2015-103, to continue participating with the County of Riverside Mortgage Credit Certificate (MCC) Program.
				Mortage Credit Certificate Program	Provide information regarding the MCC Program to eligible home buyers.	Throughout the planning period.	Throughout the planning period.
				Fair Housing Services	Continue to work with the County of Riverside to provide fair housing services to residents of Banning.	Ongoing.	Ongoing.

**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
(CCR Title 25 §6202 )

Jurisdiction	Reporting Period	City of Banning	1/1/2016 - 12/31/2016	12/31/2016	Throughout the planning period.	Ongoing.
Reasonable Accommodation in Housing for Persons with Disabilities			Continue to process requests for reasonable accommodation in conformance with state law and the Development Code.			
Residential Energy Conservation			Work cooperatively with property owners, utility companies and other government agencies to reduce energy use in residential developments.		Throughout the planning period.	The City Council adopted Ordinance 1490, to expedite the permitting procedures of small residential rooftop solar systems; therefore, lowering the cost of solar installation and further expand the accessibility of solar, to meet the requirement of this program.

**ANNUAL ELEMENT PROGRESS REPORT**  
*Housing Element Implementation*  
(CCR Title 25 §6202 )

Jurisdiction	City of Banning		
Reporting Period	1/1/2016	-	12/31/2016

General Comments:

No Comments

**BANNING HOUSING AUTHORITY  
HOUSING SUCCESSOR OF THE  
CITY OF BANNING, CALIFORNIA  
FINANCIAL STATEMENTS**

**JUNE 30, 2015**

BANNING HOUSING AUTHORITY  
HOUSING SUCCESSOR OF THE  
CITY OF BANNING, CALIFORNIA

FINANCIAL STATEMENTS

JUNE 30, 2015

BANNING HOUSING AUTHORITY

JUNE 30, 2015

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## INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and Members of the  
 Banning Housing Authority  
 City of Banning, California

### **Report on Financial Statements**

We have audited the accompanying financial statements of the governmental activities of the Banning Housing Authority, (the Housing Successor), a Special Revenue Fund of the City of Banning, California, as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Housing Successor's basic financial statements as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.



To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities of the Banning Housing Authority, as of June 30, 2015, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

***Emphasis of Matters***

As discussed in Note 1, the financial statements present on the Banning Housing Authority, a special revenue fund of the City of Banning, and do not purport to, and do not, present fairly the financial position of the City of Banning, California, as of June 30, 2015, the changes in its financial position, for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

***Other Matters***

***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the budgetary comparison information as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

***Other Information***

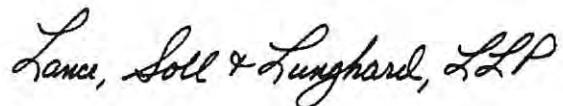
Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying report on excess/surplus calculation is presented for purposes of additional analysis only and is not a required part of the financial statements. Such information is the responsibility of management and was derived from the financial statements. The report on excess/surplus calculation has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance.



To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated December 30, 2015 on our consideration of the Housing Successor's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Housing Successor's internal control over financial reporting and compliance.

A handwritten signature in black ink that reads 'Lance, Soll & Lungard, LLP'.

Brea, California  
December 30, 2015

BANNING HOUSING AUTHORITY

STATEMENT OF NET POSITION AND GOVERNMENTAL FUND BALANCE SHEET  
JUNE 30, 2015

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	Governmental Fund	Reclassifications	Statement of Net Position
<b>Assets:</b>			
Pooled cash and investments	\$ 565,895	\$ -	\$ 565,895
Receivables:			
Notes and loans	906,205	-	906,205
Accrued interest	638	-	638
Due from other governments	2,298,433	-	2,298,433
<b>Total Assets</b>	<b>\$ 3,771,171</b>	<b>\$ -</b>	<b>\$ 3,771,171</b>
<b>Deferred Inflows of Resources, and Fund Balances/Net Position:</b>			
<b>Deferred Inflows of Resources:</b>			
Unavailable revenues	\$ 906,205	\$ (906,205)	\$ -
<b>Total Deferred Inflows of Resources</b>	<b>906,205</b>	<b>(906,205)</b>	<b>-</b>
<b>Fund Balances/Net Position:</b>			
<b>Restricted for:</b>			
Community development projects	2,864,966	-	3,771,171
<b>Total Fund Balances/Net Position</b>	<b>2,864,966</b>	<b>-</b>	<b>3,771,171</b>
<b>Total Deferred Inflows of Resources, and Fund Balances/Net Position</b>	<b>\$ 3,771,171</b>	<b>\$ (906,205)</b>	<b>\$ 3,771,171</b>

BANNING HOUSING AUTHORITY

**STATEMENT OF ACTIVITIES AND GOVERNMENTAL STATEMENT OF  
REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES  
YEAR ENDED JUNE 30, 2015**

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	<b>Governmental Fund</b>	<b>Reclassifications</b>	<b>Statement of Activities</b>
<b>Revenues:</b>			
Use of money and property	\$ 1,452	\$ -	\$ 1,452
Miscellaneous	<u>60,250</u>	<u>-</u>	<u>60,250</u>
<b>Total Revenues</b>	<b><u>61,702</u></b>	<b><u>-</u></b>	<b><u>61,702</u></b>
<b>Expenditures:</b>			
Current:			
Community development	4,904	60,000	64,904
<b>Total Expenditures</b>	<b><u>4,904</u></b>	<b><u>60,000</u></b>	<b><u>64,904</u></b>
Net Change in Fund Balances	<u>56,798</u>	<u>(60,000)</u>	<u>(3,202)</u>
Fund Balance/ Net Position, Beginning of Year	<u>2,808,168</u>	<u>966,205</u>	<u>3,774,373</u>
<b>Fund Balance/Net Position, End of Year</b>	<b><u>\$ 2,864,966</u></b>	<b><u>\$ 906,205</u></b>	<b><u>\$ 3,771,171</u></b>

**BANNING HOUSING AUTHORITY**

**NOTES TO FINANCIAL STATEMENTS**

**JUNE 30, 2015**

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**I. SIGNIFICANT ACCOUNTING POLICIES**

**Note 1: Organization and Summary of Significant Accounting Policies**

**a. Description of the Reporting Entity**

The accompanying financial statements present only the Banning Housing Authority, a Special Revenue Fund of the City of Banning, California (the City) and do not include any other funds of the City. The City's basic financial statements are available at City Hall.

On December 29, 2011, the California Supreme Court upheld Assembly Bill 1X 26 ("the Bill") that provides for the dissolution of all redevelopment agencies in the State of California. The Bill impacted the reporting entity of the City of Banning that previously had reported a redevelopment agency within the report entity of the City as a blended component unit.

On January 10, 2012, and in accordance with California Health and Safety Code Section 34176, with resolution 2012-01 HA the Housing Authority, a blended component unit of the City of Banning, California elected to retain the housing assets and function of the former redevelopment agency. The Housing Authority continues to report the housing assets and functions in the government special revenue fund designated City Housing Successor.

The attached basic financial statements contain information relative only to the Banning Housing Authority Fund (the Housing Successor).

**b. Government-Wide and Fund Financial Statements**

The government-wide financial statements (Statement of Net Position and Statement of Activities) report information on all activities of the Housing Successor. The Statement of Activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include: 1) charges to customers or applicants who purchase, use or directly benefit from goods, services or privileges provided by a given function or segment, and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

**c. Measurement Focus, Basis of Accounting and Financial Statement Presentation**

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting.

## BANNING HOUSING SUCCESSOR

### NOTES TO FINANCIAL STATEMENTS (CONTINUED) JUNE 30, 2015

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#### Note 1: Organization and Summary of Significant Accounting Policies (Continued)

When both restricted and unrestricted resources are available for use, it is the Housing Successor's policy to use restricted resources first, and then unrestricted resources as they are needed.

##### d. Fund Balance and Net Position

###### Fund Balance

The Housing Successor's fund balances are classified on the governmental fund balance sheet among the following categories:

Nonspendable Fund Balance - This includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.

Restricted Fund Balance - This includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.

Committed Fund Balance - This includes amounts that can be used only for the specific purposes determined by a formal action of the city council.

Assigned Fund Balance - This includes amounts that are designated by the city council for specific purposes.

Unassigned Fund Balance - This is the residual classification that includes all spendable amounts not contained in the other classifications.

When expenditure is incurred for purposes for which both restricted and unrestricted fund balances are available, the Housing Successor's policy is to apply restricted fund balance first.

When expenditure is incurred for purposes for which committed, assigned or unassigned fund balances are available, the Housing Successor's policy is to apply committed fund balance first, and then assigned fund balance, and finally unassigned fund balance.

###### Net Position

The net position reported on the Statement of Net Position in the government-wide financial statements consists of the following three categories:

Investment in capital assets - This amount consists of capital assets, net of accumulated depreciation.

Restricted Net Position - This amount is restricted by external creditors, grantors, contributors, or laws or regulations of other governments.

**BANNING HOUSING SUCCESSOR****NOTES TO FINANCIAL STATEMENTS (CONTINUED)**  
**JUNE 30, 2015****Note 1: Organization and Summary of Significant Accounting Policies (Continued)**

Unrestricted Net Position - This amount is all net position that do not meet the definition of "investment in capital assets" or "restricted net position".

**II. DETAILED NOTES ON ACCOUNT BALANCES****Note 2: Cash and Investments**

The City of Banning maintains a cash and investment pool that is available for use for all funds. Each fund type's position in the pool is reported on the combined balance sheet as cash and investments. The Housing Successor pooled cash and investment position as of June 30, 2015, was \$565,895.

**Note 3: Notes and Loans Receivable**

The Housing Successor has entered into various loan agreements relating to owners' participation agreements. The owners' participation agreements have repayment terms between 6 and 55 years. The following summarizes the loans outstanding at June 30, 2015:

Description	Balance at June 30, 2015
First-time Home Buyer Down Payment Assistance	\$ 406,205
OPA - Westview Terrace 2011	<u>500,000</u>
Total loans receivable at June 30, 2015	<u>\$ 906,205</u>

Three loans we paid back by grantees, totaling \$60,000, due to the grantees no longer meeting the requirements to have the loans forgiven.

**Note 4: Due From Other Governments**

The Housing Successor Low/Mod Fund made an advance of \$2,298,433 to the Former Redevelopment Agency Debt Service Fund to fund the mandated payment for the "Supplemental" Educational Revenue Augmentation Fund. This amount continues to be outstanding as of June 30, 2015.

BANNING HOUSING AUTHORITY

BUDGETARY COMPARISON SCHEDULE  
YEAR ENDED JUNE 30, 2015

	Budget Amounts		Actual Amounts	Variance with Final Budget
	Original	Final		Positive (Negative)
Budgetary Fund Balance, July 1	\$ 2,808,168	\$ 2,808,168	\$ 2,808,168	\$ -
<b>Resources (Inflows):</b>				
Use of money and property	950	950	1,452	502
Miscellaneous	-	-	60,250	60,250
<b>Amounts Available for Appropriations</b>	<b>2,809,118</b>	<b>2,809,118</b>	<b>2,869,870</b>	<b>60,752</b>
<b>Charges to Appropriations (Outflow):</b>				
Community development	-	-	4,904	(4,904)
<b>Total Charges to Appropriations</b>	<b>-</b>	<b>-</b>	<b>4,904</b>	<b>(4,904)</b>
Budgetary Fund Balance, June 30	<b>\$ 2,809,118</b>	<b>\$ 2,809,118</b>	<b>\$ 2,864,966</b>	<b>\$ 55,848</b>

**BANNING HOUSING SUCCESSOR**

**NOTES TO REQUIRED SUPPLEMENTARY INFORMATION**  
**JUNE 30, 2015**

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**STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY**

**a. Budgets and Budgetary Accounting**

Budget for the Housing Authority Fund is adopted on a basis substantially consistent with accounting principles generally accepted in the United States of America. Accordingly, actual revenues and expenditures can be compared with related budget amounts without any significant reconciling items.

**b. Excess Appropriations:**

	<u>Budget</u>	<u>Actual</u>	<u>Excess</u>
Community Development	\$ -	\$ 4,904	\$ (4,904)

BANNING HOUSING AUTHORITY

COMPUTATION OF HOUSING SUCCESSOR  
EXCESS/SURPLUS (HSC 34176.1)

	Low and Moderate Housing Funds Housing Successor July 1, 2014	Projected Low and Moderate Housing Funds Housing Successor July 1, 2015
Opening Fund Balance	\$ 2,808,168	\$ 2,864,966
Less Unavailable Amounts:		
SERAF loans	<u>\$ (2,298,433)</u>	<u>\$ (2,298,433)</u>
	<u>(2,298,433)</u>	<u>(2,298,433)</u>
Available Housing Successor Funds	<u>509,735</u>	<u>566,533</u>
Limitation (greater of \$1,000,000 or four years deposits)		
Aggregate amount deposited for last four years:*		
2014 - 2015	-	61,702
2013 - 2014	22,506	22,506
2012 - 2013	<u>1,959,222</u>	<u>1,959,222</u>
Total	<u>\$ 1,981,728</u>	<u>\$ 2,043,430</u>
Base Limitation	<u>\$ 1,000,000</u>	<u>\$ 1,000,000</u>
Greater amount	<u>\$ 1,981,728</u>	<u>\$ 2,043,430</u>
Computed Excess/Surplus	<u>None</u>	<u>None</u>

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL  
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE  
WITH GOVERNMENT AUDITING STANDARDS**

To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities of the Banning Housing Authority, (the Housing Successor), a Special Revenue Fund of the City of Banning, California, (the City) as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Housing Successor's basic financial statements, and have issued our report thereon dated December 30, 2015.

**Internal Control over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Housing Successor's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Housing Successor's internal control. Accordingly, we do not express an opinion on the effectiveness of the Housing Successor's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Housing Successor's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Housing Successor's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an



To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

opinion. The results of our tests disclosed one instance of noncompliance that are required to be reported under *Government Auditing Standards*:

**Annual Housing Report Submission**

The Housing Successor's annual report was due to The Department of Housing and Community Development (HCD) by April 1, 2015. The annual report was passed, approved, and adopted by the Banning City Council on April 14, 2015. The report was dated and submitted to HCD on May 4, 2015.

*Recommendation*

We recommend that the Housing Successor establish specific deadlines internally in order to submit the required annual report in a timely manner to avoid late submission.

**Management's Response:**

The Community Development Department has implemented policies and practices that should prevent the delay in submittal of the annual housing report to HCD.

**Management's Response to Finding**

Management of the Housing Successor response to the findings identified in our audit was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Authority's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Authority's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in black ink that reads 'Lance, Soll &amp; Lungard, LLP'. The signature is cursive and fluid, with 'Lance' and 'Soll' on the first line and 'Lungard, LLP' on the second line.

Brea, California  
December 30, 2015

## INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH APPLICABLE REQUIREMENT AND ON INTERNAL CONTROL OVER COMPLIANCE

To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

### **Report on Compliance for the Housing Successor**

We have audited the Banning Housing Successor's (the Housing Successor) compliance with the type of compliance requirements described in the California Health and Safety Code sections applicable to California Housing Successor Agencies for the year ending June 30, 2015.

#### ***Management's Responsibility***

Management is responsible for compliance with the California Health and Safety Code sections applicable to California Housing Successor Agencies.

#### ***Auditor's Responsibility***

Our responsibility is to express an opinion on the Housing Successor's compliance with the California Health and Safety Code sections applicable to California Housing Successor Agencies. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred above that could have a direct and material effect on Housing Successor occurred. An audit includes examining, on a test basis, evidence about the Housing Successor's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for the Housing Successor. However, our audit does not provide a legal determination of the Housing Successor's compliance with those requirements.

#### ***Opinion***

In our opinion, the Housing Successor complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on its Housing Successor for the year ending June 30, 2015.

### **Report on Internal Control over Compliance**

Management of the Housing Successor is responsible for establishing and maintaining effective internal control over compliance with the type of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the Housing Successor's internal control over compliance with the types of requirements that could have a direct and material effect on the Housing Successor to determine the auditing procedures that are appropriate in the circumstances for the



To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

purpose of expressing an opinion on compliance and to test and report on internal controls over compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Housing Successor's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance of California Health and Safety Code sections applicable to California Housing Successor Agencies on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that a material noncompliance with a type of compliance requirement of California Health and Safety Code sections applicable to California Housing Successor Agencies will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We identified the following deficiency that we consider to be a significant deficiency:

#### **Annual Housing Report Submission**

The Housing Successor's annual report was due to The Department of Housing and Community Development (HCD) by April 1, 2015. The annual report was passed, approved, and adopted by the Banning City Council on April 14, 2015. The report was dated and submitted to HCD on May 4, 2015.

#### **Management's Response:**

The Community Development Department has implemented policies and practices that should prevent the delay in submittal of the annual housing report to HCD.

#### **Management's Response to Finding**

Management of the Housing Successor response to the findings identified in our audit was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.



To the Honorable Mayor and Members of the  
Banning Housing Authority  
City of Banning, California

**Purpose of this Report**

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of California Health and Safety Code sections applicable to California Housing Successor Agencies. Accordingly, this communication is not suitable for any other purpose.

*Lance, Soll & Lungard, LLP*

Brea, California  
December 30, 2015

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# **ATTACHMENT 3**

Copy of PC Resolution No. 2017-05

RESOLUTION NO. 2017-05

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2016**

**WHEREAS**, the California state law requires that each city and county adopt a general plan to guide development in their city and land outside its boundaries that has relation to its city planning (Govt. Code §65300); and

**WHEREAS**, the California State law requires that the General Plan include seven (7) mandated elements: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise; and

**WHEREAS**, the City undertook a comprehensive update to the General Plan and Zoning Ordinance which were adopted by the City Council on January 31, 2006 by Resolution 2006-12; and

**WHEREAS**, the City of Banning General Plan has 21 elements (seven [7] of which are mandated by the State); and

**WHEREAS**, Government Code §65400 mandates that cities and counties in California submit an annual report on the status of the General Plan and progress in its implementation to their decision makers (City Council or Board of Supervisors), the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1<sup>st</sup> of each year; and

**WHEREAS**, the purpose of the General Plan annual report is to provide enough information to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation; and

**WHEREAS**, the City is also required to report progress in implementing its housing element and the Regional Housing Needs Assessment as part of the annual report; and

**WHEREAS**, the economic recession has hampered development in the community, including housing construction; and

**WHEREAS**, on December 29, 2011, the California Supreme Court upheld the validity of the Assembly Bill (AB) 1X 26 and invalidated AB 1X 27 which resulted in dissolution of redevelopment agencies in California including the City of Banning Community Redevelopment Agency which completely cut-off sources of funding for construction of infrastructure, elimination of blight, and construction and maintenance of affordable housing; and

**WHEREAS**, the City continues to take proactive steps in implementing the goals, policies and action programs of the General Plan; and

**WHEREAS**, over the course of the past ten (10) years, the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. While the City has been implementing the General Plan, the primary reasons why some of the action programs have not been completed or initiated is due to budget constraints, available staff resources, and work program priority for each of the City departments; and

**WHEREAS**, the General Plan Annual Progress Report for Calendar Year 2016 contains the reporting forms on progress for implementing the Housing Element and details the implementation action programs and status; and

**WHEREAS**, on March 1, 2017, the Planning Commission held the noticed consent calendar item at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered the General Plan Annual Progress Report for Calendar Year 2016.

**NOW THEREFORE**, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

**SECTION 1:** Compliance with Government Code Section 65400.

The Planning Commission determined that this General Plan Annual Progress Report was prepared for compliance with Government Code Section 65400.

**SECTION 2:** Recommendation to the City Council.

The Planning Commission has reviewed and recommended approval of the General Plan Annual Progress Report to the City Council; and, to direct staff to file the report with the State of California Office of Planning and Research and the State Department of Housing and Community Development.

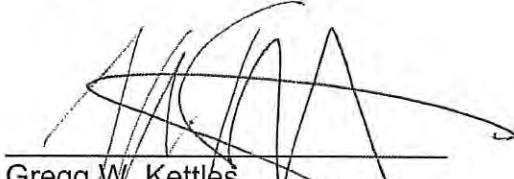
PASSED, APPROVED AND ADOPTED this 1st day of March 2017.



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Eric Shaw, Chairman  
Banning Planning Commission

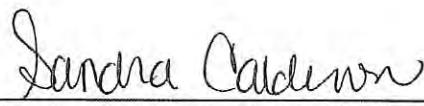
APPROVED AS TO FORM  
AND LEGAL CONTENT:



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Gregg W. Kettles  
Interim Assistant City Attorney  
Jenkins & Hogin, LLC

ATTEST:



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Sandra Calderon, Recording Secretary  
City of Banning, California

**CERTIFICATION:**

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution 2017-05, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of March 2017, by the following vote, to wit:

AYES: Wallace, Krick, Shaw, Price

NOES: None

ABSENT: Briant

ABSTAIN: None

Sandra Calderon  
Sandra Calderon, Recording Secretary  
City of Banning, California

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# **ATTACHMENT 4**

Public Hearing Notice

**NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT A CATEGORICAL EXEMPTION FOR CONSIDERATION OF THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR YEAR 2016**

**NOTICE IS HEREBY GIVEN** of a public hearing before the City of Banning City Council to be held on Tuesday, March 28, 2017, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the General Plan Annual Progress Report for Year 2016 pursuant to Government Code Section 65400 for the City of Banning General Plan.

Information regarding the Annual Progress Report, Categorical Exemption, and all relevant materials can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning during regular business hours. You may also go to the City of Banning website at <http://www.ci.banning.ca.us/>.

All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, that you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.

Patty Nevins  
Interim Community Development Director

Dated: March 14, 2017  
Publish: March 17, 2017



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Patty Nevins, Interim Community Development Director

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting a Categorical Exemption and Adopt Ordinance 1509 Approving Zoning Text Amendment 17-9501 Amending the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Allow for the Establishment of Community Gardens

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**RECOMMENDATION:**

1. Adopt a Categorical Exemption for the subject proposal.
2. Adopt Ordinance 1509 approving Zoning Text Amendment (ZTA) 17-97501 amending various sections of the Zoning Ordinance (Title 17 of the Banning Municipal code) to allow for the establishment of Community Gardens.

**COMMITTEE RECOMMENDATION:**

This project was considered at the March 1, 2017 Planning Commission meeting. At that meeting, the Planning Commission voted 4-0, with Commissioner Briant absent, to recommend approval of the project to the City Council.

**JUSTIFICATION:**

In accordance with Section 17.116.020 (Procedures, hearings and notice) of the Banning Municipal Code, amendments to the Zoning Ordinance may be proposed by the Director, by the City Attorney, by any member of the Planning Commission or City Council, and by any land owner or his/her agent.

## **BACKGROUND:**

The amendments being considered provide for the establishment of Community Gardens within the City of Banning. Community gardens are increasingly recognized as providing many benefits to residents of the communities in which they are located. These benefits may include health benefits resulting from the physical activity of participants and consumption of healthier diets, and also economic development benefits resulting from the addition of urban green spaces, beautification of vacant lots, prevention of trash accumulation, dumping, and littering, etc.

The Community Garden Ordinance as written would allow the establishment of community gardens within any land use district in the City of Banning, subject to a number of requirements outlined in the ordinance.

## **Planning Commission Discussion/Recommendations**

The regulations incorporate Planning Commission modifications including:

- Allowance for chain-link fencing based on the temporary nature of the fencing as well as to address potential security issues associated with lack of visibility;
- Allowable operating hours to be daylight hours;
- Graveled parking allowed due to temporary nature of facility;
- Community gardens not to be run as profit-making ventures.

Additionally, it was the Planning Commission's recommendation that the City provide water meters to community garden proponents committing to 2-3 years at no cost based on general agreement amongst Commission members that startup costs associated with water connection and impact fees would be prohibitive and would discourage residents from starting community gardens. The Planning Commission further recommended that wholesale or tier one water rates be applied to community gardens. The Commission did not, however, incorporate these recommendations into the draft ordinance in order to provide staff with the opportunity to analyze the recommendations prior to their incorporation. Relative to cost, staff have noted that in accordance with Banning Municipal Code Section 13.08.050, water connection fees are dependent on the type of water service and meter size. As an example, if a 2" meter was required, the connection fee alone could be \$38,329.60. There are currently no provisions in the code, however, for waiving these fees and a mechanism would need to be created (i.e. via a Municipal Code amendment) in order to do so. Other concerns with fee waivers include providing a gift of public funds, the potential benefits accorded to a private property owner beyond the property's use as a garden, and the concern that charging different rates for water could pose a parity issue as existing ratepayers may also have gardens where they grow their own food.

The Planning Commission also recommended that the City provide a sample lease/license agreement that proponents could use as a model for property owner consent, with

said sample agreement including a clause disclaiming any liability to the City and also including a recommendation that insurance be maintained.

### **ENVIRONMENTAL ANALYSIS:**

In accordance with the requirements of the California Environmental Quality Act (CEQA), staff has analyzed proposed ZTA 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that ZTA 16-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **Multiple Species Habitat Conservation Plan (MSHCP)**

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

### **REQUIRED FINDINGS OF APPROVAL FOR ZTA 17-97501:**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that ZTAs meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the ZTA 16-97501.

***Finding No. 1:*** *Proposed ZTA 17-97501 is consistent with the goals and policies of the General Plan.*

**Findings of Fact:** Proposed ZTA 17-97501 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

***Finding No. 2:*** *Proposed ZTA 17-97501 is internally consistent with the Zoning Ordinance.*

**Findings of Fact:** Proposed ZTA 17-97501 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare in that the establishment of Community Gardens will contribute to the public health by providing alternatives for the cultivation of healthy foods.

**Finding No. 3:** *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), staff has analyzed proposed ZTA 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that ZTA 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

#### **FISCAL IMPACT:**

There are no direct fiscal impacts to the General Fund from this action. Any subsidies or fee waivers could impact the General Fund.

#### **STRATEGIC PLAN OBJECTIVE:**

The project would advance the City's Quality of Life goal which seeks to build and maintain a high standard of community appearance, character and livability.

#### **OPTIONS:**

1. Adopt a Categorical Exemption and adopt Ordinance 1509 amending the Zoning Ordinance to Allow for the establishment of Community Gardens.
2. Do not adopt a Categorical Exemption or Ordinance 1509 and provide staff with alternate direction.

**ATTACHMENTS:**

1. City Council Ordinance
2. Planning Commission Staff Resolution
3. Public Hearing Notice

Approved by:



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Michael Rock  
City Manager

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# **ATTACHMENT 1**

## ORDINANCE NO. 1509

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CATEGORICAL EXEMPTION AND APPROVING ZONING TEXT AMENDMENT NO. 17-97501 AMENDING THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW FOR THE ESTABLISHMENT OF COMMUNITY GARDENS

**WHEREAS**, the City Council has authority per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

**WHEREAS**, on the 17<sup>th</sup> day of February, 2017 the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zoning Text Amendment would be considered; and

**WHEREAS**, on March 1, 2017, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2017-04 recommending to the City Council the adoption of Ordinance No. 1509 approving the Categorical Exemption and Zoning Text Amendment No. 17-97501; and

**WHEREAS**, on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zoning Text Amendment would be considered; and

**WHEREAS**, on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed amendments, and at which time the City Council considered the Categorical Exemption and Zoning Text Amendment No. 17-97501; and

**WHEREAS**, at this public hearing on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City Council considered and heard public comments on the proposed Categorical Exemption and Zoning Text Amendment; and

**WHEREAS**, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017;

**NOW THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Banning as follows:

## **SECTION 1. ENVIRONMENTAL.**

### **California Environmental Quality Act (CEQA)**

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **Multiple Species Habitat Conservation Plan (MSHCP)**

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

## **SECTION 2. REQUIRED FINDINGS.**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 17-97501

***Finding No. 1:*** *Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element. Community gardens provide positive attributes as urban green spaces, build a sense of community, and contribute to the preservation of, access to, and use of open space, vacant lots, and public parks.

***Finding No. 2:*** *Proposed Zoning Text Amendment No. 17-97501 is internally consistent with the Zoning Ordinance.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare in that the establishment of Community Gardens will contribute to the public health by providing alternatives for the cultivation of healthy foods.

**Finding No. 3:** *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **SECTION 3. CITY COUNCIL ACTION.**

The City Council hereby takes the following actions:

1. **Adoption of Categorical Exemption.** In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061 the City Council hereby adopts the Categorical Exemption prepared pursuant to CEQA Guidelines Section 15061(b)(3) for Zoning Text Amendment No. 17-97501.
2. **Approve Zoning Text Amendment 17-97501 as follows:**

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) is hereby amended to add the following definitions:

“Community Garden” means an area of land used to grow and harvest food crops by individuals or collectively by members of a group for non-commercial purposes.”

2. Table 17.08.020 of Section 17.08.020 (Permitted, conditional and prohibited uses) of Chapter 17.08 (Residential Districts) is hereby amended to add the following use:

	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
<b>Agricultural Uses</b>									
Community Gardens	P	P	P	P	P	P	P	P	P

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
<b>Resource and Open Space Uses</b>								
Community Gardens	P	P	P	P	P	P	P	P

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
Community Gardens	P	P	P	P	P

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
Community Gardens	P	P	P	P

6. Table 17.12.050 (Use Specific Development Standards [Residential]) of Section 17.08.040 (Use specific standards) shall be amended to add Community Gardens as follows:

	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Q. Community Gardens	*	*	*	*	*	*	*	*	*

7. Section 17.08.202 shall be added as follows:

**17.08.202 Community Gardens**

Community Gardens are allowed in all zones, subject to the following regulations:

- A. Consent of the property owner shall be required.
- B. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community garden; and must assign garden plots in a fair and impartial manner according to the operating rules established for that garden. The operating rules along with a site plan of the Community Garden shall be kept on file with the Community Development Department and shall include the name and telephone number of the garden coordinator.
- C. All plots shall be tended on a regular (minimum weekly) basis. Gardens shall be maintained in a weed-free condition and produce must be harvested and not allowed to go to seed.
- D. Hours of Operation: Hours of operation shall be limited to daylight hours.
- E. Permitted structures. Accessory structures, such as storage sheds for tools and other supplies or greenhouses, may be allowed in a community garden pursuant to meeting zoning setback requirements and shall not exceed 10 percent of the garden site lot area or 120 square feet, whichever is less. Accessory structures shall be compatible with the neighborhood and shall be approved by the Community Development Director.
- F. Parking. A minimum of two (2) graveled parking spaces with approved access shall be provided on the lot when there is no on-street parking allowed adjacent to the community garden property.
- G. Utilities. Proposed connection to public utilities shall require permits from the City and shall meet any required City of Banning Electric Utility and City of Banning Water Utility requirements.
- H. Addressing. Addresses shall be assigned to vacant parcels for Community Gardens. The property address shall be identified using 4" address numbers displayed in a visible location.
- I. Fencing. Fences shall not exceed six feet in height, shall be subject to any setback requirements of the zones in which they are located, shall be at least 50 percent open if they are taller than four feet, and shall be

constructed of wood, vinyl, or ornamental metal. Chain link shall be permitted for community gardens.

J. Drainage. The Community Garden Site shall be designed and maintained so that water and fertilizer do not drain onto adjacent property.

K. Water Use. Water efficient irrigation techniques such as drip irrigation and timers to control watering times are encouraged. All hoses shall be equipped with a trigger nozzle. Mulching of planted areas is encouraged to retain plant moisture.

L. Composting. Composting may be performed onsite within a composting container subject to all of the following:

1. Composted materials shall be only those materials generated onsite or contributed by active members of the community garden.
2. Composting containers shall be located a minimum of three feet from the property lines.
3. Odors and/or fly-breeding shall not be greater than customarily found at a well-maintained residence.

M. Organic Gardening. Organic gardening is strongly encouraged.

N. Trash/Recycling Receptacles. Trash and recycling receptacles shall be provided onsite for the proper disposal of refuse. The receptacles shall be screened from adjacent properties by six-foot high solid fencing. Refuse shall be removed from the site weekly so that the receptacle area and the lot are kept free from litter.

O. Personal Use Only. Food crops grown and harvested are for personal use only; commercial sale of produce is not permitted and the garden shall not be run as a profit-making venture.

P. Prohibited plants. Planting illegal or invasive plants shall be prohibited. Plants grown must be food crops for personal consumption. Planting and cultivation of marijuana shall be prohibited.

All other applicable codes and ordinances shall apply to Community Gardens, including but not limited to grading and noise ordinances. Applicable permits from other departments may be required.

8. Table 17.08.040 (Use Specific Development Standards [Commercial and Industrial]) of Section 17.08.040 (Use specific standards) shall be amended to add Community Gardens as follows:

	DC	GC	HSC	PO	I	AI	BP	IMR
U. Community Gardens	*	*	*	*	*	*	*	*

9. 17.12.050(U) shall be added as follows:

U. Community Gardens. Community Gardens in all zones shall meet the requirements of 17.08.202 Community Gardens.

**SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 5. PUBLICATION; EFFECTIVE DATE.**

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

George Moyer, Mayor  
City of Banning

**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, LLC

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1509 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and was duly adopted at a regular meeting of said City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

# **ATTACHMENT 2**

RESOLUTION 2017-04

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF BANNING, CALIFORNIA, RECOMMENDING  
APPROVAL TO THE CITY COUNCIL OF CATEGORICAL  
EXEMPTION AND APPROVAL OF ZONING TEXT  
AMENDMENT (ZTA) #17-97501 AMENDING THE ZONING  
ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL  
CODE) TO PROVIDE FOR THE ESTABLISHMENT OF  
COMMUNITY GARDENS**

**WHEREAS**, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance; and

**WHEREAS**, there is a desire to provide for the establishment of community gardens within the City of Banning; and

**WHEREAS**, the Planning Commission has authority per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to make recommendations to the City Council to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

**WHEREAS**, on the 17th day of February, 2017, the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zoning Text Amendment would be considered; and

**WHEREAS**, on the 1st day of March, 2017, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed amendments, and at which time the Planning Commission considered the Categorical Exemption and Zoning Text Amendment No. 17-97501; and

**WHEREAS**, at this public hearing on the 1st day of March, 2017, the Planning Commission considered and heard public comments on the proposed Categorical Exemption and Zoning Text Amendment; and

**WHEREAS**, the Planning Commission has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 1st day of March, 2017;

**NOW THEREFORE**, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

**SECTION 1. ENVIRONMENTAL FINDINGS.**

The following environmental findings are made and supported by substantial evidence on the record before the Planning Commission, including and incorporating all evidence in the staff report and attendant attachments thereto:

California Environmental Quality Act (CEQA)

In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**SECTION 2. REQUIRED FINDINGS FOR ZONING TEXT AMENDMENT NO. 17-97501.**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The Planning Commission hereby makes the following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the recommendation for approval of the Zoning Text Amendment No. 17-97501:

**Finding No. 1:** *Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element. Community gardens provide positive attributes as urban green spaces, build a sense of community, and contribute to the preservation of, access to, and use of open space, vacant lots, and public parks.

**Finding No. 2:** *Proposed Zoning Text Amendment No. 17-97501 is internally consistent with the Zoning Ordinance.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare in that the establishment of Community Gardens will contribute to the public health by providing alternatives for the cultivation of healthy foods.

**Finding No. 3:** *The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.*

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **SECTION 3. PLANNING COMMISSION ACTION.**

The Planning Commission hereby takes the following action:

Adopts Planning Commission Resolution No. 2017-04:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zoning Text Amendment No. 17-97501; and
2. Recommending to the City Council the adoption of Ordinance No. 1509 approving Zoning Text Amendment No. 17-97501.

PASSED, APPROVED AND ADOPTED THIS 1<sup>ST</sup> DAY OF MARCH, 2017

Eric Shaw, Chairman  
Banning Planning Commission

Eric Shaw, Chairman  
Banning Planning Commission

APPROVED AS TO FORM  
AND LEGAL CONTENT

Gregg W. Kettles  
Interim Assistant City Attorney  
Jenkins & Hogin, LLC

ATTEST:

Sandra Calderon  
Sandra Calderon, Recording Secretary  
City of Banning, California

**CERTIFICATION:**

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2017-04, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of March, 2017, by the following vote, to wit:

AYES: Wallace, Krick, Shaw, Price

NOES: None

ABSENT: Briant

ABSTAIN: None

  
Sandra Calderon  
Sandra Calderon, Recording Secretary  
City of Banning, California

ORDINANCE NO. 1509

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CATEGORICAL EXEMPTION AND APPROVING ZONING TEXT AMENDMENT NO. 17-97501 AMENDING THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW FOR THE ESTABLISHMENT OF COMMUNITY GARDENS

**WHEREAS**, the City Council has authority per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

**WHEREAS**, on the 17<sup>th</sup> day of February, 2017 the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zoning Text Amendment would be considered; and

**WHEREAS**, on March 1, 2017, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2017-04 recommending to the City Council the adoption of Ordinance No. 1509 approving the Categorical Exemption and Zoning Text Amendment No. 17-97501; and

**WHEREAS**, on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zoning Text Amendment would be considered; and

**WHEREAS**, on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed amendments, and at which time the City Council considered the Categorical Exemption and Zoning Text Amendment No. 17-97501; and

**WHEREAS**, at this public hearing on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017 the City Council considered and heard public comments on the proposed Categorical Exemption and Zoning Text Amendment; and

**WHEREAS**, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2017;

**NOW THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Banning as follows:

## **SECTION 1. ENVIRONMENTAL.**

### **California Environmental Quality Act (CEQA)**

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **Multiple Species Habitat Conservation Plan (MSHCP)**

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

## **SECTION 2. REQUIRED FINDINGS.**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 17-97501

***Finding No. 1:*** *Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the

objectives of the General Plan and more specifically that of the Economic Development Element. Community gardens provide positive attributes as urban green spaces, build a sense of community, and contribute to the preservation of, access to, and use of open space, vacant lots, and public parks.

**Finding No. 2:** *Proposed Zoning Text Amendment No. 17-97501 is internally consistent with the Zoning Ordinance.*

**Findings of Fact:** Proposed Zoning Text Amendment No. 17-97501 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare in that the establishment of Community Gardens will contribute to the public health by providing alternatives for the cultivation of healthy foods.

**Finding No. 3:** *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zoning Text Amendment No. 17-97501 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies 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.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zoning Text Amendment No. 17-97501 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### **SECTION 3. CITY COUNCIL ACTION.**

The City Council hereby takes the following actions:

1. **Adoption of Categorical Exemption.** In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061 the City Council hereby adopts the Categorical Exemption prepared pursuant to CEQA Guidelines Section 15061(b)(3) for Zoning Text Amendment No. 17-97501.

2. Approve Zoning Text Amendment 17-97501 as follows:

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) is hereby amended to add the following definitions:

“Community Garden” means an area of land used to grow and harvest food crops by individuals or collectively by members of a group for non-commercial purposes.”

2. Table 17.08.020 of Section 17.08.020 (Permitted, conditional and prohibited uses) of Chapter 17.08 (Residential Districts) is hereby amended to add the following use:

	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
<b>Agricultural Uses</b>									
Community Gardens	P	P	P	P	P	P	P	P	P

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
<b>Resource and Open Space Uses</b>								
Community Gardens	P	P	P	P	P	P	P	P

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
Community Gardens	P	P	P	P	P

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
Community Gardens	P	P	P	P

6. Table 17.12.050 (Use Specific Development Standards [Residential]) of Section 17.08.040 (Use specific standards) shall be amended to add Community Gardens as follows:

	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Q. Community Gardens	*	*	*	*	*	*	*	*	*

7. Section 17.08.202 shall be added as follows:

17.08.202 Community Gardens

Community Gardens are allowed in all zones, subject to the following regulations:

- A. Consent of the property owner shall be required, along with a lease or license.
- B. Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community garden; and must assign garden plots in a fair and impartial manner according to the operating rules established for that garden. The operating rules along with a site plan of the Community Garden shall be kept on file with the Community Development Department and shall include the name and telephone number of the garden coordinator.
- C. All plots shall be tended on a regular (minimum weekly) basis. Gardens shall be maintained in a weed-free condition and produce must be harvested and not allowed to go to seed.
- D. Hours of Operation: Hours of operation shall be limited to the daylight hours ~~between 7:00 a.m. and 6:00 p.m.~~
- E. Permitted structures. Accessory structures, such as storage sheds for tools and other supplies or greenhouses, may be allowed in a community

garden pursuant to meeting zoning setback requirements and shall not exceed 10 percent of the garden site lot area or 120 square feet, whichever is less. Accessory structures shall be compatible with the neighborhood and shall be approved by the Community Development Director.

- F. Parking. A minimum of two (2) ~~paved~~gravelled parking spaces with approved access shall be provided on the lot when there is no on-street parking allowed adjacent to the community garden property.
- G. Utilities. ~~Proposed~~ Connection to public utilities shall require permits from the City and shall meet any required City of Banning Electric Utility and City of Banning Water Utility requirements.
- H. Addressing. Addresses shall be assigned to vacant parcels for Community Gardens. The property address shall be identified using 4" address numbers displayed in a visible location.
- I. Fencing. Fences shall not exceed six feet in height, shall be subject to any setback requirements of the zones in which they are located, shall be at least 50 percent open if they are taller than four feet, and shall be constructed of wood, vinyl, or ornamental metal. Chain link shall ~~not~~ be permitted for community gardens.
- J. Drainage. The Community Garden Site shall be designed and maintained so that water and fertilizer do not drain onto adjacent property.
- K. Water Use. Water efficient irrigation techniques such as drip irrigation and timers to control watering times are encouraged. All hoses shall be equipped with a trigger nozzle. Mulching of planted areas is encouraged to retain plant moisture.
- L. Composting. Composting may be performed onsite within a composting container subject to all of the following:
  1. Composted materials shall be only those materials generated onsite or contributed by active members of the community garden.
  2. Composting containers shall be located a minimum of three feet from the property lines.
  3. Odors and/or fly-breeding shall not be greater than customarily found at a well-maintained residence.
- M. Organic Gardening. Organic gardening is strongly encouraged.
- N. Trash/Recycling Receptacles. Trash and recycling receptacles shall be provided onsite for the proper disposal of refuse. The receptacles shall be screened from adjacent properties by six-foot high solid fencing. Refuse

shall be removed from the site weekly so that the receptacle area and the lot are kept free from litter.

O. Personal Use Only. Food crops grown and harvested are for personal use only; commercial sale of produce is not permitted and the garden shall not be run as a profit-making venture.

P. Prohibited plants. Planting illegal or invasive plants shall be prohibited. Plants grown must be food crops for personal consumption. Planting and cultivation of marijuana shall be prohibited.

All other applicable codes and ordinances shall apply to Community Gardens, including but not limited to grading and noise ordinances. Applicable permits from other departments may be required.

**8.** Table 17.08.040 (Use Specific Development Standards [Commercial and Industrial]) of Section 17.08.040 (Use specific standards) shall be amended to add Community Gardens as follows:

	DC	GC	HSC	PO	I	AI	BP	IMR
U. Community Gardens	*	*	*	*	*	*	*	*

**9.** 17.12.050(U) shall be added as follows:

U. Community Gardens. Community Gardens in all zones shall meet the requirements of 17.08.202 Community Gardens.

#### **SECTION 4. SEVERABILITY.**

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

#### **SECTION 5. PUBLICATION; EFFECTIVE DATE.**

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the

proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

George Moyer, Mayor  
City of Banning

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

---

John C. Cotti  
Interim City Attorney  
Jenkins & Hogan, 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 Ordinance No. 1509 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and was duly adopted at a regular meeting of said City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

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INTENTIONALLY***

# **ATTACHMENT 3**

**NOTICE OF PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A CATEGORICAL EXEMPTION FOR ZONE TEXT AMENDMENT NO. 17-97501 AMENDING THE ZONING ORDINANCE (CHAPTER 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW FOR THE ESTABLISHMENT OF COMMUNITY GARDENS**

**NOTICE IS HEREBY GIVEN** of a public hearing before the City of Banning City Council, to be held on Tuesday, March 28, 2017, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider a proposal by the City of Banning to amend Chapter 17 of the City of Banning Municipal Code to allow for the establishment of Community Gardens.

Information regarding the Zone Text Amendment proposal and Categorical Exemption can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at <http://www.ci.banning.ca.us/>.

All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, that you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA.

Patty Nevins  
Interim Community Development Director

Dated: March 14, 2017  
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**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Ted Shove, Economic Development Manager

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-33 and Joining the Statewide Community Infrastructure Program

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**RECOMMENDATION:**

It is recommended that City Council approve Resolution 2017-33:

1. Authorizing the City to join the Statewide Community Infrastructure Program ("SCIP");
2. Authorizing the City to recover all costs associated with the verification of program applications;
3. Authorizing the California Statewide Communities Development Authority ("CSCDA") to accept applications from property owners, conduct special proceedings, levy assessments within the territory of the City, and approve form of Acquisition Agreement for use when applicable; and authorize related actions.

**COMMITTEE RECOMMENDATION:**

On March 2, 2017, the Economic Development Ad hoc Committee met to review the SCIP. The Committee recommended approving the program with staff level approval (for application verification) and full cost recovery of staff resources involved with application review.

## **JUSTIFICATION:**

Approval of the SCIP would provide an additional financing tool for mid to large projects that have been conditioned with public capital improvements and/or development impact fees in excess of \$500,000 up to \$20 million. The City will be paid directly by the administrators of SCIP before onsite project construction begins. Financing is repaid by property tax assessment exclusive to the parcels that comprise the project.

## **BACKGROUND:**

The CSCDA is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The member agencies of CSCDA include approximately 367 cities, 56 counties, one city and county, and 86 other local agencies throughout California, including the City of Banning.

The SCIP was instituted by CSCDA in 2002 to allow owners of property in participating cities and counties to finance the development impact fees and public capital improvements that would be payable by property owners upon receiving development entitlements or building permits. If a property owner chooses to participate, the selected public capital improvements and the development impact fees owed to the City will be financed by the issuance of tax-exempt bonds by CSCDA. CSCDA will impose a special assessment on the owner's property to repay the portion of the bonds issued.

The benefits to the *property owner* include:

- Only property owners who choose to participate in the program will have assessments imposed on their property.
- The program provides for low-cost, long-term tax-exempt financing for public capital improvements and development impact fees.
- For home buyers, paying for the costs of public infrastructure through a special assessment is superior to having those costs "rolled" into the cost of the home. Although the tax bill is higher, the amount of the mortgage is smaller, making it easier to qualify.
- Owners of smaller projects, both residential and commercial, can access tax-exempt financing of infrastructure. Before the inception of SCIP, only projects large enough to justify the formation of an assessment or communities facilities district ("CFD") had access to tax-exempt financing.

The benefits to the *City* include:

- The City is not liable to repay the bonds issued by CSCDA or the assessments imposed on the participating properties.
- CSCDA handles all district formation, district administration, bond issuance and bond administration functions. A participating city can provide tax-exempt financing to property owners through SCIP while committing virtually no staff time to administer the program.
- By implementing SCIP as proposed, the City will require full cost recovery for all staff time associated with review, verification and, validation of SCIP projects.

The proposed resolution authorizes CSCDA to accept applications from owners of property within the City's jurisdiction to apply for tax-exempt financing of public capital improvements and development impact fees through SCIP. It also authorizes CSCDA to form assessment districts within the City's boundaries, conduct assessment proceedings and levy assessments against the property of participating owners. It approves the form of an Acquisition Agreement (attached to resolution) to be entered into between the City and the participating property owner/developer, if applicable, to provide the terms and conditions under which financing for public capital improvements will be provided and to establish the procedure for disbursement of bond proceeds to pay for completed facilities. It also authorizes miscellaneous related actions and makes certain findings and determinations required by law.

Attached to the resolution is a "Form of Resolution of Intention to be Adopted by CSCDA". This is for informational purposes and does not require action by this Council.

#### **FISCAL IMPACT:**

None.

#### **OPTIONS:**

1. Authorize the City to join the Statewide Communities Infrastructure Program.
2. Deny joining SCIP and provide staff with alternative direction.

#### **ATTACHMENTS:**

1. Resolution 2017-33
2. Resolution of Intention (CSCDA)
3. Acquisition Agreement
4. Notice of Public Hearing

Approved by:



Michael Rock  
City Manager

# **ATTACHMENT 1**

Resolution 2017-33

RESOLUTION NO. 2017-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY TO JOIN THE STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT SPECIAL ASSESSMENT PROCEEDINGS AND LEVY ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF BANNING; APPROVING FORM OF ACQUISITION AGREEMENT FOR USE WHEN APPLICABLE; AND AUTHORIZING RELATED ACTIONS

**WHEREAS**, the California Statewide Communities Development Authority (the "Authority") is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of Banning ("City"); and

**WHEREAS**, the Authority has established the Statewide Community Infrastructure Program ("SCIP") to allow the financing of certain development impact fees (the "Fees") levied in accordance with the Mitigation Fee Act (California Government Code Sections 66000 and following) and other authority providing for the levy of fees on new development to pay for public capital improvements (collectively, the "Fee Act") through the levy of special assessments pursuant to the Municipal Improvement Act of 1913 (Streets and Highways Code Sections 10000 and following) (the "1913 Act") and the issuance of improvement bonds (the "Local Obligations") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid special assessments; and

**WHEREAS**, SCIP will also allow the financing of certain public capital improvements to be constructed by or on behalf of property owners for acquisition by the City or another public agency (the "Improvements"); and

**WHEREAS**, the City desires to allow the owners of property being developed within its jurisdiction ("Participating Developers") to participate in SCIP and to allow the Authority to conduct assessment proceedings under the 1913 Act and to issue Local Obligations under the 1915 Act to finance Fees levied on such properties and Improvements, provided that such Participating Developers voluntarily agree to participate and consent to the levy of such assessments; and

**WHEREAS**, in each year in which eligible property owners within the jurisdiction of the City elect to be Participating Developers, the Authority will conduct assessment proceedings under the 1913 Act and issue Local Obligations under the 1915 Act to finance Fees payable by such property owners and Improvements and, at the conclusion of such proceedings, will levy special assessments on such property within the territory of the City; and

**WHEREAS**, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by the Authority in connection with such assessment proceedings (the "ROI"), a copy of which is attached hereto as Exhibit A, and the territory within which assessments may be levied for SCIP (provided that each Participating Developer consents to such assessment) shall be coterminous with the City's official boundaries of record at the time of adoption of each such ROI (the "Proposed Boundaries"), and reference is hereby made to such boundaries for the plat or map required to be included in this Resolution pursuant to Section 10104 of the Streets and Highways Code; and

**WHEREAS**, there has also been presented to this meeting a proposed form of Acquisition Agreement (the "Acquisition Agreement"), a copy of which is attached hereto as Exhibit B, to be approved as to form for use with respect to any Improvements to be constructed and installed by a Participating Developer and for which the Participating Developer requests acquisition financing as part of its SCIP application; and

**WHEREAS**, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Local Obligations or any other bonds issued in connection with SCIP; and

**WHEREAS**, pursuant to Government Code Section 6586.5, notice was published at least five days prior to the adoption of this resolution at a public hearing, which was duly conducted by this Council concerning the significant public benefits of SCIP and the financing of the Improvements and the public capital improvements to be paid for with the proceeds of the Fees.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

1. The City hereby consents to the conduct of special assessment proceedings by the Authority in connection with SCIP pursuant to the 1913 Act and the issuance of Local Obligations under the 1915 Act on any property within the Proposed Boundaries; provided, that
  - a. Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI; and
  - b. The Participating Developers, who shall be the legal owners of such property, execute a written consent to the levy of assessment in connection with SCIP by the Authority and execute an assessment ballot in favor of such assessment in compliance with the requirements of Section 4 of Article XIID of the State Constitution.
- c.

2. The City hereby finds and declares that the issuance of bonds by the Authority in connection with SCIP will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and the more efficient delivery of local agency services to residential and commercial development within the City.
3. The Authority has prepared and will update from time to time the "SCIP Manual of Procedures" (the "Manual"), and the City will handle Fee revenues and funds for Improvements for properties participating in SCIP in accordance with the procedures set forth in the Manual.
4. The form of Acquisition Agreement presented to this meeting is hereby approved, and the City Manager is authorized to execute and the City Clerk is authorized to attest the execution of a completed Acquisition Agreement in substantially said form and pertaining to the Improvements being financed on behalf of the applicable Participating Developer.
5. The appropriate officials and staff of the City are hereby authorized and directed to make SCIP applications available to all property owners who are subject to Fees for new development within the City and/or who are conditioned to install Improvements and to inform such owners of their option to participate in SCIP; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The City Manager or assigned designee are hereby designated as the contact persons for the Authority in connection with the SCIP program.
6. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents, including but not limited to such documents as may be required by Bond Counsel in connection with the participation in SCIP of any districts, authorities or other third-party entities entitled to own Improvements and/or to levy and collect fees on new development to pay for public capital improvements within the jurisdiction of the City of Banning, as are reasonably required by the Authority in accordance with the Manual to implement SCIP for Participating Developers and to evidence compliance with the requirements of federal and state law in connection with the issuance by the Authority of the Local Obligations and any other bonds for SCIP. To that end, and pursuant to Treasury Regulations Section 1.150-2, the City Manager or assigned designee, are hereby authorized and designated to declare the official intent of the City with respect to the public capital improvements to be paid or reimbursed through participation in SCIP.
7. The City is authorized to recover all costs associated with executing closing certificates, requisitions, agreements and related documents, including but not limited to such documents as may be required by Bond Counsel in connection with the participation in SCIP of any districts, authorities or other third-party

related entities entitled to own Improvements and/or levy and collect fees on new development to pay for public capital improvements within the jurisdiction of the City of Banning, as are reasonably required by the Authority in accordance with the Manual to implement SCIP for Participating Developers and to evidence compliances with the requirements of federal and state law in connection with the issuance by the Authority of the Local Obligations and any other bonds for SCIP.

8. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the Authority.

**PASSED, APPROVED AND ADOPTED** this 28th day of March, 2017.

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George Moyer, Mayor  
City of Banning, California

**ATTEST:**

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

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**

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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. 2017-33 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 28th day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

# **ATTACHMENT 3**

## Resolution of Intention

## EXHIBIT A TO RESOLUTION

### FORM OF RESOLUTION OF INTENTION TO BE ADOPTED BY CSCDA

#### RESOLUTION OF INTENTION OF THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO FINANCE IMPROVEMENTS AND/OR THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR PUBLIC CAPITAL IMPROVEMENTS IN THE PROPOSED ASSESSMENT DISTRICT NO.

(COUNTY OF \_\_\_\_\_, CALIFORNIA), APPROVING A PROPOSED BOUNDARY MAP, MAKING CERTAIN DECLARATIONS, FINDINGS AND DETERMINATIONS CONCERNING RELATED MATTERS, AND AUTHORIZING RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, under the authority of the Municipal Improvement Act of 1913 (the "1913 Act"), being Division 12 (commencing with Sections 10000 and following) of the California Streets and Highways Code, the Commission (the "Commission") of the California Statewide Communities Development Authority (the "Authority") intends to finance, through its Statewide Community Infrastructure Program, the payment of certain development impact fees for public capital improvements (the "Fees") and to finance certain public capital improvements to be constructed by or on behalf of the property owner(s) and to be acquired by the \_\_\_\_\_ or another local agency (the "Improvements"), both of which are described in Exhibit A attached hereto and by this reference incorporated herein, and all of which are of benefit to the property within the proposed Assessment District No. \_\_\_\_\_ "Assessment District"); and (County of \_\_\_\_\_, California) (the "Assessment District"), and;

WHEREAS, the Commission finds that the land specially benefited by the Fees and Improvements is shown within the boundaries of the map entitled "Proposed Boundaries of Assessment District No. \_\_\_\_\_ (County of \_\_\_\_\_, California)," a copy of which map is on file with the Secretary and presented to this Commission meeting, and determines that the land within the exterior boundaries shown on the map shall be designated "Assessment District No. \_\_\_\_\_ (County of \_\_\_\_\_, California);

NOW, THEREFORE, BE IT RESOLVED that the Commission of the California Statewide Communities Development Authority hereby finds, determines and resolves as follows:

1. The above recitals are true and correct, and the Commission so finds and determines.

2. Pursuant to Section 2961 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (the "1931 Act"), being Division 4 (commencing with Section 2800) of the California Streets and Highways Code, the Commission hereby declares its intent to comply with the requirements of the 1931 Act by complying with Part 7.5 thereof.

3. The Commission has or will designate a registered, professional engineer as Engineer of Work for this project, and hereby directs said firm to prepare the report containing the matters required by Sections 2961(b) and 10204 of the Streets and Highways Code, as supplemented by Section 4 of Article XIIIID of the California Constitution.

4. The proposed boundary map of the Assessment District is hereby approved and adopted. Pursuant to Section 3111 of the California Streets and Highways Code, the Secretary of the Authority is directed to file a copy of the map in the office of the County Recorder of the County of \_\_\_\_\_ within fifteen (15) days of the adoption of this resolution.

5. The Commission determines that the cost of the Fees and Improvements shall be specially assessed against the lots, pieces or parcels of land within the Assessment District benefiting from the payment of the Fees and the provision of the Improvements. The Commission intends to levy a special assessment upon such lots, pieces or parcels in accordance with the special benefit to be received by each such lot, piece or parcel of land, respectively, from the payment of the Fees and the provision of the Improvements.

6. The Commission intends, pursuant to subparagraph (f) of Section 10204 of the California Streets and Highways Code, to provide for an annual assessment upon each of the parcels of land in the proposed assessment district to pay various costs and expenses incurred from time to time by the Authority and not otherwise reimbursed to the Authority which result from the administration and collection of assessment installments or from the administration or registration of the improvement bonds and the various funds and accounts pertaining thereto.

7. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed twelve percent (12%) per annum, will be issued in the manner provided by the Improvement Bond Act of 1915 (Division 10, Streets and Highways Code), and the last installment of the bonds shall mature not to exceed thirty (30) years from the second day of September next succeeding twelve (12) months from their date.

8. The procedure for the collection of assessments and advance retirement of bonds under the Improvement Bond Act of 1915 shall be as provided in Part 11.1, Division 10, of the Streets and Highways Code of the State of California.

9. Neither the Authority nor any member agency thereof will obligate itself to advance available funds from its or their own funds or otherwise to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the Authority or any such member agency from, in its sole discretion, so advancing funds.

10. The amount of any surplus remaining in the improvement fund after payment of the Fees, acquisition of the Improvements and payment of all claims shall be distributed in accordance with the provisions of Section 10427.1 of the Streets and Highways Code.

11. To the extent any Fees are paid to the Authority in cash with respect to property within the proposed Assessment District prior to the date of issuance of the bonds, the amounts so paid shall be reimbursed from the proceeds of the bonds to the property owner or developer that made the payment.

[End of Form of Resolution of Intention]

[Attach Exhibit A— description of development impact fees and public capital improvements. This exhibit will be prepared by Developer's Engineer, subject to SCIP review.]

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# **ATTACHMENT 3**

## Acquisition Agreement

**EXHIBIT B TO RESOLUTION**

**FORM OF ACQUISITION AGREEMENT**

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CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM

**ACQUISITION AGREEMENT**

BY AND BETWEEN

---

AND

[DEVELOPER]

Dated as of \_\_\_\_\_, 20\_\_\_\_

## ACQUISITION AGREEMENT

### Recitals

A. The parties to this Acquisition Agreement (the "Agreement") are the \_\_\_\_\_, (the "Local Agency"), and [DEVELOPER], a [here indicate type of legal entity] (the "Developer").

B. The effective date of this Agreement is \_\_\_\_\_, 20\_\_.

C. The Developer has applied for financing of certain public capital improvements (the "Acquisition Improvements") and capital facilities fees though the Statewide Community Infrastructure Program ("SCIP") administered by the California Statewide Communities Development Authority (the "Authority") and such application has been approved by the Local Agency.

D. The administration, payment and reimbursement of the capital facilities fees is agreed to be governed by the provisions of the SCIP Manual of Procedures as it may be amended from time to time. The administration, payment and reimbursement of the Acquisition Improvements shall be as provided herein.

E. Under SCIP, the Authority intends to issue bonds to fund, among other things, all or a portion of the costs of the Acquisition Improvements, and the portion of the proceeds of such bonds allocable to the cost of the Acquisition Improvements to be constructed and installed by the Developer, together with interest earned thereon prior to such acquisition, is referred to herein as the "Available Amount".

F. SCIP will provide financing for the acquisition by the Local Agency of the Acquisition Improvements and the payment of the Acquisition Price (as defined herein) of the Acquisition Improvements from the Available Amount. Attached hereto as Exhibit A are descriptions of the Acquisition Improvements, which descriptions are subject to modification by written amendment of this Agreement, subject to the approval of the Authority.

G. The parties anticipate that, upon completion of the Acquisition Improvements and subject to the terms and conditions of this Agreement, the Local Agency will acquire such completed Acquisition Improvements with the Available Amount.

H. Any and all monetary obligations of the Local Agency arising out of this Agreement are the special and limited obligations of the Local Agency payable only from the Available Amount, and no other funds whatsoever of the Local Agency shall be obligated therefor.

I. In consideration of Recitals A through H, inclusive, and the mutual covenants, undertakings and obligations set forth below, the Local Agency and the Developer agree as stated below.

### Agreement

## ARTICLE I

### DEFINITIONS; ASSESSMENT DISTRICT FORMATION AND FINANCING PLAN

Section 1.01. Definitions. As used herein, the following capitalized terms shall have the meanings ascribed to them below:

"Acceptable Title" means free and clear of all monetary liens, encumbrances, assessments, whether any such item is recorded or unrecorded, and taxes, except those items which are reasonably determined by the Local Agency Engineer in his sole discretion not to interfere with the intended use and therefore are not required to be cleared from the title.

“Acquisition Improvements” shall have the meaning assigned to such term in Recital C and are described in Exhibit A.

“Acquisition Price” means the amount paid to the Developer upon acquisition of all of the Acquisition Improvements as provided in Section 2.03.

“Actual Cost” means the cost of construction of all of the Acquisition Improvements, as documented by the Developer to the satisfaction of the Local Agency, as certified by the Local Agency Engineer in an Actual Cost Certificate.

“Actual Cost Certificate” shall mean a certificate prepared by the Developer detailing the Actual Cost of all of the Acquisition Improvement to be acquired hereunder, as revised by the Local Agency Engineer pursuant to Section 2.03.

“Agreement” means this Acquisition Agreement, dated as of \_\_\_\_, 20\_\_.

“Assessment District” means the assessment district established by the Authority pursuant to SCIP which includes the Developer’s property for which the Acquisition Improvements are being funded.

“Authority” means the California Statewide Communities Development Authority.

“Available Amount” means the amount of funds deposited in the Developer Acquisition Account by the Authority pursuant to SCIP, together with any interest earnings thereon.

“Code” means the Streets and Highways Code of the State of California.

“Developer” means [Developer], a [here indicate type of legal entity].

“[Developer] Acquisition Account” means the account by that name established by the Authority pursuant to SCIP for the purpose of paying the Acquisition Price of the Acquisition Improvements.

“Local Agency” means the \_\_\_\_\_.

“Local Agency Engineer” means the Director of Public Works of the Local Agency (the “Director”) or the designee of the Director, who will be responsible for administering the acquisition of the Acquisition Improvements hereunder.

“Project” means the land development program of the Developer pertaining to the Developer’s property in the Assessment District, including the design and construction of the Acquisition Improvements and the other public and private improvements to be constructed by the Developer within or adjacent to the Assessment District.

“SCIP” means the Statewide Community Infrastructure Program of the Authority.

“SCIP Requisition” means a requisition for payment of funds from the [Developer] Acquisition Account in substantially the form attached hereto as Exhibit B.

“SCIP Trust Agreement” means the Trust Agreement entered into by the Authority and the SCIP Trustee in connection with the financing for the Acquisition Improvements.

“SCIP Trustee” means Wells Fargo Bank, National Association, as trustee under the SCIP Trust Agreement.

“Title Documents” means, for each Acquisition Improvement acquired hereunder, a grant deed or similar instrument necessary to transfer title to any real property or interests therein (including easements) necessary or

convenient to the operation, maintenance, rehabilitation and improvement by the Local Agency of that Acquisition Improvement (including, if necessary, easements for ingress and egress) and a Bill of Sale or similar instrument evidencing transfer of title to that Acquisition Improvement (other than said real property interests) to the Local Agency, where applicable.

**Section 1.02. Participation in SCIP**. Developer has applied for financing through SCIP of the Acquisition Improvements and capital facilities fees, and such application has been approved by the Local Agency. Developer and Local Agency agree that until and unless such financing is completed by the Authority and the Available Amount is deposited in the Developer Acquisition Account, neither the Developer nor the Local Agency shall have any obligations under this agreement. Developer agrees to cooperate with the Local Agency and the Authority in the completion of the SCIP financing for the Acquisition Improvements.

**Section 1.03. Deposit and Use of Available Amount**.

(a) Upon completion of the SCIP financing, the Available Amount will be deposited by the Authority in the [Developer] Acquisition Account.

(b) The Authority will cause the SCIP Trustee to establish and maintain the [Developer] Acquisition Account for the purpose of holding all funds for the Acquisition Improvements. All earnings on amounts in the [Developer] Acquisition Account shall remain in the [Developer] Acquisition Account for use as provided herein and pursuant to SCIP. The amounts in the [Developer] Acquisition Account shall be withdrawn by the Local Agency in accordance with SCIP procedures upon completion of the Acquisition Improvements within 30 days (or as soon thereafter as reasonably practicable) of receipt by the Local Agency of the certification of the Local Agency Engineer required by Section 2.03 of this Agreement, and subject to satisfaction of all other conditions precedent to such acquisition pursuant to Section 2.04 of this Agreement, to pay the Acquisition Price of such completed Acquisition Improvements, as specified in Article II hereof. Upon completion of all of the Acquisition Improvements and the payment of all costs thereof, any remaining funds in the [Developer] Acquisition Account (less any amount determined by the Local Agency as necessary to reserve for claims against such account) (i) shall be applied to pay the costs of any additional improvements or fees eligible for acquisition with respect to the Project as approved by the Authority and, to the extent not so used, and thereafter (ii) shall be applied by the Authority as provided in Section 10427.1 of the Code to pay a portion of the assessments levied on the Project property in the Assessment District.

**Section 1.04. No Local Agency Liability; Local Agency Discretion; No Effect on Other Agreements**. In no event shall any actual or alleged act by the Local Agency or any actual or alleged omission or failure to act by the Local Agency with respect to SCIP subject the Local Agency to monetary liability therefor. Further, nothing in this Agreement shall be construed as affecting the Developer's or the Local Agency's duty to perform their respective obligations under any other agreements, public improvement standards, land use regulations or subdivision requirements related to the Project, which obligations are and shall remain independent of the Developer's and the Local Agency's rights and obligations under this Agreement.

## ARTICLE II

### **DESIGN, CONSTRUCTION AND ACQUISITION IMPROVEMENTS**

**Section 2.01. Letting and Administering Design Contracts**. The parties presently anticipate that the Developer has awarded and administered or will award and administer engineering design contracts for the Acquisition Improvements to be acquired from Developer. All eligible expenditures of the Developer for design engineering and related costs in connection with the Acquisition Improvements (whether as an advance to the Local Agency or directly to the design consultant) shall be reimbursed at the time of acquisition of such Acquisition Improvements. The Developer shall be entitled to reimbursement for any design costs of the Acquisition Improvements only out of the Acquisition Price as provided in Section 2.03 and shall not be entitled to any payment for design costs independent of or prior to the acquisition of Acquisition Improvements.

**Section 2.02. Letting and Administration of Construction Contracts.** State law requires that all Acquisition Improvements not completed prior to the adoption of the Authority's Resolution of Intention shall be constructed as if they were constructed under the direction and supervision of the Local Agency. The Developer agrees this requires the payment of prevailing wages as specified by the Labor Code of the State of California. The Developer agrees to comply with this requirement and to certify such compliance to the Local Agency in its Actual Cost Certificates, and to comply with any guidelines provided by the Local Agency for letting and administering contracts.

The Developer's indemnification obligation set forth in Section 3.01 of this Agreement shall also apply to any alleged failure to comply with the requirements of this Section, and/or applicable State laws regarding public contracting and prevailing wages.

**Section 2.03. Sale of Acquisition Improvements.** The Developer agrees to sell to the Local Agency the Acquisition Improvements to be constructed by Developer (including any rights-of-way or other easements necessary for the operation and maintenance of the Acquisition Improvements, to the extent not already publicly owned) when such Acquisition Improvements are completed to the satisfaction of the Local Agency for an amount not to exceed the lesser of (i) the Available Amount or (ii) the Actual Cost of the Acquisition Improvements. Exhibit A, attached hereto and incorporated herein, contains a list of each Acquisition Improvement. At the time of completion of each Acquisition Improvement, the Developer shall deliver to the Local Agency Engineer a written request for acquisition, accompanied by an Actual Cost Certificate and executed Title Documents for the transfer of the Acquisition Improvement, where necessary. In the event that the Local Agency Engineer finds that the supporting paperwork submitted by the Developer fails to demonstrate the required relationship between the subject Actual Cost and the related Acquisition Improvement, the Local Agency Engineer shall advise the Developer that the determination of the Actual Cost (or the ineligible portion thereof) has been disallowed and shall request further documentation from the Developer. If such further documentation is still not adequate, the Local Agency Engineer may revise the Actual Cost Certificate to delete any disallowed items, and such determination shall be final and conclusive.

In the event that the Actual Cost is in excess of the Available Amount, the Local Agency shall withdraw the Available Amount from the [Developer] Acquisition Account and transfer said amount to the Developer. In the event that the Actual Cost is less than the Available Amount, the Local Agency shall withdraw an amount from the [Developer] Acquisition Account equal to the Actual Cost, and shall transfer said amount to the Developer. Any amounts then remaining in the [Developer] Acquisition Account shall be applied as provided in Section 1.03.

In no event shall the Local Agency be required to pay the Developer more than the amount on deposit in the [Developer] Acquisition Account at the time such payment is requested.

**Section 2.04. Conditions Precedent to Payment of Acquisition Price.** Payment by the Local Agency to the Developer from the [Developer] Acquisition Account of the Acquisition Price for an Acquisition Improvement shall be conditioned first upon the determination of the Local Agency Engineer, pursuant to Section 2.03, that such Acquisition Improvement is all complete and ready for acceptance by the Local Agency, and shall be further conditioned upon prior satisfaction of the following additional conditions precedent:

(a) The Developer shall have provided the Local Agency with lien releases or other similar documentation satisfactory to the Local Agency as evidence that the property which is subject to the special assessment liens of the Assessment District is not subject to any prospective mechanics lien claim respecting the Acquisition Improvements.

(b) All due and payable property taxes and installments of special assessments shall be current on property owned by the Developer or under option to the Developer that is subject to the special assessment liens of the Assessment District.

(c) The Developer shall certify that it is not in default with respect to any loan secured by any interest in the Project.

(d) The Developer shall have provided the Local Agency with Title Documents needed to provide the Local Agency with title to the site, right-of-way, or easement upon which the subject Acquisition Improvements are situated. All such Title Documents shall be in a form acceptable to the Local Agency (or applicable governmental agency) and shall convey Acceptable Title. The Developer shall provide a policy of title insurance as of the date of transfer in a form acceptable to the Local Agency Engineer insuring the Local Agency as to the interests acquired in connection with the acquisition of any interest for which such a policy of title insurance is not required by another agreement between the Local Agency and the Developer. Each title insurance policy required hereunder shall be in the amount equal to or greater than the Acquisition Price.

**Section 2.05. SCIP Requisition.** Upon a determination by the Local Agency Engineer to pay the Acquisition Price of the Acquisition Improvements pursuant to Section 2.04, the Local Agency Engineer shall cause a SCIP Requisition to be submitted to the Program Administrator. The Program Administrator will review the SCIP Requisition and forward it with instructions to the SCIP Trustee and the SCIP Trustee shall make payment directly to the Developer of such amount pursuant to the SCIP Trust Agreement. The Local Agency and the Developer acknowledge and agree that the SCIP Trustee shall make payment strictly in accordance with the SCIP Requisition and shall not be required to determine whether or not the Acquisition Improvements have been completed or what the Actual Costs may be with respect to such Acquisition Improvements. The SCIP Trustee shall be entitled to rely on the SCIP Requisition on its face without any further duty of investigation.

## ARTICLE III

### MISCELLANEOUS

**Section 3.01. Indemnification and Hold Harmless.** The Developer hereby assumes the defense of, and indemnifies and saves harmless the Local Agency, the Authority, and each of its respective officers, directors, employees and agents, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from or alleged to have resulted from the acts or omissions of the Developer or its agents and employees in the performance of this Agreement, or arising out of any contract for the design, engineering and construction of the Acquisition Improvements or arising out of any alleged misstatements of fact or alleged omission of a material fact made by the Developer, its officers, directors, employees or agents to the Authority's underwriter, financial advisor, appraiser, district engineer or bond counsel or regarding the Developer, its proposed developments, its property ownership and its contractual arrangements contained in the official statement relating to the SCIP financing (provided that the Developer shall have been furnished a copy of such official statement and shall not have objected thereto); and provided, further, that nothing in this Section 3.01 shall limit in any manner the Local Agency's rights against any of the Developer's architects, engineers, contractors or other consultants. Except as set forth in this Section 3.01, no provision of this Agreement shall in any way limit the extent of the responsibility of the Developer for payment of damages resulting from the operations of the Developer, its agents and employees. Nothing in this Section 3.01 shall be understood or construed to mean that the Developer agrees to indemnify the Local Agency, the Authority or any of its respective officers, directors, employees or agents, for any negligent or wrongful acts or omissions to act of the Local Agency, Authority its officers, employees, agents or any consultants or contractors.

**Section 3.02. Audit.** The Local Agency shall have the right, during normal business hours and upon the giving of ten days' written notice to the Developer, to review all books and records of the Developer pertaining to costs and expenses incurred by the Developer (for which the Developer seeks reimbursement) in constructing the Acquisition Improvements.

**Section 3.03. Cooperation.** The Local Agency and the Developer agree to cooperate with respect to the completion of the SCIP financing for the Acquisition Improvements. The Local Agency and the Developer agree to meet in good faith to resolve any differences on future matters which are not specifically covered by this Agreement.

**Section 3.04. General Standard of Reasonableness.** Any provision of this Agreement which requires the consent, approval or acceptance of either party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard. The foregoing provision shall not apply to provisions in the Agreement which provide for decisions to be in the sole discretion of the party making the decision.

**Section 3.05. Third Party Beneficiaries.** The Authority and its officers, employees, agents or any consultants or contractors are expressly deemed third party beneficiaries of this Agreement with respect to the provisions of Section 3.01. It is expressly agreed that, except for the Authority with respect to the provisions of Section 3.01, there are no third party beneficiaries of this Agreement, including without limitation any owners of bonds, any of the Local Agency's or the Developer's contractors for the Acquisition Improvements and any of the Local Agency's, the Authority's or the Developer's agents and employees.

**Section 3.06. Conflict with Other Agreements.** Nothing contained herein shall be construed as releasing the Developer or the Local Agency from any condition of development or requirement imposed by any other agreement between the Local Agency and the Developer, and, in the event of a conflicting provision, such other agreement shall prevail unless such conflicting provision is specifically waived or modified in writing by the Local Agency and the Developer.

**Section 3.07. Notices.** All invoices for payment, reports, other communication and notices relating to this Agreement shall be mailed to:

**If to the Local Agency:**

Director of Public Works

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[Address]

**If to the Developer:**

[Developer]

[Address to Come]

Either party may change its address by giving notice in writing to the other party.

**Section 3.08. Severability.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

**Section 3.09. Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

**Section 3.10. Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement.

**Section 3.11. Singular and Plural; Gender.** As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

**Section 3.12. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

**Section 3.13. Successors and Assigns.** This Agreement is binding upon the heirs, assigns and successors-in-interest of the parties hereto. The Developer may not assign its rights or obligations hereunder, except to successors-in-interest to the property within the District, without the prior written consent of the Local Agency.

**Section 3.14. Remedies in General.** It is acknowledged by the parties that the Local Agency would not have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement or the application thereof, other than for the payment to the Developer of any (i) moneys owing to the Developer hereunder, or (ii) moneys paid by the Developer pursuant to the provisions hereof which are misappropriated or improperly obtained, withheld or applied by the Local Agency.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the Local Agency shall not be liable in damages to the Developer, or to any assignee or transferee of the Developer other than for the payments to the Developer specified in the preceding paragraph. Subject to the foregoing, the Developer covenants not to sue for or claim any damages for any alleged breach of, or dispute which arises out of, this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

By \_\_\_\_\_  
City Manager

ATTEST:  
City Clerk/Clerk of the Board

By \_\_\_\_\_

[DEVELOPER],  
a [here indicate type of legal entity]

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

## **Exhibit A to Acquisition Agreement**

### **DESCRIPTION OF ACQUISITION IMPROVEMENTS AND BUDGETED AMOUNTS**

#### **ACQUISITION IMPROVEMENTS**

- 1.
- 2.
- 3.
- 4.

#### **BUDGETED AMOUNTS**

## Exhibit B to Acquisition Agreement

### FORM OF SCIP REQUISITION

To: BLX Group LLC  
SCIP Program Administrator  
777 S. Figueroa St., Suite 3200  
Los Angeles, California 90017  
Attention: Daniel Chang  
Fax: 213-612-2499

Re: Statewide Community Infrastructure Program

The undersigned, a duly authorized officer of the \_\_\_\_\_ hereby requests a withdrawal from the [DEVELOPER] ACQUISITION ACCOUNT, as follows:

Request Date: [Insert Date of Request]

Name of Developer: [Developer]

Withdrawal Amount: [Insert Acquisition Price]

Acquisition Improvements: [Insert Description of Acquisition Improvement(s) from Ex.

A] Payment Instructions: [Insert Wire Instructions or Payment Address for Developer]

The undersigned hereby certifies as follows:

1. The Withdrawal is being made in accordance with a permitted use of such monies pursuant to the Acquisition Agreement, and the Withdrawal is not being made for the purpose of reinvestment.
2. None of the items for which payment is requested have been reimbursed previously from other sources of funds.
3. If the Withdrawal Amount is greater than the funds held in the [Developer] Acquisition Account, the SCIP Program Administrator is authorized to amend the amount requested to be equal to the amount of such funds.
4. To the extent the Withdrawal is being made prior to the date bonds have been issued on behalf of SCIP, this withdrawal form serves as the declaration of official intent of the \_\_\_\_\_, pursuant to Treasury Regulations 1.150-2, to reimburse with respect expenditures made from the Developer Acquisition Account listed above in the amount listed above.

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By : \_\_\_\_\_

Title: \_\_\_\_\_

# **ATTACHMENT 4**

Notice of Public Hearing

## NOTICE OF PUBLIC HEARING

### RESOLUTION 2017-33 TO CONSIDER THE PROPOSED PARTICIPATION BY THE CITY OF BANNING CALIFORNIA IN THE STATEWIDE COMMUNITIES INFRASTRUCTURE PROGRAM OF THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

**NOTICE IS HEREBY GIVEN** that a public hearing before the City of Banning City Council to be held on Tuesday, March 28, 2017, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California. Participation in said program will enable property owners to finance public capital improvements and/or development impact fees for public capital improvements imposed on new development. Said public capital improvements, if financed, will be among the public capital improvements required in connection with a given development project. Said development impact fees, if financed, will be used by the City of Banning to pay for public capital improvements which will serve the City of Banning, and which will be of a type and nature authorized under the Municipal Improvement Act of 1913 (codified at California Streets and Highways Code Sections 10000 *et seq.*). Participation in said program does not itself authorize the City of Banning to impose additional public capital improvements or new or additional development impact fees on any property owner.

Interested persons wishing to express their views on the participation in such program and the financing of public capital improvements and/or development impact fees as described above will be given an opportunity to do so at the public hearing or may, prior to the time of the hearing, submit written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, that you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

BY ORDER OF THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA

Patty Nevins  
Interim Community Development Director

Dated: March 14, 2017  
Publish: March 17, 2017



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Art Vela, Director of Public Works

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-35  
Approving the Memorandum of Agreement to Form a  
Groundwater Sustainability Agency for a Portion of the San  
Gorgonio Pass Sub-Basin and to Coordinate with Other  
Groundwater Sustainability Agencies

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**RECOMMENDATION:**

That the City Council adopt Resolution 2017-35:

1. Approving the Memorandum of Agreement to form a Groundwater Sustainability Agency for a portion of the San Gorgonio Pass Sub-Basin and to coordinate with other Groundwater Sustainability Agencies.
2. Authorizing the City Manager or his designee to execute the Memorandum of Agreement and to coordinate with other members of the San Gorgonio Pass Groundwater Sustainability Agency the submittal of all required and applicable information to the California Department of Water Resources.

**JUSTIFICATION:**

SGMA provides for the sustainable management of groundwater basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and requires that local agencies seeking formation of GSAs for the management of their local basins do so by submitting the required documentation no later than June 30, 2017.

In order to avoid state intervention in the management of local groundwater basins, SGMA requires that Groundwater Sustainability Agencies (GSAs) be formed no later than June 30, 2017.

#### **BACKGROUND:**

In September, 2014, Governor Jerry Brown signed Senate Bill 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act of 2014 (SGMA). The purposes of SGMA are to provide sustainable management of groundwater basins, enhance local management of groundwater, establish minimum standards for sustainable groundwater management, provide local groundwater agencies with the authority and tools necessary to sustainably manage groundwater and allow for state oversight and intervention if local agencies do not act.

The California Department of Water Resources (DWR), as required by SGMA, has designated groundwater basins and sub-basins as medium or high-priority, which are subject to the requirements of SGMA. The City of Banning is within and produces water from the San Gorgonio Sub-basin ("Basin") which has been classified as a medium-priority basin.

SGMA authorizes a combination of local agencies, water corporations and mutual water companies to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement.

The City of Banning, Cabazon Water District, Banning Heights Mutual Water Company, San Gorgonio Pass Water Agency, Mission Springs Water District, and Desert Water Agency have prepared a Memorandum of Agreement (MOA), attached hereto, for a cooperative process to form and coordinate multiple GSAs for the Basin, and to carry out the policy, purposes, and requirements of SGMA in the Basin.

The formation of the GSA as described is consistent with the approach described to City Council at the SGMA Workshop held on November 7, 2016, staff report attached hereto.

Pursuant to the requirements of SGMA, the City of Banning is required to hold a Public Hearing after public notice as required by California Government Code section 6066 to consider the adoption of Resolution 2017-35.

#### **FISCAL IMPACT:**

There are no fiscal impacts related to this action. Future expenses will occur related to the development and implementation of a Groundwater Sustainability Plan for the Basin. The MOA acknowledges that the parties will develop cost sharing agreements for work to be completed in complying with SGMA. Cost sharing agreements shall be presented to City Council for review and approval.

**OPTIONS:**

1. Adopt Resolution 2017-35.
2. Do not adopt Resolution 2017-35. This could result in the City of Banning not participating in the management of the Basin resulting in the oversight by other water agencies and/or the State.

**ATTACHMENTS:**

1. Resolution 2017-35
2. Memorandum of Agreement
3. November 7, 2016 SGMA Workshop Staff Report
4. Public Hearing Notice

Approved by:



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Michael Rock  
City Manager

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# **ATTACHMENT 1**

**(Resolution 2017-35)**

## RESOLUTION 2017-35

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE SAN GORGONIO PASS SUB-BASIN AND TO COORDINATE WITH OTHER GROUNDWATER SUSTAINABILITY AGENCIES

**WHEREAS**, the Sustainable Groundwater Management Act of 2014 (SGMA) was signed into law on September 16, 2014 and went into effect on January 1, 2015; and

**WHEREAS**, SGMA provides for the sustainable management of groundwater basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and through preparation and implementation of Groundwater Sustainability Plans (GSPs); and

**WHEREAS**, the San Gorgonio Pass Subbasin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 7-21.04 of the Coachella Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, SGMA authorizes a combination of local agencies as defined by SGMA to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement, and SGMA also authorizes a water corporation regulated by the California Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

**WHEREAS**, the City of Banning, Cabazon Water District, Banning Heights Mutual Water Company, San Gorgonio Pass Water Agency, Mission Springs Water District, and Desert Water Agency have prepared a Memorandum of Agreement (MOA), attached hereto, for a cooperative process to form and coordinate multiple GSAs for the Basin, and to carry out the policy, purposes, and requirements of SGMA in the Basin; and

**WHEREAS**, among other things, the MOA establishes the San Gorgonio Pass GSA (SGP-GSA) for a portion of the Basin, as further set forth and depicted in the MOA, the members of which SGP-GSA are the City of Banning, the Cabazon Water District, the Banning Heights Mutual Water Company, and the San Gorgonio Pass Water Agency; and

**WHEREAS**, the MOA further establishes that efforts of the SGP-GSA will be coordinated with the efforts of the Desert Water Agency GSA (DWA-GSA) that already has been established for a portion of the Basin, and the efforts of the Verbenia Area GSA (Verbenia-GSA) that is being established for another portion of the Basin; and

**WHEREAS**, the Parties to the MOA mutually desire and intend that the SGP-GSA, the DWA-GSA, and the Verbenia-GSA will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin in accordance with SGMA; and

**WHEREAS**, the City of Banning is committed to the sustainable management of groundwater resources within the Basin in accordance with SGMA; and

**WHEREAS**, pursuant to the requirements of SGMA, the City of Banning held a public hearing on this date after publications of notice pursuant to California Government Code section 6066 to consider adoption of this Resolution; and

**WHEREAS**, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this Resolution, nor the MOA, nor the preparation or adoption of a GSP constitutes a project or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

**SECTION 1.** The City Council hereby approves the Memorandum of Agreement (MOA) to form a Groundwater Sustainability Agency for a portion of the San Gorgonio Pass Subbasin and to coordinate with other Groundwater Sustainability Agencies (GSAs).

**SECTION 2.** The City Manager is hereby authorized to execute the MOA and directed to coordinate with the other members of the SGP-GSA to submit a copy of this Resolution and other applicable information to the California Department of Water Resources regarding the formation of the SGP-GSA.

**PASSED, APPROVED AND ADOPTED** this 28th day of March, 2017.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

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Marie A. Calderon, City Clerk  
City of Banning

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

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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 foregoing Resolution 2017-35, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 28th day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Marie A. Calderon, City Clerk  
City of Banning

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# **ATTACHMENT 2**

**(Memorandum of Agreement)**

**MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY  
AGENCY FOR A PORTION OF THE SAN GORGONIO PASS SUBBASIN AND TO  
COORDINATE WITH OTHER GROUNDWATER SUSTAINABILITY AGENCIES**

This 2017 Memorandum of Agreement (MOA) is entered into by and among Cabazon Water District (CWD), City of Banning (Banning), Banning Heights Mutual Water Company (BHMWC), San Gorgonio Pass Water Agency (SGPWA), Mission Springs Water District (MSWD), and Desert Water Agency (DWA), which may be referred to herein individually as a "Party" and collectively as the "Parties."

Pursuant to the Sustainable Groundwater Management Act (SGMA) and as further set forth herein, the purposes of this MOA are to form a Groundwater Sustainability Agency (GSA) for a portion of the San Gorgonio Pass Subbasin, as described in greater detail below (Basin), the members of which GSA shall be CWD, Banning, BHMWC, and SGPWA (herein, the SGP-GSA), and to establish that the SGP-GSA will coordinate and cooperate with other GSAs that already exist and will be formed in the Basin.

**WHEREAS**, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act (SGMA), codified in certain provisions of the California Government Code, commencing with Section 65350.5, and in Part 2.74 of Division 6 of the California Water Code, commencing with Section 10720; and

**WHEREAS**, SGMA went into effect on January 1, 2015; and

**WHEREAS**, various clarifying amendments to SGMA were signed into law in 2015, including Senate Bills 13 and 226, and Assembly Bills 617 and 939, allowing, among other things, mutual water companies and water corporations regulated by the Public Utilities Commission to participate in a GSA through a memorandum of agreement or other legal agreement; and

**WHEREAS**, the San Gorgonio Pass Subbasin (Basin), as further depicted in **Exhibit A** to this MOA, is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 7-21.04 of the Coachella Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the Parties recognize and agree that a portion of the Basin (the "Adjudicated Area") is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, and that pursuant to SGMA Section 10720.8(a)(1), said portion of the Basin generally is not subject to the requirements of SGMA and will not be managed by the SGP-GSA; and

**WHEREAS**, SGMA Section 10720.7 requires the Basin, as a medium priority basin which is not designated by DWR as being subject to critical conditions of overdraft, to be managed by a Groundwater Sustainability Plan (GSP) or coordinated GSPs by January 31, 2022; and

**WHEREAS**, SGMA Section 10727(b) authorizes (1) a single GSP covering the entire Basin developed and implemented by one GSA, (2) a single GSP covering the entire Basin developed and

implemented by multiple GSAs, or (3) multiple GSPs developed and implemented by multiple GSAs and coordinated pursuant to a single coordination agreement that covers the entire Basin; and

WHEREAS, SGMA Section 10735.2 requires the formation of a GSA or multiple GSAs for the Basin by June 30, 2017; and

WHEREAS, SGMA Section 10723.6(a) authorizes a combination of local agencies to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement, and SGMA Section 10723.6(b) authorizes a water corporation regulated by the Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

WHEREAS, for purposes of forming the SGP-GSA, as further depicted in **Exhibit B** to this MOA, CWD, Banning, and SGPWA are local agencies as defined by SGMA, and BHMWC is a mutual water company, wherein each overlies at least a portion of the Basin and each has respective water supply, water management, and/or land use responsibilities within the Basin, and thus each is authorized by SGMA to become part of the SGP-GSA; and

WHEREAS, pursuant to SGMA Section 10723(c)(1)(C), DWA has been established as the exclusive GSA for a certain portion of the Basin (herein, the DWA-GSA), as further specified and depicted in **Exhibit C** to this MOA; and

WHEREAS, on or about September 28, 2016, MSWD filed an amended notice of intent to be a GSA for an approximately one-square mile area in the northeastern portion of the Basin that lies within the service areas of MSWD and SGPWA, which one-square mile area is further specified and depicted in **Exhibit D** to this MOA and is referred to herein as the “Verbenia Area”; and

WHEREAS, on or about January 10, 2017, SGPWA also filed a notice of intent to be a GSA for the Verbenia Area, as further specified and depicted in **Exhibit D** to this MOA; and

WHEREAS, on or about January 13, 2017, DWR designated the Verbenia Area to be in overlap for purposes of the competing GSA notices filed by MSWD and SGPWA, and thus MSWD and SGPWA are working together to establish a separate GSA for the Verbenia Area (herein, the Verbenia-GSA); and

WHEREAS, in accordance with the terms of this MOA, and in furtherance of the shared intent of the Parties to maximize funding opportunities for the Basin and avoid potential intervention in the Basin by the State Water Resources Control Board, the Parties agree that the SGP-GSA formed by this MOA will cover the entire Basin except (A) that portion of the Basin covered by the DWA-GSA wherein DWA is the exclusive GSA, (B) that portion of the Basin to be covered by the Verbenia-GSA to be established by MSWD and SGPWA, and (C) the Adjudicated Area portion of the Basin, and the Parties mutually desire and intend that the SGP-GSA, the DWA-GSA, and the Verbenia-GSA will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin; and

WHEREAS, the Parties mutually desire and intend to work with local stakeholders and interested entities in the Basin that are not Parties to this MOA, including but not limited to the Morongo Band of Mission Indians (MBMI), the County of Riverside, High Valleys Water District,

overlying landowners, and others, and as further specified in this MOA, to carry out the policy, purposes, and requirements of SGMA in the Basin; and

**WHEREAS**, in accordance with SGMA Section 10720.3 and other applicable law, the Parties mutually understand and agree that nothing in SGMA and nothing in this MOA grants or confers any new or additional authority, discretion, or jurisdiction to any of the Parties over any Tribal lands or activities of the MBMI, and that any ongoing or continued participation by MBMI in relation to this MOA or the Parties' implementation of SGMA in the Basin is completely voluntary on the part of MBMI.

**NOW, THEREFORE**, in consideration of the promises, terms, conditions, and covenants contained herein, it is mutually understood and agreed as follows:

**I. Incorporation of Recitals**

The Recitals stated above are incorporated herein by reference.

**II. Purposes**

The purposes of this MOA are as follows:

- A. To form the SGP-GSA for a portion of the Basin as specified herein and as depicted in **Exhibit B** to this MOA pursuant to applicable provisions and requirements of SGMA, including but not limited to SGMA Sections 10723 and 10723.6; and
- B. To establish initial terms for the SGP-GSA, the DWA-GSA, and the Verbenia-GSA to cooperate and coordinate with each other in preparing and implementing one or more GSPs for the Basin and carrying out the policy, purposes, and requirements of SGMA in the Basin.

**III. Approval of MOA and Formation of the SGP-GSA**

Approval of this MOA and formation of the SGP-GSA shall be accomplished as follows:

- A. CWD, Banning, and SGPWA each will hold its own noticed public hearing pursuant to SGMA Section 10723(b) and Government Code Section 6066 and at such hearing will consider approval of a Resolution by its governing board to enter this MOA and jointly form the SGP-GSA as specified in this MOA;
- B. BHMWC will conduct an official meeting in accordance with any articles of incorporation, bylaws, or other laws applicable to BHMWC and at such meeting will consider approval of a Resolution by its governing board to enter this MOA and jointly form the SGP-GSA as specified in this MOA;
- C. DWA and MSWD each will hold its own regular or special meeting and at such meeting will consider approval of a Resolution by its governing board to enter this MOA;

D. Upon the foregoing approvals by CWD, Banning, BHMWC, and SGPWA, there shall be established the San Gorgonio Pass Subbasin Groundwater Sustainability Agency (SGP-GSA), the members of which shall be CWD, Banning, BHMWC, and SGPWA as provided in this MOA.

#### IV. Definitions

The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein. The Parties agree that any definitions set forth herein are intended to be consistent with SGMA, and in the event of any discrepancy between a defined term in this MOA and a defined term in SGMA, the terms of SGMA shall control.

- A. **Adjudicated Area** refers to that portion of the Basin that is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RJC 389197.
- B. **Basin** refers to the San Gorgonio Pass Subbasin, designated by the California Department of Water Resources Bulletin 118 as Subbasin No. 7-21.04, as further specified and depicted in **Exhibit A** to this MOA.
- C. **Banning** means the City of Banning.
- D. **BHMWC** means the Banning Heights Mutual Water Company.
- E. **CWD** means the Cabazon Water District.
- F. **DWA** means the Desert Water Agency.
- G. **DWR** means the California Department of Water Resources.
- H. **DWA-GSA** refers to the GSA that has been established for a certain portion of the Basin pursuant to SGMA Section 10723(c)(1)(C), wherein DWA has been designated as the exclusive GSA, as further specified and depicted in **Exhibit C** to this MOA.
  - I. **GSA** means Groundwater Sustainability Agency, as defined by SGMA.
  - J. **GSP** means Groundwater Sustainability Plan, as defined by SGMA.
  - K. **MBMI** means the Morongo Band of Mission Indians.
  - L. **Memorandum of Agreement** or **MOA** refers to this Memorandum of Agreement.
- M. **MSWD** means the Mission Springs Water District.
- N. **Party** or **Parties** refers individually or collectively to Cabazon Water District, City of Banning, Banning Heights Mutual Water Company, Mission Springs Water District, San Gorgonio Pass Water Agency, and Desert Water Agency, as signatories to this MOA.

- O. SGMA refers to the Sustainable Groundwater Management Act.
- P. SGP-GSA refers to the San Gorgonio Pass Subbasin GSA formed under this MOA, the members of which GSA are CWD, Banning, BHMWC, and SGPWA.
- Q. SGPWA means the San Gorgonio Pass Water Agency.
- R. Verbenia-GSA refers to a GSA to be formed by MSWD and SGPWA for an approximately one-square mile area in the northeastern portion of the Basin that lies within the service areas of MSWD and SGPWA, as further specified and depicted in **Exhibit D** to this MOA.

## V. **Boundaries of GSAs**

- A. The boundaries of the SGP-GSA shall be the entire Basin except (A) that portion of the Basin covered by the DWA-GSA wherein DWA is the exclusive GSA, as further specified and depicted in **Exhibit C** to this MOA, (B) that portion of the Basin to be covered by the Verbenia-GSA to be established by MSWD and SGPWA, as further specified and depicted in **Exhibit D** to this MOA, and (C) that portion of the Basin constituting the Adjudicated Area.
- B. The boundaries of DWA-GSA are that portion of the Basin within which DWA is the exclusive GSA pursuant to SGMA Section 10723(c)(1)(C), as further specified and depicted in **Exhibit C** to this MOA.
- C. The boundaries of the Verbenia-GSA are the approximately one-square mile area in the northeastern portion of the Basin that lies within the service areas of MSWD and SGPWA, as further specified and depicted in **Exhibit D** to this MOA.
- D. The Parties understand and agree that pursuant to SGMA Section 10720.8, the portion of the Basin which is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, generally is not subject to the requirements of SGMA.
- E. The Parties understand and agree in accordance with SGMA Section 10720.3 and other applicable law that nothing in SGMA and nothing in this MOA grants or confers any new or additional authority, discretion, or jurisdiction to any of the Parties over any Tribal lands or activities of the MBMI, and that any ongoing or continued participation by MBMI in relation to this MOA or the Parties' implementation of SGMA in the Basin is completely voluntary on the part of MBMI.

## VI. **Coordination and Cooperation**

- A. Continued Cooperation. The Parties to this MOA will continue to meet, confer, coordinate, and collaborate to discuss and develop technical, managerial, financial, and other criteria and procedures for the preparation, governance, and implementation of a GSP or coordinated GSPs in the Basin and to carry out the policy, purposes, and requirements of SGMA in the Basin.

- B. Points of Contact. Each Party shall designate a principal contact person for that Party, who may be changed from time to time at the sole discretion of the designating Party. The principal contact person for each Party shall be responsible for coordinating with the principal contact persons for the other Parties in scheduling meetings and other activities under this MOA.
- C. Management Areas. The Parties acknowledge that SGMA, and provisions of the SGMA regulations promulgated by DWR, including but not limited to Section 354.20 (23 C.C.R. § 354.20), authorize the establishment of management areas for the development and implementation of sustainable groundwater management within the Basin, and accordingly the Parties acknowledge and agree that the establishment of management areas within the Basin is a governance alternative that the Parties may explore.

## VII.

### Roles and Responsibilities

- A. The Parties agree to jointly establish their roles and responsibilities for implementing a GSP or coordinated GSPs for the Basin in accordance with SGMA.
- B. The Parties agree to work in good faith and coordinate all activities to carry out the purposes of this MOA in implementing the policy, purposes, and requirements of SGMA in the Basin.
- C. CWD, Banning, BHMWC, and SGPWA, as members of the SGP-GSA, shall coordinate with each other to cause all applicable noticing and submission of required information to DWR regarding formation of the SGP-GSA.
- D. SGPWA shall continue to undertake ongoing CASGEM reporting activities in the Basin as provided by terms outside of this MOA.
- E. As provided in this MOA, the Parties will continue to meet, confer, coordinate, and collaborate to discuss and develop governance, management, technical, financial, and other matters, including respective roles and responsibilities for activities such as, but not limited to, the following:
  - i. Modeling;
  - ii. Metering;
  - iii. Monitoring;
  - iv. Hiring consultants;
  - v. Developing and maintaining list of interested persons under SGMA Section 10723.4;
  - vi. Budgeting; and
  - vii. Other initial tasks as determined by the Parties.

## **VIII. Funding and Budgeting**

The Parties agree to cooperate and coordinate in pursuing state and/or federal grant and loan funding opportunities that may apply to carrying out SGMA in the Basin. The Parties shall mutually develop reasonable budgets and cost sharing agreements or arrangements for work to be undertaken in carrying out SGMA in the Basin.

## **IX. Stakeholder Access**

- A. The Parties agree to work together in ensuring public outreach and involvement of the public and other interested stakeholders throughout the SGMA process, including but not limited to all beneficial uses and users of groundwater as provided in SGMA Section 10723.2.
- B. The Parties acknowledge, agree, and desire that the preparation, adoption, and implementation of one or more GSPs for the Basin, and the ongoing process of ensuring compliance with the requirements of SGMA in the Basin, will involve close coordination and cooperation with the Morongo Band of Mission Indians.

## **X. Term, Termination, and Withdrawal**

- A. Term. This MOA shall continue and remain in effect unless and until terminated by the unanimous written consent of the Parties, or as otherwise provided in this MOA or as authorized by law.
- B. Withdrawal. Any Party may decide, in its sole discretion, to withdraw from this MOA by providing ninety (90) days written notice to the other Parties. A Party that withdraws from this MOA shall remain obligated to pay its share of costs and expenses incurred or accrued under this MOA and any related cost sharing agreement or arrangement up to the date the Party provides its notice of withdrawal as provided herein. Withdrawal by a Party shall not cause or require the termination of this MOA or the existence of the SGP-GSA with respect to the non-withdrawing Parties.
  1. In the event of withdrawal by BHMWC from this MOA and the SGP-GSA, CWD, Banning, and SGPWA, as the local agency parties to the SGP-GSA, shall meet and confer regarding: (i) whether the SGP-GSA wishes to retain its GSA status over the affected portion of the Basin; (ii) whether one or more of the local agency parties of the SGP-GSA wishes to retain GSA status over the affected portion of the Basin; or (iii) whether to address the GSA issues in a different manner. Any resolution of such and other GSA issues shall be undertaken in a manner that satisfies all requirements of SGMA and DWR, including any requirement to file new GSA notices.
  2. In the event of withdrawal by CWD, Banning, or SGPWA from this MOA and the SGP-GSA, said three local agency parties shall meet and confer regarding whether the withdrawing local agency party wishes to seek GSA status for a portion of the Basin underlying the service area or management area of the withdrawing party. Said three local agency parties also shall meet and confer regarding: (i) whether the SGP-GSA, or one or both of the non-withdrawing

local agency parties, wishes to retain GSA status over the affected portion of the Basin; (ii) whether to enter a co-GSA management or other arrangement with the withdrawing party; or (iii) whether to address the GSA issues in a different manner. Any resolution of such and other GSA issues shall be undertaken in a manner that satisfies all requirements of SGMA and DWR, including any requirement to file new GSA notices.

3. Any decision by DWA or MSWD not to execute this MOA, or any decision by DWA or MSWD to withdraw after executing this MOA shall not cause or require the termination of this MOA and shall not affect the formation or continued existence of the SGP-GSA.

## **XI. Notice Provisions**

All notices required by this MOA shall be made in writing and delivered to the respective representatives of the Parties at their respective addresses as follows:

Banning Heights Mutual Water Company  
President  
7091 Bluff Street  
Banning, CA 92220, Fax: 951-849-6068

City of Banning  
City Manager  
99 East Ramsey Street  
Banning, CA 92220, Fax: 951-922-3128

Cabazon Water District  
General Manager  
14618 Broadway  
P.O. Box 297  
Cabazon, CA 92230, Fax: 951-849-2519

Desert Water Agency  
General Manager  
1200 S Gene Autry Trail  
Palm Springs, CA 92264, Fax: 760-325-6505

San Gorgonio Pass Water Agency  
General Manager  
1210 Beaumont Avenue  
Beaumont, CA 92223, Fax: 951-845-0281

Mission Springs Water District  
General Manager  
66575 Second Street  
Desert Hot Springs, CA 92240, Fax: 760-329-2482

Any Party may change the address to which notices are to be given under this MOA by providing the other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices shall be effective upon receipt and shall be deemed received upon confirmed personal service, confirmed facsimile delivery, confirmed courier service, or on the fifth (5<sup>th</sup>) calendar day following deposit of the notice in registered first class mail.

## **XII. General Terms**

A. Amendments. Amendments to this MOA require unanimous written consent of all Parties and approval by the Parties' respective governing boards; provided, however, that amendments to this MOA pertaining to the SGP-GSA only require unanimous written consent and board approval of the members of the SGP-GSA.

B. Successors and Assigns. The terms of this MOA shall be binding upon all successors in interest and assigns of each Party; provided, however, that no Party shall assign its

rights or obligations under this MOA without the signed written consent of all other Parties to this MOA.

- C. Waiver. No waiver of any provision of this MOA by any Party shall be construed as a further or continuing waiver of such provision or any other provision of this MOA by the waiving Party or any other Party.
- D. Authorized Representatives. Each person executing this MOA on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this MOA on behalf of the respective Party.
- E. Exemption from CEQA. The Parties recognize and agree that, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this MOA nor the preparation or adoption of a GSP constitutes a “project” or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines, and therefore this MOA is expressly exempt from CEQA review.
- F. Governing Law and Venue. This MOA shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this MOA shall be brought and maintained to the extent allowed by law in the County of Riverside, California.
- G. Attorney's Fees, Costs, and Expenses. In the event of a dispute among any or all of the Parties arising under this MOA, each Party shall assume and be responsible for its own attorney's fees, costs, and expenses.
- H. Entire Agreement/Integration. This MOA constitutes the entire agreement among the Parties regarding the specific provisions of this MOA, and the Parties hereto have made no agreements, representations or warranties relating to the specific provisions of this MOA which are not set forth herein.
- I. Construction and Interpretation. The Parties agree and acknowledge that this MOA has been developed through a negotiated process among the Parties, and that each Party has had a full and fair opportunity to review the terms of this MOA with the advice of its own legal counsel and to revise the terms of this MOA, such that each Party constitutes a drafting Party to this MOA. Consequently, the Parties understand and agree that no rule of construction shall be applied to resolve any ambiguities against any particular Party as the drafting Party in construing or interpreting this MOA.
- J. Force Majeure. No Party shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond its reasonable control, (2) is not caused by the fault or negligence of such Party, (3) causes such Party to be unable to perform its obligations under this MOA, and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Party unable to perform shall promptly notify the other Parties in writing to the extent practicable. It shall further pursue its best efforts to resume its obligations under this MOA as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.

- K. Execution in Counterparts. This MOA may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.
- L. No Third Party Beneficiaries. This MOA is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right of any third party to bring an action to enforce any of the terms of this MOA.
- M. Timing and Captions. Any provision of this MOA referencing a time, number of days, or period for performance shall be measured in calendar days. The captions of the various articles, sections, and paragraphs of this MOA are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, terms, or intent of this MOA.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

*[Signature Pages to Follow]*

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

CITY OF BANNING

By: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

CABAZON WATER DISTRICT

By: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

BANNING HEIGHTS MUTUAL WATER COMPANY

By: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

SAN GORGONIO PASS WATER AGENCY

By: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

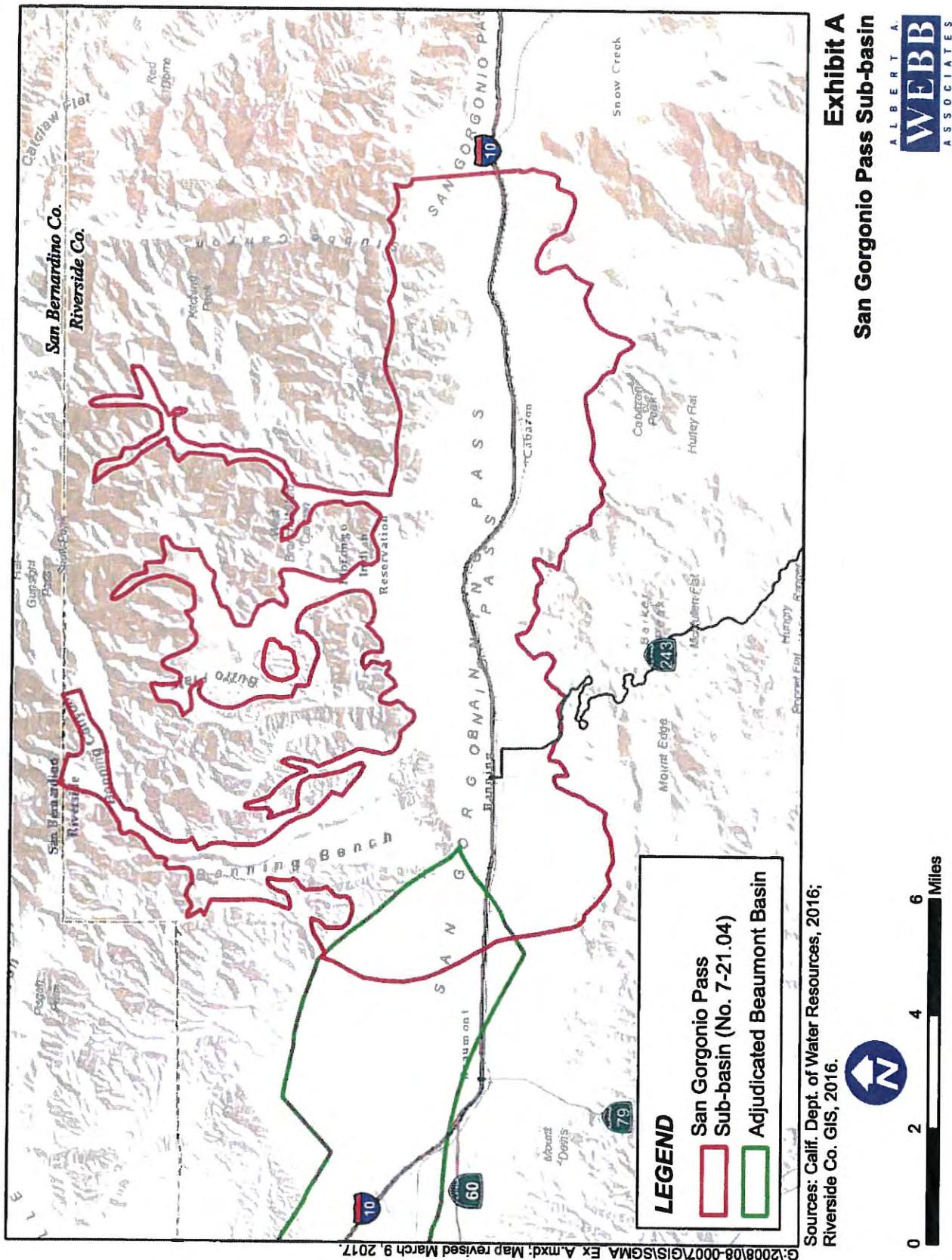
MISSION SPRINGS WATER DISTRICT

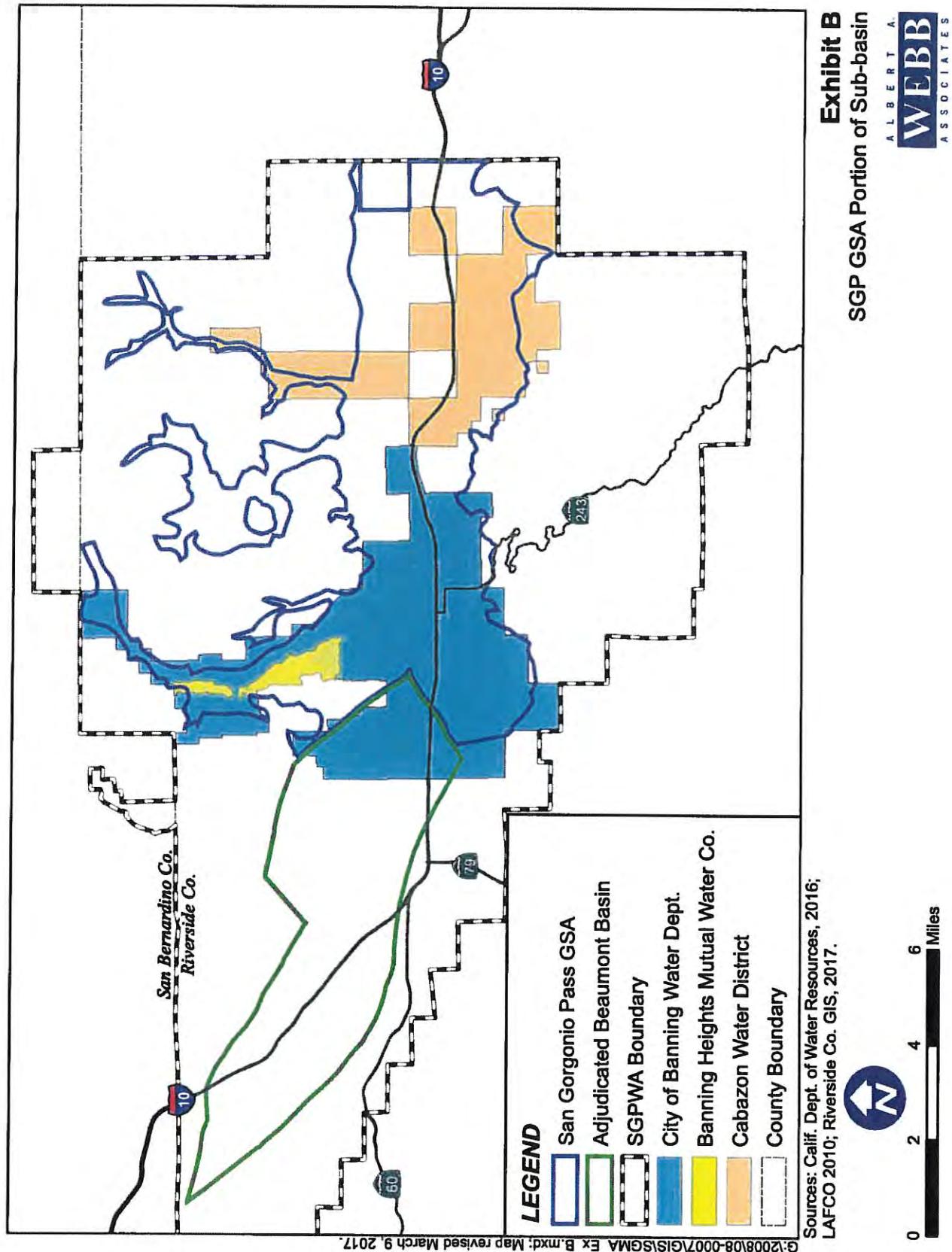
By: \_\_\_\_\_

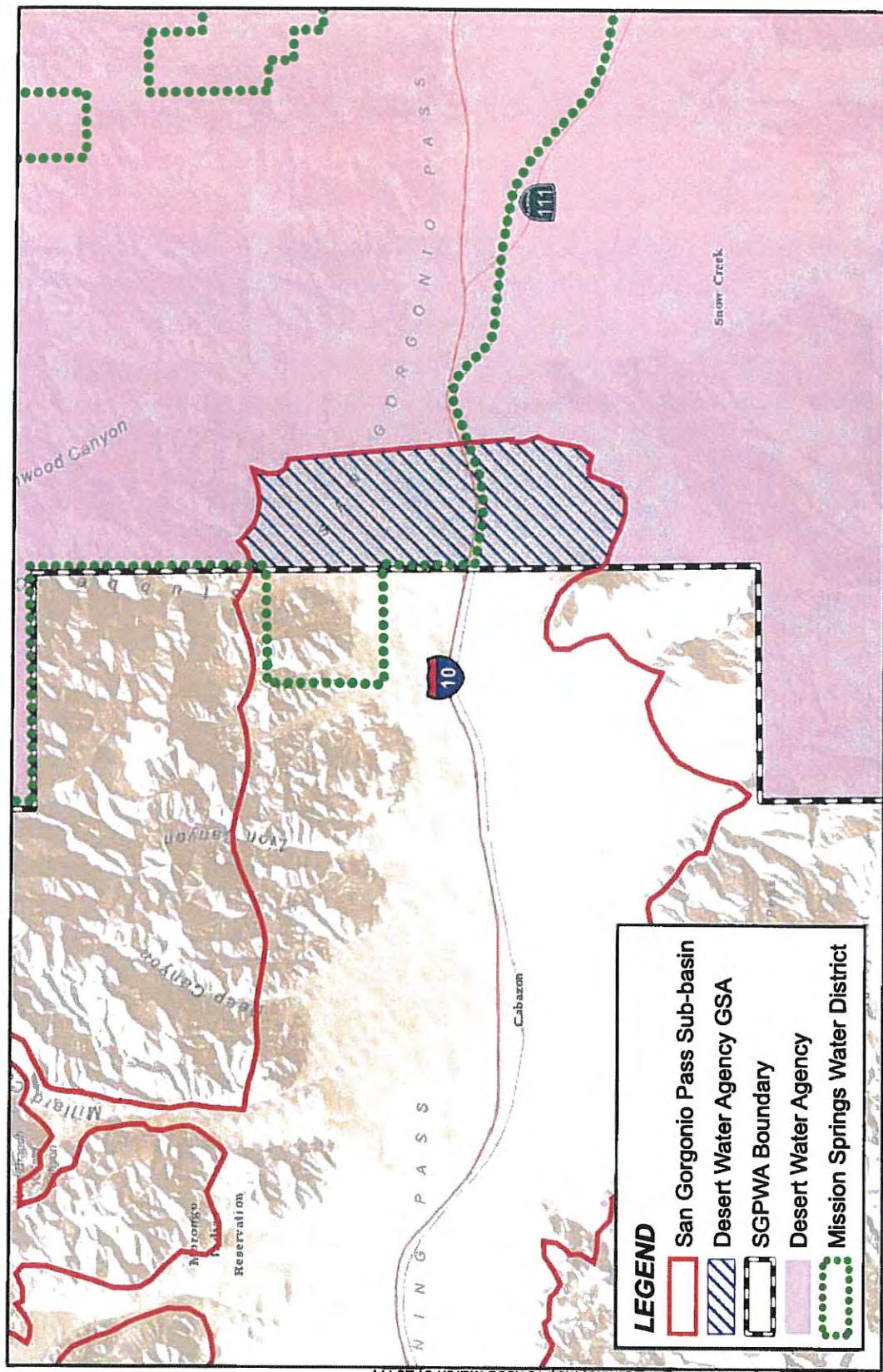
IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

DESERT WATER AGENCY

By: \_\_\_\_\_







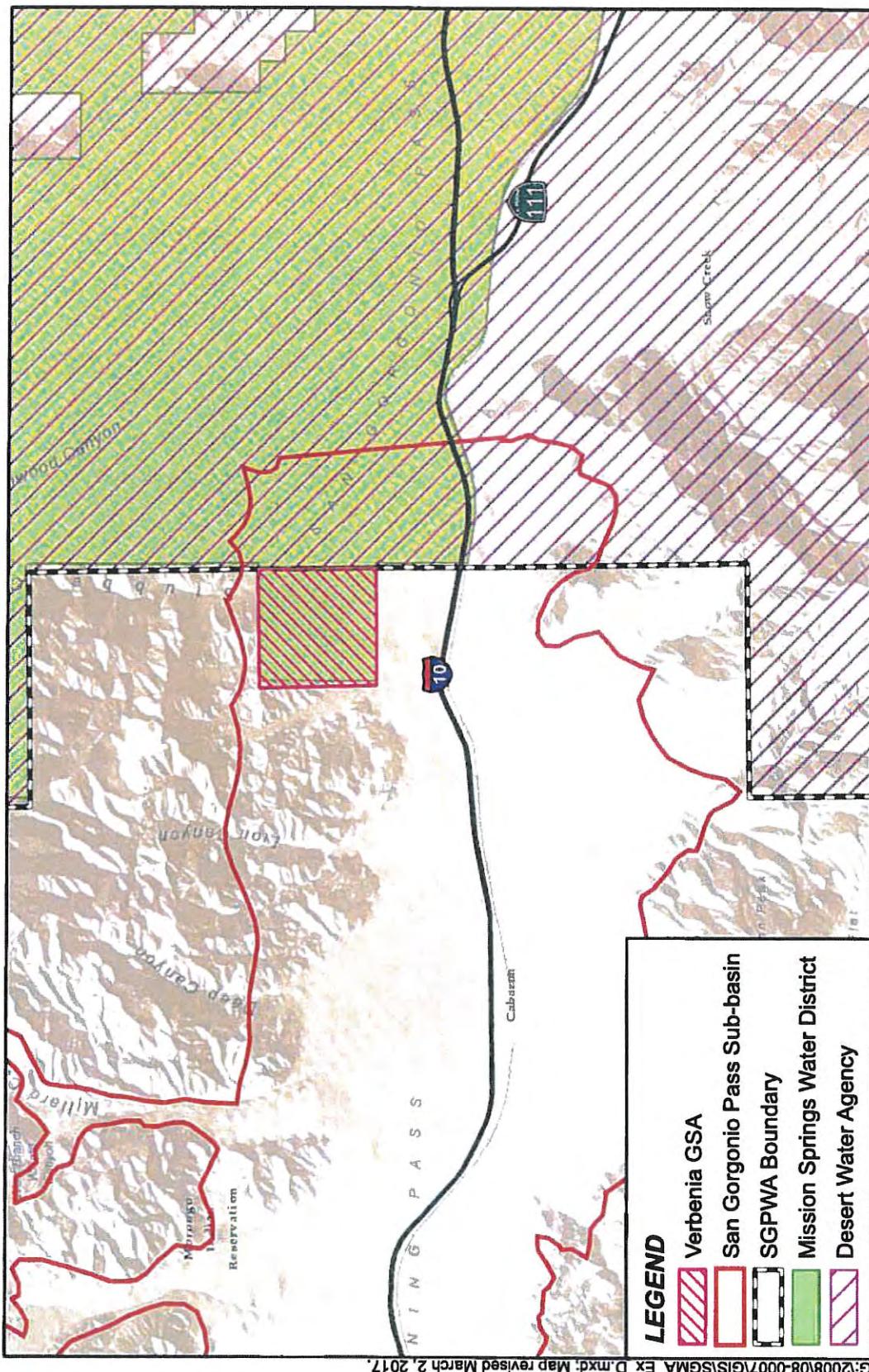
### Exhibit C

Desert Water Agency GSA

ALBERT A  
**WEBB**  
ASSOCIATES



Sources: Calif. Dept. of Water Resources, 2016;  
Riverside Co. GIS, 2016.



### Exhibit D

Verbenia GSA

ALBERT A.  
**WEBB**  
ASSOCIATES

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# **ATTACHMENT 3**

**(11/7/16 SGMA Workshop Staff Report)**



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Art Vela, Director of Public Works

**MEETING DATE:** November 7, 2016

**SUBJECT:** Discuss the Sustainable Groundwater Management Act

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**RECOMMENDATION:**

Discuss the approach taken by staff to comply with the requirements of the Sustainable Groundwater Management Act (SGMA) and to provide concurrence with the approach taken or provide direction on an alternative approach.

**JUSTIFICATION:**

The purpose of the SGMA workshop is to provide details of SGMA and to update City Council on progress made to comply with the requirements of SGMA.

**BACKGROUND:**

In September, 2014, Governor Jerry Brown signed Senate Bill 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (SGMA). The purposes of SGMA are to provide sustainable management of groundwater basins, enhance local management of groundwater, establish minimum standards for sustainable groundwater management, provide local groundwater agencies with the authority and tools necessary to sustainably manage groundwater and allow for state oversight and intervention if local agencies do not act.

The California Department of Water Resources (DWR) has designated groundwater basins and sub-basins as medium or high-priority, which are required to meet the requirements of SGMA. The City of Banning is within the San Gorgonio Sub-basin ("Basin") which has been classified as a medium-priority basin.

SGMA requires, by June 30, 2017, the formation of locally-controlled groundwater sustainability agencies (GSAs). Once formed, one of GSAs primary responsibilities is

to develop and implement a groundwater sustainability plan (GSP) for their basin or portion of their basin that they are managing. A GSP is to be implemented for the Basin by January 31, 2022.

Local agencies within the Basin responsible for complying with SGMA include: City of Banning, Cabazon Water District, San Gorgonio Pass Water Agency, Mission Springs Water District and Desert Water Agency. This group of agencies have met several times since SGMA was approved to agree to details on how to collectively comply with the requirements of SGMA, which can be accomplished in several ways.

At this point the group has discussed managing the Basin by three GSAs:

1. GSA consisting of the City of Banning, San Gorgonio Pass Water Agency, Cabazon Water District and Banning Heights Mutual Water District.
2. GSA consisting of Mission Springs Water District
3. GSA consisting of Desert Water Agency.

It should be noted that federally recognized tribes such as the Morongo Band of Mission Indians are not obligated to meet the requirements of SGMA and is the reason that they have not been included in item #1 above.

The purpose of the workshop is to provide City Council and the public with information regarding SGMA and to discuss progress made to comply with SGMA. Staff is seeking concurrence from City Council on the approach taken related to the development of a GSA made up of several water agencies.

#### **FISCAL IMPACT:**

None directly related to this workshop. SGMA related expenses will be related to attorney costs during the development of the GSA memorandum of understanding and costs related the preparation of technical studies to support the development of the GSP.

#### **OPTIONS:**

N/A

#### **ATTACHMENTS:**

1. Power Point Presentation

Reviewed by:



Art Vela,  
Public Works Director

Approved by:



Michael Rock,  
City Manager

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# **ATTACHMENT 4**

**(Public Hearing Publication)**

NOTICE OF PUBLIC HEARING TO CONSIDER CITY OF BANNING APPROVAL OF A  
MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY  
AGENCY WITH OTHER AGENCIES FOR A PORTION OF THE SAN GORGONIO  
PASS SUB-BASIN AND TO COORDINATE WITH OTHER GROUNDWATER  
SUSTAINABILITY AGENCIES

**NOTICE IS HEREBY GIVEN** pursuant to Section 10723(b) of the California Water Code and Section 6066 of the California Government Code that the City of Banning City Council will hold a public hearing to consider approving a Memorandum of Agreement (MOA) between the City of Banning, Cabazon Water District, Banning Heights Mutual Water Company, and San Gorgonio Pass Water Agency for the establishment of the San Gorgonio Pass Groundwater Sustainability Agency (SGP-GSA) pursuant to the Sustainable Groundwater Management Act (SGMA). If the City of Banning City Council and the other SGP-GSA entities approve the MOA, the SGP-GSA will be authorized to be formed over a certain portion of the San Gorgonio Pass Subbasin of the Coachella Valley Groundwater Basin (Subbasin). The MOA will also include Mission Springs Water District and Desert Water Agency as parties because those agencies have established or intend to establish separate groundwater sustainability agencies in the eastern portion of the Subbasin with whom the SGP-GSA will coordinate under SGMA. The public hearing of the City of Banning to consider approving the MOA will take place on March 28, 2017 at 5:00 p.m. in the City Council Chambers located at City Hall, 99 East Ramsey Street, Banning, California, 92220.

**ALL INTERESTED PARTIES** are invited to attend said hearing and present oral or written testimony on the matter or send their written comments to the City Clerk, P.O. Box 998, Banning, California 92220.

Information regarding the foregoing can be obtained by contacting the Engineering Division of the Public Works Department at the above address or by telephone at 951-922-3130. Data relevant to this matter will be available for public viewing at Banning City Hall, 99 E. Ramsey Street, Banning, California for the period of 14 days prior to the Public Hearing.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, if a public hearing is held on the proposal, you or someone else must have raised those issues at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

**BY ORDER OF THE CITY CLERK** of the City of Banning, California.

/s/ Marie A. Calderon, City Clerk  
City of Banning, California

DATED: March 9, 2017

PUBLISH: March 14, 2017 and May 21, 2017



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Fred Mason, Electric Utility Director  
Carla Young, Management Analyst

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-02, Awarding a Contract for Professional Tree Trimming Services to Utility Tree Service, Inc., in an amount not to exceed \$150,000 per year.

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### **RECOMMENDATION:**

Adopt City Council Resolution 2017-02:

- 1) Awarding a contract for professional tree trimming services (Agreement) to Utility Tree Service, Inc. (Exhibit "A"), in an amount not to exceed \$150,000 (including taxes), each year for an initial three-year term. The agreement provides for the option to renew for two (2) one-year terms with a 2% increase in each of the renewal years.
- 2) Authorizing the City Manager to execute the applicable documents related to the professional tree trimming services contract and approve any subsequent renewals as outlined in the Agreement.
- 3) Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers related to the Agreement.

### **JUSTIFICATION:**

Approval of Resolution 2017-02 would allow the City to maintain the right-of-way tree trimming necessary to maintain reliability of the electrical system. This service also includes maintaining vegetation clearance around the base of the Electric poles as

required by Cal Fire. Utility Tree Service, Inc. ("Utility Tree") is the lowest responsive bidder.

### **BACKGROUND:**

Tree clearance is a requirement mandated by the Public Utilities Commission, General Order 95 of the State of California's Electrical General Orders. It is also a good practice of the utility operations to ensure the reliability of the City's electrical system. The tree trimming will provide the necessary clearance to the City of Banning's electrical distribution system that covers 34kV/12kV/4kV three-phase circuits, and the 7.2 kV and 2.4 kV single-phase circuits.

Per American National Standards Institute (ANSI) Z133.1, an electrical hazard exists when a worker, a tool, or any conductive object is closer than 10 feet (3 meters) from an energized conductor rated 50 kV or less. When an electrical hazard exists, minimum clearances shall be maintained, and only qualified line clearance tree trimmers or qualified line clearance tree trimmer trainees shall perform the work.

The following list includes the firms that submitted proposals in alphabetical order, with the proposed hourly prices included.

Utility Tree Service			
Tree Trimming	2 Man: \$110	3 Man: \$145	4 Man: \$150
Vegetation	2 Man: \$70	3 Man: \$95	4 Man: \$110
West Coast Arborists			
Tree Trimming	2 Man: \$128	3 Man: \$192	4 Man: \$256
Vegetation	2 Man: \$128	3 Man: \$192	4 Man: \$256

Utility Tree is the world's largest provider of line clearance tree trimming and has been in business for 86 years. Utility Tree has provided commendable tree trimming line clearance services to City of Banning previously, and their tree trimmers have the required line clearance certifications. All equipment such as trim lifts, aerial buckets, dump trucks, stump grinders, log splitters, chippers and other essential equipment necessary for tree trimming shall be provided by the contractor.

### **FISCAL IMPACT:**

The Electric Department FY 2016-17 budget was approved by Council on June 22, 2016. This budget included \$150,000.00 annually for tree trimming services. Funds are available in account 670-7000-473.23-17 to cover this expense.

**OPTIONS:**

1. Adopt Resolution 2017-02, approving the award of the professional tree trimming services contract to Utility Tree.
2. Do not approve the award of the professional tree trimming services contract to Utility Tree, and either award to the alternate bidder or go out for additional bids, which may cause the City to incur additional costs. This option would also delay the upkeep of tree trimming and may cause the City to be out of compliance with Public Utilities Commission, General Order 95 of the State of California's Electrical General Orders as well as may create potential fire hazards within the City.
3. Reject all bids. This option would also delay the upkeep of tree trimming and may cause the City to be out of compliance with Public Utilities Commission, General Order 95 of the State of California's Electrical General Orders as well as may create potential fire hazards within the City. In addition, the delay of the upkeep of tree trimming may cause the City to have more trees grow into power lines and cause potential power outages throughout the City.

**ATTACHMENTS**

- 1) Resolution 2017-02
- 2) Exhibit A: Contract Services agreement between the City of Banning and Utility Tree Service, Inc.
- 3) Exhibit B: Utility Tree tabulation
- 4) Exhibit C: Summary of Bids Received
- 5) Exhibit D: Utility Tree Bid Proposal

Approved by:



Michael Rock  
City Manager

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# **ATTACHMENT 1**

**RESOLUTION NO. 2017-02**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING  
THE AWARD OF THE CONTRACT FOR THE CITY OF BANNING AGREEMENT:  
“TREE TRIMMING SERVICES” BETWEEN THE CITY OF BANNING AND UTILITY  
TREE SERVICE, INC.**

**WHEREAS**, the City of Banning owns and operates its Municipal Electric Utility; and

**WHEREAS**, it is essential that the City retain tree trimming services to comply with Public Utilities Commission, General Order 95 of the State of California's Electrical General Orders; and

**WHEREAS**, Staff solicited bids and received two bid proposals for the Professional Tree Trimming Service; and

**WHEREAS**, Utility Tree is the lowest responsible bidder; and

**WHEREAS**, funds to cover the expense for said Agreement are available in the Electric Fund account 670-7000-473-23.17;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

**SECTION 1:** Award a contract for professional tree trimming services to Utility Tree Service, Inc. (“Utility Tree”), attached herewith as Exhibit “A”, in the amount not to exceed \$150,000.00 (One Hundred Fifty Thousand Dollars), including taxes, each year for the initial three-year term. The agreement provides for the option to renew for two one-year terms with a 2% increase in each of the renewal years.

**SECTION 2:** Authorize the City Manager to execute the applicable documents related to the Professional Tree Trimming Service contract and approve any subsequent renewals as outlined in the Agreement.

**SECTION 3:** Authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers related to the agreement.

**PASSED, APPROVED, AND ADOPTED** this 28th day of March 2017.

---

George Moyer, Mayor  
City of Banning

**ATTEST:**

---

Marie A. Calderon, City Clerk  
City of Banning

**APPROVED AS TO FORM  
AND LEGAL CONTENT**

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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 foregoing Resolution 2017-02, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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

# **ATTACHMENT 2**

## **Exhibit “A”**

**CONTRACT FOR PROFESSIONAL SERVICES  
BETWEEN  
THE CITY OF BANNING  
AND  
UTILITY TREE SERVICE, INC.**

This AGREEMENT is entered into this 14<sup>th</sup> day of March, 2017, by and between the CITY OF BANNING, a general law city a municipal corporation ("CITY") and UTILITY TREE SERVICE, INC., a Pennsylvania corporation ("CONTRACTOR").

**R E C I T A L S**

- 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 Contractor 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 Contractor to perform the services as described in Exhibit A of this Agreement.

**NOW, THEREFORE**, based on the foregoing recitals, the City and the Contractor agree as follows:

**1. CONSIDERATION AND COMPENSATION**

- A. As partial consideration, CONTRACTOR agrees to perform the work listed in the SCOPE OF SERVICES, attached as EXHIBIT A;
- B. As additional consideration, CONTRACTOR and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay CONTRACTOR \$150,000.00 per year for a total of \$450,000.00 during the contract term with a 2% rate increase upon contract renewal, for CONTRACTOR'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. CONTRACTOR 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 Contractor all uncontested amounts set

forth in the Contractor's bill within 30 days after it is received.

**2. SCOPE OF SERVICES.**

- A. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR by this Agreement.

**3. PAYMENTS.** For CITY to pay CONTRACTOR as specified by this Agreement, CONTRACTOR 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, CONTRACTOR represents that CONTRACTOR 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.** CONTRACTOR's key person assigned to perform work under this Agreement is David Stall. CONTRACTOR 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 March 13, 2020 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 CONTRACTOR 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. CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR shall, at CITY's option, become CITY's property, and CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR'S legal counsel unacceptable, then CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

**13. ASSIGNABILITY.** This Agreement is for CONTRACTOR's professional services. CONTRACTOR'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 CONTRACTOR agree that CONTRACTOR will act as an independent contractor and will have control of all work and the manner in which it is performed. CONTRACTOR will be free to contract for similar service to be performed for other employers while under contract with CITY. CONTRACTOR 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 CONTRACTOR as to the details of doing the work or to exercise a measure of control over the work means that CONTRACTOR will follow the direction of the CITY as to end results of the work only.

**15. AUDIT OF RECORDS.**

- A. CONTRACTOR agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONTRACTOR 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. CONTRACTOR further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.
- B. CONTRACTOR will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

**16. CORRECTIVE MEASURES.** CONTRACTOR will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONTRACTOR will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONTRACTOR to implement required corrective measures shall result in immediate termination of this Agreement.

**17. INSURANCE REQUIREMENTS.**

- A. The CONTRACTOR, at the CONTRACTOR'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 Contractor 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 CONTRACTOR 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 CONTRACTOR shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONTRACTOR 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.

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. CONTRACTOR 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 CONTRACTOR, 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, 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. CONTRACTOR 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 CONTRACTOR shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- E. The CONTRACTOR 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 CONTRACTOR 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 CONTRACTORS.** CONTRACTOR must obtain CITY's prior written approval to use any contractors while performing any portion of this Agreement. Such approval must include approval of the proposed contractor and the terms of compensation.

**19. FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE.** The acceptance by the CONTRACTOR 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 CONTRACTOR for anything done, furnished or relating to the CONTRACTOR'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 CONTRACTOR, its employees, sub-contractors 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 Contractor, its employees, sub-contractors and agents.

**20. CORRECTIONS.** In addition to the above indemnification obligations, the CONTRACTOR shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Contractor's report or plans. Should the Contractor 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 CONTRACTOR. 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 CONTRACTOR under this Agreement up to the amount of the cost of correction.

21. **NON-APPROPRIATION OF FUNDS.** Payments to be made to CONTRACTOR by CITY for services performed 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 CONTRACTOR'S services beyond the current fiscal year, the Agreement shall cover payment for CONTRACTOR'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	CONTRACTOR
<u>City of Banning</u> <u>99 East Ramsey Street</u> <u>Banning, CA 92220</u>	<u>Utility Tree Service, Inc.</u> <u>12976 Robleda Cove</u> <u>San Diego, CA 92128</u>
<u>ATTN: City Manager</u>	<u>ATTN: David Stall</u>

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.** CONTRACTOR maintains and warrants that it has not employed nor retained any company or person, other than CONTRACTOR's bona fide employee, to solicit or secure this Agreement. Further, CONTRACTOR warrants that it has not paid nor has it agreed to pay any company or person, other than CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONTRACTOR'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, CONTRACTOR represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONTRACTOR represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private contractors, and experience in dealing with public agencies all suggest that CONTRACTOR 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 Contractor initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Contractor hereby acknowledge that Contractor is a "Contractor" for the purposes of the California Political Reform Act because Contractor'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 Contractor employed by the City. Contractor 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 Contractor commencing services hereunder, the City's Manager shall prepare and deliver to Contractor a memorandum detailing the extent of Contractor's disclosure obligations in accordance with the City's Conflict of Interest Code.

City Initials \_\_\_\_\_  
Contractor Initials 

OR

By their initials next to this paragraph, City and Contractor hereby acknowledge that Contractor is not a "Contractor" for the purpose of the California Political Reform Act because Contractor's duties and responsibilities are not within the scope of the definition of Contractor 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 \_\_\_\_\_  
Contractor Initials 

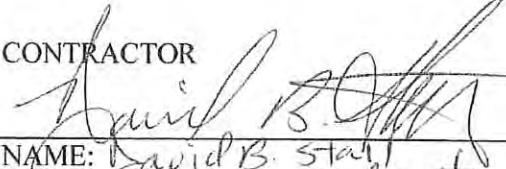
IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF BANNING

MICHAEL ROCK, CITY MANAGER

CONTRACTOR

By:

  
NAME: David B. Stark

TITLE: Vice President

By:

NAME:

TITLE:

ATTEST:

Marie A. Calderon, City Clerk

23-2737122

Tax ID No.

APPROVED AS TO FORM:

John C. Cotti, Interim City Attorney

Two signatures are required if a corporation

NOTE: CONTRACTOR'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

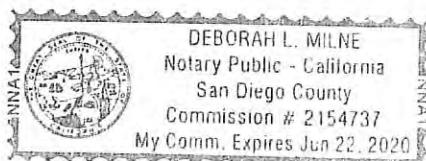
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California \_\_\_\_\_  
 County of San Diego \_\_\_\_\_  
 On February 24, 2017 before me, Deborah L. Milne  
 Date \_\_\_\_\_ Here Insert Name and Title of the Officer  
 personally appeared David B. Stull \_\_\_\_\_  
 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 Deborah Milne \_\_\_\_\_  
 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: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

Capacity(ies) Claimed by Signer(s)

Signer's Name: David B. Stull

Corporate Officer — Title(s): Vice President

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: Utility Tree Service

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



January 24, 2017

City Clerk  
City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

RE: Invitation For Bid NO. 17-004 "UTILITY TREE TRIMMING SERVICES"

Utility Tree Service is pleased to submit the attached bid proposal for IFB NO. 17-004.

Utility Tree Service is the largest provider of line clearance tree trimming in Southern California.

We look forward to being of service to you. If you have any questions please do not hesitate to contact me at 858-673-9378.

Sincerely,



David B. Stall  
Vice President  
Utility Tree Service

Attachment

SECTION 1.3  
OF  
PROCEDURAL DOCUMENTS

BID

Bid of Utility Tree Service,  
hereinafter called "bidder", organized and existing under the laws of the State of  
California, doing business as "a 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 Bid and Instruction to Bidders, Bidder hereby  
proposes to perform all work for the **IFB NO. 17-004 "UTILITY TREE TRIMMING  
SERVICES"** 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

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

IFB NO. 17-004 "UTILITY TREE TRIMMING SERVICES"

ITEM NO.	TYPE OF SERVICE	BID PRICE (HOURLY)		
		2 Man Crew	3 Man Crew	4 Man Crew
1	Tree Trimming	\$110.00	\$145.00	\$150.00
2	Vegetation Clearing Around Power Poles	\$ 70.00	\$ 95.00	\$110.00

Notes:

1. The above hourly Bid price includes all the cost of operation including labor and equipment.
2. "Tree Trimming" crews and "Vegetation Clearing Around Power Poles" crews should be bid on separate lines.
3. Multiple crews may be required on an as needed basis.
4. Upon award of Contract, the contractor will be required to provide the city with a further breakdown of the cost to perform the work.
5. The awarded vendor is to enter into a three year contract term with a maximum term and any subsequent amendments or modifications not exceeding five (5) years, (Terms: 3 years with 2-1 year renewals). If mutually agreed upon renewals of said contract, vendor will be authorized to include a maximum 2% annual rate increase.

# **ATTACHMENT 3**

## **Exhibit “B”**

**IFB no. 17-004 Utility Tree Trimming Services**

**Utility Tree Service, Inc. 3-5 Year Contract**

<b>Utility Tree Service, Inc.</b>	<b>Unit of Measure</b>	<b>Crew Type</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
UTILITY TREE SERVICE CONTRACT	Annual		\$150,000.00	\$150,000.00	\$150,000.00	\$153,000.00	\$156,060.00
Tree Trimming	Hourly	2 Man Crew	\$110.00	\$110.00	\$110.00	\$112.20	\$114.44
		3 Man Crew	\$145.00	\$145.00	\$145.00	\$147.90	\$150.85
		4 Man Crew	\$150.00	\$150.00	\$150.00	\$153.00	\$156.06
Vegetation	Hourly	2 Man Crew	\$70.00	\$70.00	\$70.00	\$71.40	\$72.82
		3 Man Crew	\$95.00	\$95.00	\$95.00	\$96.90	\$98.83
		4 Man Crew	\$110.00	\$110.00	\$110.00	\$112.20	\$114.44

**Vendor Notes**

**\*Certified line clearance tree trimmers**

**\*\*Negotiated Terms:** Term of the Agreement will be for 3 years with 2-1 year renewal options. After the 3rd year, there will be a 2% increase upon each renewal year.

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# **ATTACHMENT 4**

## **Exhibit “C”**

**CITY OF BANNING**  
**IFB No. 17-004 Utility Tree Trimming Services**

DESCRIPTION		UNIT OF MEASURE	Utility Tree Service				West Coast Arborists, Inc.				
			Bid Bond	Price for 2 Man Crew	Price for 3 Man Crew	Price for 4 Man Crew	Bid Bond	Price for 2 Man Crew	Price for 3 Man Crew	Price for 4 Man Crew	
1	Tree Trimming	1	HR	N/A	\$ 110.00	\$ 145.00	\$ 150.00	Yes	\$ 128.00	\$ 192.00	\$ 256.00
2	Vegetation Clearing Around Power Poles	1	HR		\$ 70.00	\$ 95.00	\$ 110.00		\$ 128.00	\$ 192.00	\$ 256.00
3	Contractor's License				#797566 - Exp. 07/31/17				#366764 - Exp. 12/31/18		
4	Type of License(s)				D49 Tree Service				C-61 / D-49, C-27		
	Vendor Packet Information										
	Contact Person for Agreement				David B. Stall				Victor Gonzalez		
	Title				Vice President				V.P. Marketing		
	Address				12976 Robleda Cove				2200 E. Via Burton Street		
	City, State & Zip				San Diego, Ca 92128				Anaheim, Ca 92806		
	Phone				858-673-9378				714-991-1900 or 800-521-3714		
	Notes								Submitted bid bond; not required.		

**SUMMARY OF BIDS RECEIVED (REVISED)**  
**CITY OF BANNING**

IFB NO.: 17-004

DESCRIPTION: Utility Tree Trimming Services

BID OPENING DATE: February 7, 2017 TIME: 10:00 A.M.

NAME OF BIDDER:	SERVICE:	TOTAL BID AMOUNT:		
		2 Man Crew	3 Man Crew	4 Man Crew
Utility Tree Service	Trimming	\$110.00	\$145.00	\$150.00
	Vegetation	\$70.00	\$95.00	\$110.00
West Coast Arborists	Trimming	\$128.00	\$192.00	\$256.00
	Vegetation	\$128.00	\$192.00	\$256.00

VERIFIED BY: JENNIFER MCCOY (See attached signature)

SUSAN ROCK (See attached signature)

**SUMMARY OF BIDS RECEIVED  
CITY OF BANNING**

**IFB NO.: 17-004**

**DESCRIPTION: Utility Tree Trimming Services**

**BID OPENING DATE: February 7, 2017 TIME: 10:00 A.M.**

		2 MAN CREW	3 MAN CREW	4 MAN CREW
TRIMMING VEGETATION	NAME OF BIDDER:	TOTAL BID AMOUNT:		
TRIMMING VEGETATION	Utility Tree Service	\$ 110-	145-	150-
	West Coast Arborists	\$ 70-	95-	110-
		\$ 128-	128-	128-
			192	256-
				192

**VERIFIED BY:**

Angie McCoy  
Summer J. Rock

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# **ATTACHMENT 5**

## **Exhibit “D”**



January 24, 2017

City Clerk  
City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

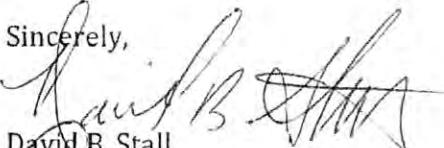
RE: Invitation For Bid NO. 17-004 "UTILITY TREE TRIMMING SERVICES"

Utility Tree Service is pleased to submit the attached bid proposal for IFB NO. 17-004.

Utility Tree Service is the largest provider of line clearance tree trimming in Southern California.

We look forward to being of service to you. If you have any questions please do not hesitate to contact me at 858-673-9378.

Sincerely,



David B. Stall  
Vice President  
Utility Tree Service

Attachment

SECTION 1.3  
OF  
PROCEDURAL DOCUMENTS

BID

Bid of Utility Tree Service,  
hereinafter called "bidder", organized and existing under the laws of the State of  
California, doing business as "a 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 Bid and Instruction to Bidders, Bidder hereby  
proposes to perform all work for the **IFB NO. 17-004 "UTILITY TREE TRIMMING  
SERVICES"** 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

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

IFB NO. 17-004 "UTILITY TREE TRIMMING SERVICES"

ITEM NO.	TYPE OF SERVICE	BID PRICE (HOURLY)		
		2 Man Crew	3 Man Crew	4 Man Crew
1	Tree Trimming	\$110.00	\$145.00	\$150.00
2	Vegetation Clearing Around Power Poles	\$ 70.00	\$ 95.00	\$110.00

Notes:

1. The above hourly Bid price includes all the cost of operation including labor and equipment.
2. "Tree Trimming" crews and "Vegetation Clearing Around Power Poles" crews should be bid on separate lines.
3. Multiple crews may be required on an as needed basis.
4. Upon award of Contract, the contractor will be required to provide the city with a further breakdown of the cost to perform the work.
5. The awarded vendor is to enter into a three year contract term with a maximum term and any subsequent amendments or modifications not exceeding five (5) years, (Terms: 3 years with 2-1 year renewals). If mutually agreed upon renewals of said contract, vendor will be authorized to include a maximum 2% annual rate increase.

## ADDENDA

Bidder acknowledges receipt of the following Addenda:

Addendum No.: \_\_\_\_\_ DATED: \_\_\_\_\_

Addendum No.: \_\_\_\_\_ DATED: \_\_\_\_\_

Addendum No.: \_\_\_\_\_ DATED: \_\_\_\_\_

NOTE: All addenda shall be signed by the Bidder and submitted with the bid package.

NON COLLUSION AFFIDAVIT

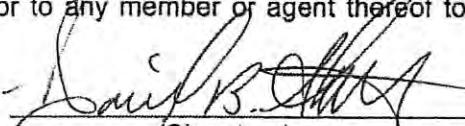
STATE OF CALIFORNIA

COUNTY OF San Diego, being

first duly sworn, the party making the

(Name of Bidder) Utility Tree Service

foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

  
(Signature)

David B. Stall

(Typed Name)

SUBSCRIBED BEFORE ME on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

My commission Expires:

06/20/2019

PLEASE SEE ATTACHED  
NOTORIAL  
CERTIFICATE

## CALIFORNIA JURAT

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 San Diego }

Subscribed and sworn to (or affirmed) before me on this 24th day of January, 2017

by David B. Stall

Date

Month

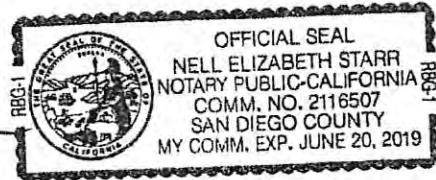
Year

*Name of Signers*

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: Nell Elizabeth Starr

*Signature of Notary Public*



*Seal*

Place Notary Seal Above

### OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent attachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Non-Collision Affidavit

Document Date:

1/24/2017

Number of Pages:

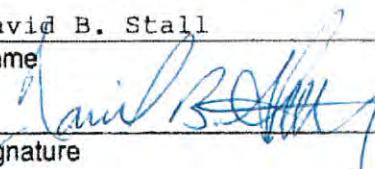
Signer(s) Other Than Named Above:

DECLARATION OF ACCURACY

I, the undersigned, declare under penalty of perjury that the information presented in this bid, including without limitation the Contractor's license number and expiration date, are true and correct to the best of my knowledge. The bid of any Bidder not signed by the Bidder, or not containing the Bidder's license number and license expiration date, or containing information which is subsequently proven false, shall be considered non-responsive and shall be rejected.

David B. Stall

Name

  
Signature

Vice President

Title

January 24, 2017

Date

797566

Contractor's License No.

23-2737122

Federal ID No. (If applicable)

(SEAL - If Bid is by a corporation)

ATTEST



16486 Bernardo Center Dr.  
Address Suite 318

San Diego, CA 92128  
City, State, Zip

(858)798-5220  
Telephone

D49 Tree Service  
Type of License

07/31/2017  
Expiration Date of License

UTILITY TREE SERVICE, INC.

(Pennsylvania Corporation)

OFFICERS

President	Larry M. Moore	17 Poplar Road, Chadds Ford, PA 19317
Vice President	David B. Stall	12976 Robleda Cove, San Diego, CA 92128
Secretary-Treasurer	Brian R. Bauer	23 Cameo Drive, Richboro, PA 18954
Assistant Secretary	George D. Licci	2273 Sunrise Way, Jamison, PA 18929
Asst. Secretary (Title Clerk)	John L. Talbot	201 Casey Way, Hatfield, PA 19440
Asst. Secretary (Title Clerk)	James E. Fiant	311 Amberly Drive, Blue Bell, PA 19422
Asst. Secretary (Ins./Bonds)	Dennis A. Stapola	36 Buckwalter Road, Audubon, PA 19407
Asst. Treasurer (Taxes)	Ronald S. Simpson	1760 Ludwell Drive, Maple Glen, PA 19002

DIRECTORS

Larry M. Moore	17 Poplar Road, Chadds Ford, PA 19317
Joseph P. Dwyer	108 Elk Court, Blue Bell, PA 19422
George E. Graham, Jr.	1820 Valley Road, Meadowbrook, PA 19046

CERTIFICATION  
LABOR CODE - SECTION 1861

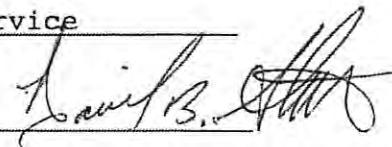
I, the undersigned Contractor, am aware of the provisions of Section 3700 et. Seq. of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor agrees to utilize federal job classifications for the submittal of the certified payrolls and further agrees to pay all of its employees the higher of the prevailing State or Federal wages.

CONTRACTOR:

Utility Tree Service  
Firm Name

David B. Stall  
By



Vice President  
Title

## QUESTIONNAIRE REGARDING BIDDERS

Number of years engaged in the contracting business under present business name  
22 plus years.

List of at least the last three contracts performed which show experience in working on a project of a nature similar to that covered in this proposal. If none, so indicate. Attach separate list of references if necessary.

Year	Type of Work	Contract Amt.	Location	Contact person/phone
1 16	Line Clear.	\$500,000	City of Pasadena	J. Barber 626-744-6982
2 16	Line Clear.	\$40 Mill.	Southern Cal. Edison	V. Oatis 909-421-6491
3 16	Line Clear.	\$ 8 Mill.	SDG&E	D. Akau 858-654-8631
4				
5				
6				
7				

State of California Contractor's License No.: 797566

Contractor's License Expiration Date: 07/31/2017

PUBLIC WORKS CONTRACTOR ( PWC ) REGISTRATION

Legal Name	Registration Number	County	City	Registration Date	Expiration Date
UTILITY TREE SERVICE INC	1000028768	SAN BERNARDINO	SAN BERNARDINO	06/20/2016	06/30/2017
UTILITY TREE SERVICE, INC.	1000010418	SHASTA	REDDING	06/14/2016	06/30/2017

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## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Alejandro Diaz, Chief of Police  
Phil Holder, Captain

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-36 Accepting the 2016-2017 City Law Enforcement Grant in the Amount of \$69,198

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### **RECOMMENDATION:**

The City Council adopt Resolution 2017-36 authorizing the acceptance of the 2016-2017 City Law Enforcement Grant in the amount of \$69,198 and authorize the Banning Police Department to utilize the funds to pay police officers working on an overtime basis to address issues related to the homeless population in the City.

### **JUSTIFICATION:**

The intended use of the 2016-2017 City Law Enforcement Grant by the Banning Police Department is consistent with the authorized use of the funds monitored under the California Board of State and Community Relations.

### **BACKGROUND:**

On December 8, 2016, the City of Banning Police was notified by the California Board of State and Community Relations that it was eligible to receive \$69,198 through the 2016-2017 City Law Enforcement Grant managed through the Corona Police Department. The funding must be used to supplement law enforcement activities and not supplant existing funds. The police department's decision to use the funds to address issues with the homeless population in the City meets the requirements under the grant.

Legislation requires the City Council to officially accept the 2016-2017 City Law Enforcement Grant and approve the police department's anticipated use of the funds.

**FISCAL IMPACT:**

On March 15, 2017 the Banning Police Department received a check from the City of Corona for the entire amount of the grant. Subsequently, the funding is immediately available for use without affecting the general fund. There is no city match required for this grant.

**OPTIONS:**

1. Adopt Resolution 2017-36
2. Reject Resolution 2017-36 and provide direction to staff.

**STRATEGIC PLAN OBJECTIVE:**

This request supports the City's strategic goal related to "Public Health and Safety".

**ATTACHMENT:**

- 1) Resolution 2017-36

Approved by:



Michael Rock  
City Manager

# **ATTACHMENT 1**

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RESOLUTION 2017-36

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE ACCEPTANCE OF THE 2016-2017 CITY LAW ENFORCEMENT GRANT IN THE AMOUNT OF \$68,198 AND AUTHORIZING THE BANNING POLICE DEPARTMENT TO USE THE FUNDS FOR POLICE OFFICERS WORKING ON AN OVERTIME BASIS TO ADDRESS ISSUES RELATED TO THE HOMELESS POPULATION IN THE CITY.**

**WHEREAS**, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and,

**WHEREAS**, grants provided by State and Federal monies assist in supplementing these services; and,

**WHEREAS**, the City Council is required to accept and appropriate the allocation of anticipated funds from this grant; and,

**WHEREAS**, the grant funds will provide the Banning Police Department with funding to pay for officers working overtime to address issues related to the homeless population in the City.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning accepts the 2016-2017 City Law Enforcement Grant in the amount of \$68,198 and appropriates funds, already received from the City of Corona, into the Police Department's Overtime account to be used by the Banning Police Department to pay officers working on an overtime basis to address issues related to the homeless population in the City. The Finance Department is authorized to make the necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 28th day of March 16, 2017.

---

George Moyer, 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 2017-36 was duly adopted by the City Council of the City of Banning at the regular meeting thereof held on the 28<sup>th</sup> day of March, 2017, 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:** Rochelle Clayton, Deputy City Manager

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discussion and Consideration of Adopting Resolution 2017-27, Approving a Four (4) Year Lease and Maintenance Contract with Option to Terminate after One (1) Year, with Diversified Data Processing & Consulting, Inc. (DivDat) for one (1) Utility Payment Acceptance Kiosk to be located in the City Hall Lobby for the annual amount of \$33,540 and one-time set-up cost of \$9,800.

---

**RECOMMENDATION:**

1. That the City Council discuss and consider adoption of Resolution 2017-27, approving a four (4) year lease and maintenance agreement, with the option to terminate after one (1) year by 60 day notice, with DivDat for one (1) utility payment acceptance kiosk to be located in the City Hall Lobby for the annual amount of \$33,540 and a one-time set-up cost of \$9,800.
2. Authorize the City Manager to execute the lease and maintenance Contract.
3. Authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers.

**JUSTIFICATION:**

Staff is bringing this item back per Council direction to request a lease term of six months with the vendor and for the agreement to be governed by laws according to the State of California. DivDat has updated its Agreement to the jurisdiction of the courts of California, but they cannot accommodate a lease contract for only six months, as they have a minimum lease of 36 months. However, they are willing to give a 36, 48 or 60 month lease with option to cancel at 12 months, as long as there is a 60 day termination notice by the City.

The City shall have the option to add an additional kiosk or relocate the kiosk if the service proves to be successful to utility customers and the City desires to offer the kiosk service at a 24-hour location. The City shall also have the option to terminate the lease

with a decommissioning cost not to exceed \$2,000, at the end of 12 months. However, to truly evaluate the effectiveness of the kiosk service, staff will need more than a six month period to get all of the recurring lobby customers familiar with using the machine and survey whether they would use it outside of business hours if that was an option.

The Utility Billing and Customer Service Unit has been working to enhance payment options for the City of Banning's utility customers and a kiosk can provide customers with the option to pay with cash, check, debit or credit card and will also provide the customer with real-time account status without having to wait in line.

#### **BACKGROUND:**

DivDat is a sole source provider, as other kiosk options do not provide the same superior quality and enhanced level of service. DivDat provides 24/7 maintenance for staff, 24/7 customer assistance for users, marketing and training for staff and customers, real time customer account information, and a flat monthly fee.

#### **FISCAL IMPACT:**

The fiscal impact is to the Utility Funds of Electric, Water, Wastewater, and Waste Management in the amount of \$43,340 for year one (\$33,540 plus \$9,800 for one-time setup fee), and \$33,540 annually thereafter.

An additional amount not to exceed \$2,000 would be added to the year one fiscal impact if the City terminates the lease agreement.

#### **OPTIONS:**

1. Adopt Resolution 2017-27 approving the Lease and Services Agreement- Contract with DivDat for one payment acceptance kiosk.
2. Do not approve the Contract and provide direction to staff.

#### **STRATEGIC PLAN OBJECTIVE:**

This item supports Objective No. 3 of Goal 5 – Administrative Policy, to use state of the practice technology and infrastructure for administration of City programs.

#### **ATTACHMENTS:**

1. Resolution 2017-27
2. Equipment Lease and Services Agreement for Four Year Contract

Approved by:



Michael Rock  
City Manager

# *ATTACHMENT 1*

**RESOLUTION 2017-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EQUIPMENT LEASE AND SERVICES AGREEMENT WITH DIVERSIFIED DATA PROCESSING & CONSULTING, INC., DOING BUSINESS AS DIVDAT, FOR A FOUR-YEAR CONTRACT TO PROVIDE PAYMENT ACCEPTANCE SERVICES AT ONE KIOSK LOCATED AT CITY HALL, IN THE ANNUAL AMOUNT OF THIRTY THREE THOUSAND FIVE HUNDRED FORTY DOLLARS AND A ONE-TIME SETUP FEE OF NINE THOUSAND EIGHT HUNDRED DOLLARS.**

**WHEREAS**, the City currently provides utility bill payment acceptance options in the form of mail-in, drop box, online, and walk-in; and

**WHEREAS**, the City desires to provide additional avenues to its customers to pay their utility bills; and

**WHEREAS**, a kiosk shall provide a utility bill payment acceptance service and real-time account status to the City of Banning residents.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

**SECTION 1.** The City Council adopts Resolution 2017-27, Approving the Equipment Lease and Services Agreement with Diversified Data Processing & Consulting, Inc. (DivDat) for a four-year Contract to provide payment acceptance services at one (1) kiosk.

**SECTION 2.** The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers related to the agreement.

**SECTION 3.** The City Manager is authorized to execute the Equipment Lease and Services Agreement with DivDat in the annual amount of Thirty Three Thousand Five Hundred Forty Dollars (\$33,540) and one-time setup fee of Nine Thousand Eight hundred Dollars (\$9,800).

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of March, 2017.

---

George Moyer, 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. 2017-27 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of March, 2017, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

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

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## *ATTACHMENT 2*

**DIVERSIFIED DATA PROCESSING & CONSULTING, INC.  
KIOSK SERVICE AGREEMENT**

This Service Agreement (this "Agreement"), dated as of \_\_\_\_\_, 2017 is made by and between City of Banning, CA, located at 99 E. Ramsey St., Banning, CA 92220 ("Customer"), and Diversified Data Processing & Consulting, Inc., a Michigan corporation located at 10811 Northend, Ferndale, MI 48220, d/b/a Divdat ("Contractor"). Contractor shall provide services in accordance with the terms and conditions of this Agreement.

**I. STATEMENT OF WORK.** Contractor shall provide to Customer the services described in Schedule A (the "Services").

**II. CUSTOMER RESPONSIBILITIES.** In connection with the Contractor's responsibilities hereunder, the Customer shall provide all necessary data as required by Contractor to perform the Services. Customer represents and warrants that it has the authority to enter into this Agreement and to request Contractor to use the Customer data and to perform the Services.

**III. TERM AND TERMINATION.** The Services shall commence on the date specified in Schedule A. The term of this Agreement is for forty-eight (48) months and will automatically renew for successive one (1) year periods thereafter unless either party provides written notice of termination 60 days prior to the anniversary date. The Customer will have an option, with 60 day notice, to terminate this Agreement at the end of the twelfth month of this Agreement (the "12 Month Option"). If the 12 Month Option is not exercised, the full term of the Agreement will continue as described above. If the 12 Month Option is exercised, the Customer agrees to pay to Contractor all decommissioning and shipping costs related to the return of the kiosk to Contractor, not to exceed \$2,000.00. Upon termination at the end of the full term of the Agreement, the only sum or sums to which the Contractor shall be entitled are the fees due for Services performed to the date of termination and any custom materials ordered at Customer's request.

**IV. FEES AND INVOICES.** Customer will pay the fees and charges described in Schedule B, as well as the required advance application setup fee, as determined by Contractor. All invoices are payable to Contractor on receipt by Customer. All amounts not paid by Customer within ten (10) days of the due date listed on the invoice shall bear interest at the rate of one and ½ percent (1.5%) per month, or at the highest rate allowed by law, whichever is less, from the date due until the date paid. Customer shall, in addition to the other amounts payable under this Agreement, be responsible for and shall pay all sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed

by reason of the transactions contemplated by this Agreement, excluding taxes based on Contractor's net income.

**V. CONFIDENTIALITY.** Contractor agrees to safeguard and treat as confidential all information disclosed to it pursuant to this Agreement and designated as confidential by Customer, as well as all third party personal information and data that Customer provides to Contractor for processing. Customer agrees to safeguard and treat as confidential all Contractor intellectual property, business methods and processes, and this Agreement, including the pricing terms. Neither party may disclose such information to any other person or entity, and each party will use commercially reasonable efforts to maintain the confidentiality of that information. Confidential information does not include information (i) previously known to a party; (ii) independently developed by a party without reference to the confidential information; (iii) acquired by a party from a third party who rightfully obtained such information without any restriction on use; or (iv) which is or becomes publicly available through no breach by a party of this Agreement or through the violation of any of a party's rights. Upon termination of this Agreement, each party shall return to the other all items, paper, or documents which may contain any such confidential information.

**VI. INDEMNIFICATION.** Customer shall defend, indemnify and hold harmless Contractor, and its employees, officers, directors, shareholders or agents against all damages, expenses and costs, including reasonable attorneys' fees and litigation costs, regarding any suit, action or proceeding against any such party by a third party based on any claim arising in connection with Customer's direct or indirect use of the Services, except to the extent such claim is based on the willful misconduct or gross negligence of Contractor.

**VII. DISCLAIMER OF WARRANTIES.** EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION I, WHICH ARE LIMITED WARRANTIES AND THE ONLY WARRANTIES PROVIDED TO CUSTOMER, THE SERVICES ARE PROVIDED STRICTLY "AS IS," AND NEITHER CONTRACTOR NOR ITS SUPPLIERS MAKE ANY ADDITIONAL WARRANTIES, EXPRESS, IMPLIED, ARISING

FROM COURSE OF DEALING OR USAGE OF TRADE OR STATUTORY, AS TO THE SERVICES OR ANY MATTER WHATSOEVER. CONTRACTOR HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT.

**VIII. LIMITATION ON DAMAGES.** IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, SAVINGS, REVENUE, USE, DAMAGED FILES OR DATA, OR BUSINESS INTERRUPTION, WHICH MAY ARISE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, REGARDLESS OF WHETHER SUCH CLAIMS ARE BASED OR REMEDIES ARE SOUGHT IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR FOR AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES EXCEEDING THE AMOUNT OF FEES PAID BY CUSTOMER TO CONTRACTOR FOR THE IMAGES OR SERVICES THAT GAVE RISE TO THE LIABILITY, EXCLUDING POSTAGE. THE FOREGOING LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THIS AGREEMENT, AND SHALL SURVIVE AND APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDIES SPECIFIED HEREIN.

## IX. GENERAL

**Applicable Law; Venue.** This Agreement shall be construed in accordance with the laws of the State of California without regard to any conflicts of laws provisions thereof. Any actions under this Agreement may be brought only in the federal and State of California courts having jurisdiction over Riverside County, California. Each party hereby consents to the personal jurisdiction of such courts

**Limitations Period.** No arbitration or other action under or related to this Agreement may be brought by either party against the other more than one (1) year after the cause of action arises.

**Arbitration.** If, despite the parties' good faith efforts, a dispute cannot be resolved, either party may initiate final and binding arbitration pursuant to

this paragraph. Any arbitration of any dispute shall be subject to the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration shall occur in or near Southfield, MI. The parties shall agree upon a single arbitrator or, if the parties cannot agree upon an arbitrator within thirty (30) days, then the parties agree that a single arbitrator shall be appointed by the AAA. The arbitration award shall be in writing and state the reasons therefor and shall be final and binding and enforceable by the prevailing party. To encourage the parties to resolve disputes without resort to arbitration, the arbitrator may award reasonable attorneys' fees and costs as part of the award. The agreement to arbitrate disputes hereunder shall not prevent either party from seeking preliminary or other temporary relief reasonably necessary to protect its rights in advance of or during any arbitration proceedings. Entry of judgment on an award granted through arbitration may be made in any court of competent jurisdiction.

**Assignment And Delegation.** Neither party may assign this Agreement to a third party without the prior written consent of the other party.

**Communications.** All communications and notices relating to this Agreement shall be in writing to the parties at their respective addresses first above written, and delivered by hand or by certified mail, return receipt requested, or by such other method as will require a signed acknowledgment of delivery, and shall be deemed given upon receipt.

**No Waiver.** The waiver or failure of either party to exercise in any respect any rights provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.

**No Third-Party Beneficiaries.** This Agreement is an agreement between Contractor and Customer, and confers no rights upon any of the parties' employees, agents, contractors or customers, or upon any other person or entity.

**Entire Agreement.** This Agreement contains the entire understanding between Contractor and Customer and may not be modified except by a writing signed by both parties that specifically identifies the section of this Agreement to be modified; no other act, usage, or custom shall be deemed to amend or modify this Agreement. Customer may, for purposes of administrative convenience, use Customer's standard form of purchase order to order Services. The parties understand and agree that any terms or conditions on any such purchase order in any way different from or in addition to the terms and conditions of this Agreement shall have no effect whatsoever and

Contractor hereby rejects all such terms and conditions. Each party hereby waives any right it may have to claim that this Agreement was subsequently modified other than in accordance with this paragraph.

**Severability.** If any term or provision of this Agreement should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Agreement shall be unimpaired, and the invalid term or provision shall be replaced by such valid term or provision as comes closest to the intention underlying the invalid term or provision.

**Force Majeure.** Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable

control. Lack of funds shall not be deemed to be a reason beyond a party's reasonable control. The parties will promptly inform and consult with each other as to any cause that in their judgment may or could be the cause of a delay in the performance of this Agreement.

**Independent Contractor.** Nothing contained in this Agreement creates a joint venture or partnership between Contractor and Customer. Neither party is by virtue of this Agreement authorized as an agent, employee or legal representative of the other. Except as specifically set forth herein, neither party has the power to control the activities and operations of the other and their status is and shall remain that of independent contractors. Neither party has the right, power or authority to bind or commit the other.

Contractor and Customer have caused this Agreement to be executed as of the day and year first above written.

**DIVERSIFIED DATA PROCESSING & CONSULTING, INC.**  
("Contractor")

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**City of Banning, CA**  
("Customer")

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Schedule A: Statement of Work**

This Agreement's start date is 60 days after the Agreement is executed by the parties or when the first kiosk is operational, whichever occurs first.

### **Introduction/Background**

DivDat will work with the City of Banning to provide the development and integration needed to run an innovative, real-time reliable and easy-to-use self-service kiosk solution at locations either on Client's property or retail locations; Sole Proprietor Kiosks with only Client and/or Multi Biller Kiosks run with other billers such as local utilities. The DivDat Kiosk is a turnkey solution including installation, remote management, monitoring and maintenance of the kiosk hardware, software and payments. The DivDat kiosk accepts various payment methods including cash, check and debit/credit cards. Our operation is nationwide and capable of deployment in any area. We are committed to providing exemplary service from implementation and development through marketing to your customers. Real time look up and posting is contingent upon an API or Web Service being available to DivDat to integrate to.

<b>Proposal Contact:</b>	<b>Management Contact/Authority to Sign Contracts:</b>
J D McNaul Director of Business Development 10811 Northend Ave Ferndale, MI 48220 480-621-6588 Office 303-810-6997 Mobile jdmcnaul@divdat.com	Jason Bierkle President and CEO 10811 Northend Ave Ferndale, MI 48220 248.399.0715 Office jbierkle@divdat.com

### **Scope of Work**

The scope of work for the Kiosk Project includes all planning, execution, implementation, and training for a new kiosk solution for Customer. Each stage of the project will require approval from Customer before moving on to the next stage. DivDat ensures it has adequate resources for designing, building, testing, and implementing the kiosk project. Specific deliverables and milestones will be listed in the Work Requirements and Schedules and Milestones sections of this SOW.

### **Period of Performance**

The period of performance for the Kiosk Project is 6 -8 weeks; this will depend on the Customer's level of involvement. Any delays or deviation from the work requirements listed below may require contract modifications and an increase in the cost of the project.

### **Place of Performance**

DivDat will perform the work for the kiosk project at its own facility. DivDat will have a scheduled call with Customer once per week (day and time TBD) for a weekly status meeting. Additionally, all kiosk testing will need to be done at DivDat or a production ready kiosk set up in a test environment.

### **Work Requirements**

As part of the Kiosk Project, DivDat will be responsible for performing tasks throughout various stages of this project. The following is a list of these tasks which will result in the successful completion of this project.

The project will initiate upon receipt of the following:

- 1.) Defined the kiosk types and locations:
  - A New Sole Proprietor Kiosk (Customer is the only biller):
    - At a Customer's location?
    - At a new retail location?
  - A Multi Biller Kiosk (With additional billers such as local utilities):
    - At a Customer's location?
    - At a new retail location?
    - At an existing DivDat kiosk location?
- 2.) Fully defined API which includes the following:
  - The URL and how DivDat will access the link (post, add as a web service, encryption, etc.)
  - Defines variables required for the account look up call including: key field (i.e. account number), name/address combination and scan bill.
  - Defines the return account object for fields to display on the kiosk including: account number, account name, due date, account message flags, etc. This will vary based on Customer-defined business rules.
  - Defines the variables required for the payment update call including: key field (i.e. account number), payment amount, method of payment, etc. This will vary based on Customer-defined business rules.
  - Defines the return payment update object including: successful update flag, receipt messages, remaining balance, etc. This will vary based on Customer-defined business rules.
- 3.) Test account data for validation of all client defined business rules
- 4.) Sample production bill payment coupons for the bill scan
- 5.) Custom branding elements including:
  - Logo Graphic File (preferably in .png format)
  - Background Image (1280 x 1024 in .png format)
  - Color Codes
  - Payment Terms and Conditions
  - Payment methods accepted
- 6.) Merchant IDs for credit card and check/ACH processing

Upon receipt of the 6 items listed above, the timeline will start for the 7 stages listed below in order to connect Customer services to retrieve account level information and return payment information.

**Stage 1 – Define Business Rules for the following:**

- Account look up methods
  - Key field, up to 2 (i.e. Account number, customer number, phone number)

- Name and Address
- Scan Bill
- Account return object
  - Return single account or multiple accounts
  - Display fields
  - Define account message flags
- Payment update return object
  - Client defined receipt display fields
  - Successful payment post status flag
- Remittance file processing
  - Batch close time
  - File format/layout
  - Processing schedule
  - File transfer protocol

#### Stage 1 - DivDat Assumptions for Customer Solution

- Customer API can support look up by the following methods:
  - Key field
  - Name and Address
  - Scan Bill – OCR Line
- Customer API account return object will contain all required account display fields and account message flags
- Customer API can support a payment update post for cash, credit card and check/ach payments
- Customer API will return a successful payment post status flag and Client defined display fields
- Customer will provide a defined file format for a batch remittance file
- Customer will provide production bill payment coupons for configuring bill scan functionality based on OCR line format

#### **Stage 2 – System Integration/Development Effort**

- Kiosk Application
  - Establish connection to Customer test service
  - Build the request object for each call defined in the service based on business rules
  - Validate the response object for each call ensuring they fulfill the defined business rules
  - Integrate the response object with DivDat kiosk service
  - Enable payment processing
- Payment Post Application
  - Develop payment post update application to monitor failed payment posts and reattempt until successful
- Remittance File Application
  - Develop remittance file processing application

#### Stage 2 - DivDat Assumptions for Customer Solution

- DivDat will integrate to the Customer API using a SOAP based web service
- The Customer API will be fully defined and ready to integrate to the DivDat kiosk service
- Customer will provide a test environment for the API
- Customer will retrieve batch remittance files from the DivDat secure FTP
- Transient data will be encrypted by the x509 certificate or message level security
- There are no hidden issues/complications implementing the x509 certificate

- DivDat is PCI DSS v3.2 compliant

### **Stage 3 – Application Configuration/Database Setup**

- Configure Customer merchant id in DivDat payment gateway
- Configure Customer branding screen elements
- Configure screen content
- Configure for multi language
- Configure DivDat kiosk application report
- Setup Customer-specific data elements in the kiosk database

### Stage 3 - DivDat Assumptions for Customer Solution

- Customer will establish merchant ids with DivDat approved merchant processor
- Customer will provide all required branding elements

### **Stage 4 – System Testing and UAT**

- DivDat (to take place at DivDat)
  - Manual unit testing
    - Validate the response object for each call ensuring they fulfill the defined business rules
  - Kiosk unit testing
    - Validate logical screen flow and Customer-defined content
    - Run user stories to validate Customer-defined business rules for all account types
    - Validate payment processing
    - Validate payment post and reattempt process
    - Validate remittance file processing and file transfer
- Customer - to take place at a physical kiosk (DivDat or client location with a production ready kiosk setup in a test environment)
  - End-to-End system testing
    - Validate account details displayed on screen
    - Validate payment update posting to backend billing systems
    - Validate remittance file format
  - UAT
    - Validate logical screen flow and Customer-defined content
    - Run user stories to validate Customer-defined business rules for all account types
    - Customer-defined UAT processes

### Stage 4 - DivDat Assumptions for Customer Solution

- Customer will provide a test environment and accounts for validation of all business rules and account types
- Customer will participate in defining the user stories to validate defined business rules
- Customer will assign resources to conduct End-to-End and UAT testing

### **Stage 5 – Kiosk Delivery & Installation**

- Site Survey
- Configure Client Network Environment (if required for wired kiosk)
- Kiosk Staging / Pre-Packaging
- Kiosk Delivery & Installation

#### Stage 5 - DivDat Assumptions for Customer Solution

- Customer preferred wireless installation is dependent on location signal strength
- A new kiosk installation may require network configuration

#### **Stage 6 – Training**

- Application Business Rules & Reconciliation Processes
  - Cash Pull Procedure (if required)
  - Operational Processes - scheduled tasks for batch close and remittance processing
  - DivDat Kiosk CashLINC Transaction Report
  - Merchant Portals (CardConnect and T-Tech)
- Key-Op Training (changing receipt paper, if required)

#### Stage 6 - DivDat Assumptions for Customer Solution

- Training will be conducted by DivDat via webinar

#### **Stage 7 - Go-Live / Customer Launch**

- Complete End-to-End Go-Live Check List
  - Establish connection to Customer production service
  - Successfully process credit card and check/ach payments to confirm settlement of funds

#### Stage 7 - DivDat Assumptions for Customer Solution

- Customer will provide a production API a minimum of 2 weeks prior to scheduled go-live
- Customer will provide designated account(s) for processing payments to confirm settlement of funds

### **Schedule/Milestones**

The below list consists of the initial milestones identified for the Kiosk Project:

Stage 1 – Define Business Rules	1 – 2 Weeks (may require multiple sessions)
Stage 2 – System Integration/Development	2 – 3 Weeks
Stage 3 – Application Configuration/Database Setup	1 – 2 Weeks
Stage 4 – System Testing and UAT	2 Weeks
Stage 5 – Kiosk Delivery & Installation	1 Week (if required)
Stage 6 – Training	1 Day
Stage 7 – Go-Live/Customer Launch	1 Day
Project Completion Review	Date TBD

### **Acceptance Criteria**

The acceptance of all deliverables will reside with Customer Project Sponsor. Customer will designate appropriate resources to ensure the completeness of each stage of the project and that the scope of work has been met. Once a project stage is completed, DivDat will provide a report/presentation for review and approval. The Customer Project Sponsor will either sign off on the approval for the next stage to begin or advise what tasks must still be accomplished.

Once all project tasks have been completed, DivDat will provide a project closure report and go-live checklist to Customer Project Sponsor. The acceptance of this documentation by Customer will acknowledge acceptance of all project deliverables and that DivDat has met the requirements for

all assigned tasks. Any discrepancies involving completion of project tasks or disagreement between Customer and DivDat will be referred to both organizations' contracting offices for review and discussion. The following Acceptance Criteria will be used to determine acceptance of all deliverables for the kiosk project.

- User can look-up their account by entering a Key Field (i.e. Account Number, Customer Number).
- User can look-up their account by entering a combination of Name and Address.
- User can look-up their account by scanning their bill payment coupon.
- Kiosk will display User account detail.
- Kiosk will display User account message(s).
- Kiosk will allow User to enter payment amount based on business rules.
- Kiosk will display payment methods allowed on the User account.
- Kiosk will allow User to pay by Cash.
- Kiosk will allow User to pay by Credit Card.
- Kiosk will allow User to pay by Check.
- Kiosk will not allow User to pay by Check if account is ACH Restricted.
- Kiosk will display receipt delivery methods.
- Kiosk will allow User to print receipt.
- Kiosk will allow User to email receipt.
- Kiosk will process payment and display either Approve or Decline response.
- Kiosk will allow User to reattempt payment for a Decline response.
- Kiosk will deliver payment receipt based on selected delivery method.
- Kiosk will send payment post update.
- Kiosk will reattempt payment post update until successful.

## Pricing:

The pricing will be the same for Banning whether one or two kiosks are ordered. If one kiosk is desired at the beginning but another one is needed at a later date, the 2<sup>nd</sup> kiosk will still get the same pricing with an equivalent contract time agreed to. Banning will use their existing armored car service and contract for cash pick up. The following is the price component of Banning and offered herein:

<b>Description</b>	<b>Pricing</b>
<u>One Time Implementation:</u>  Define Business Rules System Integration/Development Application Configuration/Database Setup Sys Testing & UAT Training Go-Live/Customer Launch Project Mngmt and IT Resources	<u>One Time Implementation:</u>  \$9,800.00  50% Due prior to the start of Stage 1, Remaining 50% due upon completion of VAT

<ul style="list-style-type: none"> <li>• <u>Monthly Fee Includes The Following:</u> <ul style="list-style-type: none"> <li>➢ Unlimited Transactions</li> <li>➢ All Hardware Including: Kiosk With 5 Devices: Cash Acceptor, Credit Card Reader, Check Scanner, <b>Bill</b> Stub Scanner, Receipt Printer, Kaba Mas Safe Lock, 1 Extra Cassette</li> <li>➢ Hardware Freight And Installation</li> <li>➢ Hardware Equipment Upgrades</li> <li>➢ Hardware Equipment Quarterly Preventative Maintenance</li> <li>➢ Hardware Equipment Repair And Replacement With Onsite Field</li> </ul> </li> <li>• Technician (10 Hours A Day, 7 Days A Week, 4 Hour Response Time) <ul style="list-style-type: none"> <li>➢ Systems Monitoring And Remote Maintenance 24-Hour /7 Days</li> </ul> </li> <li>• Per Week <ul style="list-style-type: none"> <li>➢ Technical Support Call Center <b>For You</b> 24 Hour / 7 Days Per Week</li> <li>➢ Technical Support Call Center <b>For Your Customer</b> During Kiosk Hours Of Operation</li> <li>➢ A Single Dedicated Resource/Contact For You</li> <li>➢ Wireless Configuration Only - Data Equipment And Monthly Data Fees – Cabling/Antenna and Modem To Ensure Uptime Connection.</li> <li>➢ Insurance</li> <li>➢ All Taxes (Sales &amp; Personal Property)</li> <li>➢ Real Time Reporting Online with access to an API to the CIS.</li> <li>➢ Application Hosting</li> <li>➢ Software Licensing Fee</li> <li>➢ Exterior Kiosk Branding To Ensure Consumer Recognition</li> </ul> </li> <li>• &gt; A DivDat Provided Kiosk Expert Greeter On Site can be offered as an optional add-on</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Monthly Fee:</u> <ul style="list-style-type: none"> <li>• \$2,700.00/kiosk/month based on a 60 month agreement.</li> <li>• \$2,795.00/kiosk/month based on a 48 month agreement.</li> <li>• \$2,890.00/kiosk/month based on a 36 month agreement.</li> </ul> </li> </ul>
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## **Payment Processing Pricing**

DivDat handles all payments directly made through both the Kiosk and IVR solutions in the following manner and pricing. All card payments will be put through Visa and MasterCard at the Utility Discount rate and charged accordingly at that lower rate. This is a special rate that utilities are eligible for that is lower than the normal card interchange percentages:

Cash: Cash payments made through the kiosk are included in the monthly cost.

Check payments (eChecks): Made through either the Kiosk or IVR solutions are \$0.35 each.

Credit card/Debit card: These payments made through the Kiosk or IVR solutions will be billed at Pass through of actual costs from the card companies plus \$0.25 and 25 basis points.



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Rochelle Clayton, Deputy City Manager

**MEETING DATE:** March 28, 2017

**SUBJECT:** Approve the Implementation of the Strategic Communications Plan and Messaging Training as presented by CV Strategies.

---

### **RECOMMENDATION:**

That the City Council approve the implementation of the Strategic Communications Plan and Messaging Training as presented by CV Strategies.

### **JUSTIFICATION:**

City Council reviewed the Communications Assessment Report at its Special Meeting Workshop on October 25, 2016 and approved the development of the Strategic Communications Plan by CV Strategies at that meeting. The next step in the process is to implement the Communications Plan.

### **BACKGROUND:**

On February 24, 2016, the City awarded a Professional Services Agreement to CV Strategies to prepare a Communications Assessment. During development of the Communications Assessment and Plan, CV Strategies assisted the City with communications and outreach services, including Press Releases, and the compilation of the City's newsletter ("92220") as well as the recruitment of the City's Public Information Officer (PIO).

The position of PIO had not been filled with the City for quite some time, and this Plan will assist the PIO with swiftly moving forward in improving the City's messaging, communications between the City and its residents, and internal communication between City departments, which will ultimately improve customer service to the community.

**FISCAL IMPACT:**

A budget may be presented to Council at the Strategic Planning Workshop in May 2017.

**OPTIONS:**

1. Approve the Communications Plan as presented by CV Strategies.
2. Provide another direction to staff.

**STRATEGIC PLAN OBJECTIVE:**

This supports all objectives of Goal 3 – Effective Communication

**ATTACHMENTS:**

1. Communications Plan

Approved by:



Michael Rock  
City Manager

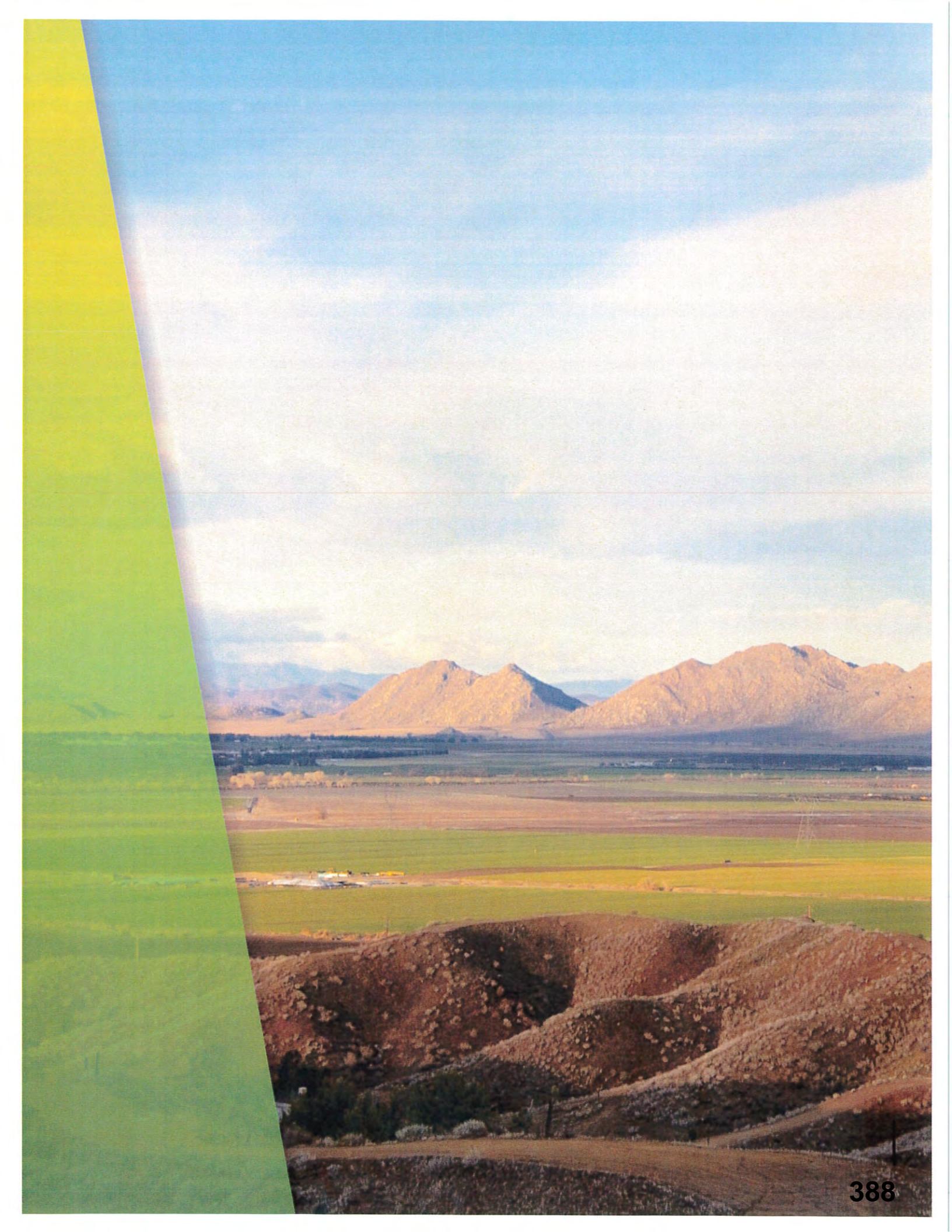


CITY OF  
**BANNING**  
*California*



*Communications*  
**MASTER PLAN**

MARCH 2017



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# EXECUTIVE SUMMARY

## INTRODUCTION

The City of Banning recognizes that communication – both externally with citizens and other stakeholders as well as internally among City departments, elected officials, and staff – plays a vital role in the effective operation and future success of the City.

In the months and years ahead, as Banning faces a number of decisions that will dictate the City's direction, with major potential impacts on the quality of life of residents, effective communication takes on even greater importance. A commitment to communication excellence will enable Banning to better share key information with its citizens and better understand their priorities with respect to issues such as growth, essential services, and community participation.

As Banning considers its future, active citizen engagement in the decision-making process provides the best opportunity for fully realizing the City's potential, contributing to a lasting shift in culture and community.

## COMMUNICATIONS ASSESSMENT AND PLANNING

Recognizing the importance of internal and external communications excellence on the city's ability to serve its citizens effectively, the City initiated a comprehensive communications assessment in 2016.

Over a period of several months, an audit team of independent, third-party assessors evaluated the City's internal and external communications processes, protocols, and performance. Relationships between departments, across facilities, and among different communities and constituencies served in Banning were evaluated via survey, interview, or other assessment tools. The City's web, social media, and digital presence, its collateral outreach materials, its public image in the media and among citizens, and the perceptions generated by staff, services, internal leadership, and elected officials were compiled into a comprehensive assessment document that provides clear identification of the City of Banning's challenges, opportunities, strengths, and weaknesses as they relate to communications.

With the assessment as a foundation, City leadership has worked extensively with the planning team to review and analyze findings, identifying the high level strategies, actionable tactics, associated timelines and responsible parties necessary to elevate internal and external communications in Banning. This plan is intended to be the key communications resource supporting the City's execution of its vision as guided by its strategic planning priorities and the direction set by elected leadership. It serves as a tool to help the City move beyond challenges identified in the assessment and arrive in a position of communications excellence.

Both the assessment and the Communications Master Plan are a testament to City leadership and its substantial investment, proactive approach, and commitment to change and improvement.

# PLANNING PROCESS

## METHODOLOGY

The City of Banning Communications Master Plan is the product of close collaboration with City staff, and the thorough review and analysis of a number of key data points. These include evaluation of communications protocols, outreach materials, digital and social media presence, media image and brand identity, City Council communication materials, workflow, geographic and experiential considerations, and more.

One-on-one interviews with Council members, executive staff, employees at all levels and in all departments, in addition to attendance at council meetings, ride alongs with front-line staff, and discussions with citizens, provided valuable information about internal and external communications. Evaluation of stakeholder relationships contributed to the understanding of interaction with peer public agencies. The assessment was conducted by four key team members, with assistance from additional support staff. More than 100 hours were dedicated to the research and compilation of the assessment, which included identified key findings, recommendations, opportunities and challenges.

The assessment document informs the Communications Master Plan, which was developed in collaboration with staff following the review of council priorities and strategic goals. The objective of this master plan is to provide an actionable roadmap guiding the enhancement of communications efforts and success, both within City Hall and out in the community.

## PLANNING TEAM

### **City of Banning**

Banning's planning team consisted of executive leadership, including the City Manager, Deputy City Manager, and Public Information Officer. This team was responsible for working closely with the planning consultants to review and analyze assessment findings, incorporate strategic priorities from citizens, staff, and City Councilmembers, assisting in creating a document that realizes the City's vision for communications over the next five years.

### **CV Strategies**

CV Strategies is a communications and public engagement firm specializing in comprehensive messaging. The team of highly skilled professionals has a proven track record of helping clients navigate complex challenges across a broad spectrum of messages, audiences, and media. Regardless of scope, the firm's strategic communications and public relations initiatives stress an in-depth understanding of client needs and goals, and a focus on targeted, precise implementation of strategies.

# PLANNING PROCESS

The CV Strategies team consists of former news journalists with substantial experience both determining what makes news in both large and small markets and shaping stories in ways that resonate with a wide variety of audiences. Since transitioning our work to the public engagement and outreach side, our experience includes significant public sector work throughout California.

The firm's services include public outreach strategy and support, internal communication assessment and strategic planning, training and orientation development, media relations and crisis communications, branding and collateral development, as well as web, photo, and video production.

The CV Strategies team was tasked with plan development. The team included:

- » Erin Gilhuly, President
- » Alex Altman, Senior Vice President
- » Janet Zimmerman, Account Manager
- » Tara Bravo, Art Director

## PROCESS ELEMENTS

The planning process included the elements listed below.

- Review of assessment findings
- Review of City Council strategic goals
- Staff interviews
- Councilmember interviews
- Citizen communication
- Media landscape evaluation
- Web, digital, and social media presence audit
- Brand and image perception examination
- Stakeholder analysis
- Site visits
- Ride-alongs and observation of front-line staff interaction

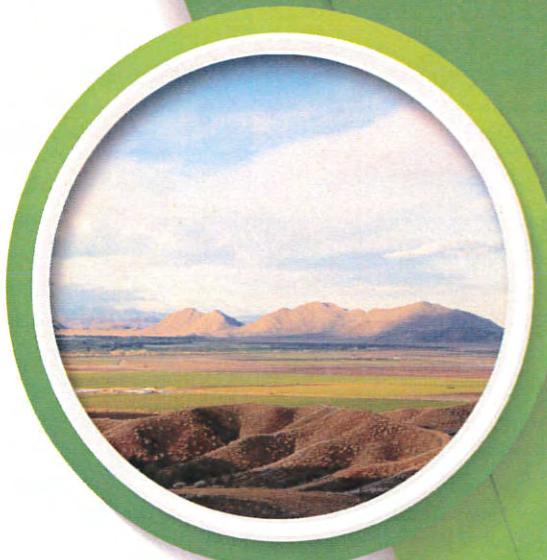
# COMMUNICATIONS MASTER PLAN GOALS

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Undertaken collaboratively based upon input from staff, elected leaders and citizens as analyzed in the communications assessment, the Communications Master Plan development process revealed the goals detailed below. All strategies listed in the areas of focus (Section 6) will support one or more of these goals.

1. Encourage the development of an environment that supports and inspires open communication among all citizens, elected leaders, employees and managers.
2. Increase the public awareness of the City's brand and the many services it provides to local families, businesses, and visitors, highlighting value and increasing citizen engagement and understanding.
3. Enhance and coordinate all City communications, both internal and external, to promote a one-city-one-voice policy.
4. Support the City's efforts to fulfill its strategic goals as established by the City Council.
5. Maximize outreach efficiency and return on investment by evaluating tools, prioritizing resource use and practicing proactive communications.





CITY OF  
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## MESSAGING OBJECTIVES

# CORE IDENTITY

As a **FULL SERVICE CITY**, Banning is dedicated to meeting the wide-ranging needs of its diverse and vibrant community through respectful communication with its citizens, the hard work of its staff, and the diligence of its elected leadership.

## CHARACTERISTICS

The following characteristics support the City of Banning's core identity. These characteristics, along with key messages, should be incorporated into the City's communication with citizens, stakeholders, and peers to exemplify and reinforce the Banning identity.

The general voice of the City can be summarized with Banning **CARES**.

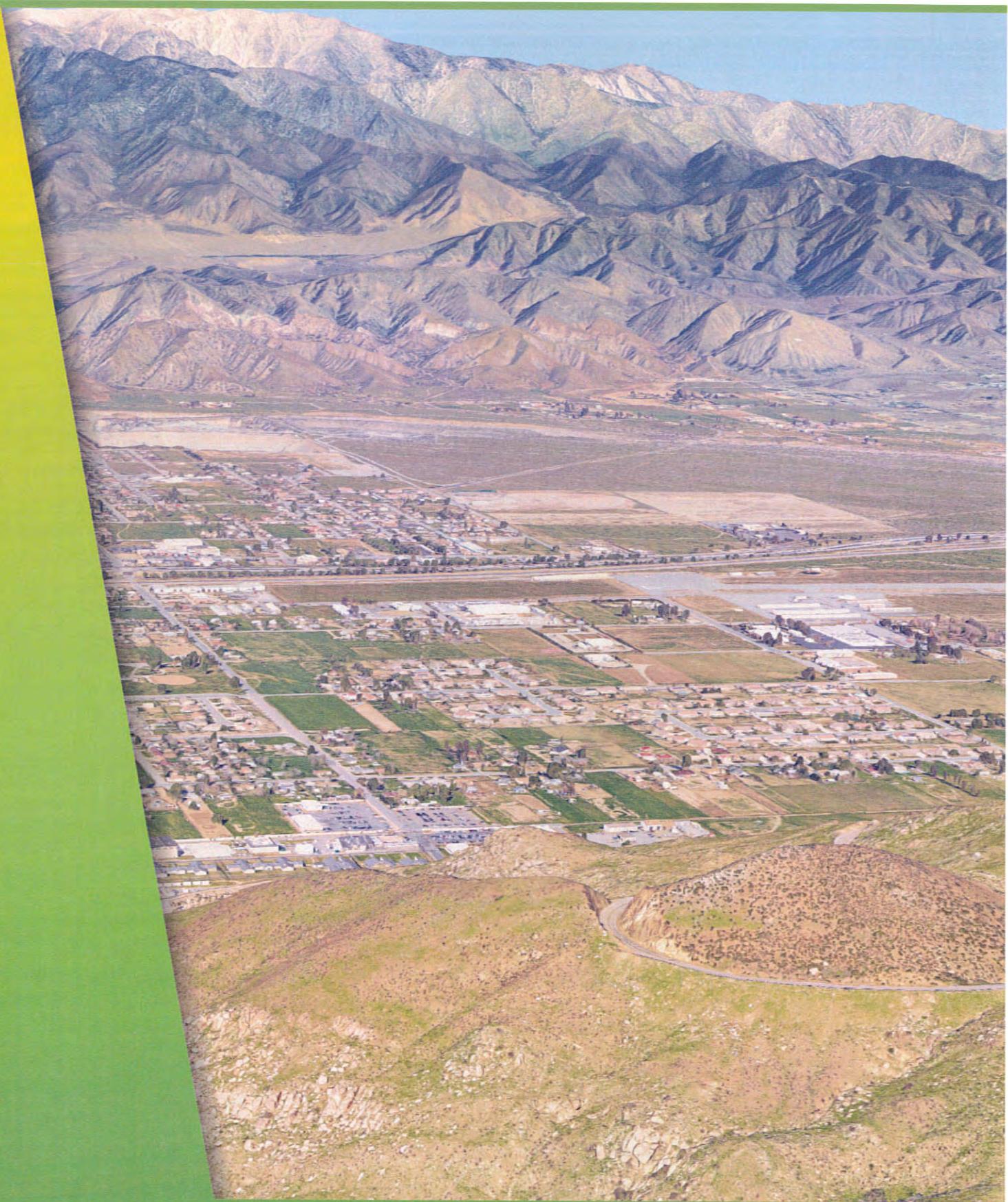
**C.A.R.E.S.** means:

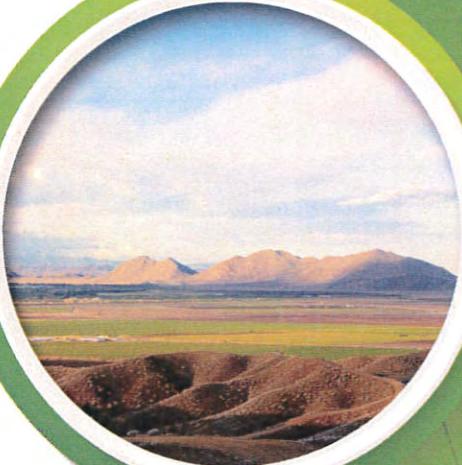
- **COMMUNITY-ORIENTED**, stressing the City's commitment to residents, businesses, visitors, and other stakeholders as a dedicated community partner.
- **ACCOUNTABLE**, operating transparently, assuming responsibility for decisions, and maintaining high standards for public interaction.
- **RESPECTFUL**, treating community members courteously and communicating appropriately both internally and externally.
- **ENGAGED**, committing to frequent and consistent dialog with citizens to identify and respond to their priorities and concerns swiftly and effectively.
- **SERVICE-MINDED**, indicating a genuine desire to provide value and assistance.

## KEY MESSAGES

Developed in collaboration with staff to reflect the priorities and values of citizens and elected leaders, Banning's key messages are identified as follows:

- » Banning is a city with a unique history, heritage, and citizenry that demands a level of service delivered by a hard-working staff and engaged elected officials.
- » The safety and quality of life of our residents are our primary concerns.
- » We are committed to providing an environment that supports both new business development and the growth and success of existing businesses.
- » We operate openly and transparently, with decisions made in full view of the public, and with community priorities valued and respected.
- » We work tirelessly to ensure that the resources, programs and services we provide for our citizens are valuable, reliable and affordable.
- » Full Service Message: The City provides high-quality utility services that help ensure residents receive high-quality customer service at competitive rates.





CITY OF  
**BANNING**  
*California*

STAKEHOLDER  
ANALYSIS

# STAKEHOLDER ANALYSIS

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This section identifies specific stakeholder targets and their communication needs, and describes strategies to most effectively reach them. General audience categories include:

- a. *Internal*
- b. *Ambassadors*
- c. *Residents*
- d. *Businesses*
- e. *Education*
- f. *Media*
- g. *Government Peers*
- h. *Nonprofits, Civic Agencies, Community Groups*
- i. *Environmental Groups*
- j. *Special Project Audiences*

## INTERNAL

---

- » City Council
- » Executive Staff
- » Administrative Staff
- » Field Staff
- » Temporary Staff/Interns
- » Union leadership
- » Volunteers

Because internal stakeholders have the closest ties to the organization and the most influence on the Banning brand, it is important that they maintain consistent communication when it comes to interactions with the public. This is best achieved through a formalized process for information flow within the City and with external stakeholders. The core values of the City should be reflected in all messaging by the organization. Furthermore, nurturing a culture of communication will improve awareness and interaction within and between internal groups. The desired outcome is a workforce that understands the City's mission and vision, exemplifies the City's values, and actively communicates the key strategic messages. Keeping staff informed also builds morale and heads off misinformation circulated by rumor.

## AMBASSADORS

---

- » City Council
- » City Manager
- » Public Information Officer
- » Customer Service Representatives
- » Police Officers
- » Field Staff
- » Recreation Staff

The role of ambassador is loosely defined to include all those members of the organization whose duties specifically involve public interaction. These important communicators represent the human face of the organization, and their words and actions directly influence public perception and opinion. It is important, therefore, that these stakeholders understand the Banning brand and are able to clearly and effectively communicate its messages. As such, this group should receive formal training on communicating with members of the public and be prepared to guide them to appropriate staff when necessary.

## RESIDENTS

---

- » Low income
- » Seniors
- » Children
- » Renters
- » Homeowners
- » Spanish speakers

Residents require different communication methods based on their needs, from paying a utility bill to participating in the government process. Citizens also have varying preferences on how they interact with City officials and how they get their information. Ease of interaction is paramount in giving them a satisfying experience. It is also important to be sensitive to the cultural, linguistic and economic diversity of residents, and this should be taken into consideration when conducting outreach. Regular feedback from groups is useful for modifying approaches.

## BUSINESSES

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- » Chamber of Commerce
- » HOAs
- » Developers
- » Owners

Engaging stakeholders outside the organization can shape opinions about the Banning brand. It is important to utilize communications with businesses in the City to broaden awareness of services and Banning's commitment to responsiveness and quality customer service. Successful communication encourages growth, attracts good employees and improves service. A good reputation can also encourage business development and attract a workforce that ultimately will strengthen City services.

## EDUCATION

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- » K-12
- » Administration
- » Teachers
- » Students
- » School District

Communications with students, teachers and educational institutions holds great potential for developing support for City programs and partnerships. These stakeholders are already invested in the City, and would benefit from a value message that gives them a better sense of what the City does. Possibilities include highlighting and showcasing children's programs through the City's recreation department, capitalizing on the law enforcement connection through programs such as BPAL, "sports with a cop," backpack giveaways and outreach to youth. Furthermore, the City could share utility messaging for conservation and other programs.

- » Press-Enterprise
- » Banning Record-Gazette
- » Banning-Beaumont Patch
- » Social Media
- » Web
- » Advertising

When communicating with the media and using social media, it's critical that messages sent as representative of the City are unified, cohesive and well thought out. Information should be consistent, timely and spoken with "one voice." Technical language or bureaucratic jargon will be avoided as much as possible in order to ensure messages are understandable for all segments of the public. Media engagement is a long-term investment that must be consistently nurtured so that it can effectively complement other outreach. Key media contacts must be identified and relationships cultivated to build a trusting, effective rapport. Recognizing time and resource constraints of media sources, the importance of their support, and the difficulty of their job, every effort should be made to provide them with the information and material they need to report accurately in a manner that reflects the time-sensitive nature of their work. Positive coverage increases visibility and builds public trust. While media interest extends beyond project updates and regulatory changes, pitching of the most targeted and relevant stories increases the coverage yield. Trained and designated spokespeople should manage these interactions. Social media and advertising can be included in this category of outreach tools, and hyper local publications can be a very cost-effective advertising investment.

## GOVERNMENT PEERS

- » Cities
- » Riverside County
- » State Representatives
- » State Agencies
- » Federal Representatives

Communication with these stakeholders is often issue-focused and technical. To capitalize effectiveness, communication should focus on clear topics selected for the targeted audience, emphasize collaboration and collective benefit, and match medium and message to the appropriate goal and audience. Unique local challenges and opportunities must be clearly communicated to geographically distant stakeholders to distinguish Banning from other agencies as it seeks support for key policies and funding for projects.

# ADDITIONAL STAKEHOLDER GROUPS

## NONPROFITS, CIVIC AGENCIES, COMMUNITY GROUPS

Groups that are actively engaged in the community can be helpful partners in spreading the City's key messages and communicating its values. It is important to develop connections and rapport with these stakeholders, who act as a bridge between government and the public, and spread positive City messaging.

Partnerships with these stakeholders can build important community relationships and increase participation in City government and events. Making these connections supports a key piece of the City's mission – to partner and communicate with local entities.

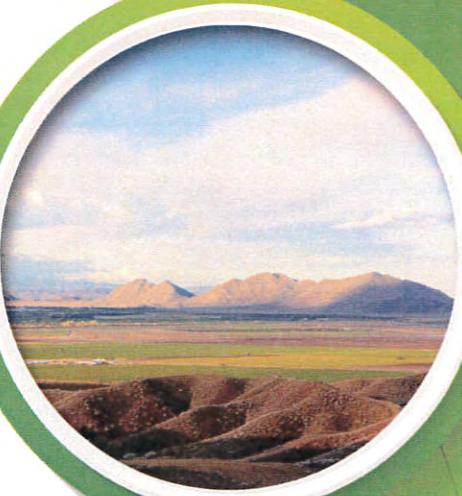
## ENVIRONMENTAL GROUPS

Environmental groups often are tuned in to critical issues before the general public. Their interest can align with City goals, and serve as early notification of potential challenges. It is important to maintain regular contact and invest in relationship building with members of these groups to position the City as a partner in environmental causes. Shared successes and cooperative efforts with these groups enhance a spirit of partnership, and channels should remain open to inform and educate them about City activities and address their concerns.

## SPECIAL PROJECT AUDIENCES

Since communication with special project audiences is often technical or logistical, it is critical that City spokespeople are well-prepared and channels are formalized to ensure clear and effective exchanges. Technical information should be distilled into simpler terms for clarity, but audiences should be treated with respect and given credit for being able to digest complex issues. Efforts should be made to connect messaging to community benefits as well as overall City goals and mission.





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PLAN AREAS  
OF FOCUS



## PLAN AREAS OF FOCUS

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The City of Banning Communications Master Plan identifies five primary areas of focus.

For each of these areas of focus, the plan provides strategies and actions to achieve specific communications goals as described in Section 3.

Those areas of focus include:

1. BRAND REFINEMENT AND AWARENESS
2. COMMUNITY ENGAGEMENT AND EMPOWERMENT
3. REDEFINING INTERNAL COMMUNICATION CULTURE
4. STRATEGIC PRIORITIES SUPPORT
5. LONG-TERM STRATEGY AND RESOURCE OPTIMIZATION

# BRAND REFINEMENT AND AWARENESS

## STRATEGY 1: PRIORITIZE CONSISTENT IMPLEMENTATION OF THE BANNING BRAND.

### Actions:

- A. Utilize the Banning logo on all material distributed by the City.
- B. Deploy tagline on materials whenever space permits.
- C. Ensure that all signage, vehicles, clothing, etc. employs consistent implementation of the logo.

## STRATEGY 2: ENSURE EMPLOYEES BELIEVE IN THE BRAND AND EXUDE THE IDEALS OF THE ORGANIZATION TO ALL AUDIENCES.

### Actions:

- A. Impress upon all employees the importance of consistency in all outreach.
- B. Designate brand ambassadors with deep brand awareness to monitor brand perception both internally and externally.
- C. Create a methodology for reporting and recording brand feedback.
- D. Hold brand orientation for all employees.
- E. Incentivize employees to exemplify the City's brand ideals.
- F. Share positive stories with brand emphasis throughout the organization.

### STRATEGY 3: DEVELOP BRANDING AND STYLE GUIDELINES TO PROVIDE STAFF WITH THE TOOLS TO ENHANCE DOCUMENT CONSISTENCY.

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#### Actions:

- A. Document should include: brand essence, font, colors, approved logo orientation options, black and white options, spacing, paragraph formatting, layouts and grids, graphic element implementation, social media policy, icons, and copy content tone description.
- B. Document should be an interactive, easy-to-use resource for staff.
- C. Digital version of document should include graphic repository with approved logos and digital art content for easy reference.

### STRATEGY 4: ACTIVELY SEEK BRAND ROLLOUT IN ALL DAY-TO-DAY OPERATIONS.

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#### Actions:

- A. Train customer service and field staff on brand identity and key messages.
- B. Review and update travel and presentation tools to provide brand oriented support when staff makes presentations or participates in events.
- C. Consider changing vehicle color/pattern to create more iconic, recognizable look, and enhance recognition of City service.
- D. Streamline vehicle messaging; replace complex messages that require time to read with simple, bold messages, such as tagline or service the vehicle provides.

## BRAND REFINEMENT AND AWARENESS

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### STRATEGY 5: TEST BRAND AWARENESS REGULARLY.

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Actions:

- A. Systematize the survey of brand awareness at regular intervals.
- B. Perform survey at least every 5 years.
- C. Include testing of awareness of City services and goals.
- D. Record and chart changes over time.
- E. Employ call to action where possible in all messaging. Measure and record response.

# COMMUNITY ENGAGEMENT AND EMPOWERMENT

## STRATEGY 1: EMPOWER STAFF TO BECOME EXCEPTIONAL COMMUNICATORS BY PROVIDING TOOLS, TRAINING AND TECHNICAL RESOURCES.

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### Actions:

- A. Offer spokesperson training to all staff who interact with the public.
- B. Conduct presentation and media training for City Council members.
- C. Build communications training and in-service programs around key messages, audiences and issues for all staff, particularly managers who connect with public frequently and/or supervise people who do.
- D. Build a sophisticated employee orientation program over multiple sessions that includes benchmarks and feedback opportunities.
- E. Implement brand identity training in all orientation meetings; hold separate brand training workshops.
- F. Actively engage with speakers at all levels to prepare them for their tasks and provide appropriate support.
- G. Prepare a comprehensive toolkit for employees who share the organization's message with the public.
- H. Train all employees on what makes compelling news stories; educate employees on realistic expectations of Public Information deliverables and media coverage.
- I. Develop a structured story submission process that assists staff with submitting the information necessary to complete a press release or pitch to media.
- J. Incentivize proactive story ideas and good storytelling among employees who submit story ideas.

# COMMUNITY ENGAGEMENT AND EMPOWERMENT

STRATEGY 2: ENSURE THAT COMMUNICATION EFFORTS, KEY MESSAGES, AND DELIVERY STRATEGIES ARE SYNCHRONIZED AND PORTRAY A CONSISTENT IMAGE OF THE ORGANIZATION TO THE PUBLIC.

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Actions:

- A. Institute a unified communication strategy across the organization.
- B. Identify frequently asked questions within each department; develop and distribute clear talking points to enable employees to share consistent information with the public.
- C. Create and disseminate talking points to all communicators when issues require multiple spokespersons.
- D. Implement protocol for all City presenters in which the Public Information Officer assists with their presentation preparation, rehearsal and support materials.
- E. Develop an “elevator speech” about the City that all employees know.
- F. Coordinate consistent deployment of information to the public.
- G. Create formal evaluation processes for receiving feedback and assessing the success of external communications efforts.

STRATEGY 3: TAILOR DIRECT MESSAGES TO SPECIFIC AUDIENCES, WHILE INCLUDING OVERARCHING ORGANIZATIONAL VISION AND BRANDING.

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Actions:

- A. The Public Information Officer should play an active role in all messaging to ensure consistency, including delivery orally, in writing, on website, and through social media.
- B. Ensure that messaging is presented in appropriate languages for the audience.

- C. Use website and social media resources when appropriate, but provide an analog option for those without connectivity.
- D. Continue to develop relationships and focused outreach for key stakeholders, formalizing an information channel for regular communication with this group.
- E. Task the Public Information Officer with identifying the appropriate tone, information, and level of detail for each specific audience.

#### STRATEGY 4: LEVERAGE EVENTS AND STRATEGIC PARTNERSHIPS TO MAXIMIZE ENGAGEMENT.

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##### Actions:

- A. Public Information Officer should reconcile City calendar with local events, annually as well as monthly, to identify specific events/activities that require messaging efforts.
- B. Develop an advertising program and budget to support key City events and drive community participation.
- C. Take ownership of regional issues and communicate the City's role as a community partner.
- D. Create and strengthen partnerships with agencies that mutually support the city's goals, and then ensure that these stories of success reach the general public and other partners.
- E. Actively engage in face-to-face communication with audiences/stakeholders and encourage feedback.
- F. Strategically select and plan for presentations to varied community groups.
- G. Include question and answer period and comment cards at all City presentations.

# COMMUNITY ENGAGEMENT AND EMPOWERMENT

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## STRATEGY 5: EMPOWER CITIZEN PARTICIPATION IN GOVERNMENT

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### Actions:

- A. Establish citizen advisory committees for various issues and topics to solicit residents' input.
- B. Continue 92220, the City's newsletter, with phone numbers for contacting departments, officials and frequently requested services.
- C. Optimize citizen feedback opportunities on the City's website.
- D. Utilize polls and surveys on the Banning website to gain insight into public opinion on important issues.
- E. Employ electronic notification tools to alert citizens who want to participate.
- F. Conduct regular town hall meetings.
- G. Offer and train a City-staffed "speaker's bureau" to connect with community groups.

## STRATEGY 6: CONTINUE TO DEEPEN INVOLVEMENT IN THE COMMUNITY

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### Actions:

- A. Determine the annual calendar of sponsorship opportunities that targets specific audiences with key messages of the organization.
- B. Design and implement targeted messaging strategies for the organization's many unique relationships within the communities it serves.
- C. Formalize a community information network to share key information with interested parties.
- D. Commit to identifying and connecting with stakeholders and partners, especially those that positively impact the community.
- E. Share successes and credit with the media, community, and partners.

# REDEFINING INTERNAL COMMUNICATIONS CULTURE

## STRATEGY 1: ESTABLISH GUIDELINES FOR INFORMATION FLOW AT ALL LEVELS OF THE ORGANIZATION.

---

### Actions:

- A. Establish uniform communication processes for all departments and the City Council.
- B. Build communications training and in-service programs around key messages, audiences and issues for all staff.
- C. Formalize procedures to quickly and consistently communicate policy to staff, empowering them to swiftly act on decisions.
- D. Establish practical methods and regular opportunities for leadership to achieve ongoing openness throughout the organization.
- E. Create systems for bottom-up and lateral communication within the organization; encourage inter-department communication.
- F. Employ tools for two-way dialog and message their availability to staff.
- G. Require regular meetings for departments and managers; create opportunities to combine various groups for lateral communication meetings.
- H. Generate planning methodologies that encourage increased engagement in staff meetings.
- I. Utilize the Public Information Officer to manage the timely flow of information to all departments.
- J. Perform periodic review of Communications Master Plan to address needs where necessary.
- K. Encourage department leadership to send a weekly letter to their staff.
- L. Leverage technology as a productive communications tool.

# REDEFINING INTERNAL COMMUNICATIONS CULTURE

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## STRATEGY 2: INCREASE EMPLOYEE PERFORMANCE THROUGH TRAINING, SUPPORT TOOLS AND OTHER RESOURCES.

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### Actions:

- A. Implement dedicated customer service training program.
- B. Refine measurement of customer service success to emphasize interaction satisfaction and de-emphasize length of interaction.
- C. Offer communications training to all staff who interact with the public.
- D. Create a program to encourage mentoring and job shadowing.
- E. Nurture relationships between employees and organizational leaders, inspiring them to uphold the legacy of excellence the Banning brand represents.
- F. Build a sophisticated employee orientation program over multiple sessions that includes benchmarks and feedback opportunities.
- G. Implement brand identity training in all orientation meetings; hold separate brand training workshops.
- H. Create video recordings and convenient archives of employee orientations and other important meetings or trainings for quick reference.
- I. Create Frequently Asked Questions on policies and procedures that are job/department specific.
- J. Offer webinar training to support employee development in areas such as technical certification.

## STRATEGY 3: INSPIRE EMPLOYEES TO GO ABOVE AND BEYOND EXPECTATIONS.

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### Actions:

- A. Emphasize partner role in representing the Banning brand.

- B. Designate brand ambassadors to monitor internal and external brand perception.
- C. Define service expectations as part of brand orientation and customer service training.
- D. Develop and execute a plan to recognize employees on a regular basis for a variety of achievements. Clearly communicate why these employees matter to the City and those it serves.
- E. Heighten awareness and engagement through sharing of City successes and communication of the organization's vision, strategies, services and accomplishments.
- F. Distribute a "message of the month" to encourage engagement and offer productivity, communication, wellness or other tips.
- G. Plan employee events and encourage/reward successes throughout the organization.

#### STRATEGY 4: PRIORITIZE DEVELOPMENT OF STAFF COHESIVENESS BY SUPPORTING EVENTS THAT BUILD AND STRENGTHEN RELATIONSHIPS WITHIN AND ACROSS DEPARTMENTS.

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##### Actions:

- A. Promote frequent employee team-building events and celebrations conducive to both work and family life.
- B. Schedule employee connection events at various times of day, including later in the day, when employees can attend after work hours.
- C. Organize informal employee mixers with City leaders.
- D. Plan simple, short "Get to know you" activities for employees within close daily proximity.

## STRATEGIC PRIORITIES SUPPORT

### STRATEGY 1: INITIATE REGULAR REVIEW PROCESS TO EVALUATE AND REPORT ON COMMUNICATION PROGRESS AND CONNECTION WITH COUNCIL PRIORITIES.

Actions:

- A. Produce quarterly updates on plan and progress
- B. Share information at regular intervals with Council to gather feedback
- C. Utilize feedback to guide strategy evolution
- D. Determine corrective action where necessary

### STRATEGY 2: LEVERAGE BANNING CITY COUNCIL STRATEGIC PRIORITIES LIST TO LINK COMMUNICATION STRATEGIES WITH OVERALL CITY GOALS.

Actions:

- A. Identify nexus points with Council priorities
- B. Document specific connections to Council goals (e.g. economic development, public safety, administrative effectiveness)
- C. Build regularly scheduled forums to address these goals and results as they relate to areas of focus
- D. Hold annual strategic plan alignment sessions between Council and staff leadership
- E. Conduct regular, targeted communication internally to address needs and nexus points

### STRATEGY 3: INCORPORATE PLAN ALIGNMENT TRAINING INTO PLAN ROLLOUT AND CURRICULUM

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#### Actions:

- A. Utilize Council strategic priorities in training and in new employee orientation
- B. Capture feedback to identify knowledge gaps

### STRATEGY 5: ALLOW STRATEGIC COMMUNICATIONS PLAN TO EVOLVE WITH CHANGING CITY GOALS.

---

#### Actions:

- A. Regularly monitor goals and progress.
- B. Document changes in the needs across departments and throughout City districts.
- C. Perform periodic review of Communications Master Plan to address communication needs where necessary.
- D. Suggest changes where necessary for review by staff leadership and Council.

# LONG-TERM STRATEGY AND RESOURCE OPTIMIZATION

## STRATEGY 1: ENSURE ALL POSSIBLE OUTREACH OPPORTUNITIES FOR THE ORGANIZATION ARE CONSIDERED.

### Actions:

- A. Create mechanism to constantly mine for future sponsorship events and opportunities.
- B. Where applicable, create recurring scheduling opportunities for ongoing events.
- C. Secure workflow options that support smart planning and avoid compromising City staff and resources.
- D. Build advertising program at the beginning of each fiscal year to match budget requirements and planning efforts.
- E. Prioritize publication of City success stories through press releases written and issued by the Public Information Officer.
- F. All printed material should be reviewed and edited by the Public Information Officer to ensure that messages are consistent, information is accurate and policies are followed.
- G. The Public Information Officer is responsible for developing guidelines for disseminating information, including social media.

## STRATEGY 2: CALENDAR AND PRIORITIZE IMPORTANT MILESTONES, NEWS, OCCASIONS AND EVENTS ANNUALLY, DETERMINE THE OUTREACH OPPORTUNITIES AT EACH.

### Actions:

- A. Identify media and community needs for each, along with timeline for necessary outreach preparation.
- B. Create media calendar for both short-term and long-lead publications to complement outreach opportunities.

- C. Build checklist for event organizers within the organization that includes their role in promoting the organization and its brand beyond the specific event material.
- D. Identify key personnel responsible for anticipating event needs and requirements.

### STRATEGY 3: ENCOURAGE STAFF MEMBERS THROUGHOUT THE ORGANIZATION TO SEEK OUT HELP FROM THE PUBLIC INFORMATION OFFICER.

---

#### Actions:

- A. Develop a structured submission process that encourages employees to identify stories that may be newsworthy.
- B. Incentivize proactive story ideas and good storytelling among employees by sharing successes and stories.
- C. Repurpose success stories throughout the organization by sharing achieved content.
- D. Engage City Council to celebrate all levels of staff involvement.
- E. Build employee engagement outreach methods into other organization planning tools, e.g. Strategic Planning and Visioning exercises.

### STRATEGY 4: PROMOTE AN UNDERSTANDING OF RESOURCE ALLOCATION FOR OUTREACH MECHANISMS ACROSS THE CITY.

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#### Actions:

- A. Create a breakdown of average staff time for frequently requested outreach from all department levels.

# LONG-TERM STRATEGY AND RESOURCE OPTIMIZATION

- B. Inform the department heads of this information to improve understanding of work flow and deadlines, provide perspective for prioritization, and offer a sense of how departments can participate in communication success.
- C. Establish protocol for working with multiple divisions and departments.

## STRATEGY 5: EVALUATE ALL EXPENDITURES OF STAFF TIME, REVENUE, AND OTHER RESOURCES ON AN ANNUAL RETURN ON INVESTMENT (ROI) MODEL.

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### Actions:

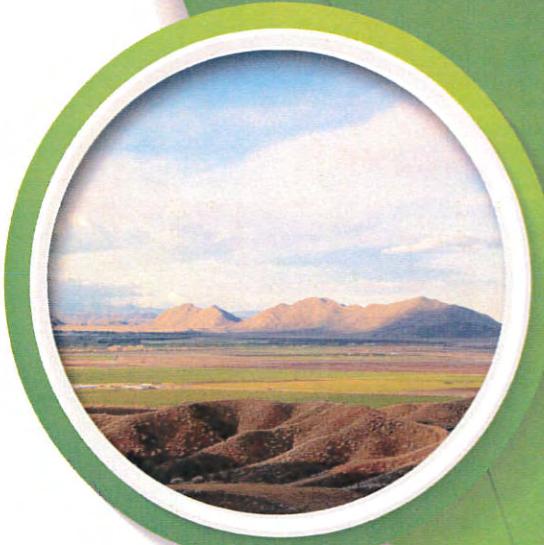
- A. Implement an organized and frequent evaluation process for receiving feedback and assessing the success and ROI of external communications efforts.
- B. Where necessary, formalize these processes.
- C. Develop and enforce a review procedure that ensures external outreach is consistent with the organization's vision and meets set standards.

## STRATEGY 6: INCORPORATE CRISIS COMMUNICATIONS PROTOCOL INTO THE COMMUNICATIONS MASTER PLAN.

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### Actions:

- A. Prepare and/or update City's Crisis Communications Plan to best anticipate emergency needs.
- B. Include customer protection policies and social media protocols in Crisis Communications Plan.
- C. Test Crisis Communications Plan with internal team.
- D. Train staff to maximize communications effectiveness in emergency scenarios.
- E. Ensure access to Crisis Communications Plan by all levels of the organization.
- F. Develop guidelines to frequently update Crisis Communications Plan.



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NEXT STEPS

# FROM PLAN TO ACTION

A clear, well-presented Communications Master Plan is a valuable resource that can offer guidance and support for decision-making and enhanced effectiveness, provided the document is consulted, implemented and adopted.

Once adoption of the plan takes place, implementation becomes the responsibility of all City Staff and team members. The more thoroughly the plan is embraced and assimilated, the more effective change will take place.

The City's Public Information Officer should serve as steward, guide, and champion of the plan and its implementation.

The following immediate steps provide a roadmap to implementation:

## SHARE PLAN WITH ALL CITY LEADERSHIP

To maximize benefit, leaders across the organization should be well acquainted with the goals, considerations, messages and direction called for in the plan. City of Banning leadership should create clear goals for plan implementation and be held accountable for the plan's dutiful and thoughtful execution. The plan should be treated as a living document that can be changed as needs arise. Input should be evaluated openly and perspectives should be considered without risk.

## INFORM AND TRAIN STAFF

All employees should have access to a plan orientation, which introduces the plan's goals, branding considerations, key messages and overall strategies. Orientation/training should include exercises that empower staff to exemplify the Banning identity, learn and employ the techniques in the plan, and connect plan strategies to their daily work and to the City's overall mission. Establishing new protocols for interdepartmental information sharing can also take place here.

## ASSIGN OWNERS AND TIMETABLES TO ACTION ITEMS

All action items should have an associated timetable and responsible party tasked with their completion. Actions can be prioritized based upon importance, ease of implementation, staff capacity and needs of the organization. It may be necessary to consider assigning additional duties to specific employees, refocusing resources, or adding new staff capacity. The Public Information Officer should play the primary role in setting and adjusting ownership and timetables.

## ESTABLISH METRICS AND MONITOR RESULTS

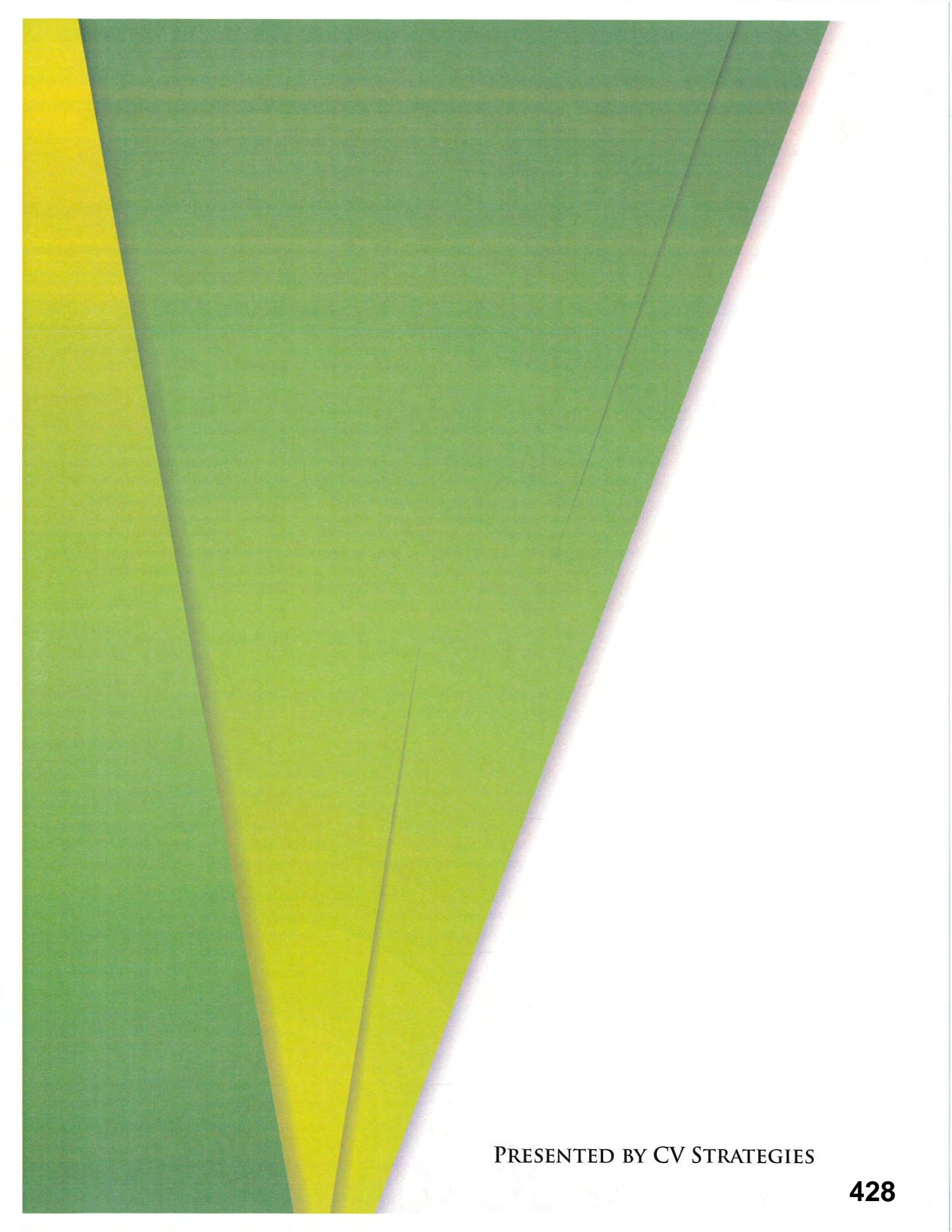
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Any initiative that can be measured should be measured. Testing allows the plan to be refined to meet Banning's evolving needs. This will require ongoing maintenance and a determined, frequent, hands-on approach, particularly by the Public Information Officer and City leadership. Performance measurement standards should be established for each objective and strategy. Rigorous evaluation should include: milestones toward meeting plan objectives; measurable indicators of internal and external communication achievements; a method to provide reporting of performance assessments; and a defined path toward resource allocation and use. Web traffic, media coverage, event attendance, social media engagement, peer reviews, and success acknowledgements are resources available to the team to ensure the success of the plan.

## SHARE PROGRESS

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Keeping all City staff members informed of the Plan and its path to implementation encourages accountability and promotes progress. A process should be developed to regularly update the City Council and all staff about successes as well as unforeseen challenges. By sharing this information in a formalized process, staff will see their connection to the plan first hand, better understand the big picture issues, learn communication tips, and feel a sense of buy-in and participation that will transcend the organization and be perceived externally.



PRESENTED BY CV STRATEGIES

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## CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

**TO:** Banning Utility Authority

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Art Vela, Director of Public Works  
Luis Cardenas, Water/Wastewater Senior Engineer

**MEETING DATE:** March 28, 2017

**SUBJECT:** Discuss and Consider Adopting Resolution 2017-04 UA,  
Approving the Purchase of a CCTV Sewer Inspection Van and  
Equipment in the Amount of \$139,649

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### **RECOMMENDATION:**

The Banning Utility Authority adopt Resolution 2017-04 UA:

1. Approving the purchase of a CCTV Sewer Inspection Van, including camera, rover, reel, controller, associated peripherals and software in the amount "Not to Exceed" \$139,649.
2. Authorizing the City Manager or his designee to execute the Contract with Haaker Equipment Company of La Verne, CA.

### **JUSTIFICATION:**

The City has previously contracted for sewer main inspections services, at a cost of \$25,000 per year for routine inspection of approximately six (6) miles of pipe. With an existing sewer collection system consisting of 119 miles of pipe, it would take nearly 20 years to inspect the entire system. By purchasing its own Closed Circuit TV (CCTV) Sewer Inspection Van, the City expects to be able to cover the entire system once every 4.3 years and have the ability to perform emergency inspections on short notice.

## **BACKGROUND:**

The City of Banning's sewer collection system consists of approximately 119 miles of pipe, which should be inspected on a regular basis as outlined in the Sewer System Management Plan, adopted in July 2009. Additionally, it is industry practice to inspect newly constructed sewer pipes using CCTV to ensure there are no defects caused by improper installation which could result in expensive repairs for the City in the future. When Sanitary Sewer Overflows (SSOs) do occur, the City has the authority to investigate the likely cause of the blockage and take enforcement actions against any user that caused the obstruction. In order to complete the investigation, CCTV equipment becomes a necessary tool and due to its objective nature is considered court-admissible evidence.

Staff researched common vendors of sewer inspection equipment used by other agencies in Riverside and San Bernardino Counties. Two of the most commonly used products are made by EnviroSight and Cues. The City invited both vendors to give a live demonstration during which sewer maintenance staff rated each product across eight categories. As seen in Attachment 2, Equipment Evaluation Summary, the EnviroSight product was consistently rated higher and is the solution recommended by staff.

EnviroSight has an active National Joint Powers Alliance (NJPA) contract, as a result of a Request for Proposal (RFP) selection process conducted in 2014. As allowed in the City of Banning's adopted purchasing policy, the City can make use of co-op contracts such as those from NJPA (City of Banning membership # 86893) to save the cost and effort it would take to prepare and issue a separate RFP. The Southern California authorized dealer for EnviroSight products is Haaker Equipment Company, therefore the quote received and presented as Attachment 3 will reflect that vendor name.

Included in the purchase will be:

- 2017 Ford Transit 250
- Van build out to support CCTV equipment
- Rovver X Package
  - Camera
  - Crawler
  - Controller
  - Motorized Cable Reel
  - Pressurization Kit
  - WinCan VX Entry Office Software

**OPTIONS:**

1. Adopt Resolution 2017-04 UA
2. Reject Resolution 2017-04 UA. Rejecting the resolution will result in higher long-term costs for sewer inspections, slower response times during emergencies, and limited ability of sewer maintenance staff to identify potential failures before they happen.
3. Provide alternative direction to staff.

**FISCAL IMPACT:**

The Purchase Agreement with Haaker Equipment Company is in the amount of "Not to Exceed" \$139,649, which has been included in the 2016/2017 budget and is split between the following account numbers in the Wastewater budget:

680-8000-454.90-52 (Vehicles)	\$40,000
680-8000-454.90-56 (Machinery/Equipment)	\$99,649

**STRATEGIC PLAN OBJECTIVE:**

Resolution 2017-04 UA assists in meeting Goal 4 – Public Health & Safety: Create a secure and healthy environment within the City in which our citizens feel safe and which promotes the City as a location of choice for living, working, and playing.

**ATTACHMENTS:**

1. Resolution 2017-04 UA
2. Equipment Evaluation Summary
3. NJPA Quote from Haaker Equipment Company
4. Pictures of Equipment

Approved by:



Michael Rock,  
City Manager

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# **ATTACHMENT 1**

(Resolution 2017-04 UA)

## RESOLUTION 2017-04 UA

### **A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PURCHASE OF A NEW CCTV SEWER INSPECTION VAN AND EQUIPMENT IN THE AMOUNT OF \$139,649**

**WHEREAS**, the City of Banning owns and operates a public sewer collection system that consists of approximately 119 miles of pipe; and

**WHEREAS**, the City is required to follow the California State Water Resources Control Board Waste Discharge Order No. 2006-0003-DWQ which requires the City to maintain and operate the sewer collection system in such a way as to minimize the occurrence and impact of Sanitary Sewer Overflows (SSOs); and

**WHEREAS**, a proactive Closed Circuit TV (CCTV) Inspection Program is a key component of the City's adopted sewer system management plan; and

**WHEREAS**, the City's sewer maintenance staff has evaluated the top two vendors for CCTV systems; and

**WHEREAS**, EnviroSight was the highest ranked solution; and

**WHEREAS**, EnviroSight has an active National Joint Powers Alliance (NJPA) contract for providing the same equipment and the City is choosing to make the purchase under the same contract.

**NOW, THEREFORE, BE IT RESOLVED** by the Banning Utility Authority of the City of Banning as follows:

**SECTION 1.** The Banning Utility Authority approves the purchase of a CCTV Sewer Inspection Van in the amount "Not to Exceed" \$139,649 from Haaker Equipment Company of La Verne, California.

**SECTION 2.** The City Manager or his designee is authorized to make the necessary budget adjustments and appropriations related to the purchase of a CCTV Sewer Inspection Van.

**PASSED, APPROVED AND ADOPTED** this 28th day of March, 2017.

---

George Moyer, Chairman  
Banning Utility Authority

**ATTEST:**

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Marie A. Calderon, Secretary

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

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John C. Cotti, Interim Authority Counsel  
Jenkins & Hogen, LLP

**CERTIFICATION:**

I, Marie A. Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution 2017-04 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 28th day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Marie A. Calderon, Secretary  
Banning Utility Authority  
Banning, California

# **ATTACHMENT 2**

(Equipment Evaluation Summary)

Attachment 2

Equipment Evaluation by Sewer Maintenance Staff Based on Same-day Demonstrations

	CUES					Category Subtotals	Weighted Subtotals
	RATER 1	RATER 2	RATER 3	RATER 4	RATER 5		
COMPATIBILITY (10%)	5	5	8	7	5	30	3
ADAPTABILITY (10%)	4	8	7	7	8	34	3.4
CABLE LENGTH (5%)	5	5	10	8	10	38	1.9
MANEUVERABILITY (10%)	6	5	7	9	5	32	3.2
CAMERA (20%)	7	8	8.5	8	10	41.5	8.3
VAN (15%)	6	2	6.7	8	5	27.7	4.2
VIDEO STORAGE (10%)	8	5	9	10	10	42	4.2
SOFTWARE (20%)	7	5	8.5	9	5	34.5	6.9

**35.1** Total Score

	ENVIROSIGHT					Category Subtotals	Weighted Subtotals
	RATER 1	RATER 2	RATER 3	RATER 4	RATER 5		
COMPATIBILITY (10%)	8	8	8	9	10	43	4.3
ADAPTABILITY (10%)	8	8	9	9	10	44	4.4
CABLE LENGTH (5%)	6	9	10	10	10	45	2.3
MANEUVERABILITY (10%)	8	9	8	10	10	45	4.5
CAMERA (20%)	7	8	9	9	10	43	8.6
VAN (15%)	9.7	10	8.7	10	10	48.3	7.3
VIDEO STORAGE (10%)	8	10	9	9	10	46	4.6
SOFTWARE (20%)	8	10	9	10	10	47	9.4

**45.3** Total Score

# **ATTACHMENT 3**

(NJPA Quote from Haaker Equipment Company)

# HAAKER

EQUIPMENT COMPANY

SINCE 1972

March 14, 2017

City of Banning  
178 East Lincoln St.  
Banning, CA 92220

## NJPA AWARDED CONTRACT

NJPA Contract Number: 022014-EVS

PROPOSAL

RE: NJPA Proposal for One (1) EnviroSight Rovver X Pipeline Inspection Vehicle



<u>Description</u>	<u>Price</u>
<b>2017 Ford Transit 250 Chassis</b>	
-Wheel Base 148" extended length	
-High Roof Cargo Van	
-Right hand sliding door, rear barn doors	
-9,000lb. GVWR	
-3.7L TI-VCT V6 Gas Fuel Engine	
-6 speed automatic transmission with OD and select shift	
-Heavy duty alternator	
-Heavy duty batteries	
-Long arm heated power mirrors	
-Cruise control with message center, includes engine hour meter	
-AM/FM Stereo with two speakers	
-Vinyl front bucket seats, pewter	

# HAAKER

EQUIPMENT COMPANY

SINCE 1972

**Build Out:**

- Power Package; 6.3kW MEPS RoadPower source
- Amber Light Package; roof mounted LED beacon one (1) front mounted, one (1) LED traffic advisor rear mounted.
- LED flood lights at rear.
- Back up alarm.
- Shore power cord
- 110volt outlets throughout; Operator Area- one (1) in electronic cabinet, one (1) desk top for monitors, one (1) desk top corner for printer. Equipment Area- one (1) work bench, one (1) rear monitor, one (1) cable reel.
- Ceiling mounted LED lights; one (1) light in Operators Area, and two (2) lights in Equipment Area.
- Solid bulkhead wall with walk through door, and window
- Lonseal Industrial Rubber Flooring; textured grip style diamond plate design, installed throughout truck.

Wash Down System; water tank with outside fill hatch, 12volt water pump, hose reel with 25' x 3/8" hose and spray nozzle. Pump switch and nozzle mounted at the rear of the truck.

**Operator Area:**

- Walls covered with grey carpet.
- Roof Mounted A/C unit with heat strip.
- Desk covered with Formica.
- File cabinet.
- Electronic cabinet.
- Operator chair.

**Equipment Area:**

- Walls covered with grey FRP.
- Workbench constructed over heavy duty tool box, and wash-down system storage cabinet.
- Wheel storage drawer, with cable reel mounted above.
- Aluminum bottle holder (for storage of cleaning bottles, marker paint, sanitizer, etc.)
- Aluminum rubber glove holder.

**Monitors:**

- Front TV Monitor 20", includes adjustable wall mount.
- Rear TV Monitor 20", includes adjustable wall mount.

**Rovver X Package:**

RCX90 Zoom Camera; high-resolution CCD color zoom camera with 10x optical and 12x digital zoom, auto shutter, auto/manual focus, built-in LED lighting, +/-135 degree tilt, endless 360 degree rotation, pressure sensor, and twin laser diodes for measuring feature.

ROVVER X 130 Crawler; Steerable crawler with two-high performance motors and 6-wheel drive. Includes pressure indicator, inclination and tilt sensors, location transmitter, integral Backeye camera, and clutch.

VC200 Control Pendant; to operate crawler, reel and camera, daylight viewable touch screen, MPEG-4 video encoding, and storage to flash drive or USB Stick, online diagnostics and firmware updates, desk mount dock.

# HAAKER

E Q U I P M E N T   C O M P A N Y

SINCE 1972

RAX300 automatic motorized cable reel; with meter counter, splash-proof rating, 1000' orange transmission cable; power supply for 115/230V; wireless remote control (for equipment set up); 25' extension cable (connecting VC200 to RAX300) with emergency power switch.

Pressurization Kit; Regulator, air valve, and two (2) CO2 Canisters, for replacing air into camera, crawler, and accessories.

Crawler lowering tool and tool kit.

Aluminum Upper Manhole Roller (cable protection, sits across manhole).

Aluminum Flexible Lower Manhole Roller (cable protection at pipe beginning).

WinCan VX Entry Office Package; (Included with RovverX Standard Package)

Price:	\$136,892.18
NJPA Discount 2%:	-\$2,737.84
Haaker Additional Discount:	-\$4,550.00
New Price:	\$129,604.34
Sales Tax 7.75%:	\$10,044.33
Freight:	Included
Total Price:	\$139,648.67

# **ATTACHMENT 4**

(Pictures of Equipment)

ATTACHMENT 4 – PICTURES OF EQUIPMENT









## CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

**TO:** BANNING UTILITY AUTHORITY

**FROM:** Michael Rock, City Manager

**PREPARED BY:** Rochelle Clayton, Deputy City Manager

**MEETING DATE:** March 28, 2017

**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 \$24,927.

---

**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 \$24,927, 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 on May 28, 2014 the Office of Administrative Law (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, Council gave direction to stop the study (more than two years ago) 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 because the data is outdated and not legally defensible to establish rates.

## **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. The new proposal from Willdan for additional work to complete the study is \$31,765, however there is \$6,838 remaining on the original contract that was not invoiced and remains encumbered, as demonstrated in the chart below. The recommended Amendment No. 2 is for \$24,927 for a total contract price of \$93,865, as they must redo most of the work due to the fact that the financial information that was previously used is now outdated.

Original Contract Amount	\$ 58,963.00
Amendment	\$ <u>9,975.00</u>
Invoiced & Paid to Date	\$ <u>-62,100.00</u>
Amount Remaining	\$ <u>(6,838.00)</u>
New Proposal Amount	\$ <u>31,765.00</u>
Balance Required to Complete Contract	\$ <u><u>24,927.00</u></u>

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 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 \$24,927 to the Water and Wastewater Funds. The current contract is for \$68,938, which will bring the total contract amount to \$93,865.

## **ATTACHMENTS:**

1. Resolution BUA 2016-18
2. Amendment Proposal from Willdan Financial Services
3. Contract Amendment

Approved by:



Michael Rock  
City Manager

# *ATTACHMENT 1*

## 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 \$24,927 AND ESTABLISHING A TOTAL PROJECT BUDGET OF \$93,865**

**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**, the nearly all 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 \$24,927.

**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 Financial Services in the amount of \$24,927.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of MARCH, 2017.

---

George Moyer, Chairman  
Banning Utility Authority

**ATTEST:**

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Marie A. Calderon, Secretary  
Banning Utility Authority

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

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John C. Cotti, Interim Authority Counsel  
Jenkins & Hogan, LLP

**CERTIFICATION:**

I, Marie A. Calderon, Secretary of the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution 2016-18 UA, was duly adopted by the Banning Utility Authority of the City of Banning, California, at a scheduled meeting thereof held on the 28<sup>th</sup> day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Marie A. Calderon, Secretary  
Banning Utility Authority  
City of Banning, California

# *ATTACHMENT 2*

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](mailto:CFisher@willdan.com)

Sincerely,

WILLDAN FINANCIAL SERVICES



Chris Fisher, Group Manager  
 Financial Consulting Services

## Table of Contents

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# Strategy and Implementation Plan

## Executive Summary

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 planned 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.

## Approach

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 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.

**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.**



## 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.

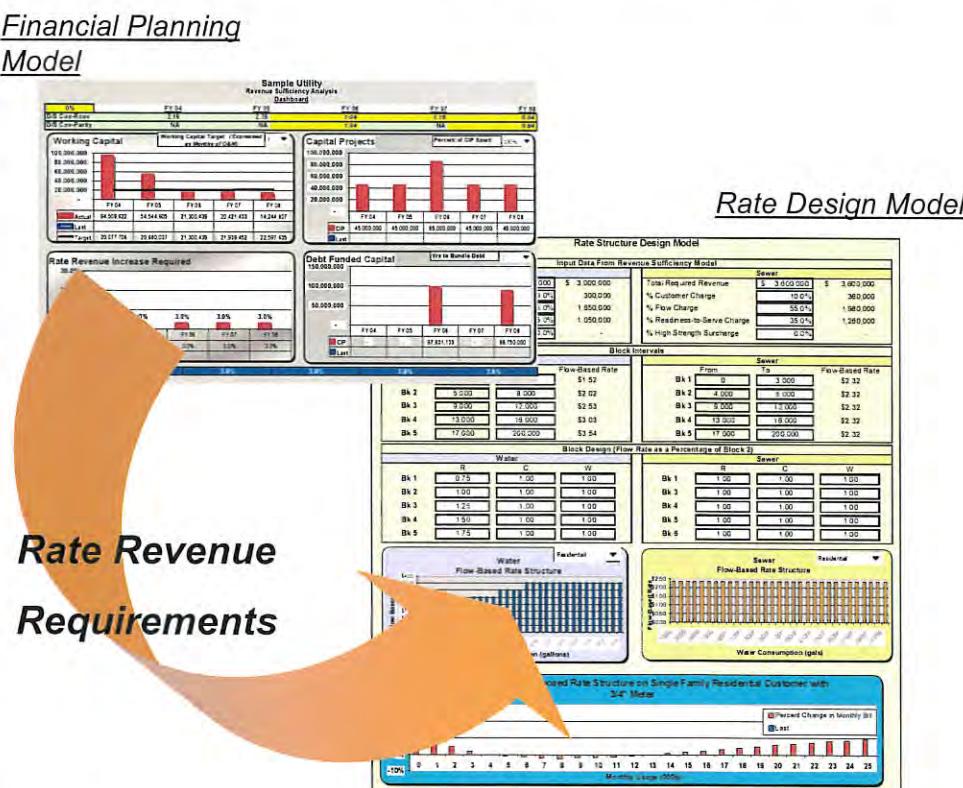
Each model is “baselined” after an initial meeting with staff to ensure that we have the correct data and a basic understanding of the financial dynamics of your system. We will then conduct interactive financial planning sessions with City staff. After validating our data, calculation approach, and 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; 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 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:

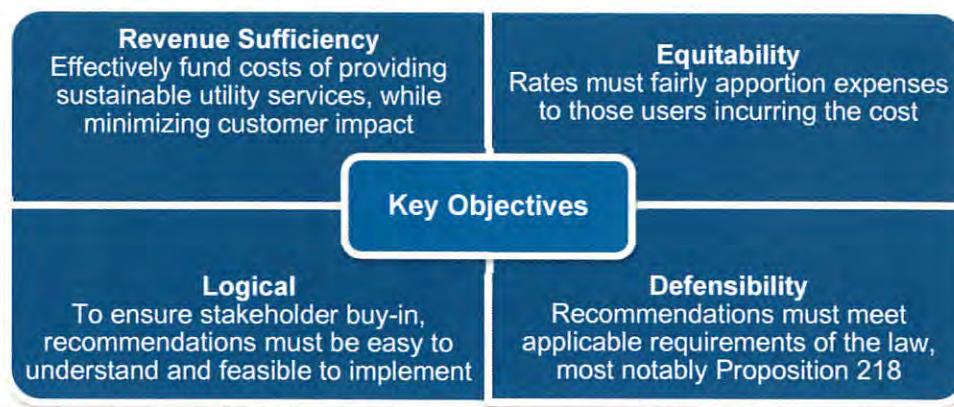
- **What if things turn out differently?** These alternatives will demonstrate the sensitivity of the forecast to the significant assumptions used. This results in a sound understanding of areas where a conservative forecast approach is warranted.
- **What happens when we try this?** This series of alternatives 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.

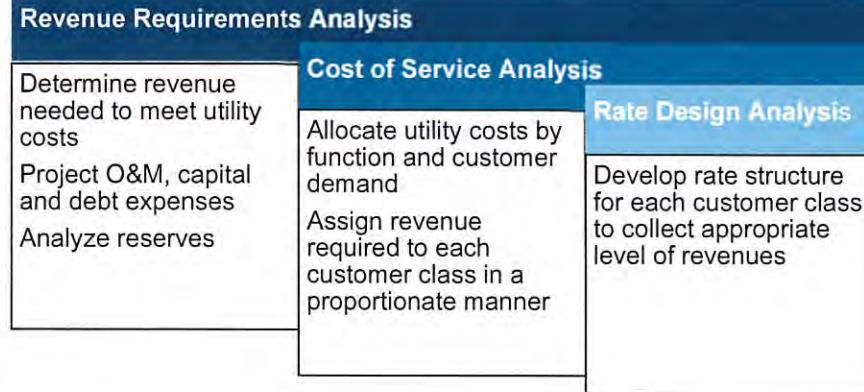
## Rate Study Objectives

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.

## Work Plan

Wilddan'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 Wilddan'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

Wilddan 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, depreciation, 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:

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.

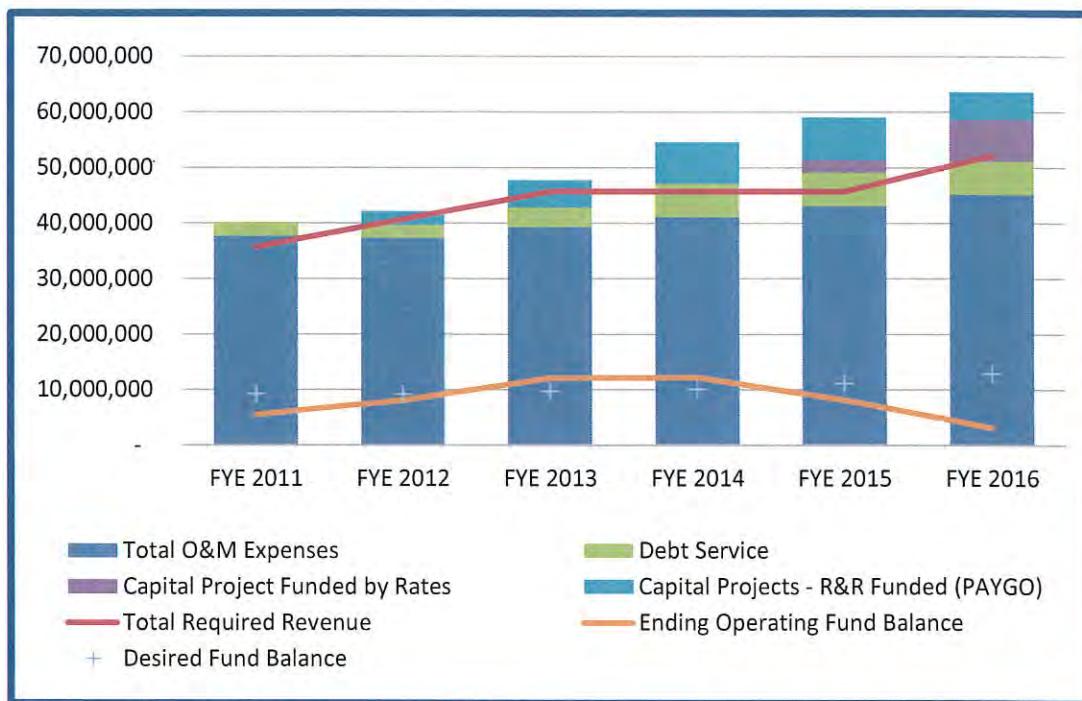
## Task 4: Communicating the Results

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.

## 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 manager will reconvene with the rest of the Willdan Team to identify tasks that can be started while waiting for requested data.

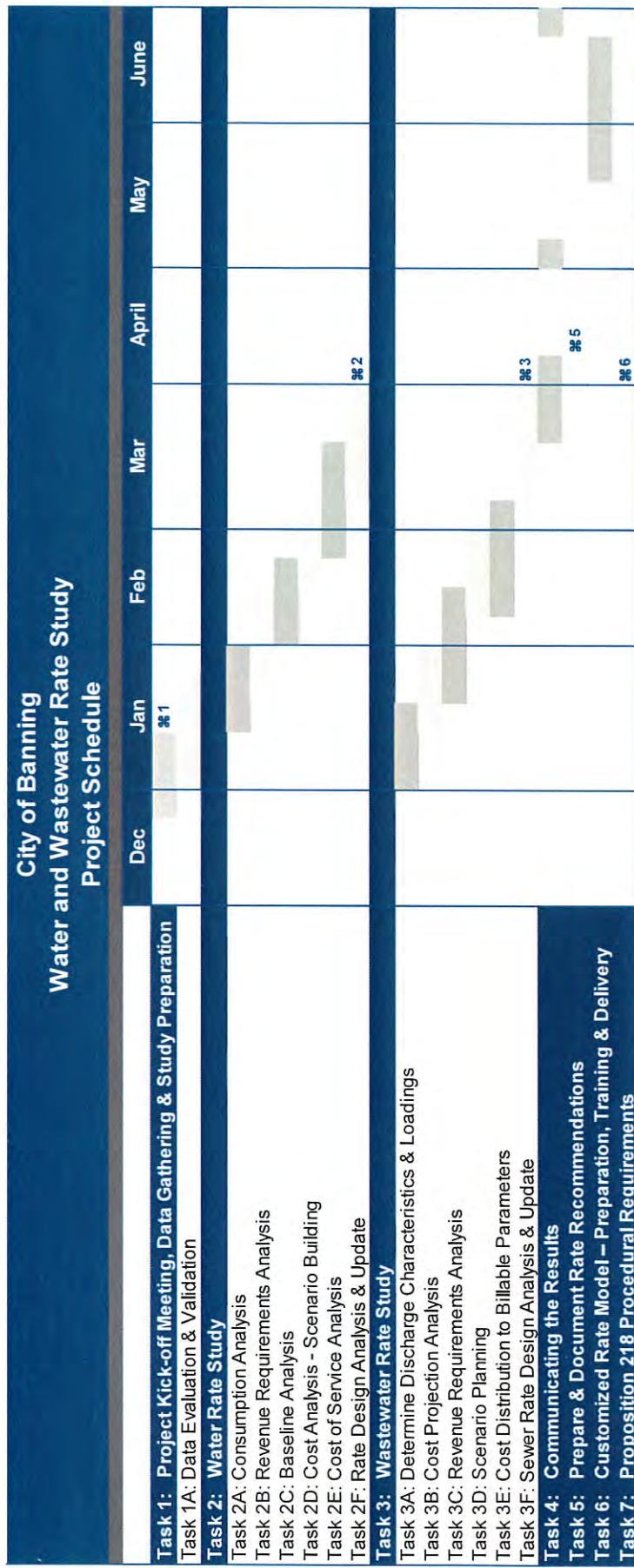
Willdan will rely on the validity and accuracy of the City's data and documentation to complete our analysis. Willdan will rely on the data as being accurate without performing an independent verification of accuracy, and that Willdan will not be responsible for any errors that result from inaccurate 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.

## 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:



## Fee Schedule

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 & QA/QC		
	\$210	\$145	\$130	\$195	Hours	Cost
<b>Scope of Services</b>						
<b>Task 1: Project Kick-off Meeting, Data Gathering &amp; Study Prep</b>	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
<b>Task 2: Water Rate Study</b>						
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
<b>Task 3: Wastewater Rate Study</b>						
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
<b>Task 4: Communicating the Results (includes presentation meeting)</b>	3.0	6.0	3.0	-	12.0	\$ 1,890
<b>Task 5: Prepare &amp; Document Rate Recommendations</b>	2.0	8.0	12.0	1.0	23.0	\$ 3,335
<b>Task 6: Customized Rate Model – Preparation, Training &amp; Delivery</b>	1.0	6.0	2.0	-	9.0	\$ 1,340
<b>Task 7: Proposition 218 Procedural Requirements</b>	2.0	2.0	8.0	-	12.0	\$ 1,750
Subtotals:	20.0	100.0	96.0	3.0	219.0	\$ 31,765
<b>Total Cost</b>						<b>\$ 31,765</b>

### 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



# *ATTACHMENT 3*

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## 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 28<sup>th</sup> day of March, 2017.

### 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 Twenty Four Thousand Nine Hundred Twenty Seven Dollars (\$24,927) for the total contract amount not to exceed Ninety Three Thousand Eight Hundred Sixty Five Dollars (\$93,865).

### 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

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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

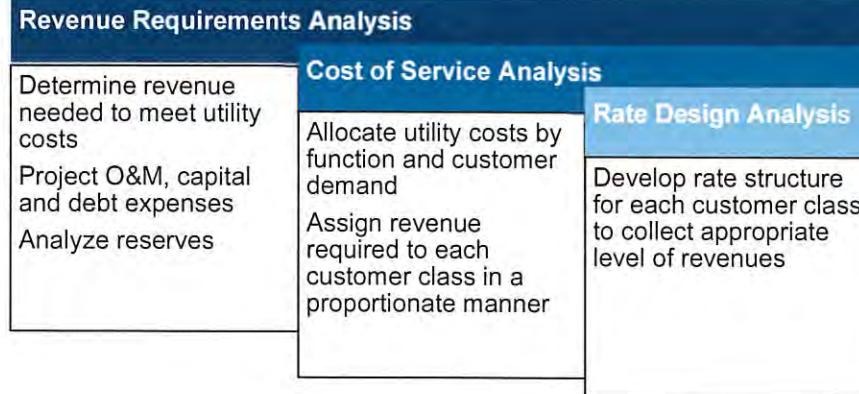
**Two signatures are required if a corporation**

**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)**



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.

## Work Plan

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.

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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:

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.

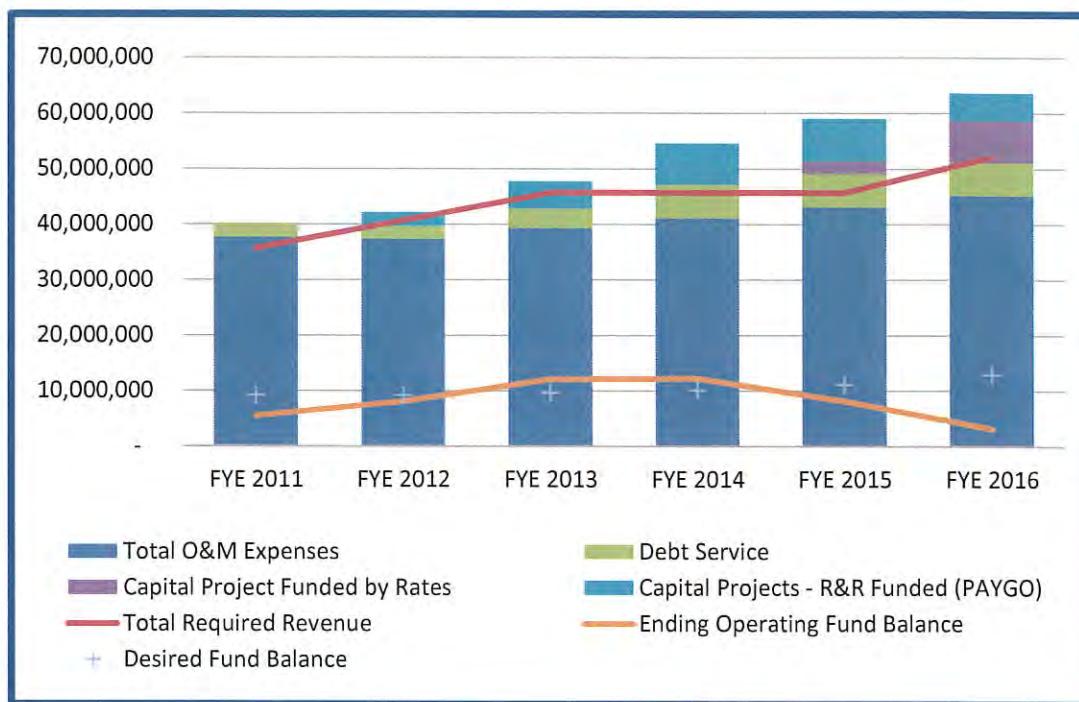
## Task 4: Communicating the Results

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.

### 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 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)**

## Fee Schedule

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 & QA/QC	
	\$210	\$145	\$130	\$195	Total
<b>Scope of Services</b>					
<b>Task 1: Project Kick-off Meeting, Data Gathering &amp; Study Prep</b>	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
<b>Task 2: Water Rate Study</b>					
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
<b>Task 3: Wastewater Rate Study</b>					
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
<b>Task 4: Communicating the Results (includes presentation meeting)</b>	3.0	6.0	3.0	-	12.0 1,890
<b>Task 5: Prepare &amp; Document Rate Recommendations</b>	2.0	8.0	12.0	1.0	23.0 3,335
<b>Task 6: Customized Rate Model – Preparation, Training &amp; Delivery</b>	1.0	6.0	2.0	-	9.0 1,340
<b>Task 7: Proposition 218 Procedural Requirements</b>	2.0	2.0	8.0	-	12.0 1,750
Subtotals:	20.0	100.0	96.0	3.0	219.0 31,765
<b>Total Cost</b>					<b>\$ 31,765</b>

### 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**

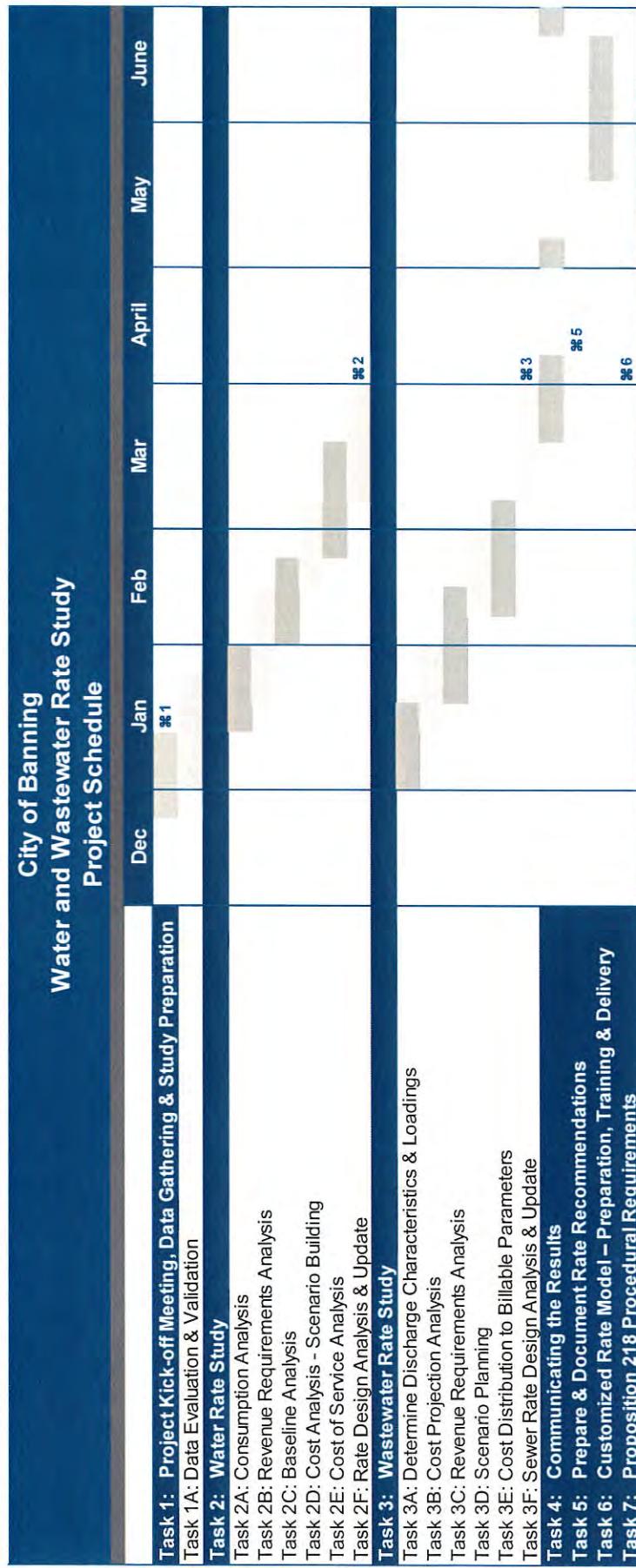
**(See Attached)**

## 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:



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